



The London Borough of Camden  
Development Management  
Regeneration and Planning  
Town Hall  
Judd Street  
London  
WC1H 9JE

Our ref: E5199

25<sup>th</sup> March 2022

**SENT BY EMAIL: [planning@camden.gov.uk](mailto:planning@camden.gov.uk)**

Dear Sir / Madam

**CAMDEN: NO. 81 BELSIZE PARK GARDENS LONDON NW3 4NJ**  
**PRIOR APPROVAL APPLICATION under Class MA of the GPDO**

1. Please find enclosed an application for Prior Approval under Part 3 (Changes of Use) Class MA (commercial, business and service uses to dwellinghouses) of The Town and Country Planning (General Permitted Development (England) Order 2015 (as amended).
2. The Prior Approval application is made concurrently with a full planning application for external alterations. The applications are designed to be considered together by the same Case Officer and we formally request this should occur.
3. The premise of the application is that the development proposed is permitted under Part 3 Class MA of the Second Schedule to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"). This permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (Dwellinghouses) of Schedule 1 to that order subject to a number of specified conditions, exceptions and limitations considered below.
4. The Proposal fully complies with the Class MA nine Prior Approval matters including:

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- a. *transport impacts of the development, particularly to ensure safe site access - complies;*
  - b. *contamination risks in relation to the building - complies;*
  - c. *flooding risks in relation to the building - complies;*
  - d. *impacts of noise from commercial premises on the intended occupiers of the development – not engaged by this proposal;*
  - 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 sustainability of the conservation area – complies;*
  - f. *the provision of adequate natural light in all habitable rooms of the dwellings – complies;*
  - 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 – not engaged by this proposal;*
  - 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 – not engaged by this proposal; and*
  - i. *where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building – not engaged by this proposal.*
5. The application seeks certification that the works are development permitted by the GPDO and that no additional prior approval is required on the basis of the material accompanying this letter.
6. The application comprises the following:
- A copy of the application form;
  - The following application plans:
    - 1698\_OS.0: Location Plan;
    - 1698\_EX.01-05: Existing Plans;
    - 1698\_PD.01-05: Proposed Plans,
    - 1698\_PD.06-11: Proposed / Existing Sections and Elevations;
    - Corresponding Drawing Register;
  - A completed Community Infrastructure Levy (“CIL”) – Determining whether a development may be CIL liable planning application additional information requirement form; and

- The application fee of £1,800 being the appropriate fee (*14. – (1) (zc) for an application under Part 3 of that Schedule relating to development permitted by Class MA of that part (Commercial, business and service uses to dwellinghouses), for each proposed dwellinghouse, £100*)) will be paid via the Planning Portal

7. It is accompanied by:

- **Annexe 1** Council's pre-app response 2 July 2021;
- **Annexe 2** A copy of Prior Approval **2021/4743/P** dated 9 March 2022;
- **Annexe 3** Shoosmith's letter setting out history 4 February 2021;
- **Annexe 4** Transport Statement prepared by YES Engineering Group Limited dated March 2022;
- **Annex 5** draft S106 legal agreement to prevent future occupiers from obtaining on-street parking permits;
- **Annexe 6** Phase 1 Contamination Desk Top Study Report prepared by Herts & Essex Site Investigations dated August 2021;
- **Annexe 7** Flood Risk Assessment prepared by SLR dated March 2022; and
- **Annexe 8** Daylight and Sunlight report prepared by Rights of Light Consulting dated 23 March 2022.

### **Background**

8. The applicant acquired the site on 29 January 2021. In March 2021 the Council issued a lawful development certificate under application reference **2020/4338/P** certifying that the building's historic use was in Use Class E and the proposed use of the property as a nursery (also Use Class E) was not development requiring planning consent.
9. There was a subsequent pre-app on the site to replace the existing building with a new development comprising 15 apartments. **Annexe 1** is a copy of the Council's favourable pre-app response dated 2 July 2021 (**2021/1914/PRE**). This accepts residential use is acceptable in this portion of the Conservation Area which is predominantly residential.
10. On 9 March 2022, Prior Approval was granted, under application reference **2021/4743/P**, to convert the existing building into 3 x duplex residential units. A copy of the Prior Approval can be found at **Annexe 2**.
11. The table below shows the units are very substantially oversized - unit 1 is 292%, unit 2 is 230% and unit 3 is 328% of the size required to conform to the nationally described standard.

Duplex No.	Unit Type	GIA (sqm)	GIA (nationally described standard)
1	3b6p, 3 storey	316	108
2	4b8p, 4 storey	299	130 (3 storey)
3	3b6p, 3 storey	355	108

### The Proposal

12. This involves converting the existing building into 18 apartments which meet the minimum gross internal floor area standards:

	TYPE	Total Floor Area (m2)	LONDON PLAN (m2)
Unit 01	2B/3P	62	61
Unit 02	2B/3P	64	61
Unit 03	1B/1P	45	39
Unit 04	1B/2P	52	50
Unit 05	1B/2P	51	50
Unit 06	1B/2P (Duplex)	58	58 (Duplex)
Unit 07	1B/2P (Duplex)	58	58 (Duplex)
Unit 08	1B/2P	58	50
Unit 09	1B/2P	58	50
Unit 10	1B/2P	58	50
Unit 11	1B/1P	39	39
Unit 12	1B/1P	42	39
Unit 13	1B/1P	58	50
Unit 14	1B/2P	55	50
Unit 15	1B/2P	58	50
Unit 16	2B/4P	74	70
Unit 17	2B/3P (Duplex)	74	61 (70 Duplex)
Unit 18	1B/2P	59	50

13. The table above confirms the proposal is consistent with Article 3 (9A) which says *Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse – (a) where the gross internal floor area is less than 37 sqm in size; or (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27<sup>th</sup> March 2015.*
14. As noted in Para 2 the proposed external building alterations are subject to separate Full Planning Application.
15. All the internal alterations to convert the building are consistent with **section 55 (2) (a) (i)** which says *The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land— (a)the carrying out for the maintenance,*

*improvement or other alteration of any building of works which—(i)affect only the interior of the building.*

16. Whilst provision for refuse storage and cycle parking are not matters which the Council are required to consider in relation to Class MA, to be comprehensive the plans show this.

17. Bin storage is located externally at the front of the development within close proximity of Belsize Park Gardens for collection (within 10m) The bin store will be walled and securely gated and not visible from the street. We have accommodated the following bins as outlined in the Camden Design CPG that requires the following: 120L for general waste, 140L for recycling and 23L for food waste. We propose the following;

**Mixed Recycling:** 18 flats X 140L = 2520L

Bins Proposed: Two 1280L recycling bins (2560L total)

**General Waste:** 18 flats X 120L = 2160L

Bins Proposed: Two 1100L general waste bins (2400L total)

**Food Waste:** 18 flats X 23L = 414L Bins Proposed: One 500L food bin

18. Fitted kitchen units will incorporate segregated recycling and refuse bins containing the following (calculations based on Camden 'ES Technical Waste Planning Guidance 2018'):

- Two compartments for mixed recycling and general waste of equal volume, each of which will be at least 60L;
- At least 7L for food waste; and
- A total minimum capacity of 127L

19. The development will provide 20 cycle spaces in the form of seven covered Sheffield stands located in the gated communal front garden in the location of the existing outbuilding. In addition to this, two tier Josta type bike racks will accommodate six cycles located in a dedicated store at the rear of the building.

## **SUBMISSION IN SUPPORT OF THE APPLICATION**

20. This considers each of the prohibitions and conditions prescribed in the GPDO for this class of development and tests the application scheme against each of them below.

### **MA.1 Development not permitted**

21. Part 3 Class MA of the GPDO does not permit a change of use from Class E (commercial, business and service) to Class C3 (Dwellinghouses) unless the following apply:

**(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.**

22. Shoosmith's letter dated 4 February 2021 on behalf of the former owner U and I IPB Ltd (**Annexe 3**) confirms *the property was first developed for leisure use in c.1935 by the construction of purpose-built buildings for the Hampstead squash and rugby fives club. The original buildings underwent subsequent alterations and extensions (between 1937 and 1954 and again at some point in the 1960s with the addition of a swimming pool) and have changed hands and been rebranded on several occasions, but remained in continuous use as a health and leisure club until February 2017.*

23. The building has been vacant since the applicant acquired it in January 2021 and earlier.

**(b) the use of the building fell within one or more of the old use classes specified in subparagraph (2) (Classes A1,A2,A3,B1, D1(a), D1(b),D2(e)) for a continuous period of at least 2 years prior to the date of the application for prior approval;**

24. As the Shoosmith's letter and the Council's Lawful Development Certificate shows, the building's lawful use was old Class D2(e) (assembly and leisure – indoor and outdoor sports) for more than 2 years consistent with paragraph (2).

**(c) the cumulative floor space of the existing building changing use under Class MA is more than 1,500 square metres;**

25. The existing gross internal area is 1,439 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;**

26. None are engaged by this application.

**(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(1);**

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

27. None are engaged by this application.

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

28. Not engaged by this proposal.

*(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.*

29. The proposed development does not fall within 2021 Class O and there is no Article 4 direction.

30. **The proposal complies with all Class MA.1 requirements.**

#### **Conditions**

31. Development under Class MA is permitted as long as *before beginning development under Class MA, 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 impacts of the development, particularly to ensure safe site access;*

32. **Annexe 4** is a Transport Statement prepared by YES Engineering Group Limited dated March 2022. It reaches the following conclusions:

- *The new scheme is proposed to be car free in line with guidance set out in the 2021 London Plan and LBC 2017 Local Plan. Disabled parking will be provided on-street if required. Secure and covered cycle parking is to be provided in accordance with London Plan 2021 and 2017 LCB Local Plan standards to encourage sustainable travel;*

- *Servicing and deliveries for the new development will take place on-street along Belsize Park Gardens as per existing arrangements for the surrounding residential properties;*
- *Refuse storage for the 18no. new residential units will be provided outside the site entrance along Belsize Park Gardens. Collection will be undertaken using LBC refuse collection services from the carriageway of Belsize Park Gardens in accordance with the neighbouring properties at the site;*
- *The application Site lies within a CPZ and is in an area of average accessibility (PTAL 3) by modes of transport other than the private car. There are many local facilities all within walking and cycling distance. 4 bus services and Belsize Park Station are accessible within the walking distance thresholds of the Site, providing frequent and reliable services to the surrounding area. The secure cycle parking within the Site and accessibility of the Site will support the car free development;*
- *A trip generation assessment has been undertaken using analogous sites from the TRICS database and census data. The small residential development is only anticipated to generate 2 car trips and results in just 13 people using public transport. This would cause a reduction of vehicle movements on the local highway network and users on public transport; and*
- *NPPF paragraph 111 states that ‘development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.’ As set out above it has been demonstrated that the impacts will be minimal.*

33. It concludes that there is no highway or transportation reasons that require the proposed development to require additional prior approval.

34. As per the earlier Prior Approval **2021/4743/P**, all units will be car free in accordance with Local Plan policy T2, to limit the availability of off and on-street parking. The application is accompanied by a draft S106 legal agreement (**Annex 5**) to prevent future occupiers from obtaining on-street parking permits.

***(b)contamination risks in relation to the building;***

35. The Council’s website says the following constraint type – contaminated sites potential. **Annexe 6** is a Phase 1 Desk Top Study Report prepared by Herts & Essex Site Investigations dated August 2021.

36. This concludes that additional prior approval of the Council is not required because soils are unlikely to be exposed and so there is moderate to low risk that the development proposed will impact the receptors within the site.



***(c) flooding risks in relation to the building;***

37. The recent pre-app feedback dated July 2021 (**2021/1914/PRE**) indicated the site is identified as having the following underground development constraint: surface water flow and flooding. **Annexe 7** is a Flood Risk Assessment prepared by SLR dated March 2022 which outlines:

- *The site is located in Flood Zone 1 and is remote from any surface water features and is not at risk for fluvial or tidal sources;*
- *Environment Agency mapping indicates that the site is at very low risk of surface water flooding. A review of the site context and ground elevations confirms that there is no realistic path for offsite flows to drain into the property;*
- *Combined sewers and mains water pipes are present beneath the roads around the site. A review of the site context and ground elevations confirms that there is no realistic path for surcharged flows from these to flow into the property;*
- *The proposals for the site are for internal reconfiguration for the building. There will be no significant external changes and no changes to the existing approach for managing stormwater runoff at the site.*

38. The assessment concludes that the proposal would not be subject to significant levels of flood risk even when considered over a 100-year projected development life time and so is acceptable in flood risk terms. As it is compliant with Local Plan Policy CC3 (Water and Flooding) no additional prior approval is required.

***(d) impacts of noise from commercial premises on the intended occupiers of the development;***

39. There are no noisy commercial premises close to the site in this residential Conservation Area.

***(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 sustainability of the conservation area;***

40. No. 81 is located within sub area 3 (the Eton Avenue area) of the **Belsize Conservation Area** and involves a change of use to the ground floor. The building's historic recreational

use is anomalous in this residential area and the proposed change would introduce a use compatible with the character of the Conservation Area and so be a benefit.

41. The recent pre-app response accepts the principle of residential use would be acceptable in the Conservation Area. The Local Plan confirms the Council regards self-contained housing as the priority land-use of the Local Plan and will make housing its top priority when considering the future of underused buildings in accordance with Policy H1.
42. The proposal has the sustainability benefits of bringing a disused building into use and will refit the building to modern sustainability standards. The proposed use will have a positive effect on the character and sustainability of the Conservation Area and does not require the Council's further prior approval in this respect.
43. **Para 12.1** of the Members Briefing Report in respect of Prior Approval **2021/4743/P** concludes that given that the surrounding context is primarily residential, this change of use would not have any negative impact on the character or sustainability of the conservation area.

***(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;***

44. **Annexe 8** is a Daylight and Sunlight report prepared by Right of Light Consulting dated March 2022. It concludes that the proposed development design achieves a very high level of compliance with the BRE recommendations and that the proposed design will provide the development's future occupiers with adequate levels of natural light consistent with the NPPF, which requires developments to provide acceptable living standards whilst making efficient use of land.

***(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***

45. Not engaged as the site is located in a predominantly residential area.

***(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(2), the impact on the local provision of the type of services lost.***

46. Not engaged because the existing use provides neither the services of a registered nursery nor a health centre.

***(i)where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.***

47. Not engaged because the application site does not fall within the remit of the fire risk condition (i.e. two or more dwellinghouses sited within a property that is greater than 18m or 7 storeys in height).
48. We would be very glad to discuss the application with the allocated Case Officer in due course.

Yours faithfully

**Emma McBurney**

Director

**Michael Burroughs Associates Limited**

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