

Delegated Report		Analysis sheet	Expiry Date:	20/01/2023
		N/A	Consultation Expiry Date:	01/04/2023
Officer			Application Number(s)	
Christopher Smith			2022/5198/P	
Application Address			Drawing Numbers	
94 Mill Lane London NW6 1NH			See draft decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Conversion of basement and ground floor retail unit (Class E) to residential flat; new windows to side and rear elevations.				
Recommendation(s):	Refuse Planning Permission			
Application Type:	Full Planning Application			
Informatives:	See decision notice			

Consultations

Adjoining Occupiers:	No. of responses	11	No. of objections	11
Summary of consultation responses:	<p>Site notices were displayed 06/03/2023 which expired 27/03/2023.</p> <p>Comments received can be summarised as below:</p> <ul style="list-style-type: none">• Excessive loss of business floorspace• Unacceptable impact on viability of business unit and vitality of local centre• Loss of local services• Inappropriate marketing of unit• Poor quality housing provision• Negative impact on character and appearance of area• Increase in vehicle use• Loss of pedestrian mobility and safety <p><u>Officer's response:</u></p> <ul style="list-style-type: none">• <i>Loss of business floorspace and local services is a material planning consideration and is addressed in section 1 of the report</i>• <i>Design is a material planning consideration and is addressed in section 4 of the report</i>• <i>Amenity is a material planning consideration and is addressed in section 5 of the report</i>• <i>Housing quality is a material planning consideration and is addressed in section 6 of the report</i>• <i>Transport impact and pedestrian safety is a material planning consideration and is addressed in section 7 of the report</i>			

Site Description

The application site is a three-storey end-terrace property constructed with yellow brick. It is located at the junction with Broomsleigh Street. It is currently a Class E retail unit with residential flats above.

The site is not located within any conservation area and is not a listed building. It is located within the Mill Lane Neighbourhood Centre and the Fortune Green and West Hampstead Neighbourhood Plan area.

Relevant History

Application Site:

2022/5197/P. Conversion of basement and ground floor to residential flat; new windows to side and rear elevations. Pending consideration by the Council.

2022/2508/P. Erection of a mansard roof extension and first floor rear extension with roof terrace above, in connection with conversion of the upper floors to a studio flat and a 1 bedroom maisonette (Class C3). Pending consideration by the Council.

Relevant policies

National Planning Policy Framework 2021

The London Plan 2021

Camden Local Plan 2017

D1 – Design
A1 – Managing the impact of development
A4 – Noise and vibration
A5 – Basements
E1 – Economic development
E2 – Employment premises and sites
H1 – Maximising housing supply
H4 – Maximising the supply of affordable housing
H6 – Housing choice and mix
TC1 – Quantity and location of retail development
TC2 – Camden's centres and other shopping areas
T1 – Prioritising walking, cycling and public transport
T2 – Parking and car-free development
DM1 – Delivery and monitoring

Fortune Green and West Hampstead Neighbourhood Plan (2015)

Policy 2 (Design & Character)
Policy 7 (Sustainable Transport)
Policy 9 (Pavements & Pedestrians)
Policy 14 (Mill Lane Neighbourhood Centre)

Camden Planning Guidance

CPG Design (2021)
CPG Basements (2021)
CPG Amenity (2021)
CPG Employment sites and business premises (2021)
CPG Housing (January 2021)
CPG Transport (January 2021)
CPG Developer Contribution (March 2019)
CPG Town Centres and Retail (2021)

Assessment

1. Proposal

- 1.1 Planning permission is sought for the conversion of the existing ground floor shop and basement (Class E) to a residential flat and installation of new windows to the side and rear elevations at basement level.
- 1.2 The material considerations for this application are as follows:
 - Land Use
 - Basement Development and Flood Risk
 - Design
 - Amenity
 - Residential Quality
 - Transport, Highways & Waste
 - Drainage & Flood Risk
 - S106/CIL

2. Land Use

- 2.1. Policy TC1 of the Local Plan states that in Neighbourhood Centres (NC) retail and other town centre uses shall be promoted. Policy TC2 states that the Council shall seek to protect and enhance the role and unique character of each of Camden's centres, ensuring that new development is of an appropriate scale and character for the centre within which it is located. TC2 also seeks to protect Neighbourhood Centres including specialist shopping areas and local shops. The provision of housing above and below shops is supported in circumstances where this does not prejudice the town centre function and particularly the ability of the ground floor to be used for town centre uses.
- 2.2. Policy 14 of the Fortune Green and West Hampstead Neighbourhood Plan (FGWHNP) states that development shall preserve or enhance the character of the Neighbourhood Centre and promote a diverse range of shops, businesses and economic activity. To achieve this, the policy states, proposals to convert ground floor retail space into residential use will not be supported.
- 2.3. The existing retail unit includes a shop at ground floor level, plus ancillary facilities including storage space, a kitchen and a bathroom at basement level. The proposed development would replace the entirety of the retail unit with a residential flat. No detailed marketing evidence has been provided. The applicant has instead confirmed via email that the property has been marketed since May 2022 and that there has been some interest in the premises during that time.
- 2.4. The loss of retail units within town centres is not supported by policy, as described above, which requires local shops to be protected in order to protect, preserve and enhance the unique character and role of the related town centre, which is predominately commercial. This loss of the retail unit in this case would be harmful to the commercial diversity, vitality and viability of the shopping parade to which it belongs and would harm the ongoing service function the parade provides to local residents.
- 2.5. It is acknowledged that the provision of new housing is a priority land use in Camden, as indicated by Policy H1 of the Local Plan, however the loss of a retail unit in this location would outweigh the benefits of a single additional residential unit, due to the significant negative

impacts this proposal would have on the commercial role, function and viability of the Mill Lane Neighbourhood Centre.

- 2.6. As such, it is considered that the proposed development is unacceptable as the loss of a retail shop unit in this location would fail to protect, preserve and enhance the commercial role, function and character of this part of the Mill Lane Neighbourhood Centre, and would have a detrimental impact on the vitality and viability of the Centre as a whole, which is contrary to Policies TC1 and TC2 of the Local Plan and Policy 14 of the FGWHNP.

3. Basement Development and Flood Risk

- 3.1. Policy A5 of the Local Plan states that the Council will only permit basement development where it is demonstrated to the Council's satisfaction that the proposal would not cause harm to neighbouring properties; the structural, ground or water conditions of the area; character; local amenity; and heritage. The policy also states that, in determining proposals for basements and other underground development, the Council will require an assessment of the scheme's impact on drainage, flooding, groundwater conditions and structural stability in the form of a Basement Impact Assessment.
- 3.2. Policy CC3 of the Local Plan seeks to ensure development does not increase flood risk and reduces the risk of flooding where possible.
- 3.3. The Council's Basements CPG applies to all developments in Camden that propose a new basement or other underground development.
- 3.4. No existing section drawing has been submitted and therefore it is unclear whether it is proposed to excavate parts of the existing basement floor to create floor-to-ceiling heights at basement level that are appropriate for residential accommodation. No Basement Impact Assessment (BIA) has been provided in support of the application. Local streets around the site have historically been subject to flooding in 1975 and 2002, and it is also known that surface water flooding is a potential constraint to future underground development in this area. The Council's Sustainability Officer has reviewed the information. It has been confirmed, as the site is within a Critical Drainage Area and is also close to a Local Flood Risk Zone (Sumatra Road), flood risk mitigation to the basement has not been fully considered and additional information is required. We would expect water infrastructure to be designed to cope with a 1 in 100 year 6-hour storm event plus 40% climate change in order to limit the flooding of, and damage to, the property. We will expect buildings, landscaping and features to be designed to cope with events exceeding this magnitude to satisfy Local Plan Policy CC3 points c & d. Thames Water have not objected to the application.
- 3.5. Without an existing section drawing, a supporting BIA and additional flood risk information the proposed underground development cannot be justified as failing to exacerbate existing surface water and other risks, including to human life, from the siting of bedrooms below ground without suitable mitigation, from flooding and thus the development is unacceptable for this reason. The development proposal is therefore contrary to Policies A5 and CC3 of the Local Plan.

4. Design

- 4.1. Camden Local Plan policies D1 (Design) is aimed at achieving the highest standard of design in all developments. Policy D1 requires development to be of the highest architectural and

urban design quality, which improves the function, appearance and character of the area. Policy D1 also requires development to improve pedestrian movement in the wider surrounding area.

- 4.2. Policy 2 of the FGWHNP states that all development shall be of a high quality design including enhancing the distinct local character and identity of Fortune Green and West Hampstead as well as providing high quality public realm.
- 4.3. The proposed development would include new windows and doors at basement level, most of which would not be visible from public areas. There is one small additional window proposed on the western elevation of the building, that would be visible from public areas. There are no objections to these alterations to the existing building in design terms. No other external alterations to the host building are proposed as part of this application.
- 4.4. Therefore, it is considered that the application is acceptable in design terms.

5. Amenity

- 5.1. Policy A1 of the Local Plan seeks to ensure that the amenity of neighbouring properties is protected. It states that planning permission will not be granted for development that causes harm to the amenity of occupiers and neighbours in terms of loss of daylight, sunlight, outlook and privacy. Policy A4 seeks to ensure that no unacceptable levels of noise and vibration result from new development.
- 5.2. The development proposes no new floorspace. No proposed extensions means that occupiers of adjacent residential properties would not be affected in terms of a loss of day/sunlight and outlook. The proposed new windows and doors at basement level would be located in similar positions to existing windows and doors in most cases. The proposed new rear-facing window at basement level would be a high-level clerestory window which would prevent an excessive degree of overlooking occurring towards the front bay window of the neighbouring property at 1 Broomsleigh Street. To minimise the potential for overlooking that window could be fitted with obscure glazing, and this would have been secured by condition had the application been considered acceptable in all other respects. The noise from a single additional dwelling, in an area where residential properties already exist (to the south, and on the floors above), would not be excessive enough to cause harm to nearby residential amenity.
- 5.3. As such, it is considered that the proposed development would lead to no detrimental impact to neighbouring occupiers in terms of a loss of day/sunlight, outlook and privacy, and no significant increase in noise, and therefore the application is acceptable for this reason.

6. Residential Quality

- 6.1. Policy H6 of the Local Plan seeks to provide new housing that is high quality, functional, adaptable and accessible, and meets space standards.
- 6.2. The proposed GIA of the new flat would be 90.24sqm across two storeys which meets the relevant Nationally Described Space Standards for a two-bedroom 4 person flat. One of the proposed bedrooms would also meet the Nationally Described Space Standards for a double room as is required. Appropriately sized storage space is also provided. There is a courtyard space to the rear which provides an appropriately sized usable amenity space.

- 6.3. An internal daylight report has been submitted as part of the application. The report states that all assessed spaces within the proposed flat meet the BRE targets for daylight. The living/dining room would not be compatible with BRE sunlight targets but this is primary a function of the building layout (there are no windows on the southern side of that room) and the room's location within a basement setting. The living/dining room would lead directly onto a courtyard space which provides a sunlit setting at certain times of the day. In this case, given the lack of options to provide further sunlight to the basement, it is considered that there is a reasonable degree of sunlight to the proposed flat overall. The provision of rear windows to the garden area would enable a reasonable degree of outlook.
- 6.4. Therefore, the proposal is acceptable in terms of its daylight and sunlight provision to habitable rooms and its overall residential quality.

7. Transport, Highways & Waste

Sustainable Transport

- 7.1. Policy T1 of the Local Plan aims to promote sustainable transport by prioritising walking cycling and public transport. This is achieved by improving pedestrian friendly public realm, road safety and crossings, contributing to the cycle networks and facilities and finally improving links with public transport. All these measures are in place to ensure the Council achieves its zero carbon targets as described in the Local Plan (Policy CC1 in particular). The proposal does not include any cycle parking spaces on the submitted plans. There could be sufficient space internally to store 2 bikes and these could be secured through condition if the scheme was otherwise considered acceptable.
- 7.2. Policy T2 limits the availability of parking in the borough and requires all new developments in the borough to be car free. This will be done through not issuing parking permits, resisting development of boundary treatments and using legal agreements to secure these actions.
- 7.3. Policy 7 (Sustainable Transport) of the FGWHNP states that new development should be car free or car capped.
- 7.4. The new residential unit would be required to be car-free which would appropriately limit the availability of both off-street and on-street parking. This would have been secured by legal agreement if the development had otherwise been acceptable. However, in the absence of a legal agreement, the lack of a formalised method for securing car free development forms a reason for refusal in this instance.

Waste Collection Arrangements

- 7.5. Policy CC5 of the Local Plan requires developments to include facilities for the storage and collection of waste and recycling. Details of waste collection arrangements have not been provided but could be secured by condition if the application had been considered acceptable for all other reasons.

8. S106/CIL

- 8.1. If the proposal had been considered acceptable for all other reasons, the following heads of terms would have needed to be secured by S106 Legal Agreement:
- Car-free development

- 8.2. The proposal would have been liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL as it involves the creation of new residential floorspace.

9. Recommendation

Refuse planning permission for the following reasons:

- 8.3. The proposed loss of a retail shop unit in this location would lead to a significant reduction in the flexibility and viability of the ground floor commercial premises and thereby fail to protect, preserve and enhance the commercial role, function and character of this part of the Mill Lane Neighbourhood Centre, and would have a detrimental impact on the vitality and viability of the Centre as a whole. As such, the proposed development would be contrary to Policies TC1 (Quantity and location of retail development) and TC2 (Camden's centres and other shopping areas) of the Camden Local Plan 2017 and Policy 14 (Mill Lane Neighbourhood Centre) of the Fortune Green and West Hampstead Neighbourhood Plan 2015.
- 8.4. In the absence of basement impact assessment, the applicant has failed to demonstrate that the proposed basement excavations would not have significant adverse impacts on local drainage, flooding, groundwater conditions and structural stability and is therefore considered likely to present an unacceptable risk to the amenity of future occupiers. As such, the scheme is contrary to policies A5 (Basements) and CC3 (Water and flooding) of the Camden Local Plan 2017.
- 8.5. In the absence of supporting information including evidence of flood risk mitigation measures, the applicant has failed to demonstrate that the proposed basement excavations would not have significant adverse impacts on the drainage and the local water environment and is considered likely to present an unacceptable risk of flooding to the detriment of the amenity of future occupiers. As such, the scheme is contrary to policies A1 (Managing the impact of development), A5 (Basements) and CC3 (Water and flooding) of the Camden Local Plan 2017.
- 8.6. The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area contrary to policy T2 (Parking and car free development of the Camden Local Plan 2017 and Policy 7 (Sustainable Transport) of the Fortune Green and West Hampstead Neighbourhood Plan 2015.