

Prior Approval Report		Application number	2020/1846/P
Officer		Expiry date	
Laura Dorbeck		12/06/2020	
Application Address		Authorised Officer Signature	
Offices And Premises At Ground Floor Front 86 Fortune Green Road London NW6 1DS			
Conservation Area		Article 4	
None		Article 4 A1 to A2 Article 4 Basements	
Proposal			
Change of use of part of the rear ground floor retail unit (Class A2) to residential (Class C3) comprising of 1 x studio flat and associated installation of 1 x window to rear under the General Permitted Development Order 2015 Schedule 2, Part 3, Class M.			
Recommendation:	Prior Approval Required – Approval Refused		
Application Type:	GPDO Prior Approval Class M Change of Use A1/A2 to C3		
Consultations:	Site notice erected 19/05/2020; expired 12/06/2020		
	No consultation responses received.		
Site Description			
<p>The application site is a three storey mid terrace property on the east side of Fortune Green Road. The ground floor is in A2 use (financial and professional services) and currently occupied by a firm of accountants. The upper floors are in residential use (Class C3). This application relates to the rear ground floor rooms only.</p> <p>The application site is not listed and is not located within a conservation area, although it is located within the Fortune Green and West Hampstead Neighbourhood Area.</p> <p>There are no Article 4 Directions restricting change of use away from A2 at this site.</p>			
Relevant Policies			
<ul style="list-style-type: none"> • Class M, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (as amended) • National Planning Policy Framework (2023) <ul style="list-style-type: none"> ○ Chapter 9 (Promoting sustainable transport), paragraphs 110-113 ○ Chapter 15 (Conserving and enhancing the natural environment), paragraphs 180-182. 			

1. Proposal

1.1 The proposal seeks to change the use of the rear ground floor rooms of the building from ancillary Accountancy space (Class A2) to residential use (Class C3), to provide 1 self-contained residential unit.

2. Note on Use Classes

2.1 On 21 July 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the "Regulations") were laid before parliament and came into force on 1 September 2020. The Regulations revoke Parts A, B and D of the Town and Country Planning (Use Class Order) 1987 (as amended) from 01 September 2020.

2.2 Regulation 4 of the Regulations provides that if before 1 September 2020 an application for planning permission is submitted which refers to uses or use classes specified in the Town and Country Planning (Use Class Order) 1987 (as amended) (the "Use Classes Order") as it applied on 31 August 2020, that application must be determined by reference to the Use Classes Order as at 31 August 2020. This application was submitted on 17th April 2020 and must therefore be determined by reference to the Use Classes Order as it applied on 31 August 2020.

3. Procedure

3.1 The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 Class M (a) (i) allows for development consisting of a change of use of a building from a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.

3.2 Class M (b) allows for building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

3.3 The change of use is subject to a number of conditions listed within sub-paragraph M.1 [(a)-(g)] and a subsequent condition in sub-paragraph M.2 relating to the need for the developer to apply to the local planning authority for a determination as to whether prior approval of the authority is required for:

- (a) transport and highways impacts of the development;*
- (b) contamination risks in relation to the building;*
- (c) flooding risks in relation to the building;*
- (d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use –*
 - (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or*
 - (ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and*
- (e) the design or external appearance of the building.*

3.4 Paragraph W sets out the procedure for applications for prior approval under Part 3. This application seeks to ascertain whether the proposed change of use would constitute permitted development and whether prior approval is required.

4. Assessment

4.1 Compliance with Paragraph M.1

4.2 Development is not permitted by Class M if –

- a) The building was not used for one of the uses referred to in Class M(a) –**
- (i) On 20th March 2013, or**
 - (ii) In the case of a building which was in use before that date but was not in use on that date, when it was last in use;**

The proposal complies. At the time of the officer's site visit, the ground floor of the building was in Class A2 use (financial and professional services) as an Accountants.

- b) Permission to use the building for a use falling within Class A1 (retail) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;**

The proposal complies. Council records suggest that the unit has been in Class A2 (financial and professional services) use since at least 1994, with the unit previously in use as an Estate Agency.

- c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;**

The proposal complies. The cumulative floor space of the existing building does not exceed 150 square metres; the areas in question would amount to approximately 39 square metres.

- d) the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;**

The proposal complies. No other part of the building has previously changed use under Class M and no other applications under Class M at the building are pending determination.

- e) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;**

The proposal complies. The only proposed change to the external appearance of the application building is to install one new window to the rear elevation. This would not alter the external dimensions of the building.

- f) the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order); or**

The proposal complies. The proposal does not involve any demolition works.

g) The building is –

(i) on article 2(3) land;

The proposal complies. The application site is not on article 2(3) land.

(ii) in a site of special scientific interest;

The proposal complies. The application site is not within a site of special scientific interest.

(iii) in a safety hazard area;

The proposal complies. The application site is not within a safety hazard area.

(iv) in a military explosives storage area;

The proposal complies. The application site is not within a military explosives storage area.

(v) a listed building; or

The proposal complies. The application building is not statutorily listed.

(vi) a scheduled monument.

The proposal complies. The application building is not a scheduled monument.

4.3 It is concluded that the proposal constitutes permitted development, pursuant to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, Part M.1.

4.4 Compliance with Paragraph M.2

4.5 Where the development proposed is development under Class M(a) together with development under Class M(b), development 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 development;

The Council has considered the highways impacts of the change of use and whether to seek appropriate mitigation measures to mediate against any highways impacts. The provision of any parking permits to future occupants would put pressure on the availability of on-street parking in the vicinity of the site and have associated traffic impacts with vehicles searching for spaces. As such, the proposal is considered likely to have a material impact on the character of traffic in the vicinity of the site and prior approval of the Council is considered to be necessary.

The development would therefore be required to be secured as 'car-free' by Section 106 Legal Agreement to ensure the development would have an acceptable impact in this regard. Despite being recommended for approval subject to a S106 agreement in June 2020, the applicant has failed to enter into a legal agreement by October 2023. As such, this now forms a reason for refusal.

Ordinarily, 1 cycle parking space should be provided for a 1-bed unit. However, the constraints

of the application site do not allow for this. The lack of cycle parking is therefore accepted in this instance.

b) contamination risks in relation to the building;

The application site is not identified as being at risk from land contamination and the history of the building suggests that there have not been any potentially hazardous uses occupying the site for a considerable period of time. As such, the prior approval of Council with regard to contamination is not considered to be necessary.

c) flooding risks in relation to the building;

The site is not located in a local flood risk zone. The proposal is therefore considered to be acceptable in this regard.

d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use –

- (i) **on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or**
- (ii) **where the building is located in a key shopping area, on the sustainability of that shopping area; and**

The application site is located within the Fortune Green Road Neighbourhood Centre, as identified within the Camden Local Plan 2017, which sets out the Council's overall strategy for designated centres and associated uses.

The proposals relate to the rear ancillary rooms only. The front ground floor room would be retained in A2 use as existing. At the time of the Officer's visit, the existing Accounting firm only occupied the front room, and as such, the change of use of the rear rooms is not considered to impact the viability of the retained A2 unit.

It is not considered that the proposal would detrimentally impact on adequate provision of Class A2 (financial and professional services) units within the Neighbourhood Centre and neither is it considered that the proposal would cause harm to the sustainability of Fortune Green Road Neighbourhood Centre as a shopping destination. As such, the proposal is considered to comply in this regard.

e) the design or external appearance of the building.

Class M. (b) allows for building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule. The proposal involves the installation of one new window to the rear elevation; however, the proposed changes are minimal and reasonably necessary to convert the building to residential use. Therefore, no objection is raised in this regard.

Recommendation: Refuse Prior Approval for the following reason:

The proposed development, in the absence of a legal agreement securing car-free housing,

would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.