

From: Karen Clark [REDACTED]
Sent: 13 October 2017 15:47
To: Constantinescu, Nora-Andreea
Cc: [REDACTED] Sebastian Sandler; Yaiza Ramiro
Subject: FW: 3 Belsize Crescent NW3

Importance: High

Dear Nora,

Following our conversation yesterday my client has reverted back to the agents engaged to sell/rent the premises. A copy of their email is copied below. Please note these agents are well-established in the field of marketing commercial properties.

Essentially the premises have been with the agent for 6months and they have been showing prospective purchasers/tenants around them during this period. There has been interest from both commercial tenants/purchasers and those obviously aware of the prior approval that exists for conversion to residential use.

The commercial interest has not, however, produced any offers being made, with access difficulties the main concern – access constraints being the steep staircases, limited access/head height in the basement (rendering it effectively ‘dead space’ for commercial users) and the shared staircase with the residential unit at 2nd floor level.

The steep staircase and shared access/stairs with the residential unit has raised safety and security issues that are clearly stalling commercial interest in the property. We would also suggest that shared access is not in the interests of the reasonable residential amenities of the residential unit in terms of potential noise and disturbance. Having regard to the specific circumstances of this building and the marketing evidence available, it is held that there is no reasonable prospect of the premises being used as office or other commercial floorspace.

The premises were not originally constructed as office or alternative commercial floor space, with the building originally constructed for residential use. The Council’s SPD, CPG5 deals with office space and notes that there is sufficient office space to meet projected demand and that as a result the Council “may allow a change from B1(a) offices to another use in some circumstances, such as older office premises or buildings that were originally built as residential dwellings.” This scheme falls squarely with the advice of CPG5.

We would further note that the premises are not purpose built and given the original use of the property, they are enterable suitable for conversion to residential use. Indeed, this would sit comfortably with the lawful use of the upper floor. The premises do not contain the features required by tenants seeking modern office accommodation, with shared access/stairwells with a residential unit, steep stairs to office space, limited head height at basement level and limited facilities for staff/their welfare.

Notwithstanding the above, we would further remind the Council of the materiality of the ‘fall back’ position. Prior approval for the basement, ground and first floor to residential use has been established and this represents a realistic fall-back position which is highly material, as established in *Zurich Assurance Ltd (t/a Threadneedle Property Investments) R v North Lincolnshire Council & Anor 2012*. In his judgement, the Judge stated in paragraph 75:

“The prospect of the fall back position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fall back position happening is “very slight indeed” or merely “an outside chance”, that is sufficient to make the position a material consideration.”

In this case, the marketing evidence clearly shows there is no interest from commercial users and there exists a more than probably chance of the prior approval being implemented. This is highly material and must be given due weight in the planning balance.

In light of the above, we maintain that the planning balance weighs heavily in favour of the proposal before you and as such planning permission should be granted.

We would be grateful if you could consider this evidence and revert back to us with an update on your position.

Kind Regards,

Karen

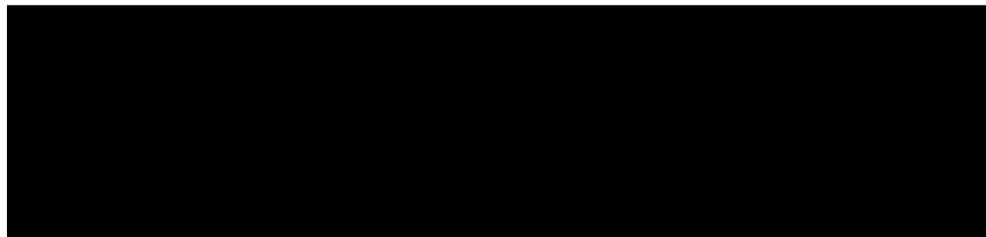
Karen Clark

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Dear David

I refer to our conversation in connection with the above property.

As you are aware, we have been formally marketing this property since early August although were offering and showing over prospective purchasers / tenants since April of this year.

Whilst the marketing details state that we are offering the property for sale, we have also been encouraging rental offers.

The feedback has been very strong in terms of viewings generated but unfortunately this has not translated through to us being able to conclude a transaction.

I could point at a number of reasons for this but in the main, would highlight the following;

The Staircase pitch (which is very high). Commercial occupiers have flagged this.

Lack of natural light and low ceiling in the basement

The mixed use – in other words the fact that a commercial occupier would have to use the top floor as a flat (or share the common parts with a residential occupier).

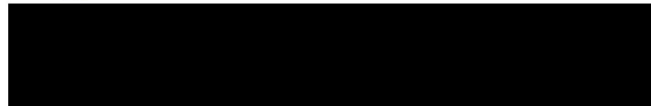
I hope the above is all clear although do feel free to call if you require any further information.

We are of course still marketing and will update you as soon as we have any news.

Best Regards

Damien

Damien Field
Director



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