

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		23/02/2017	
		N/A / attached		<b>Consultation Expiry Date:</b>			
<b>Officer</b>				<b>Application Number(s)</b>			
Emily Whittredge				2016/7125/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
Ground floor, 2 Hermit Place Rear of 246 Belsize Road London, NW6 4BZ				Refer to decision notice.			
<b>PO 3/4</b>		<b>Area Team Signature</b>		<b>C&amp;UD</b>		<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>							
Change of use from storage (Class B8) to residential (Class C3).							
<b>Recommendation(s):</b>		Refuse Prior Approval					
<b>Application Type:</b>		GPDO Prior Approval Class P Change of use of B8 to C3					
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>		No. notified	00	No. of responses	00	No. of objections	00
				No. electronic	00		
<b>Summary of consultation responses:</b>		N/A					
<b>CAAC/Local groups comments:</b>		N/A					
<b>Site Description</b>							
Hermit Place is a mews on the north side of Belsize Road (formally Priory Mews). The area is characterised by two storey buildings in semi-industrial use.							
The site is within the Priory Road Conservation Area, however it is not listed and there are no article 4 directions.							
The site has a PTAL score of 6a. The nearest station is Kilburn High Road, located to the southwest, whilst the nearest bus stops are located on Kilburn High Road.							

## Relevant History

2016/5931/P - Change of use from storage (B8) to residential unit (C3) (GPDO Prior Approval).  
Refused 23/12/2016.

Reasons for refusal:

In the absence of a sufficiently comprehensive statement to demonstrate that the building was used solely for a storage or distribution centre use on 19th March 2014 (the date referred to in paragraph P1.(a)) and for the period of 4 years before the date development the application has not satisfied the requirements of Class P subparagraphs P.1(a), (b) and P.2(a) of the of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015.

The proposed development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport, contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy, policies DP17 (Walking, cycling and public transport) and DP18 (Parking standards and the availability of car parking) of the London Borough of Camden Local Development Framework Development Policies and the National Planning Policy Framework chapter 4, paragraphs 29, 30, 35 and 39.

In the absence of a noise survey the applicant has failed to adequately demonstrate that suitable noise insulation would be provided to protect future occupiers from noise pollution from surrounding land uses contrary to policies CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy, policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework Development Policies and the National Planning Policy Framework paragraphs 109, 123 and 144.

2011/6119/P - Erection of second floor mansard roof extension with rooflights to provide additional Class B1 office space. Granted 26/01/2012.

2003/1887/P - Erection of second floor mansard roof extension to provide additional Class B1 office space. Granted 19/11/2003.

## Relevant policies

### National Planning Policy Framework, 2012

Chapter 4 (Promoting sustainable transport)

Chapter 10 (Meeting the challenge of climate change, flooding and coastal change)

Chapter 11 (Conserving and enhancing the natural environment)

### LDF Core Strategy and Development Policies

CS5 - Managing the impact of growth and development

CS6 - Providing quality homes

CS8 - Promoting a successful and inclusive Camden economy

CS11 - Promoting sustainable and efficient travel

CS13 - Tackling climate change

CS16 - Improving Camden's health and well-being

CS17 - Making Camden a safer place

CS19 - Delivering and monitoring the Core Strategy

DP13 - Employment sites and premises  
DP16 - Transport implications of development  
DP17 - Walking, cycling and public transport  
DP20 - Movement of goods and materials  
DP22 - Sustainable construction  
DP23 - Water  
DP26 - Managing the impact of development on occupiers and neighbours  
DP28 - Noise and vibration  
DP32 - Air quality

**Emerging local plan**

Policy G1 Delivery and location of growth  
Policy E2 Employment premises and sites  
Policy A1 Managing the impact of development  
Policy A4 Noise and vibration  
Policy CC3 Water and flooding  
Policy CC4 Air quality  
Policy T1 Prioritising walking, cycling and public transport  
Policy T2 Car-free development and limiting the availability of parking.

**The Town and Country Planning (General Permitted Development) (England) Order 2015  
Schedule 2, Part 2 Class P**

**The Environmental Protection Act 1990(a) part IIA**

**The Contaminated Land Statutory Guidance issued by the SoS for Environment, Food and  
Rural Affairs in April 2012**

## Assessment

### The proposal

The proposal seeks to change the use of the application site from storage use (Class B8) to residential use (Class C3), to provide 1 no. self-contained residential units.

No external changes are proposed.

### Procedure

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 came into force on 15th April 2015 and introduced Class P, which allows for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.

This is subject to a number of conditions listed within sub-paragraph P.1 [(a)-(j)] and a subsequent condition in sub-paragraph P.2 requiring that before beginning the development, the development must –

- a) submit a statement, which must accompany the application referred to in paragraph (b), to the local planning authority setting out the evidence the developer relies upon to demonstrate that the building was used solely for a storage or distribution centre use on the date referred to in paragraph P.1(a) and for the period referred to in paragraph P.1(b);
- b) apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to —
  - (i) impacts of air quality on the intended occupiers of the development;
  - (ii) transport and highways impacts of the development,
  - (iii) contamination risks in relation to the building,
  - (iv) flooding risks in relation to the building,
  - (v) noise impacts of the development, and
  - (vi) where the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services,

Paragraph W sets out the procedure for applications for prior approval under Part 3. This application is to ascertain whether the proposed change of use would constitute permitted development within the General Permitted Development Order ('GPDO') and whether prior approval is required. It states particularly in sub-para (13) that 'The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.'

### Compliance with Paragraph P.1 and Paragraph P.2 are assessed below:

Development is not permitted by Class P if —

- (a) the building was not used solely for a storage or distribution centre use on 19th March 2014 or in the case of a building which was in use before that date but was not in use on that date, when it was last in use;

The proposal does not comply. The Council's records suggest that the ground floor unit has most

recently been in use as a car repair workshop (class B2). This is supported by descriptions in the officer report for application ref. 2011/6119/P, existing floor plan no. HERM/01, images from Bing street view and estate agents particulars (see Appendix 1).

Planning permission is not required for a change of use from B2 to B8; however, insufficient evidence has been submitted for the commencement of a Class B8 use before or on 19<sup>th</sup> March 2014.

A VOA record was provided (ref. 00680000210009 Jan 2014), recording a description as Store and Premises. The VOA record for use as store and premises was effective from 20 January 2014 and prior to that the VOA shows that the rateable value in 2010 was as workshop and premises. The earlier valuation coincides with the last known lawful use but is not consistent with the other information provided and therefore such records cannot be taken as robust evidence for land use.

A signed lease for the unit was submitted covering the period 12 September 2012 to 11 September 2017, for an annual peppercorn rent. A clause in the lease required no use of the premises falling outside Class B8 use. The VOA rateable values conflict with information and the document itself is not evidence of a storage use having materially commenced on the date permitted by the lease.

Additional evidence was requested, and the applicant has provided statutory declaration from the tenant stating that they used the ground floor unit for storage continuously from 10 September 2012, and that the lease commenced on this date. This statement, however, is inconsistent with the date of the lease provided to the Council, which commenced 12 September 2012. Furthermore this conflicts with the VOA information available.

Given the inconsistencies with the information and the VOA record, signed lease and statutory declaration are considered insufficient evidence for the premises being in Class B8 use on 19<sup>th</sup> March 2014.

- (b) the building was not used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins;

The proposal does not comply. The VOA record submitted (ref. 00680000210009 Jan 2014), signed lease and statutory declaration are insufficient evidence that the proposal has been continuously in use as B8 for a period of at least 4 years.

The VOA record dated Jan 2014 records a description as Store and Premises. It is noted that the VOA records submitted with the GPDO application for the first floor unit was not consistent with its lawful planning use, and cannot be taken as robust evidence for land use.

A signed lease for the unit was submitted covering the period 12 September 2012 to 11 September 2017, for an annual peppercorn rent. Given the reasons outlined above the document itself is not evidence of a storage use having commenced on the date permitted by the lease.

As outline above the inconsistencies between the statutory declaration and the other available documents this is not sufficient.

The information provided is considered insufficient evidence for the premises being in Class B8 use for a continuous period of four years before the date of development would commence.

- (c) the use of the building falling within Class C3 (dwellinghouses) of that Schedule was begun after 15th April 2018;

The proposal complies. The officer was satisfied that the change of use had not commenced and

it is considered that there is sufficient time for the change of use to occur before 15th April 2018.

(d) the gross floor space of the existing building exceeds 500 square metres;

The proposal complies. The floor space of the existing building measures 140sqm. The applicant has applied for the ground floor of the building to be changed from B8 to C3, this area measures 70sqm.

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

The proposal complies. There is no evidence to suggest it is occupied under an agricultural tenancy.

(f) less than 1 year before the date the development begins—

- (i) an agricultural tenancy over the site has been terminated, and
- (ii) the termination was for the purpose of carrying out development under this Class, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural purposes;

The proposal complies. There is no evidence to suggest that an agricultural tenancy over the site exists.

(g) the building is within—

- (i) an area of outstanding natural beauty;
- (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(a);
- (iii) the Broads; or
- (iv) a National Park;
- (v) a World Heritage Site;

The proposal complies. The site does not lie within any of these areas.

(h) the site forms part of –

- (i) a site of special scientific interest;
- (ii) a safety hazard area;
- (iii) a military explosives storage area;

The proposal complies. The application site is not within a site of special scientific interest, a safety hazard area or a military explosives storage area.

(i) the building is a listed building or is within the curtilage of a listed building;

The proposal complies. The application building is not listed and neither is it within the curtilage of a listed building.

(j) the site is, or contains, a scheduled monument.

The proposal complies. The application site is not, nor does it contain a scheduled monument.

### **Compliance with Paragraph P.2**

P.2 Development is permitted by Class P subject to the condition that before beginning the development, the developer must—

- (a) submit a statement, which must accompany the application referred to in paragraph (b), to the local planning authority setting out the evidence the developer relies upon to demonstrate that the building was used solely for a storage or distribution centre use on the date referred to in paragraph P.1(a) and for the period referred to in paragraph P.1(b);

The proposal complies. A formal statement was not submitted however an email was received on 02 February stating that evidence for compliance with Paragraph P1(a) would be provided by way of a signed lease for the premises. P.2 Development is permitted by Class P subject to the condition that before beginning the development, the developer must—

- (b) apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (i) impacts of air quality on the intended occupiers of the development;

The proposal complies. The Council's Air Quality Officer has advised that air quality in the area is within national objectives and as such the applicant is not required to submit a full Air Quality Assessment.

- (ii) Transport and highways impacts of the development,

In the absence of a S106 legal agreement the proposal does not comply with this condition. The site has a PTAL score of 6a which indicates that it is highly accessible by public transport. The nearest station is Kilburn High Road, located to the southwest, whilst the nearest bus stops are located on Kilburn High Road.

In line with Development Policy DP18 and Policy T2 of the emerging Local Plan, the new residential unit should be designated as being car free, i.e. the future occupants will be unable to obtain off-street parking permits from the Council. This arrangement should be secured by means of a Section 106 Agreement.

In accordance with the standards set out in the London Plan for 1 bedroom units this requires the provision of 1 space per unit, which gives a requirement for 1 space to serve the new unit. The submitted plan shows a storage area at the flat entrance, which the applicant states is for the purposes of cycle parking. It is of a suitable size to accommodate a bicycle. The cycle storage provision could be secured by condition.

- (iii) Contamination risks in relation to the building

The proposal does not comply. The Council's Environmental Health (Contamination) officer has reviewed the application against Earth Environmental's Phase 1 Environmental Desk Study dated October 2016 and found that the site is located on former Motor Garage Repairs and adjacent to several former industrial sites (full list attached), including Unknown Industrial site. These sites were not identified in the Desk Study but have the potential to cause ground contamination.

In addition, Chapter 3.58 of the report refers to Previous Site Investigations. However, only 1 soil sample was taken at the adjacent site (rear of 246 Belsize Road) which is not representative of the site. Therefore, a planning condition would need to be imposed for a written programme of ground investigation and a written scheme of remediation measures, to be approved by the local planning authority.

(iv) Flooding risks in relation to the building,

The proposal complies. The Council's Sustainability Officer advises that the site is not located within a Local Flood Risk Zone. The immediate development site is not in an area identified in Camden's Strategic Flood Risk Assessment as being at risk of surface water flooding and therefore the site itself is not at risk from flooding.

(v) Noise impacts of the development,

The proposal does not comply. A noise survey has not been submitted with the application. The site is located next to works and close located to The Priory Tavern Public House and it is important that continued use of this venue is not compromised by the need to protect future residential amenities here. The site also adjoins 1 Hermit Place, whose planning history indicates a vehicle repair use and is thought to be associated with the adjoining garage (250 Belsize Road).

While details of proposed insulation have been provided, the Council's Environmental Health officer advises that an acoustic report is necessary to demonstrate that the development would not be harmed by environmental noise impacts. The applicant has failed to adequately demonstrate that future occupiers would not be impacted by noise pollution from surrounding commercial land uses.

(vi) where the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services.

The Council considers the change of use would not impact on the operation of nearby employment uses. Given the predominantly residential character of the surrounding area, an increase in residential would not have an impact on the sustainability or provision of storage services.

## **Conclusion**

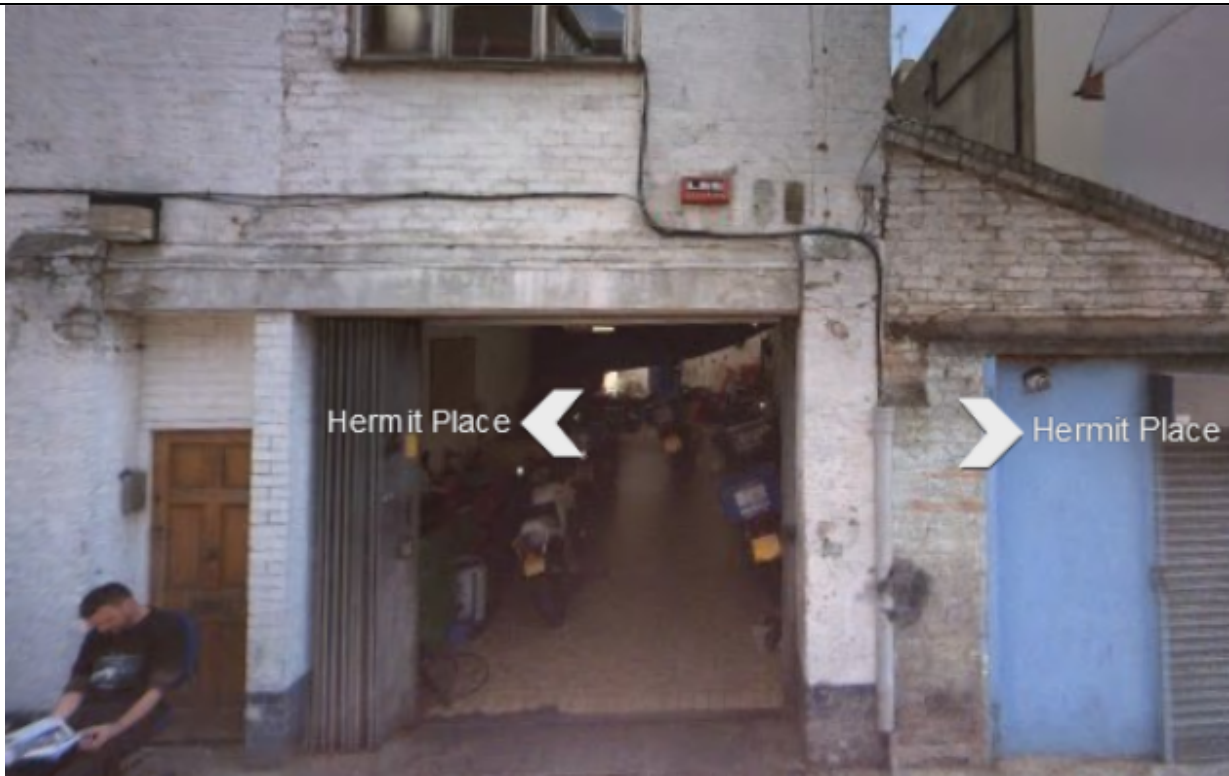
1. The proposal fails to accord with the provisions of paragraph P.1 (a) and the proposal therefore does not constitute permitted development.
2. The applicant has failed to enter into a Section 106 legal agreement to designate the development as 'car-free' and therefore prior approval is refused on this basis.
3. The applicant has failed to adequately demonstrate that future occupiers would not be impacted by noise pollution from surrounding land uses.

Recommendation: **Refuse Prior Approval**

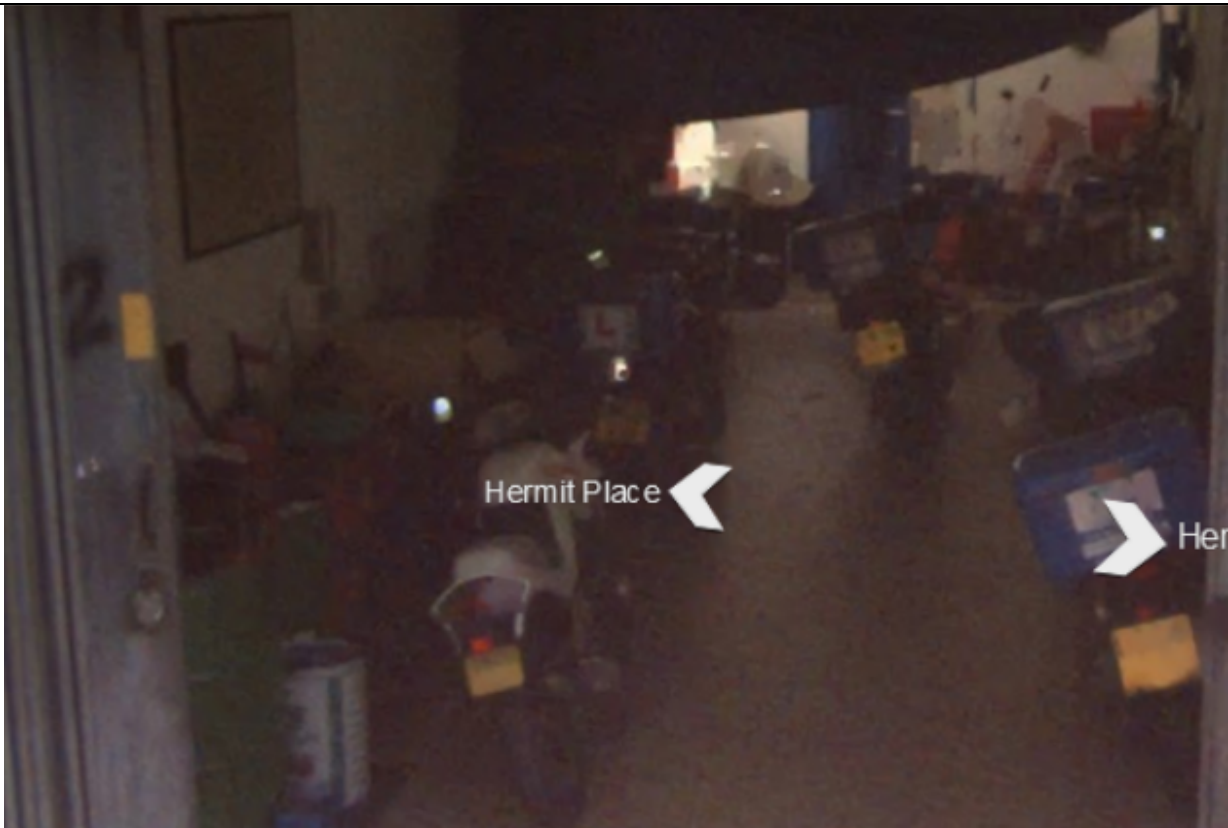
## **Appendix. 1**

1. **Bing Map screenshot, 2 Hermit Place**






**2. Bing Map screenshot, inside 2 Hermit Place**



### 3. Property particulars from Rightmove, 2 Hermit Place

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## 4. Property details from Rightmove, 2 Hermit Place

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