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28 January 2015

FAO Seonaid Carr  
Development Control  
Culture and Environment  
London Borough of Camden  
Town Hall  
Argyle Street  
LONDON  
WC1H 8ND

Dear Seonaid

**APPLICATION FOR DETERMINATION OF WHETHER PRIOR APPROVAL IS REQUIRED FOR PERMITTED DEVELOPMENT RIGHTS UNDER CLASS J OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (AMENDMENT) (ENGLAND) ORDER 2013. 44-44a GLOUCESTER AVENUE, LONDON, NW1**

On behalf of our client, Victoria Square Property Company Limited, please find enclosed an application to the London Borough of Camden for a determination as to whether prior approval is required for the proposed conversion of the existing parts of the building which are within Use Class B1(a) (offices) to Use Class C3 (residential) at 44-44a Gloucester Avenue.

This submission follows the withdrawal of an earlier prior approval application in December 2014. This application was withdrawn due to there being insufficient time to address minor queries raised by the London Borough Camden. This application is broadly similar to the withdrawn application, with the exception of additional information in response to the outstanding queries.

It was agreed as part of the withdrawal that a revised application could be determined expeditiously and we welcome officer's assistance with this.

**Background**

There is an extant planning permission which was permitted at appeal under reference: APP/X5210/A/11/2161885 on the 20 March 2012 for:

*"The redevelopment of the site by refurbishment of existing buildings and erection of new 4 and 5 storey buildings at the northwest corner of the site and new 3 storey building at the eastern corner (following demolition of existing) to create 15 new residential units (Class C3) and additional office floor space (Class B)".*

Concurrently with the planning appeal, Conservation Area consent was granted under appeal reference: APP/X5210/E/11/2161889 for:

*"The demolition of buildings identified as number 2 at the northwest corner of the site and number 4 at the eastern corner of the site".*

A Prior Approval Application was validated by the London Borough of Camden on the 14 November 2014, under application reference 2014/7043/P. As noted above this application was subsequently withdrawn by the

applicant on the 30 December 2014, in light of two issues that were raised, but due to time limitations were not resolved.

The two outstanding issues that require clarification are:

- Justification of the existing lawful land uses; and
- The number of car parking spaces proposed.

Discussions have subsequently been had with the Council in the light of these comments and this application seeks to clarify and therefore satisfy the outstanding concerns.

### **Existing Lawful Use**

The Tenancy Plans (2012), attached to this letter, were approved at appeal and therefore are considered an accurate assessment of the existing employment use classes at 44-44a Gloucester Avenue.

The Tenancy Plans (2012), supersede the Employment Floor Space Analysis which was submitted as part of the application and were agreed with LB Camden as part of the Statement of Common Ground with the appeal.

A consultation response was received during the determination of the withdrawn prior approval application which sought clarification of two areas of the site, which are set out below:

#### *Basement to the rear of the property:*

This area of the site is referenced as Area A in the Tenancy Plans (2012) and is detailed as being within B8 use. It was agreed at appeal that the space has been vacant for 5 years, and therefore the floor area has been vacant for 8 years and was last used to storage furniture. It was agreed within the Statement of Common Ground that this B8 floorspace was not in a lettable state.

The proposed PD application has been revised, to reflect that the lawful use of Area A as B8 albeit the unit is vacant.

#### *Use Class of the Photo Studio:*

The photo studio is referred to as 'Area E' within the Tenancy Plan (2012) and the lawful use is stated as being within use class B1(a), and is therefore included within the floor area subject to this application.

#### *Mezzanine at second floor:*

The design has been revisited so as no new floorspace is now included and is wholly consistent with the appeal decision plans.

### **Car Parking**

Camden Development Policy DPD Appendix 2, details that in low parking provision areas a maximum of 0.5 spaces per dwelling would be acceptable.

As defined within the document a Low Parking Provision Area is defined as "central London areas, the town centres of Camden Town, Finchley Road / Swiss Cottage, Kentish Town, Kilburn High Road and West Hampstead, and other areas within Controlled Parking Zones that are easily accessible by public transport".

The site has a PTAL rating of 4 out of a possible 6 and it is therefore considered reasonably accessible by public transport. It is proposed that the provision of 9 car parking spaces (0.5 spaces per unit) will be provided on site for the residential accommodation, which is in line with adopted policy.

In addition, it is agreed, in line with Development Management policy DP18, that a legal agreement will be prepared which includes a clause restricting future residential occupants obtaining on-street parking permits.

### **Prior Approval**

Under Class J of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013, from 30 May 2013 development consisting of the change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) from a use falling within Class B1(a) (offices) constitutes 'permitted development', subject to a number of criteria. Namely permitted development rights do not apply if:

- the building is on article 1(6A) land;
- the building was not used for a use falling within Class B1(a) 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;
- the use of the building falling within Class C3 (dwellinghouses) was begun after 30<sup>th</sup> May 2016;
- the site is or forms part of a military hazard area;
- the site is or forms part of a military explosives storage area; or
- the building is a listed building or a scheduled monument.

Such permitted development is also subject to the condition that prior to commencing 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:

- transport and highway impacts of the development;
- contamination risks on the site; and
- flooding risks on the site.

### **Effect of Paragraph N(8)(b)**

In considering an application for prior approval under Class J, the 2014 further amendment to the GPDO amended the original (2013) wording of Paragraph N(8)(b) to clarify that the Local Authority shall *"have regard to the National Planning Policy Framework ..., so far as relevant to the subject matter of the prior approval, as if the application were a planning application"*.

The 2014 amendment clarifies that the NPPF is not relevant in its entirety, but only as far as it relates to the matters referred to at J.2 (namely, flood risk, contamination and transport and highways impact) and the general positive manner in which planning authorities are required to approach planning applications. It also allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The local planning authority is not directed, as a matter of law, to determine applications for prior approval under Class J with reference to the Development Plan.

The application site comprises a building consisting of basement, ground, first and part second floor and 9 off-street car parking spaces. The current and lawful use of the part of the building, which we are seeking change of use for, is as offices (Use Class B1(a)) as agreed at appeal (appeal ref: APP/X5210/A/11/2161885). The building is not listed nor is it a scheduled monument. The site does not fall within article 1(6A) land, nor is it situated in a military hazards area or is it used as a military explosives storage area.

It is proposed to convert the existing office (Use Class B1a) floorspace into 17 residential units, comprising 1 x 1 bedroom units and 16 x 2 bedroom units. In addition the existing house will be retained. The change of use to 17 residential units will total 1,866.4 sqm (20,090 sqft) GIA. The existing residential dwelling equates to 153 sqm (1,647 sqft) GIA. In addition 816 sqm (8,783 sqft) GIA of B8 use will be retained.

As discussed the proposals will provide a total of 9 marked out formal car parking spaces, of which 1 space (10%) will be DDA compliant, which is fully compliant with current parking policies.

The Council and TfLs cycle parking standards require a minimum of 1 storage or parking space per unit for one and two bed dwellings. Therefore, the proposed residential scheme will require 17 cycle parking space. It is proposed that 17 secure and sheltered cycle parking spaces will be provided within a cycle store located on the ground floor.

It has been agreed that a condition will be attached to a decision which will seek details of the cycle parking.

### **Transport and Highways Impact**

The Transport Statement submitted by SLR demonstrates that a change of use of the building from office (Use Class B1a) to residential (Use Class C3) will, in fact, lead to a decrease in vehicle movements during the weekday peak periods. As such, the creation of residential uses on the site would not lead to an unacceptable impact on local traffic conditions.

As set out within the Transport Assessment the proposed development is also likely to result in the decrease of servicing activity to and from the site thereby further reducing vehicle movements.

As agreed throughout discussions during the withdrawn applications determination, the applicant agrees to a clause in the legal agreement which will secure the requirement for a Construction Management Plan prior to the commencement of works.

### **Contamination Risk**

The application site does not fall within the definition of 'contaminated land' as described in part 2A of the Environmental Protection Act 1990, and consequently there are no contamination risks associated with the proposed development.

The planning application that was previously submitted and approved at appeal under application reference: APP/X5210/A/11/2161885 did not include a Contamination Desktop Report and therefore it is not considered that a report would be required in this instance as it was agreed not to be a material issue in the determination of the appeal.

### **Flood Risk**

The surrounding area mainly consists of residential terraced properties along Gloucester Avenue. These all have original lower ground floors under the footprint. The previous appeal application proposed a relatively small basement in comparison to surrounding basements and it was concluded that the proposals will have no negative impact on the local ground, surface water and ground water conditions. The proposed change of use does not propose any additional basement and therefore an assessment on local ground, surface water and ground water conditions will not be required for this Prior Approval application.

The site falls within Flood Zone 1, which is assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). The extant permission on the site did not include a Flood Risk Assessment. It was not considered that the site required a Flood Risk Assessment to grant permission for residential accommodation on the site, and therefore it is concluded that it is not considered that a Flood Risk Assessment would be required in the determination of this prior approval application as the proposed change of use should not have any adverse impact nor create any risk requiring mitigation.

### **Summary and Conclusion**

Accordingly, the development satisfies all of the criteria set out in Class J.1 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.

We anticipate that a legal agreement will be attached to this Prior Approval in relation to highways and transport mitigation measures; in particular to restrict the ability of residents to be able to apply for residents parking permits and a submission of a CMP prior to the commencement of works. Please advise who our client's lawyers are to contact, going forward, so the unilateral undertaking can be finalised prior to the 56 days determination period.

In conclusion therefore, we look forward to receipt of a written notice from the Council confirming that prior approval is not required, or that prior approval has been given, within 56 days of the date of this application being received. As noted above, given the previous application that was withdrawn, it is hoped that a decision can be reached in a quicker time, particularly as the only outstanding uses have now been resolved.

### **Administration**

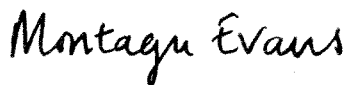
This application comprises the following documentation:

- This supporting letter prepared by Montagu Evans LLP, setting out a written description of the proposed development;
- Prior Approval of a Proposed Change of Use of a Building from Offices (Use Class B1) to a use falling within Use Class C3 (Dwellinghouse) application form;
- A 1:1250 scale OS plan of the application site and surrounding area;
- Application Drawings, prepared by 21<sup>st</sup> Architecture;
- Transport Statement, prepared by SLR; and
- Tenancy Plan (2012), Montagu Evans.

In line within the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 as the proposal is a revision of an application for development of the same character within 12 months of making the application and therefore no planning application fee is required.

If you should any further clarification, information or assistance be required please do not hesitate to contact Will Edmonds (Tel. 020 7312 7410 / [will.edmonds@montagu-evans.co.uk](mailto:will.edmonds@montagu-evans.co.uk)) or Anna Russell-Smith (Tel. 020 7312 7498 / [anna.russell-smith@montagu-evans.co.uk](mailto:anna.russell-smith@montagu-evans.co.uk)) of this office in the first instance.

Yours Sincerely



**MONTAGU EVANS LLP**

cc. S Sherrard –