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Dear Sir / Madam

Planning Portal Reference: PP13681138
104 Belsize Lane NW3 5BB
The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 3, "Changes of Use", Class G – ".Commercial, business and service or betting office or pay day loan shop to mixed use <u>Application made for PRIOR APPROVAL:</u> <u>Creation of 1 residential unit within Class C3 with retained Class E at ground to form a mixed use building</u>

On behalf of the Applicant E & O Ltd we submit an application for the Prior Approval of the Local Planning Authority for the following development at 104 Belsize Lane NW3:

Creation of 1 residential unit within Class C3 with retained Class E at ground to form a mixed use building

The Town and Country Planning (General Permitted Development) (England) Order 2015, (as amended) affords Permitted Development rights to domestic and non-domestic premises via Schedule 2, Part 3, "Changes of Use", Class G – ".Commercial, business and service or betting office or pay day loan shop to mixed use

The proposed are in full compliance with the criteria set out by the above schedule, and can therefore be fulfilled without the need for planning permission having regard to the Permitted Development Rights as set out within the relevant part of the GDPO



In addition to this Covering letter, please find enclosed the following drawings and documents in support of this application:

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| • <i>Location Plan,</i> | <i>prepared by PKS Architects;;</i> |
| • <i>Existing and Proposed Elevations</i> | <i>prepared by PKS Architects;</i> |
| • <i>Existing and Proposed Floor Plans</i> | <i>prepared by PKS Architects;;</i> |
| • <i>Internal Daylight Sunlight Assessment</i> | <i>prepared by eb7;</i> |
| • <i>Flood Risk Technical Note</i> | <i>prepared by Herrington;</i> |
| • <i>Acoustic report</i> | <i>prepared by NDL Noise Solutions</i> |

In addition to the above, a completed Application Form and CIL (Community Infrastructure Levy) form, prepared by Savills, is submitted. The requisite application fee will be paid online via the Planning Portal.

Site and Surroundings

The application site encompasses an existing 2 storey building currently in office use within Class E over both floors.

The building is currently owned and occupied by the applicant themselves (a local development) company and the first floor is used wholly for document and office storage. The ground floor provides office space for approximately 3-4 persons .

The site lies within the Belsize Conservation Area and within the Belsize Village Sub Area, although this has no relevance to this Prior Approval application

The existing floorspace falls within Class E (having formally been within Class B1). This floorspace can therefore be readily used now, today by any use within Use Class E. At present, the building is occupied.

There are no pre-existing / historic planning conditions or S106 Agreements that restrict use within Class E.

The submitted photo sheet highlights the site and its locality.

Proposal

The development proposed comprises:

Creation of 1 residential unit at first floor within Class C3 with retained Class E at ground to form a mixed use building

Assessment of the proposed development against the requirements of the GDPO Schedule 2, Part 3, Class G is noted in the table overleaf:

For the avoidance of doubt it is Schedule 2, Part 3, Class G (a) that applies:

Schedule 2, Part 3, Class G–

Class G –commercial, business and service or betting office or pay day loan shop to mixed use

Permitted development

G. Development consisting of a change of use of a building—

- (a) **from a use within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a mixed use for any purpose within that Class and as up to 2 flats;**
- c) from a use within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order, to a mixed use for any purpose within Class E (commercial, business and service) of Schedule 2 to that Order and as up to 2 flats;
- e) from a use falling within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order to a mixed use falling within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order and as up to 2 flats.

The proposal fully complies with definition of Permitted Development under Class G.

The proposal fully complies with the associated Conditions under Class G set out in the table below

Class G –commercial, business and service or betting office or pay day loan shop to mixed use

Conditions

G.1 Development permitted by Class G is subject to the following conditions

<p>(a) some or all of the parts of the building used for a use within, as the case may be, article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of, or Class E of Schedule 2 to, the Use Classes Order is situated on a floor below the lowest part of the building used as a flat;</p>	<p>The ground floor of the premiss remains in Class E Use.</p> <p>Therefore:</p> <p><i>“some of the parts of the building used for a use within, Class E of Schedule 2 to, the Use Classes Order is situated on a floor below the lowest part of the building used as a flat;</i></p> <p>The application complies with this condition</p>
<p>(b) where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat</p>	<p>There is no display window which exists at present to serve this existing office building.</p> <p>The application complies with this condition</p>

<p>(c) a flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence)—</p> <p>(i) by a single person or by people living together as a family, or</p> <p>(ii) by not more than 6 residents living together as a single household (including a household where care is provided for residents)</p>	<p>The occupation of the proposed flat will comply with this condition</p> <p>The application complies with this condition</p>
<p>(d) before beginning development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—</p>	<p>This application satisfies this requirement to seek the determination as to whether the prior approval of the authority will be required as to the points (i) to (iii) below</p>
<p>(i) contamination risks in relation to the building;</p>	<p>A Desktop report prepared by Argyll Environmental highlights that there is low prospect of on site contamination.</p> <p>There is NO redevelopment of the site. No slab break out. The Residential habitable accommodation is at first floor only.</p>
<p>(ii) flooding risks in relation to the building;</p>	<p>The entirety of the site is located in Flood Risk Zone 1.</p> <p>There is no habitable accommodation proposed at ground floor including no sleeping accommodation.</p> <p>The residential I unit is therefore at no risk of flooding.</p> <p>A Flood Risk Technical note is submitted.</p> <p>Site is located in a Critical Drainage Area</p> <p>The report concludes:</p> <p><i>5.2. The risk of flooding has therefore been appraised across a range of sources and it has been demonstrated that the risk of flooding is low from all sources, even when the impacts for climate change is taken into consideration.</i></p> <p><i>5.3. In conclusion, the occupants of the development will be safe. Consequently, it has been demonstrated that the development will therefore meet the requirements of the NPPF</i></p> <p>D</p>
<p>(iii) impacts of noise from commercial premises on the intended occupiers of the development;</p>	<p>The application complies with this condition</p> <p>NSL Noise Solutions have provided a technical report that shows that the proposed flat would not be materially affected by noise from commercial premises at ground. The report concludes:</p> <p><i>“Noise Solutions Ltd (NSL) has been commissioned by EANDO Ltd to undertake an assessment of the sound insulation of the separating floor between ground floor office space and a proposed residential dwelling at 104 Belsize Lane.</i></p>

	<p><i>Recommendations have been made such that the separating floor should meet the minimum performance levels recommended under the guidance given in BS 8233:2014 – ‘Guidance on sound insulation and noise reduction for buildings’ and Building Regulations requirements for ‘residential properties’.</i></p> <p>The existing surrounding uses are predominantly residential</p>
(iv) the provision of adequate natural light in all habitable rooms of the dwellinghouses;	<p>A full daylight and sunlight assessment prepared by eb7 accompanies this report.</p> <p>It concludes that:</p> <p>7.2.1 The Daylight Illuminance assessments within the proposed residential unit has shown that all of the proposed habitable rooms will exceed the BRE target which is considered to be an excellent level of compliance and reflects the high quality of the design.</p> <p>7.3.1 The assessment of sunlight within the proposed new dwellings has been undertaken using the Sunlight Exposure test set out within the guidance. The results have shown that the proposed unit will receive a very good level of sunlight which is wholly compliant with the BRE guidelines.</p> <p>7.3.2 Overall, our daylight and sunlight results within the proposed unit indicate a very high level of amenity and confirm that the proposed conversion will deliver high-quality accommodation with a very good level of daylight and sunlight to its future occupants.</p> <p>The application complies with this condition</p>
(v) arrangements required for the storage and management of domestic waste.	<p>The flat provides for undercounter refuse storage and a wheelie bin within the access area.</p> <p>The application complies with this condition</p>
<p>Interpretation of Class G</p> <p>G.2 For the purposes of Class G, “care” means personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder.</p>	<p>Noted</p>

National Minimum Space Standards

GPDO “Interpretation” :Paragraph 3, Sub Para 9A

...requires that dwellinghouses comply with the Nationally Described Space Standard. Please see the assessment and comments below which set out how the unit complies with this standard.

<u>10 Technical requirements.</u>	
a. the dwelling provides at least the gross internal floor area and built-in storage area set out in Table 1 below	<p>A 2bedroom, 3person dwelling is proposed.</p> <p>This has a National Minimum Standard of 61 sqm with built in storage of 2sqm</p> <p>This unit has a single level of habitable accommodation at 70 sqm and 9 sqm of lobby entrance space at ground</p> <p>Meets standard</p>

b. a dwelling with two or more bedspaces has at least one double (or twin) bedroom	<p>1 of the bedrooms is a double or twin room</p> <p>Meets standard</p>
c. in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m ² and is at least 2.15m wide	<p>The single bedroom (one bedspace has a floor area of 9.7sqm and is more than 2.15m wide</p> <p>and has dimensions of 3,5(L)m x 2,7m(W) reducing to 2.9m (L) with wardrobe</p>
d. in order to provide two bedspaces, a double (or twin bedroom) has a floor area of at least 11.5m ²	<p>The single bedroom has an floor area of 12.0sqm</p>
e. one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide	<p>Bedroom 1 (double) is more than 2.75 m wide.</p> <p>It is 3,7m(L) x 3,3m(W) reducing to 3.0m(W) with wardrobe</p>
f. any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage (if the area under the stairs is to be used for storage, assume a general floor area of 1m ² within the Gross Internal Area	<p>Not applicable no headroom below 1.5m</p> <p>Meets standard</p>
g. any other area that is used solely for storage and has a headroom of 900-1500mm (such as under eaves) is counted at 50% of its floor area, and any area lower than 900mm is not counted at all	<p>Not applicable no headroom 900-1500mm</p> <p>Meets standard</p>
<p>h. a built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements, but should not reduce the effective width of the room below the minimum widths set out above.</p> <p>The built-in area in excess of 0.72m² in a double bedroom and 0.36m² in a single bedroom counts towards the built-in storage requirement</p>	<p>We Confirm that the built in wardrobe in Bed 1 (double) does not reduce the minimum width below 2.75 for the double bedroom (it is at 3.0m excluding the built in cupboard)</p> <p>For Bed 2 (the single bed), we confirm that the built in wardrobe in Bed 2 does not reduce the minimum width below 2.15 for the single bed (it is at 2.74 excluding cupboard)</p> <p>The built in storage is in excess of the standard of 2m, and includes the built in wardrobes</p>
i. the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area	<p>The unit complies with this requirement</p> <p>Meets standard</p>

Linked Full Planning Application

The proposed flat will be brought forward in conjunction with the implementation of planning consent Ref. 2024/4842/P. Full planning permission was granted by the LPA on 08 January 2025 (Application ref: 2024/4842/P)

Installation of an access door and alterations to existing bay window at ground floor front elevation and re-position of an existing first floor rear door.

This will of course facilitate independent access to the first floor from street level in connection with this Prior Approval application as well as the current arrangement to provide a second access point to the premises.

The Applicant is seeking for the LPA to link the grant of Prior Approval with the Full Planning application via an appropriately worded planning condition.

In terms of a Local Planning Authority's power to impose conditions on a grant of prior approval, paragraph W(13) of Part 3 of Schedule 2 to the 2015 Order states that:

The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

As can be seen, there is no limit on the type of condition that can be imposed. It follows that in addition to a condition that positively requires something to be done, paragraph W(13) also includes the power to impose a negatively worded (or 'Grampian') condition, i.e. a condition preventing the permitted development taking place or being occupied unless and until a specified action has taken place.

The use of a negatively worded condition in relation to the new access door would plainly fall within the scope of paragraph W(13) i.e. it would be "*reasonably related to the subject matter of the prior approval*", in this case, site access to the upper floor of the building.

In terms of policy, the government's position on the use of conditions is set out in paragraph 56 of the National Planning Policy Framework. This states that conditions must be:

- *Necessary;*
- *Relevant to planning and to the development to be permitted;*
- *Enforceable;*
- *Precise; and*
- *Reasonable in all other respects.*

The following condition wording is suggested to be attached to any future grant of Prior Approval;

The proposed residential flat at first floor must not be occupied until such time as the proposed

Installation of an access door and alterations to existing bay window at ground floor front elevation and re-position of an existing first floor rear door have been completed as approved under planning reference 2024/4842/P)

A condition to this effect (i.e. preventing the change of use of the unit / occupation of the units) until the door has been installed would plainly meet these tests.

The approach set out above is confirmed in the High Court judgement (The Kings (LW Zenith Ltd) and Secretary of State for Levelling Up Housing and Communities and Hart District Council 2022). The full judgement is contained within Appendix 1.

It is to be noted that Class **DOES NOT** allow the LPA to make any assessment on the highway, traffic or parking implications of this proposal. This is expressly absent from Class G, which makes it distinct from Class MA where such matter **can** be assessed.

For this reason, no Unilateral Undertaken to remove car parking permits is required. This is not a matter within the ambit of the LPA when assessing this application.

This letter has demonstrated full compliance with the criteria set out within Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), including the relevant conditions contained.

The LPA is therefore respectfully requested to confirm that prior approval is not required for the proposal as set out.

We trust that the submitted information is sufficient to enable a timely Validation and positive determination, however please do not hesitate to contact me at DWhittington@savills.com for further assistance.

Yours faithfully

A handwritten signature in blue ink, appearing to read "D Whittington", written in a cursive style.

David Whittington
Director
Savills Planning