

May 2014

# **Application for Prior Approval**

## **Centre Heights, 139 – 150 Finchley Road, Camden**

**Prepared by Savills**

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# 1. Introduction

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1.1 This application has been produced on behalf of Anaspel Ltd who are seeking confirmation from the London Borough of Camden that the prior approval of the authority is not required in order to implement “Class J” of Schedule 2 of the Town and Country Planning (General Permitted Development) Order (GDPO) 1995 (as amended) in relation to the conversion of each of the offices floors to residential use at Centre Heights, 139 – 150 Finchley Road. Fiver separate applications are submitted for the site, as set out below.

*Application 1 - Use of the first floor Class B1(a) office as seven residential units Class C3 (3 x studio, 4 x 1-bedroom).*

*Application 2 - Use of the second floor Class B1(a) office as seven residential units Class C3 (3 x studio, 4 x 1-bedroom).*

*Application 3 - Use of the third floor Class B1(a) office as seven residential units Class C3 (3 x studio, 4 x 1-bedroom).*

*Application 4 - Use of the fourth floor Class B1(a) office as seven residential units Class C3 (3 x studio, 4 x 1-bedroom).*

*Application 5 - Use of the fifth floor Class B1(a) office as seven residential units Class C3 (3 x studio, 4 x 1-bedroom).*

1.2 This statement has been set out under the following headings:

- **Section 2** outlines the site and its context within the surrounding area
- **Section 3** provides an overview of the planning history
- **Section 4** provides an outline of the proposals
- **Section 5** examines the main planning considerations
- **Section 6** draws our conclusions in respect of the proposals

## 2. Site and Surroundings

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- 2.1 The application site is located on Finchley Road in the London Borough of Camden. It comprises a twelve storey mixed use tower with a retail plinth at ground floor level. The five floors above the retail provide B1(a) office space, with the upper floors in use as residential dwellings.
- 2.2 The rear of the site comprises a delivery yard servicing the site and car parking.
- 2.3 The site is well served by public transport and has a Public Transport Accessibility Level of 6a. Swiss Cottage underground station is 30 metres walking distance away and there are a number of bus stops located in close proximity offering excellent links into central London.

### Site Location Plan



## Site Photographs



2.4 Pedestrian access is provided via the entrance from Finchley Road.

2.5 The site is situated within a mixed use area. Finchley Road provides shops and services, whilst the surrounding streets are predominately residential in nature. The building on the site is not statutorily or locally listed.

### 3. Planning History

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- 3.1. A desk-top planning history search has been undertaken. A summary of the site's relevant history is set out below:

Reference no.	Description	Decision
2008/5520/P	Erection of a building comprising basement, ground and first to third floor to provide 9 residential units (3 x 3-bedroom and 6 x 2-bedroom) with 17 car parking spaces (contract car parking) and 12 bicycle parking spaces at basement level (following demolition of existing multi-storey car park).	Dismissed at appeal 10/12/10
9401050	Alterations to the residential entrance including the erection of an enlarged canopy over the entrance door. as shown on drawing numbers 741/28A and /32.	Granted 26/08/94
8905762	Erection of a three storey office block to the rear of the site over existing two storey car park; erection of a penthouse flat at roof level (along Finchley Road frontage); erection of two kiosks minor alterations and landscaping at head of Belsize Road as shown on Drawing nos. 401/01-09. Appeal received against refusal.	Refused 07/03/1990

## 4. Proposals

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- 4.1. The proposals involve the change of use of the first to fifth floors of the property from offices (Class B1a) to residential (Class C3). Separate applications have been submitted for each floor.
- 4.2. The proposals are accompanied by proposed internal floorplans which demonstrate that the floors will each accommodate seven self contained residential apartments (3 x studio, 4 x 1 bedroom).
- 4.3. No external alterations or extensions to the property are proposed in connection with the proposed change of use.
- 4.4. Cycle parking (1 space per unit) can be provided to the rear of the building.
- 4.5. The proposed change of use is considered to be permitted development under Class J of Schedule 2 of the Town and Country Planning (General Permitted Development) Order (GDPO) 1995 (as amended).
- 4.6. The following are enclosed:
  - A site location plan;
  - A full set of existing and proposed plans to aid officers in their understanding of the site;
  - Transport Technical Note; and
  - Contamination Technical Note.



## 5. Planning Considerations

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- 5.1. "Class J" of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) Order 2013 came into force on 30th May 2013 and states the following:

### ***Permitted development***

**J.** Development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order from a use falling within Class B1(a)(offices) of that Schedule.

### ***Development not permitted***

**J.1** Development is not permitted by Class J where –

- a) *the building is on article 1(6A) land;*
- b) *the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 30<sup>th</sup> May 2013 or, if the building was not in use immediately before that date, when it was last in use;*
- c) *the use of the building for falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order was begun after 30<sup>th</sup> May 2016;*
- d) *the site is or forms part of a safety hazard area;*
- e) *the site is or forms part of a military explosives storage area;*
- f) *the building is a listed building or a scheduled monument.*

### **Conditions**

**J.2** Class J development is permitted subject to the condition that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to –

- a) *transport and highways impacts of the development;*
- b) *contamination risks on the site; and*
- c) *flooding risks on the site,*

*and the provisions of paragraph N shall apply in relation to any such application.*

- 5.2. Under Part J of the Order a change of use from Class B1(a) Offices to Class C3 is 'permitted development' where the proposals (1) satisfy each of the requirements set out under part J.1 and where (2) the prior approval of the Local Planning Authority (LPA) is not required with regards to transport, highways, contamination or flooding matters.
- 5.3. It is the applicant's view that the prior approval of the LPA is not required; or if it is, that prior approval should be given. The amendments to the GDPO that came into effect in April 2014 allow the Council to, "*grant prior approval unconditionally, or subject to conditions reasonably related to the subject matter of the prior approval*". The applicant believes that prior approval should be granted unconditionally, but if the Council consider it necessary to impose any conditions, the applicant is willing to discuss this.
- 5.4. The site is in office use and is currently occupied by B1(a) officer occupiers.

5.5. Under Part J.1:

Our comments are set out below, under each condition;

J.1 Development is not permitted by Class J where –

- a) the building is on article 1(6A) land;

*the building is not on article 1(6A) land*

- b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 30th May 2013 or, if the building was not in use immediately before that date, when it was last in use;

*the site has a lawful use as Class B1(a) offices and was in such use on the 30<sup>th</sup> May 2013*

- c) the use of the building for falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order was begun after 30th May 2016;

*not yet applicable*

- d) the site is or forms part of a safety hazard area;

*the site is not nor forms part of a safety hazard area*

- e) the site is or forms part of a military explosives storage area;

*the site is not nor forms part of a military explosives storage area*

- f) the building is a listed building or a scheduled monument.

*the existing building is not listed nor is it a scheduled monument*

5.6. The proposal is therefore permitted development under Part J of Schedule 2 of the Town and Country Planning (General Permitted Development) Order (GDPO) 1995 (as amended).

**Paragraph N of the GDPO (1995) (as amended)**

5.7. The following is provided in accordance with the requirements of paragraph N:

- a) Written description of the Proposed Development

*Application 1 - Use of the first floor Class B1(a) office as seven residential units Class C3 (3 x studio, 4 x 1-bedroom).*

*Application 2 - Use of the second floor Class B1(a) office as seven residential units Class C3 (3 x studio, 4 x 1-bedroom).*

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Application 5 - Use of the fifth floor Class B1(a) office as seven residential units Class C3 (3 x studio, 4 x 1-bedroom).

b) Plans of the Proposed Development

*Enclosed within this application is a site location plan and existing and proposed internal layout plans of the proposed accommodation.*

c) Developer's Contact Address

*Anaspel Ltd*

*C/O Samruti Patel*

*Savills*

*33 Margaret Street*

*London*

*W1G 0JD*

d) Developer's Email Address

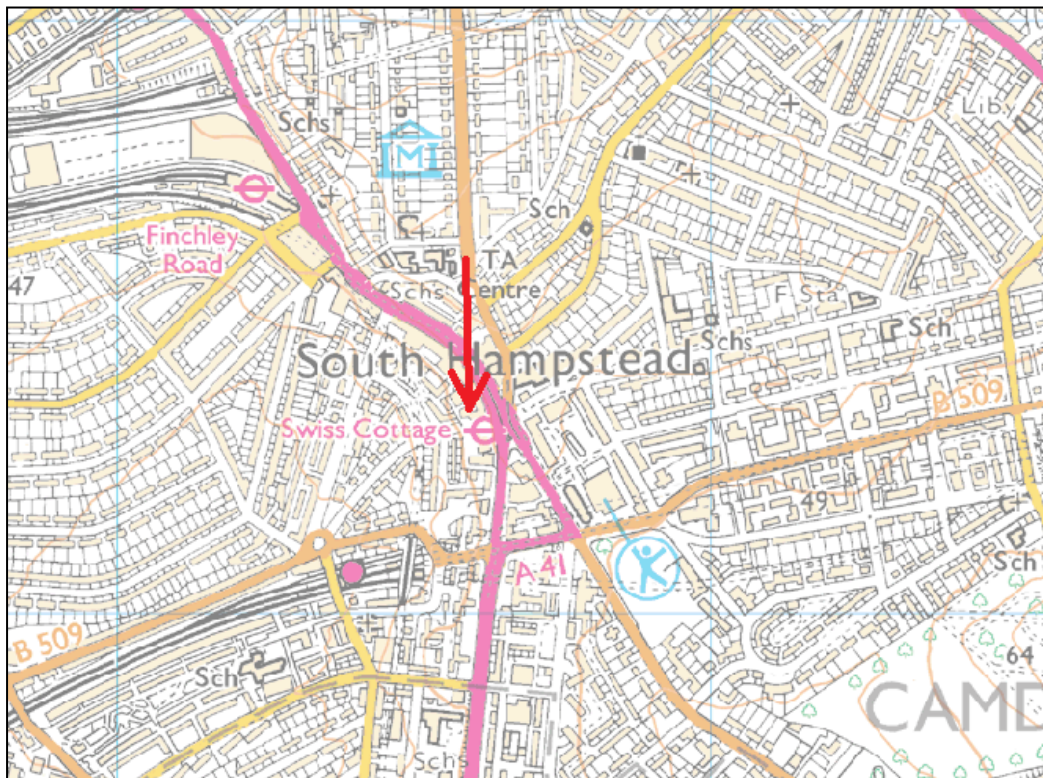
*All correspondence should be with the Developer's planning agent, Savills.*

*spatel@savills.com*

5.8. Under Part J.2:

*Flooding risks*

- 5.9. Camden is not in an area subject to flood risk, as stipulated in the order that would require prior approval to be obtained. As illustrated by the Environment Agency map below, the site is not located within a flood zone.



- 5.10. The NPPF addresses flood risk at Chapter 10. The guidance mainly relates to areas at risk of flooding, of which Camden has none. Whilst some areas within the borough are designated as of 'Flood risk' within the Local Plan, these relate mostly to surface level flooding and changes of use would have no impact on these instances.

*Transport and Highways Impacts*

- 5.11. Part J2 of Class J requires a development to apply to the Local Planning Authority for a determination as to whether prior approval is required as to the transport and highways impact of the development. Section 3 of Part N requires the LPA to consider whether the proposal will result in a material increase or a material change in the character of traffic in the vicinity of the site. Sub-sections a, b and c give situations where consultation should take place – increase or changes to traffic entering or leaving trunk roads, classified roads adopted by the local highway authority or where traffic uses a level crossing over a railway.
- 5.12. General advice is set out within the NPPF regarding developments which generate significant movements. It advises that such development should be located where the need to travel will be minimised and where the use of sustainable transport modes can be maximised. The site is exceptionally well served by public transport links.
- 5.13. Paragraph 32 of the NPPF states that '*development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe*'.
- 5.14. With regards to the potential impact upon the 'character of traffic in the vicinity of the site', the number of trips that could be generated by the office use is much higher than would occur with a conversion of the floors to provide 35 flats. As such the conversion will result in a reduction in potential trips. There will therefore be a reduction in traffic in the vicinity of the site, and certainly not a material increase in the character of traffic in the vicinity of the site. The Transport Statement, prepared by TTP Consulting considers this in detail (including the cumulative impact of the change of use of all five floors) and concludes that:

*"..we conclude that the development will not result in a material increase or a material change in the character of traffic in the vicinity of the site."*

- 5.15. Given that there will be no material change or increase in the character of traffic in the vicinity of the site, including on trunk and classified roads, prior approval is not required.
- 5.16. The applicant confirms that they will enter into a legal agreement to secure the car free development, provision of cycle spaces and provision of a Construction Management Plan, if this is considered necessary by the Council.
- 5.17. Part J of the Order requires Local Planning Authorities to determine whether the prior approval of the LPA is required with specific regard to transport, highways, contamination and flood risk, and does not state that such applications should be assessed against the adopted development plan. It has been set out above as to why prior approval is not required as there is no material change in the character of traffic in the vicinity of the site.

- 5.18. The NPPF advises that development generating significant movements should be located where the need to travel will be minimised and where the use of sustainable transport modes can be maximised. The proposed 7 flats will not generate significant movements (neither will the cumulative impact of the conversion of all five floors), and they are located with exceptional access to public transport links. Paragraph 32 states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. As set out above, there will not be severe cumulative impacts on the highway.

#### *Contamination Risks*

- 5.19. Part N of the Order states that in relation to contamination risks on the site, the LPA should determine whether, as a result of the proposed change, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a), and if they determine that the site will be contaminated land, refuse to give prior approval.
- 5.20. Part 2A of the Environmental Protection Act 1990 states that contaminated land may be deemed to be the following:
- (2) “Contaminated land” is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that –
- (a) significant harm is being caused or there is a significant possibility of such harm being caused; or
  - (b) pollution of controlled waters is being, or is likely to be, caused.
- 5.21. A Technical Note on Contamination has been prepared by GB Card & Partners Limited and this concludes that “..the overall contamination risk for the proposed redevelopment is considered to be negligible”.
- 5.22. The site is currently fully covered by the building and the surrounding land comprises hard standing with no landscaping, or area of exposed ground / soil. The current state of the site therefore removes potential pathways between ground sources of contamination and sensitive site receptors (i.e. the end users of the development). The proposal will not involve any significant disturbance of the hard cover; therefore, the change in land use will not pose an unacceptable risk to sensitive site receptors from any ground contamination.
- 5.23. It is therefore considered that the site should not comprise contaminated land.

## 6. Conclusions

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- 6.1. The first, second, third, fourth, and fifth floors of the existing building at the site have a lawful B1(a) office use.
- 6.2. It is considered that there will not be any material increase in the character of traffic in the vicinity of the site, indeed there will be a lesser impact on traffic in the area. Therefore the Council's prior approval in this regard is not needed. Furthermore the site should not comprise contamination land.
- 6.3. As set out in the Order, if any further details or information is required, the local authority is to request this.
- 6.4. It is therefore requested that confirmation is formally provided to state that the prior approval of the Local Planning Authority is not required under Part J.2 of Class J in connection with the proposed change of use or if necessary prior approval is given.