

HC/JT/P20-2686

28 September 2023

Planning Department  
Sevenoaks District Council  
Council Offices  
Argyle Road  
Sevenoaks  
Kent  
TN13 1HG

Dear Sir, Madam

**Submission of application for prior approval (pursuant to Schedule 2, Part 3, Class MA, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended))**  
**Units 30a and 32a, Swanley Centre, London Road, Swanley, Kent BR8 7TL**  
**Planning Portal Reference. PP-12403241**

We write on behalf of Sheet Anchor Evolve (London) Ltd (“the applicant”) to submit an application to Sevenoaks District Council (“the Council”) for prior approval pursuant to Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)) (“the GPDO”), in relation to Units 30a and 32a, Swanley Centre, London Road, Swanley, Kent BR8 7TL (“the application site”). The application seeks the following “proposed development”:

*“Change of use of first floor from Use Class E to 5No. flats (Use Class C3).”*

This cover letter explains why prior approval ought to be granted for the change of use to flats at the application site, having regard to the permitted development rights and planning matters for consideration within Schedule 2, Part 3, Class MA of the GPDO.

The prior approval application has been submitted through the Planning Portal (ref. PP-12403241) and is made up of this cover letter and the following:

- Completed application form.
- Completed CIL form.
- Site Location and Block Layout (ref. 200819(PL)41 REV A).
- Existing plans (ref. 200819(PL)42 REV A).
- Existing & Proposed Elevations: External Alteration Works (ref. 200819(PL)45 REV A).

21 Ganton Street, London, W1F 9BN  
T 020 3897 1110 E London@pegasusgroup.co.uk  
Offices throughout the UK.

Pegasus Group is a trading name of Pegasus Planning Group Limited (07277000) registered in England and Wales  
Registered Office: Pegasus House, Querns Business Centre, Whitworth Road, Cirencester, Gloucestershire GL7 1RT

**Expertly Done.**

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE



- Existing & Proposed Elevations: External Alteration Works (ref. 200819(PL)46).
- Proposed plans and elevations: (ref. 200819(PL)44 REV A).
- Noise Impact Assessment, prepared by ACA Acoustics
- Daylight Sunlight Assessment, prepared by Erban Consulting

The fee for £563 has been paid for separately by the applicant.

### **The application site and background**

The application site comprises the first floor level of Units 30a and 32a. The host building is a two-storey brick building with large panels of glazing. The application site forms part of a larger 'L-shaped' building. The application site comprises the following first floor elements:

- Unit 30a – last used by Principled Offsite Logistics Limited as offices who vacated the site on 20<sup>th</sup> April 2023
- Unit 32a – was previously occupied by Boots who vacated the space on 3<sup>rd</sup> August 2022. The first-floor unit has been separated from the ground floor unit, but the site has yet to be partitioned to form an individual address.

Unit 30a is accessed through a single door located on the western end of the southern elevation. Unit 32a is accessed via a double door situated on the western elevation. The first floor can also be accessed via a door on the flat roof.

Planning permission for the use of the first floor at Unit 30a was granted 27<sup>th</sup> September 2021 under application ref. 21/O2406/PAC for '*Prior notification for a change of use from B1a offices to C3 dwellinghouse. This application is made under Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015*'. Although this part of the application site already benefits from an extant Prior Approval to provide 2no. residential units, this is due to expire in September 2024 by which point the change of use would have to be complete. Given these time constraints, this application seeks permission for these 2 units again (internal layout unchanged).

### **Proposed development**

The proposed development seeks to change the use of the first floor to 2No. one-bed flats and 3no. two-bed flats (within Use Class C3).

There would be three access points to the flats. Flat A and Flat B would be accessed through a single door on the western end of the southern elevation. Access could also be gained from this point to Flat C and Flat D through a door which opens onto the roof of the ground floor retail unit. However, a further access point for Flats C and D is via an external staircase to the northwest of



the site which leads onto the roof of the ground floor retail unit. Flat E is accessed by stairs leading up from the entrance lobby adjacent to Unit 31.

The proposed residential units will not have access to dedicated car parking and thus will be “car free”. All residential units comply with the Nationally Described Space Standards (March 2015).

The proposed residential units will be provided 1 cycle per unit in accordance with Council standards. These are provided within a shared cycle store to the rear of the site, which serves the wider residential accommodation located within the Swanley Centre (namely 44no. cycle parking spaces, comprising 20no. spaces provided within a dedicated bike store with 4no spaces provided within the residential entrance lobby). The cycle store was previously approved under application reference. 23/O2465/PAD; however, for completeness this has been included within an application for full planning permission at the application site (submitted concurrently Planning Portal Ref. PP- 12403299), although the provision of a cycle and refuse store can be secured by planning condition.

Refuse storage is provided at ground floor level, and is accessible via an external door on the northwest elevation of the site. 4no. 240l wheelie bins (dedicated to the residential units) are proposed which will provide both general and recycling refuse storage.

This Prior Approval application is submitted concurrent to an application for full planning permission will also seek to secure external alterations to including a new access point on the western elevation to the proposed bike store, as well as additional windows on the front elevation and side elevations (to be relied upon for purposes of achieving adequate natural light). As determined through the case of *The King (LW Zenith Limited) v Secretary of State for Levelling Up, Housing and Communities v Hart District Council* [2022] EWHC 3317 (Admin) a “negatively” worded planning condition can be used to ensure the completion of works under a separate full planning permission when relied upon to meet the requirements of adequate natural light. Our suggested wording for such a condition is included below:

*“The flats hereby granted under Class MA shall not be occupied until the external alterations, including all new windows permitted under application reference XXX are complete.  
REASON: To safeguard the living conditions of future occupiers and meet the full requirements of Class MA with regard to quality of accommodation.”*

### **Permitted development rights**

Permitted development rights under Schedule 2, Part 3, Class MA of the GPDO allow a change of use of uses within Use Class E to a residential use (Use Class C3). The Council has not withdrawn these rights through an Article 4 Direction.

The GPDO contains criteria for where Class MA, Part 3, Schedule 2 permitted development rights are not available. Table 1 below assesses the application site and proposed development against



these, showing how each criterion does not apply and how the permitted development rights are available.

Criteria	Assessment
(a) unless 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.	<p><i>Unit 30a</i></p> <p>This unit has been vacant since 20<sup>th</sup> April 2023.</p> <p><i>Unit 32a</i></p> <p>This unit has been vacant since 3<sup>rd</sup> August 2022.</p>
(b) unless the use of the building fell within Use Class E for a continuous period of at least 2 years prior to the date of the application for prior approval.	The extant lawful use of the units for the 2 years prior to this application is Use Class E (Unit 30a formerly Use Class B1 and Unit 32a formerly Use Class A1).
(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres.	The floorspace changing use is 390.9sqm comprising 39sqm of floorspace at ground floor and 351.9sqm.
(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.	None of these are applicable.
(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.	None of these are applicable.
(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained.	Not applicable.



<p>(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.</p>	<p>No Article 4 Directions have been / are in place at the application site to remove these permitted developments.</p>
---	---

**Table 1: Class MA, Part 3, Schedule 2 criteria**

### **Planning considerations**

The permitted development rights are subject to prior approval as to the transport impacts, contamination risks, flooding risks, impacts from noise, impact on conservation areas, and provision of adequate natural light. These are assessed in turn below. The GPDO at Article 3 (9)(a) also states that any new dwellinghouse must be a minimum of 37 sqm in area or comply with the nationally described space standards.

#### **(a) Transport**

The creation of 5No. new flats would not have material effect on the transport network. The application site is sustainably located within the Swanley Town Centre and within walking distance of all shops and amenities on the High Street and within the centre. The officer's report attached to the previously approved scheme (ref. 21/O2406/PAC) confirmed car free development is acceptable due to the site's sustainable location.

#### **(b) Contamination**

The historic use of the application site is not considered to have resulted in any contamination. Further, the proposed development does not include any groundworks or excavations (it relates solely to the change of use) and it is therefore not considered that there is any contamination risk associated with the proposed development.

#### **(c) Flooding**

According to the Environment Agency's Flood Map for Planning, the application site is located within Flood Zone 1, which has low probability of flooding. The officer's report attached to the previously approved scheme (ref. 21/O2406/PAC) confirmed that prior approval is not required in



relation to flooding due to the site not being situated within a designated flood zone and the accommodation being at first floor level.

***(d) Noise***

The site is located within the Swanley Centre where there are numerous commercial units.

The application is supported by a Noise Impact Assessment, which concludes that subject to mitigation, no noise from commercial sources will adversely impact the proposed residential use of this site. This recommended mitigation can be secured through planning condition.

***(e) Impact upon Character of Conservation area***

The site is not situated within a Conservation Area, so this Prior Approval consideration is not of relevance.

***(f) Natural light***

With the exception of Flat A (which is south facing), each proposed flat would be dual aspect with windows serving habitable rooms. This would ensure future residents would receive adequate amounts of natural light.

The application is supported by a Daylight Assessment which assesses the provision of light into habitable rooms of the proposal. The results confirm that all proposed habitable rooms would achieve the daylight factors recommended in BR 209. This assessment was undertaken using a worst-case scenario, including the recently approved upward extension at 29-40 Swanley Centre (ref. 23/O2465/PAD). Even when a worst case scenario was applied the units still achieved the daylight factors recommended in BR 209.

***(g) Impact on Intended Occupiers in an Area for General or Heavy Industry, Waste Management, Storage and Distribution, or Mix of Uses***

The site is not located within an area of general or heavy industry, waste management, storage and distribution, or a mixture of these. Rather, the site is in a commercial Town Centre location. Consequently, there will be no impact on the intended occupiers of the development from the aforementioned uses.

***(h) Registered nursery or health centre***

The application site is not a registered nursery or health centre, so this Prior Approval consideration is not of relevance.

***(i) Fire Risk***

The GPDO 2015 states (own emphasis):



Class MA

MA.2. –

- (1) Development under Class MA is permitted subject to the following conditions.
- (2) 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...
  - i. Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.”

MA.3. –

Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will –

- (a) Contain two or more dwellinghouses; and
- (b) Satisfy the height condition in paragraph (3), read with paragraph (7) of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

The Development Management Procedure England Order 2015 (as amended) states (own emphasis):

Paragraph (3) of Article 9A –

*The height condition is that –*

- (a) The building is 18m or more in height; or
- (b) The building contains 7 or more storeys.

Paragraph (7) of Article 9A

*For the purpose of paragraph (3) – (a) the height of a building is to be measured from ground level to the top floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms); (b) when determining the number of storeys a building has – (i) any storey which is below ground level is to be ignored; and (ii) any mezzanine floor is a storey if its internal floor area is at least 50% of the internal floor area of the largest storey in the building which is not below ground floor.*

As shown on the accompanying planning drawings, the building is two storeys and less than 18m in height. Consequently, the building falls below the thresholds that require submission of a Fire Strategy.



### **Other Matters**

There are no Article 4 Directions within the Sevenoaks District Council area which would restrict the use of Permitted Development Rights under Class MA at this location.

### **Conclusion**

For the reasons set out above, it is considered the application site benefits from Permitted Development Rights allowing the change of use and there is no reason why Prior Approval cannot be granted by Sevenoaks District Council.

We trust that this is acceptable and look forward to receiving confirmation that the application has been made valid. Should you have any queries in the meantime, please contact me or my colleague Henry Courtier ([henry.courtier@pegasusgroup.co.uk](mailto:henry.courtier@pegasusgroup.co.uk)).

Yours faithfully

*Pegasus Planning Group*

**James Tullett**

Planner

[James.tullett@pegasusgroup.co.uk](mailto:James.tullett@pegasusgroup.co.uk)

Enc.