

Delegated Report		Analysis sheet		Expiry Date: 09/01/2024			
Prior Approval GPDO Part 3, Class MA		N/A / attached		Consultation Expiry Date: 08/10/2023			
Officer			Application Number(s)				
Blythe Smith			1. 2023/2591/P 2. 2023/2717/L				
Application Address			Drawing Numbers				
17 Leigh Street London WC1H 9EW			See decision notice				
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
1. Change of use of ground floor commercial unit (Class E) to flat (Class C3) 2. Change of use from commercial to residential of the ground floor unit, with associated internal alterations to the floor plan							
Recommendation(s):		(i) Refuse Prior Approval (ii) Grant Listed building consent					
Application Type:		GPDO Prior Approval Class MA Commercial, business and service uses to dwellinghouses					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	0	No. of responses	0	No. of objections	0
Neighbour Consultation:		A site notice was published on 14/09/2023 and expired on 08/10/2023 No responses were received from neighbouring occupiers.					
CAAC groups comments:		Bloomsbury Conservation Area Advisory Committee (CAAC) have not objected to the proposal					
Site Description							
The site comprises a 4-storey building with a basement, as part of a longer terrace. The ground floor level of the building is understood to currently accommodate a travel agents. The existing shopfront includes a large, glazed window, with the exterior presently covered by closed metal roller shutters.							

The site is Grade II listed and is located within the Bloomsbury Conservation Area. The site is not subject to an Article 4 direction.

Relevant History

N/A

Relevant policies

The Camden Local Plan 2017

Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015

The National Planning Policy Framework 2023

Assessment

1. Proposal

- 1.1. The applications relate to the existing ground floor retail unit at of 17 Leigh Street.
- 1.2. The change of use application (2023/2591/P) seeks to convert the existing ground floor retail unit to residential use. The studio flat will be double aspect with the kitchen dining area facing Leigh Street and the bedroom space facing the rear courtyard.
- 1.3. The listed building consent application (2023/2717/L) proposes several internal changes, including the reconfiguration of the existing bathroom, additional kitchen facilities, minor exterior repairs (including the removal of vinyl stickers and repair of the front step) and alterations to the front façade including replacement of the front door.

2. Assessment:

- 2.1. The principle considerations material to the determination of this application are summarized as follows:
 - Design and Heritage
 - GPDO acceptability

3. Design and Heritage (Listed building Consent Ref. 2023/2717/L)

- 3.1. The application site is within the Bloomsbury Conservation Area, wherein the Council has a statutory duty, under section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 3.2. The Local Plan policies D1 (Design) and D2 (Heritage) are 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; and Policy D2 states that the Council will preserve and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings.
- 3.3. The significance of the designated heritage asset is derived from its architectural and historic interest as a surviving example of an early 19th century terrace housing with an original timber shopfront that contributes to the townscape setting, and the character and appearance of the Bloomsbury Conservation Area.

- 3.4. The proposed works relate to the change of use of the ground floor commercial unit to a self-contained residential studio dwelling, with associated internal alterations – including the reconfiguration of the existing bathroom and addition of kitchen facilities. And minor exterior repairs and alterations to the front façade include repainting and removing window film and repairing the front step, this would ensure the front façade no longer looks like a business premises. The unoriginal front door would be replaced with a timer unit.
- 3.5. The proposal has been amended during the course of the application to omit and revise parts of the scheme to better preserve the special interest of the Grade II Listed Building. This included reconfiguring the proposed kitchen units away from the front street facing window to down the side wall. This revised layout will better retain the surviving character and features of the front bow window.
- 3.6. It has been assessed by Camden's conservation team that the proposed works would preserve the surviving historical detailing and the proposed work to the front façade would enhance the character of the building and conservation area.

4. GPDO acceptability (Prior Approval 2023/2591/P)

- 4.1. The Town and Country Planning (General Permitted Development) (Amendment) (England) Order (GPDO) 2015, Schedule 2, Part 3, Class MA, allows for the change of use of a building from a use falling within Class E, to a use falling within Class C3 (dwellings) of that Schedule, subject to a prior approval process as well as conditions. Class M(b) also allows for buildings operations reasonably necessary to convert the building.
- 4.2. Development that accords to sub-paragraph MA.1(a)-(g) are permitted by this class, subject to a number of conditions listed within sub-paragraph MA.2 (1)-(6). Prior approval procedure requires the developer to apply to the LPA for a determination as to whether prior approval of the authority would be required as to,
- a) transport and highways impacts;
 - b) contamination risks in relation to the building;
 - c) flooding risks in relation to the building;
 - d) impacts 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 sustainability of the conservation area;
 - f) the provision of adequate natural light in all habitable rooms of the dwellinghouse;
 - 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 generally heavy industry;
 - h) where the development involves loss of services provided by
 - I. a registered nursery,
 - II. or 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 the service lost.

4.3. 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. Part W (13) of the legislation notes that

the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

5. Assessment under Part 3, Class MA of the

GPDO Compliance with paragraph MA.1

5.1. Development is not permitted by Class MA

5.1.1. (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;

5.2. Proposal does not comply: No information has been submitted to demonstrate that the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application. During the site visit the property was still in use in a commercial capacity.

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

5.3. Proposal complies: Google Maps images (investigated by the Council) suggest that the building has been occupied by a travel agents since 2008 (Class E)

5.3.1. (c) If the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

5.4. Proposal complies: The existing gross internal area (GIA) floorspace proposed for the change of use is 44.6sqm.

5.4.1. (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;

5.5. Proposal does not comply: The application site forms part of a listed building (List Entry Number: 1379288).

5.5.1. (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;

5.6. Proposal complies: The application site does not fall within any of the areas indicated at points (i) to (v);

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

5.7. Proposal complies, the site is not occupied under an agricultural tenancy.

5.7.1. (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.**

5.8. The proposal complies: The proposed development does not fall within Class O.

5.9. Considering the above, the proposal would not accord with criteria (a) and (d) of paragraph MA.1. It will not fall within the remit of development permitted subject to prior approval under paragraph MA.2. Nonetheless, the prior approval impacts have been considered below.

Compliance with paragraph MA.2

5.10. Where development proposal follows paragraph MA.1, development is permitted subject to the conditions that before beginning the development, the developer must apply to the local planning authority for a determination as to whether prior approval of the authority will be required. Each criterion will be discussed in turn as follows:

5.10.1. (a) Transport and highways impacts of the development, particularly to ensure safe site access,

5.11. The application site is located within an excellent level of accessibility by public transport, with a PTAL level 6b.

5.12. Given the modest level of building operations proposed, in this instance the operational development aspect of the proposed development would not be considered likely to result in detrimental impacts upon the highways network. However, to ensure that the development promotes sustainable modes of transport and mitigated against a potential worsening of local traffic, parking and air quality conditions. The development would be expected to be 'car-free' with rights to on-street parking permits removed and would be required to provide adequate storage for cycles.

5.13. The proposed unit would be required to be secured as a 'car-free' dwelling via a section 106 legal agreement. This would prevent new residents from accessing parking permits to promote more sustainable modes of transport and prevent increases in poor air quality and congestion. The failure of the applicant to enter into a S106 agreement for car-free development constitutes a reason for refusal. Were the development otherwise considered acceptable this could have been overcome via a legal agreement.

5.14. No cycle parking spaces have been shown on the proposed plans and no reference to cycle parking has been made in the submitted documents. Given the constraints of the site, the internal layout and the scale of the units, facilities for some level of internal storage to accommodate a bike may not be feasible. In such cases, a contribution would be sought towards the provision of secure and covered on-street parking spaces (bike hangers) for future occupants. The failure to enter into a S106 agreement for a contribution to on-street parking spaces and failure to secure car-free development by way of S106 Agreement constitutes a reason for refusal.

5.14.1. (b) Contamination Risks in relation to the building

5.15. There has been no statement submitted with the application regarding contaminated land. Council's records indicate that the site is at risk of land contamination with historical industrial land uses identified on site including cabinet makers, oil and colour manufacturers and storage, unknown industrial land uses, an unspecified works and a hospital, all of which have consideration to have the potential to cause ground contamination.

5.16. Without any survey being undertaken the Council cannot properly assess the impact of contamination risks on the intended occupiers. Therefore, this provides a reason for refusal.

5.16.1. (c) Flooding risks in relation to the building,

5.17. There has been no Flood Risk Assessment submitted with this proposal. The application site is not located within any Environment Agency's Flood risk zone.

5.18. Therefore, this change of use would not be at risk of flooding of the area.

5.19. (d) Impacts of noise from commercial premises on the intended occupiers of the development

5.20. The applicant has not provided an internal noise survey to assess the impact the new residential property. The new residential unit faces the street where noise nuisances could arise. However the street concerned is not a busy main road nor plays a significant role in the night time economy therefore is not considered unsuitable for residential uses to front onto in Camden. It is therefore not considered that a proposed dwelling in this location would be unduly at risk of noise impacts.

5.21. (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;

5.22. The application site lies within Bloomsbury Conservation Area. The conservation area is characterised by a mixture of uses, including commercial uses at ground floor with some residential use above. The commercial use at ground floor contributes to a sense of activity and liveliness throughout the conservation area.

5.23. Whilst there will be a loss of commercial floor space in an area with a highly commercial character, there would be improvements to the front façade, such as the removal of the roller shutters, which the council's conservation officer supports.

5.24. As such, the proposed change of use would not harm the character and sustainability of the conservation area. Paragraph W of Part 3, states that the NPPF must be considered as though it were a planning application.

5.25. (f) The provision of adequate natural light in all habitable rooms of the dwellinghouse

5.26. The Building Research Establishment publishes the leading industry guidelines on daylight and sunlight in BR209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (third edition, 2022) (BRE). BRE suggests Spatial Daylight Autonomy (sDA)

and sunlight exposure targets. For daylight rooms have been tested against the sDA targets set out within the UK National Annex (UKNA) on BS EN 17037:2018. sDA is a climate-based metric which represents the portion of a space achieving a certain illuminance target (measured in lux) for more than half of the daylight hours in the year. The recommendation within BR 209 and EN 17037 is for at least 50% of the spaces to achieve a given illuminance target based on the room use.

- 5.27. The new CBDM methodology is based on the British Standard 'Daylight in Buildings' (BS EN17037). The CBDM methodology is based on target illuminances from daylight. The calculations are based on localised weather data. The British Standard contains advice and guidance on interior daylighting for all buildings across Europe but also has a UK National Annex which provides suggested targets for dwellings in the UK. The UK Annex gives illuminance recommendations of 100 Lux in bedrooms, 150 Lux in living rooms and 200 Lux in kitchens. These are median illuminances to be achieved over 50% of the assessment area for at least half of the daylight hours. However, it also says that a living room target of 150 Lux could be used for a combined living/kitchen/dining room.
- 5.28. There is only one window serving the bedroom and the site appears to be heavily overshadowed by the adjacent blocks of flats and in the absence of a Daylight/Sunlight assessment demonstrating otherwise, it is considered that habitable rooms in the development would fail to receive sufficient natural light. The proposal would therefore not comply with MA.2. condition (f).
- 5.29. **(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 generally heavy industry, waste management, storage and distribution, or a mix of such uses; and**
- 5.30. The area where the application site lies is not characterised by general heavy industry, waste management, storage and distribution, or a mix of such uses. Future occupants would not be impacted by such uses and therefore the proposal complies in this regard.
- 5.31. **(h) Where the development involves 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 the service lost.**
- 5.32. The proposed development would not involve loss of a registered nursery or a health centre maintained under section 2 or 3 of the National Health Service Act 2006.
- 5.33. **(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building (as interpreted under Paragraph MA.3).**

Paragraph 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:**

9A – (3) The height condition is that—

- a) the building is 18 metres or more in height; or
- b) the building contains 7 or more storeys.

5.34. The proposed development would not contain two or more dwellinghouses, nor would it be 18 storeys in height or contain 7 or more storeys. As such, the fire safety impacts on the intended occupants of the building are not required to be determined as part of this application.

6. Conclusion and recommendations

6.1. Prior Approval 2023/2591/P

6.2. The proposal does not comply with the criteria (a) and (d) of MA.1 of Schedule 2, Part 3, Class MA of the GPDO (2015 as amended) so it cannot be considered for a change of use from Class E to residential. It has not been demonstrated that the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application (a) and it has not been demonstrated that the building was in use for a purpose specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application (b).

6.3. Finally, the proposal does not comply with conditions (a) (Transport), (b) Contamination and (f) (Natural light) of MA.2 of Schedule 2, Part 3, Class MA of the GPDO (2015 as amended).

6.4. Prior Approval is refused for the following five reasons:

1. The application property forms part of a listed building. The proposal is therefore contrary to criteria under MA.1 (1) (d) of Class MA, Schedule 2, Part 3 of the GPDO.
2. The proposed development, in the absence of a Section 106 legal agreement to secure the residential units as car-free, would contribute unacceptably to parking stress and traffic congestion in the surrounding area and the failure to provide cycle parking would not promote the use of sustainable transport. It is therefore contrary to MA.2 (a) of Class MA, Schedule 2, Part 3 of the GPDO.
3. In the absence of any contamination assessment for the site to demonstrate otherwise, it is likely that the future occupiers would be impacted by potential contamination from the use of the rear amenity space to the detriment of their amenities. It would therefore not comply with criteria MA.2 (b) of Class MA, Schedule 2, Part 3 of the GPDO.
4. In the absence of a Daylight/Sunlight Assessment to demonstrate that all habitable rooms would receive adequate natural light, it is considered that the proposal has failed to demonstrate that it would provide an acceptable level of natural light contrary to MA.2 (f) of Class MA, Schedule 2, Part 3 of the GPDO.

6.5. Listed building consent 2023/2717/L

6.6. Grant listed building consent.

