

Delegated Report		Analysis sheet		Expiry Date:	28/03/2025
		N/A / attached		Consultation Expiry Date:	24/02/2025
Officer			Application Number(s)		
Elaine Quigley			2025/0050/P		
Application Address			Drawing Numbers		
Bank And Premises At Basement Ground And 1st Floor 106 Finchley Road London NW3 5JN			See draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Conversion of the first floor from commercial use (Class E1) to residential to provide 2 x 2 bedroom dwellings.					
Recommendation(s):		Grant Prior Approval			
Application Type:		GPDO Prior Approval Class MA Change of use of Class E to Class C3			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	12	No. of responses	01	No. of objections	01
Summary of consultation responses:	Neighbour notification letters were sent to 12 neighbouring properties on 03/02/2025 expiring on 24/02/2025. One letter of objection has been received from a neighbouring occupier at 16 Fitzjohn's Avenue raising the following concerns: <u>Amenity</u> <ul style="list-style-type: none"> • Severe challenges to internal layout as the proposed first floor flats are a warren of badly lit corridors, steps and rooms. Lack of amenity space. Application should be refused until a more modern solution is proposed to repurpose the entire building. 					
CAAC/Local groups* comments: <small>*Please Specify</small>	None received					

Site Description

The site is located on the east side of Finchley Road and is bounded to the south by Trinity Walk. To the east lies properties that front onto Maresfield Gardens. The building is a 19th century end of terrace three storey mixed use building. The basement, ground and first floors of the building were originally occupied by the Nat West Bank (Class E use) but are now vacant. The second floor is in residential use. The current application relates to the first floor of the building. The basement and ground floor would remain in commercial use.

The building is locally listed due to its architectural and townscape significance. The building provides a high quality marker on the corner of Finchley Road and Trinity Walk, and contributes to the historic setting of Fitzjohns Netherhall Conservation Area to the east. The site is not in a conservation area the east side of it is bound to the immediate east and south by Fitzjohns Netherhall Conservation Area.

Finchley Road is identified as a historically flooded street and flooded in 2002. It lies outside a local flood risk zone.

Relevant History

2008/4047/P - Installation of new metal fire escape stair at side of property adjacent to Trinity Walk and new entrance door on same elevation at second floor level (following removal of existing external metal fire escape stair to rear), blocking up of existing door at rear second floor level and installation of new entrance gate into boundary wall (Trinity Walk) in connection with existing bank (Class A2). **Granted 14/11/2008.**

2018/0748/P - Installation of 2 x air conditioning plant on the roof at first floor to rear of the building. **Granted 20/04/2018.**

2024/1680/P - Removal of ATM and reinstatement of cill, stonework, and timber framed window; removal of night safe and reinstatement of brickwork and render. **Granted 14/06/2024.**

Land to the rear of 106 Finchley Road

2009/4045/P - Erection of a new 2 storey, plus basement single dwelling house to the rear of 106 Finchley Rd. **Granted 13/07/2010.**

Relevant policies

The Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended) – Schedule 2 Part 3 Class G.

National Planning Policy Framework 2024

12 Achieving well-designed places

London Borough of Camden Local Plan 2017

Policy A1 Managing the impact of development

Policy CC3 Water and flooding

Assessment

Proposal

- 1.1 Prior approval is sought under Schedule 2, Part 3 Class G of the GPDO 2015 (as amended) for a change of use of the first floor from a Class E commercial unit to a Class C3 residential dwelling. The new Class G was introduced into the GPDO legislation on 01st August 2021.
- 1.2 The proposed change of use at first floor level would create 2 new 2 bed residential dwellings. The flats would measure approximately 148 sq. m (Flat 1) and 120 sq. m (Flat 2). The internal floor areas of the bedrooms would range in size from approximately 14 to 17 sq. m. No external changes are proposed as part of the works. An external area has been identified on the ground floor to the side of the main building as a refuse storage for the new flats. Access to the flats would be via the existing entrance porch for the ground floor Class E use and then the first floor will be accessed with an entrance door only for the 2 flats.

Prior approval procedure

- 1.3 The Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended), Schedule 2 Part 3, Class G allows for a change in use of floors within a building from a use falling within Use Class E (commercial, business and service) or betting office or payday loan shop (sui generis) to a mixed use for any purpose within that Class (commercial, betting officer or pay day loan shop) and as up to 2 flats. This is subject to a prior approval process and conditions being satisfied. The existing floor space that is to be converted must be ancillary to the commercial unit below (i.e. they are connected or linked in some way) and the commercial unit must remain -which differs from Class MA which also provides for changes of use from Class E to C3 but for the whole of a planning unit not just the ancillary space.
- 1.4 Development that accords with the criteria within G (a, c, and e) is permitted by this Class, subject to a number of conditions listed within sub-paragraphs G1 (a-d). As such, the prior approval procedure requires the developer to apply to the Local Planning Authority (LPA) for a determination as to whether prior approval of the authority would be required in regard to contamination risks (i), flooding risks (ii), impacts of noise from commercial premises (iii), the provision of adequate natural light (iv) and arrangements for storage and management of domestic waste (v).
- 1.5 Paragraph W sets out the procedure for applications for prior approval under Part 3. This application seeks to ascertain whether the proposed change of use would constitute permitted development and whether prior approval is required. Part W (13) of the legislation notes that the LPA may grant prior approval unconditionally or subject to conditions reasonable related to the subject matter of the prior approval.

Statutory time period (56 days)

- 1.6 Paragraph W 11 (c) requires that the LPA must notify the applicant as to whether prior approval is given or refused before the expiry of 56 days following the date on which the application was received,

2 Assessment under Schedule 2, Part 3, Class G of the GPDO

Permitted development

- 2.1 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
- 2.2 Proposal complies: Based on the Council's information the ground and first floors of the building has been in use as a bank which has an authorised use within Class E. The proposal is for 2 new flats on the first floor only and does not include any works to the ground floor unit which will remain in commercial use.

- (b) Omitted by virtue of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2021
- (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)
- (d) Omitted by virtue of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2021.
- (e) For 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.

Compliance with Paragraph G1 conditions:

2.2 Where development proposal falls within development permitted by Class G it is subject to the following conditions:

- (a) Some or all of the parts of the building used (for a use within betting office or pay day loan shop or Class E of Schedule 2), the Use Classes Order is situated on a floor below the lowest part of the building used as a flat:

2.3 Proposal complies: The proposal is for 2 new flats on the first floor only and does not include any works to the ground floor unit which will remain in commercial use.

- (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;

2.4 Proposal complies: The ground floor does not include a display window. However, proposal is for 2 new flats on the first floor only and does not include any works to the ground floor unit which will remain in commercial use.

- (c) A flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence) –

- (i) By a single person or by people living together as a family, or
- (ii) By not more than 6 residents living together as a single household (including a household where care is provided for residents)

2.5 Proposal complies: Based on the information provided by the applicant, the new flats would be 2 bed flats and would not be occupied by not more than 6 people living as a single household.

- (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 –

(i) Contamination risks in relation to the building

2.6 A Contaminated Risk Assessment has not been submitted in support of this proposal. It is noted that the historic land uses in the vicinity of the site include a former garage and it is therefore possible that elevated concentrations of contaminants of concern could be present at the site, taking into account soils in Camden contain elevated levels of certain heavy metals. Given the potential for contaminants of concern at the site, the submission of a preliminary land contamination risk assessment would be secured by condition.

(ii) Flooding risks in relation to the building

2.7 The application site is not located within a flood risk zone and the area is at low risk of surface

water flooding according to the Environment Agency's Surface Water Flood Risk maps. A Flood Risk Assessment has not been submitted in support of the application. The applicant would be encouraged to reduce water run-off where possible. This would include collection of rainwater, and replacement of any non-permeable surfaces with permeable surfaces.

(iii) Impacts of noise from commercial premises on the intended occupiers of the development

2.8 The application site adjoins an office building at 108-110 Finchley Road. Within 106 Finchley Road there is the commercial unit at ground floor level (albeit vacant) and a residential unit above at second floor level. It is not considered that noise from the commercial use below or the neighbouring commercial premises would have a significant impact on the proposed residential units in terms of noise. The applicant's supporting statement confirms that the floors between the ground commercial unit and the dividing walls of the neighbouring commercial premises and the new flats will be sound proofed in accordance with Part E of the Building Regulations.

(iv) the provision of adequate natural light

2.9 A daylight and sunlight assessment has been submitted. Of all the rooms tested (7 rooms in total) 4 of the habitable rooms would receive in excess of the BRE figures for daylight. Three of the rooms including the living / kitchen area of both flats 1 and 2 and one of the bedrooms in flat 2 would be borderline in terms of daylight distribution. The rooms with failings would be minor failings of between 0.05% and 0.3%. The BRE guidance clearly states that numerical guidelines should be interpreted flexibly. All the habitable rooms are generously sized and meet the technical guidance for room sizes. There are also existing windows that serve each of the habitable rooms with rooms with smaller windows having access to daylight from existing rooflights. The living / dining areas of both flats receive in excess of the minimum levels recommended by the BRE for sunlight exposure. Taking this into consideration as well as the fact that this is a conversion of an existing historic building, the flats would receive adequate light and are considered acceptable in this instance.

2.10 During the consultation process 1 letter of objection was received from a neighbouring occupier. Concerns were raised about the poor internal layouts of the flats and lack of amenity space. It is acknowledged that the layouts of the new flats, particularly flat 2 does have a number of corridors and steps to address the change the floor levels however the layout of the flats does not form part of the assessment criteria for this type of application. The provision of outdoor space would normally be required for new 2 bed flats however the need to provide private amenity space for each of the flats does not form part of the assessment criteria for this type of application.

(v) Refuse storage

2.11 An area at ground floor level to the front of the building would be used for the storage of refuse on the day of collection and would be considered adequate.

3 Additional matters

3.1 Paragraph W (10) of the GPDO requires the local planning authority, when determining applications:

(a) Take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);

3.2 One consultation response was received which has been taken into account in the assessment of the application.

(b) Have regard to the National Planning Policy Framework (NPPF) issues by the Ministry of Housing, Communities and Local Government, so far as relevant to the subject matter of the

prior approval, as if the application were a planning application.

3.3 Paragraph 135 of the National Planning Policy Framework (NPPF) 2024 states that, “*planning policies and decisions should ensure that developments...create places ...with a high standard of amenity for existing and future users*”.

3.4 The NPPF falls short of providing specific standards for protecting the amenity of adjoining and nearby properties. Nevertheless, the proposal is not considered likely to result in any undue harm to existing residential amenity for future occupiers of the development or existing neighbouring residential occupiers given the nature of the proposal.

3.5 Article 3 (9A) requires all new residential units to comply with the Nationally Described Space standards. The new units would measure approximately 148 sq. m (Flat 1) and 120 sq. m (Flat 2) which would exceed the Nationally Described Space Standards 2015 for 2-bedroom units of 70 sq. m and bedrooms that are at least 11.5 sq. m.

4. Conclusion

4.1 The proposal complies with the criteria and conditions in G and G1 of Schedule 2, Part 3, Class G of the Town and County Planning (General Permitted Development) (England) Order 2015 (as amended) and is acceptable and can be granted prior approval.

5. Recommendation

5.1 Grant prior approval subject to conditions.