

112 Cleveland Road- Ground and Basement – ‘prior approval’- Class MA

12 August 2021  
Planning Department  
London Borough of Camden  
2<sup>nd</sup> Floor, 5 Pancras Square  
C/o Town Hall  
Judd Street  
London  
WC1H 9JE

Dear Sir/Madam

**Re: Prior approval under Class MA of Schedule 2 of Part 3 of the Town and Country Planning (General Permitted Development) Order 2016 (as amended)-Ground and basement floors of 112 Cleveland Street**

Please find enclosed an application seeking a determination as to whether prior approval is required for the conversion of the existing ground and basement floorspace from a use falling within Class E (commercial, business and services) to create a single residential dwelling over the ground and basement level (Use Class C3). This application relates to the ground and basement floors of the premises only.

This prior approval application comprises the following documentation:

- Completed application form for prior approval under Class MA;
- This supporting letter
- 1:1250 Site location plan (Ref A001);
- Existing basement floor plan (Ref A100);
- Existing ground floor plan (Ref A101);
- Existing elevation (Ref A110);
- Proposed basement floor plan 19061;
- Proposed ground floor plan 19061;
- Transport Note prepared by RPG;
- Noise Report prepared by KP Acoustics;
- Phase 1 Environmental Statement prepared by GO Contaminated Land Solutions Ltd; and
- Flood Risk Assessment prepared by GO Contaminated Land Solutions Ltd.

Under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015, which was subsequently amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016, 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 E (commercial, business and services) constitutes ‘permitted development’, provided that a number of criteria and associated conditions are satisfied.

This application seeks to avail of these prior approval provisions, and accordingly this covering letter and associated documentation appraises the proposed conversion against the relevant criteria and associated conditions.

**Description of application site**

The application relates to a three-storey mid –terrace property with basement and mansard roof addition on the north-east side of Cleveland Street in the Bloomsbury Conservation Area. To the rear is the separate 10 Warren Mews which is a self-contained residential unit (Use Class C3).

The basement and ground floor level have a lawful use under Class E. It previously had a lawful retail use but was last in use as an estate agency and is now vacant. The upper floors of the premises have a lawful use as HMO floorspace (Use Class C4) but were previously in residential C3 use. There is a current planning application relating to the upper floors for 2 residential units.

### **Proposal for which determination as to whether or not 'prior approval' is sought**

A determination is sought as to whether or not prior approval is required for the proposed conversion of the current E Class floorspace of the ground and basement to create a single 1 bedroomed dwelling (Use Class C3). If the Council concludes such approval is required, then the grant of such approval is sought. The proposed flat is 61 sqm and is in full compliance with the national space standards.

There are no external works proposed as part of this application and the application relates solely to the proposed change of use and the creation of No. 1 new dwelling.

This proposal together with the impending application for the upper floor would put this building back into beneficial use with the full extent of the building in residential use providing a mix of units in the form of a 1 bedroomed unit (ground and basement), 1 studio (first floor) and a 2 bedroomed unit (second and third). Therefore, in totality providing a balanced mix of unit sizes to meet a range of housing needs.

### **Planning history**

On the 20 July 2020 a planning application (Ref 2020/2637/P) was submitted for the change of use of the upper floors. This proposal, the wording of which is now been amended by the LPA, for the conversion of the existing 1 x3 bed maisonette to provide 1 x studio flat and 1 x 2 bed maisonette (use Class C3) and associated works remains outstanding.

On the 7 October 2020 planning permission (Ref 2020/1793/P) was granted for external alterations at front including new external staircase and railings within the lightwell, doorway at basement level and associated works.

On 26 June 2014 planning permission (Ref 2013/5159/P) was granted for the retention of a retail unit and ancillary storage space at basement and ground floor levels (Class A1) and proposed change of use from HMO (Class C4) on ground, first, second and third floor levels to 1 x 1 bedroom self-contained flat and 1 x 3 bedroomed self-contained maisonette (Class C3).

We understand that on 13 September 2012 an enforcement notice was issued in respect of the conversion of the ground and basement floor retail unit (Class A1) to 2x self-contained flats, alterations to shopfront and conversion of four non-self-contained 'bed sitting' accommodation units with shared facilities to 3x self-contained flats (Class C3) at first to third floor levels.

On 24 September 2008 planning permission was refused (Ref 2008/2688/P) for the change of use from 4 x non- self-contained units (HMO) (with double garage) to 3 x non-self-contained units and one self-contained studio flat (with single garage), alterations to the front and rear fenestration, installation of a rooflight at rear second floor level and reinstatement of front basement lightwell with railings and bridge to provide access to existing ground floor retail unit.

Planning application 2017/6437/P was submitted and withdrawn on 28 April 2008 for Change of use from 3 x non self-contained units (HMO) to 3 x self-contained units (1x studio, 1 x 2 bed and 1x 3 bed) including works of conversion comprising erection of a rear extension at second floor level with a balustrade above for use of the roof as a terrace; new and replacement windows to front and rear, including a new shopfront window; and opening up of the front light well and provision of railings.

## Assessment of proposal

This section of this covering letter appraises the proposed change of use against all of the relevant Class MA criteria, by firstly quoting the relevant criteria and then appraising the proposals against each specific criterion.

MA.1.-(1) Development is not permitted by Class MA unless:

**(a) the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval**

It can be confirmed that the application premises have been vacant for well in excess of the required 3 months vacancy period.

**(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of a least 2 years prior to the date of the application for prior approval**

The application premises have a lawful retail use which is now within the scope of Class E and have had that use for a period in excess of 2 years prior to the date of this application.

**(c) the cumulative floor space of the existing building changing use under Class MA exceeds 1500 sqm;**

The area of the building proposed for change does not exceed 1500 sqm.

**(d) If land covered by, or within the curtilage of, the building—(i) is or forms part of a site of special scientific interest;(ii) is or forms part of a listed building or land within its curtilage;(iii) is or forms part of a scheduled monument or land within its curtilage;(iv) is or forms part of a safety hazard area; or (v) is or forms part of a military explosives storage area**

The application premises are not located within any of the above designations.

**(e) If 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;(iii) the Broads;(iv) a National Park; or(v) a World Heritage Site**

The application premises are not located within any of the above designations.

**(f) If the site is occupied under an agricultural tenancy, unless the express consent of both the tenant has been obtained; or**

**(g) before 1 August 2022, if—(i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.**

The application site is not located within any of these designations set out in Criterion f) and g). The 2021 amendment to the GPDO goes on to state that;

*'Development under Class M is permitted subject to the condition that before beginning the development, the developer must 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, particularly to ensure safe site access;*
  - (b) contamination risks in relation to the building,*
  - (c) flooding risks in relation to the building,*
  - (d) impact of noise from commercial premises on the intended occupiers of the development;*
  - (e) where—*
    - i. The building is located in a conservation area, and*
    - ii. The development involves a change of use of the whole or part of the ground floor'*
- The impact of that change of use on the character or the sustainability of the conservation area;*
- f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;*
  - g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and*
  - h) where the development involves the loss of services provided by—*
    - i. a registered nursery, or*
    - ii. a health centre maintained under section 2 or 3 of the National Health Service Act 2006,*

*the impact on the local provision of the type of services lost.*

### **Transport and highways impact of the development**

The site is in a highly sustainably urban location located a short walk to public transport links, services and local amenities and is considered to be suitable for residential development. The Site has an excellent accessibility to public Transport with a PTAL of 6b.

In relation to the transport and highways impacts a technical note has been prepared by RGP consulting in support of the application. The statement identifies that the level of activity generated by a retail unit would be significantly less than that generated by a retail use of the site. This includes a reduction across all mode types, including a reduction in vehicular activity. The report concludes that the proposed development would not have any adverse transport or highways impact.

Therefore, in accordance with the advice set out in paragraph 32 of the National Planning Policy Framework (NPPF), the residual cumulative impacts of the proposed conversion are arguably non-existent, and most certainly not severe, and consequently this proposal should not be prevented on transport or highway grounds.

### **Contamination risk on the site**

The Site is not located on contaminated land and the proposal is for internal conversion only and does not involve breaking ground.

A Phase 1 Environmental Desktop Study and a Phase 2 Environmental Investigation of the application site has been undertaken by Go Contaminated Land Solutions Ltd., and the findings of those studies/investigations accompany this prior approval application. It is concluded that there are no contamination risks associated with the proposed conversion of the premises.

### **Floodrisk on the site**

The site and all of its surroundings fall within Flood Zone 1 and is a considerable distance from areas falling within Flood Zones 2 or 3. Thus the Site has a low risk of flooding.

Nonetheless, for the sake of completeness a Flood Risk Assessment prepared by GO Contaminated Land Solutions Ltd accompanies this prior approval application. The assessment concludes that the application site is not at risk of flooding, and the proposed conversion should not increase the risk of flooding elsewhere.

### **The impact of noise from commercial premises.**

The application premises are in a central location on a street consisting of a mix of uses with a range of retail, office, café and restaurant uses as well as existing residential uses. Such a mix of uses provides for a vibrant mix of activity and all the commercial uses along the street are totally appropriate neighbours to residential dwellings.

Much of the street is already in residential use including the basement and upper floors of the neighbouring premises at 114 Cleveland Street. There are no commercial or industrial premises nearby which are likely to negatively impact the future occupants of the residential accommodation. The nature of the street is patently a suitable residential location.

Notwithstanding this a Noise Survey has been carried out by KP Acoustic in support of the application. This concludes that any impact can be appropriately mitigated through the introduction of appropriate internal secondary glazing.

### **Impact of the change of use on the character and the change of use of the Conservation Area.**

The premises are located within the Fitzroy Square Conservation Area. The wider terrace 108-126 (even) which includes the application property is identified as making a positive contribution to the character of the immediate surroundings and to the Conservation Area as a whole. The closest listed buildings are at Nos 68 and 106 Cleveland Street.

The conservation area audit recognises that *"the area retains a broad mix of residential uses, generally small-scale businesses and independent retail premises. There is significant amount of residential accommodation on the upper floors of buildings which contributes to the levels of activity and sense of community within the area"* (para 4.8). *"Shops to serve the increased population also appeared during the 19th and early 20th century, particularly along the peripheral streets. Interesting examples of which are in evidence along Warren Street, Cleveland Street and Whitfield Street"* (para 5.10).

There are no physical works to the property as part of this application and the current shop front will remain unchanged. The proposed change of use will be carried out together with the physical works that were approved under planning permission 2020/1793/P which show the opening up of the front light well and changes to the railings whilst retaining the existing shopfront. The physical character of the frontage of the property therefore continues to support the character and appearance of the conservation area. Residential use itself is also part of this character and continues to support an active frontage along the street scene. Accordingly, the creation of an additional residential unit does not have a detrimental impact on the character of the street or the wider conservation area.

### **The provision of adequate natural light**

Natural light refers to both daylight and sunlight and this submission is supported by a Daylight and Sunlight Assessment produced by Smith Marston.

In accordance with BRE guidelines the Average Daylight Factor (ADF) test and the No Skyline Analysis (NSL) has been used to test daylight levels. It concludes that the habitable rooms (both the bedroom and living room) surpass the BRE Average Daylight Factor (ADF) targets.

With regards to sunlight all windows pass both the total annual sunlight hours test and the winter sunlight hours test. The proposed development therefore satisfies the BRE direct sunlight to windows requirements.

The NPPF states at paragraph 123 criterion C that “*local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards)*”

It has been demonstrated that the proposed new unit would have good natural light levels and the scheme makes efficient use of the site and would provide acceptable living standards. It is therefore, concluded that the proposals accord with this criterion in this regard.

## Conclusion

As set out within this supporting letter and having regard to the accompanying documentation, the proposed conversion of the existing ground and basement floorspace to create a single residential unit satisfies all of the criteria and associated conditions set out within Class MA of the 2016 GPDO (as amended).

Therefore, the Council should either confirm, within 56 days of receipt of this application, that prior approval is not required for this proposed conversion, or that prior approval is required and is granted subject to the provisions of Part M and any conditions the Council consider appropriate should be imposed upon the granting of prior approval.

I look forward to correspondence with the Case Officer to whom this application is allocated in the coming weeks, but in the meantime should any further information or clarification be required please do not hesitate to contact me.

**Yours sincerely,**



**Vivienne Goddard**  
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