



Robert Lester
Planning Services
London Borough of Camden
5 Pancras Square
London
N1C 4AG

25 April 2018

Our Ref: 2017-3545

Dear Mr Lester

PD Prior Approval – Change of Use from B1(c) Light Industrial Use to C3 Residential Use – 35A Broadhurst Gardens, London, NW6 3QT

On behalf of our client, Circle East Ltd, we are pleased to enclose an application for prior approval under Class PA of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended 2016) to change the use of the site from B1(c) to C3 use.

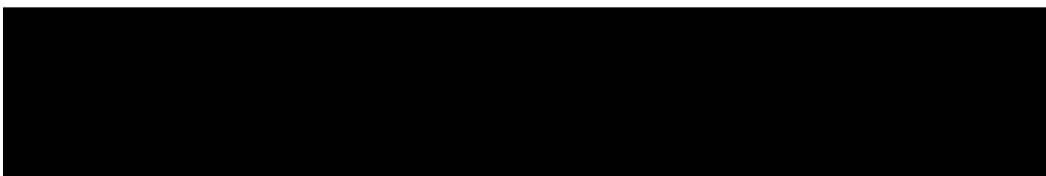
Site Context

The site is located on the southern side of Broadhurst Gardens, close to its junction with Canfield Gardens. Broadhurst Gardens is predominantly a residential street, located in the South Hamstead Conservation Area. The site comprises the ground floor of No. 35 Broadhurst Gardens and associated ancillary external space to the front and rear. A large outbuilding is located in the rear garden and two car parking spaces are located at the front of the property. The site was in use as a recording studio between 2002 and May 2017. The site is now vacant following the closure of the recording studio business.

Proposed Change of Use - Prior Approval

On the 6th April 2016, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order was amended to include Class PA which permits the change of use of a building from Class B1(c) (Light Industrial Use) to Class C3 (Residential Use) subject to the restriction in Section PA.1 and conditions listed in Section PA.2. The conditions require that before beginning development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the local authority will be required as to:

- (i) Transport and highways impacts from the development
- (ii) Contamination risks in relation to the building
- (iii) Flooding risks in relation to the building
- (iv) where the authority considers the building to which the development relates is within an area that is important for providing industrial services or storage or distribution services or a mix of those services (which includes, where the development relates to part of a building, services provided from any other part of the building),



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.

It is proposed to change the use of the site to residential use comprising a 2-bedroom residential flat under Class PA of the GPDO. The following sections demonstrate how the proposals accord with the relevant restrictions and conditions, and importantly demonstrates that the proposals will not lead to any adverse impacts or risks.

Planning History

A prior approval application (ref: 2017/1341/P) was submitted in February 2017 for conversion of the recording studios (Class B1(a) use) to residential (Class C3 use) to provide 1 x 2 bed flat. The application was refused on 28 April 2017 for the following reasons:

- 1) Insufficient evidence has been submitted to demonstrate that the existing building was in use as an office within Class B1(a) of the schedule to the Use Classes Order on or prior to 29th May 2013.
- 2) The proposal, in the absence of a Section 106 legal agreement to secure the residential unit as car capped development, would contribute unacceptably to parking stress and traffic congestion in the surrounding area and would not promote the use of sustainable transport.

The officer report concluded that the former recording studio was more likely to be B1(c) light industrial use.

Pre-Application Discussions

Following the refusal, pre-application discussions with the Council were entered into to discuss the use of the recording studio in more detail and to establish how a prior approval application would be considered under Class PA of the GPDO (change of use of B1(c) light industrial use to C3 residential use), together with proposals for a potential extension.

Following the submission of detailed information on the use, which included advice from Counsel, officers agreed that the recording studio is a B1(c) use having regard the use classess order definition of 'industrial processes' and the fact that the use would not have harmed neighbouring amenity. The Council's formal pre-application response dated 28 April concluded:

"The existing recording studio is a B1c use, therefore it is possible to apply for the change of use to a residential unit (C3 use) under this procedure".

In terms of assessing the transport and highways impacts, the pre-application response confirmed that the Council would require the developer to enter into a S106 legal agreement with the Council to ensure that the development is car free, the existing off-street car parking is removed and for the highway works to remove the existing dropped-kerb. This would ensure compliance with Camden Local Plan Policy T2 which seeks to ensure that all new development is car free. In addition, the S106 agreement would need to include a clause to prevent occupiers of the new flat from applying for a parking permit to avoid parking stress.

It was considered that the Council's requirement for the existing two car parking spaces to be removed to ensure compliance with Policy T2 was entirely onerous and outside of the scope of a prior approval application. After further consideration, the Council agreed by way of email dated 16 February 2018 that the existing car parking spaces can be retained provided that it can be demonstrated that their retention would not lead to any highways or traffic impacts.

In terms of contamination and flooding risks, the pre-application response advised that the Council would apply planning conditions requiring contaminated land investigations and details of surface water drainage measures in line with the consultation responses received in respect of the previously refused prior approval application. It went on to state that these details can be submitted with the prior approval application itself to avoid the need for conditions.

Finally, and importantly, the pre-application response confirmed the following in respect of criterion (iv) of condition of PA.2(1):

"The site is not considered to be located in an area which the Council considers is important for industrial or storage and distribution services. The development would therefore have no impact on the sustainability of the provision of industrial or storage and distribution services in the area and would meet this prior approval requirement".

The Council's legal team agreed with our interpretation of the condition test in that the test is only relevant where the area is considered to be important for providing industrial services, and officers confirmed that the site was not in such an area.

Compliance with Restrictions

As discussed above, the Council have confirmed in writing that they agree the recording studio fell within Class B1(c) light industrial use. Attached to this letter is the detailed use statement providing further information on the operation of the recording studio, including advice received from Counsel, which was submitted to the Council during pre-application discussions and upon which the Council arrived at their conclusion. We also enclose a letter from the owner of the recording studio confirming the dates that the recording studio operated at the site. This statement and letter forms the basis of the prior approval application. It is clear that the use of the site fell within Class B1(c) on the 19th March 2014 and therefore the application proposals clearly comply with restriction/criteria (b) of PA.1.

All other restrictions/criteria are met in that the application was not received before 30th September 2017, the prior approval date will not fall on or after 1st October 2020, the gross floor spaces of the existing building does not exceed 500 square metres, the site is not occupied by an agricultural tenancy, and the site is not, nor does it form part of, a site of special scientific interest, a safety hazard area, a military explosives storage area, a listed building or a scheduled monument.

Assessment of Impacts and Risks

Transport & Highways Impacts

It is quite clear that a 2-bedroom flat would not lead to any adverse transport or highway impacts compared to the site's existing employment use. RGP have prepared a Transport Statement demonstrating this to be the case and in fact the statement demonstrates that the proposed change of use would result in a betterment of the existing situation. Importantly it confirms that the Council's car parking policies are not relevant to a prior approval application and that there is no requirement to alter the existing car parking provision based on policy requirements. Nevertheless, it demonstrates that the retention of the two existing car parking spaces at the front of the site would not give rise to any adverse transport or highway impacts as the retention of the spaces would ensure that there is no displaced car parking onto the street, thereby mitigating any potential impact on parking stress locally. Further, a S106 legal agreement would ensure that future residents would not be eligible to obtain an on-street parking permit again to mitigate the potential impact on parking stress. A draft S106 agreement is submitted with the application demonstrating the applicant's commitment in this regard. WGS solicitors have been appointed to deal with the legal agreement on behalf of the applicant.

It has therefore been demonstrated that the proposals will not result in any adverse transport or highway impacts.

Contamination Risks

To avoid the need for conditions, a Desk Study of contamination risks has been prepared by Southern Testing in support of the application. The report has had full regard to the comments received in respect of the previous prior approval application which stated that due to the contamination risks of the site (in the main due to high levels of Lead in made ground) intrusive investigation would be required and appropriate remediation if necessary. However, the report concludes following a thorough desk-based investigation that:

"...the likelihood of contamination being present at the site or affecting the site is considered to be very low. Accordingly, we would not consider that an intrusive investigation is necessary in relation to potentially contaminated land".

It has therefore been demonstrated that the proposed change of use does not pose any contamination risks for future occupiers and that there is no requirement for any further conditions. Whilst the report identifies the possible presence of Asbestos in the fabric of the building and that a Refurbishment Survey would be required, this is a legal requirement and not a planning matter.

Flooding Risks

Again, in order to avoid conditions, a Drainage and Water Usage Report has been prepared by Richard Fillingham Associates in support of the application to demonstrate that there are no flooding risks associated with the proposed change of use, subject to the implementation of a drainage strategy involving rainwater butts, and flood resilient construction techniques including the installation of flood resilient doors.

It should be noted that the consultation response on flooding in respect of the previous prior approval clearly assessed the application as an application for full planning permission and therefore the suggested condition relates to local plan policy requirements. Such policies are not relevant to the consideration of a prior approval application.

Impact on the Sustainability of the Provision of Industrial Services or Storage or Distribution Services

We concur with the Council's position that the site is not located in an area which is important to the Council for industrial and storage and distribution services. Indeed, the site is located within a predominantly residential area and the site is the only industrial/storage and distribution use in the vicinity. As such, the proposed change of use of the site to residential use cannot possibly have an adverse impact on the sustainability of the provision of those services.

Application Submission

In addition to this cover letter, we enclose the following in support of this prior approval application:

- Completed application form
- Site Location Plan identifying the site in red
- Existing and Proposed Site/Layout Plans
- Statement of Use
- Letter by Mr P. Watson
- Transport Statement prepared by RGP
- Desk Study of Contamination Risks prepared by Southern Testing
- Drainage and Water Usage Report prepared by Richard Fillingham Associates
- Draft S106 agreement in respect of parking permits

We trust that the information is sufficient for the determination of the application and we look forward to receiving confirmation that the application has been validated in due course. If in the meantime you have any queries, please do not hesitate to contact me.

Yours sincerely,



Katie Turvey

Associate Director

Planning Potential

London

Enc.