

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		18/10/2021	
		N/A		<b>Consultation Expiry Date:</b>		25/08/2021	
<b>Officer</b>				<b>Application Number</b>			
Sarah White				2020/4568/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
37-39 Conway Street London W1T 6ST				See decision notice			
<b>PO 3/4</b>		<b>Area Team Signature</b>		<b>C&amp;UD</b>		<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>							
Change of use of mezzanine level from office to residential use (Class C3) to provide 4 self-contained flats with associated external alterations.							
<b>Recommendation(s):</b>		Refuse Planning Permission					
<b>Application Type:</b>		Full Planning Permission					
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining occupiers and/or local residents/groups</b>				No. of responses	0	No. of objections	0
<b>Summary of consultation responses:</b>		A Site Notice was displayed from 25/08/2021 until 18/09/2021. No representations were received in response to this consultation.					
<b>Site Description</b>							
<p>The application site is located on the eastern side of Conway Street and has frontages to Euston Road, Conway Street and Warren Street. The site comprises a five-storey building over basement which includes mezzanine level. The basement, ground floor and mezzanine level have previously been in commercial use and are now vacant, with the upper floors comprising residential uses.</p> <p>The site is not located within a conservation area but is adjacent to the Fitzroy Square Conservation Area which sits to the south of Warren Street. Several Grade II Listed buildings sit to the south of the site: Nos. 14-20, 22 and 24, and 23- 33 Conway Street; and Nos. 29 and 30-34 Warren Street.</p> <p>The application site is subject to an Article 4 Direction which removes permitted development rights for the change of use from commercial, business and service premises (Use Class E) to residential dwelling houses (Use Class C3).</p>							
<b>Relevant History</b>							
2020/1195/P – Replacement windows at mezzanine level and replacement entrance doors at ground							

floor level. **Granted** on 26/06/2020.

2022/2673/P – Insertion of entrance doors along Warren Street and Conway Street. **Granted** on 24/10/2023.

## Relevant Policies

### National Planning Policy Framework (NPPF) 2023

### London Plan 2021

#### Camden local Plan 2017

H1 Maximising housing supply  
H4 Maximising the supply of affordable housing  
H6 Housing choice and mix  
E2 Employment premises and sites  
A1 Managing the impact of development  
A4 Noise and vibration  
D1 Design  
D2 Heritage  
CC1 Climate change mitigation  
CC2 Adapting to climate change  
CC4 Air quality  
T1 Prioritising walking, cycling and public transport  
T2 Parking and car-free development

#### Camden Planning Guidance

CPG Air Quality (2021)  
CPG Amenity (2021)  
CPG Design (2021)  
CPG Developer Contribution  
CPG Employment Sites and Business Premises  
CPG Energy Efficiency and Adaption

#### Fitzrovia Area Action Plan 2014

Principle 1 Housing and affordable housing  
Principle 9 Residential amenity  
Principle 10 Sustainability and local energy networks

#### Draft Camden Local Plan

The council has published a new [Draft Camden Local Plan](#) (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account in the determination of planning applications but has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).

## Assessment

### 1. The proposal

- 1.1. The proposal seeks a change of use of the mezzanine level from commercial (Class E) to residential use (Class C3) to provide 4 self-contained flats with associated external works.
- 1.2. There would be one one-bedroom plus study unit, one two-bedroom plus study unit and two two-bedroom units. Flats A, B and C would be accessed from Warren Street and Flat D from Euston Road.

- 1.3. Cycle parking would be provided at ground floor level via the Warren Street access.
- 1.4. During the course of the application, Officers raised several concerns with the proposal in relation to loss of commercial space, standard of accommodation and air quality. Whilst the Applicant did submit revised plans and additional information, this was unable to adequately address all of the Officer's concerns.
- 1.5. In relation to the layout of the units, whilst several revisions were submitted, none of the proposed revisions provided a suitable standard of accommodation and therefore these amendments have largely not been accepted.
- 1.6. The original proposal included changes to the windows along all elevations to increase the height of the openings, however this has since been removed from the proposal due to concerns that this would harm the character and appearance of the host building.

## **2. Assessment**

- 2.1. The principal considerations material to the determination of this application are as follows:
  - Principle of development
  - Dwelling Mix
  - Affordable Housing
  - Design and Heritage
  - Standard of Accommodation
  - Neighbouring Amenity
  - Transport
  - Sustainability

## **3. Principle of development**

- 3.1. There are two key aspects to consider in terms of the principle of development which are loss of commercial space and the introduction of new residential units. These matters are considered in turn below.

### Loss of commercial floorspace

- 3.2. Policy E2 outlines that the Council will protect premises or sites that are suitable for continued business use and resist the loss of these premises unless it is demonstrated that the Council's satisfaction that: the site or building is no longer suitable for its existing business use; and that the possibility of retaining, reusing or redeveloping the site or building for similar or alternative type and size of business use has been fully explored over an appropriate period of time.
- 3.3. In addition to the considerations above, where a change of use to a non-business use is proposed, the applicant must demonstrate to the Council's satisfaction that there is no realistic prospect of demand to use the site for an employment use. The applicant must submit evidence of a thorough marketing exercise, sustained over at least two years. The premises should be marketed at realistic prices, include a consideration of alternative business uses and layouts and marketing strategies, including management of the space by specialist third party providers.
- 3.4. No marketing information was submitted with the original application. Subsequently, the Applicant submitted a letter from the owner of the business which previously operated at the site stating that the business had been struggling for many years and profits had been declining as a result of the pandemic. Substantial reductions in stock and staff occurred and therefore the business no longer required the whole space. The space has now been empty

for 4 years.

- 3.5. Marketing details, in the form of a single advertising pamphlet, were also submitted from Jenkins Law. This advertisement related to the lease of the ground floor space only, not the mezzanine floor. It is unclear how long the ground floor space was marketed for or whether any interest was shown. Notwithstanding this, no evidence has been provided to date to demonstrate that the mezzanine floor has also been advertised for a period of at least two years. As such, insufficient marketing evidence has been provided to demonstrate that there is no realistic prospect of demand to use the site for an employment use. Therefore, the loss of commercial floorspace cannot be supported in principle, and this is a reason for refusal (RfR 1).

#### Residential development

- 3.6. Policy G1 supports development that makes best use of its site, taking into account quality of design, its surroundings, sustainability, and amenity. The existing building is considered an appropriate location for more housing given it is the predominant existing land use of the area. The addition of new housing is supported by Policy H1, which seeks to secure a sufficient supply of homes to meet the needs of existing and future householders, and to meet housing supply targets. This policy highlights self-contained housing as the priority-land use of the Local Plan.
- 3.7. Had the loss of the commercial space been supported in principle, the addition of new residential units at the site would have been supported in principle, provided that the development can achieve high quality design, is sustainable, provides a high standard of accommodation, and does not have unacceptable impacts on the amenity of adjoining neighbours and the wider area, and any other relevant impacts have been considered as described below.

### **4. Dwelling Mix**

- 4.1. The Council requires development to contribute to the creation of mixed and inclusive communities by containing a mix of large and small homes. Policy H7 of the Local Plan includes a Dwelling Size Priorities Table as set out below:

	<i>1-bedroom (or studio)</i>	<i>2-bedroom</i>	<i>3-bedroom</i>	<i>4-bedroom</i>
Social-affordable rented	Low	High	High	Medium
Intermediate affordable	High	Medium	Low	Low
Market	Low	High	High	Low

- 4.2. Policy H7 seeks to ensure that all housing development:
- contributes to meeting the priorities set out in the Dwelling Size Priorities Table; and
  - includes a mix of large and small homes.
- 4.3. The proposal would result in three 2-bedroom units and one 1-bedroom units. Two-bedroom units are in high demand and therefore the proposal would positively contribute towards the required dwelling mix within the Borough in accordance with Policy H7.

### **5. Affordable Housing**

- 5.1. Policy H4 requires a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more. The policy states that where developments have a capacity for 10 or more additional dwellings, the affordable housing should be provided on site. Where developments have capacity for fewer than 10 additional dwellings, the Council will accept a

payment in lieu of affordable housing.

- 5.2. Targets are based on an assessment of development capacity whereby 100sqm GIA of housing floorspace is generally considered to create capacity for one home and a sliding scale target applied to developments that provide one or more additional homes and have capacity for fewer than 25 additional homes, starting at 2% for one home and increasing by 2% for each additional home added to capacity.
- 5.3. Where development has the capacity for fewer than 10 additional dwellings, the Council will accept a payment-in-lieu of affordable housing. A rate of £5000 per sqm GIA is applied. The proposal would result in an additional 314 sqm GIA of residential floorspace. Therefore, the affordable housing contribution would be £94,200. Had the proposal been otherwise acceptable, this affordable housing contribution would have been secured by means of a Section 106 Agreement. This constitutes a reason for refusal that can be overcome by entering into a legal agreement (RfR 5). Details of how the affordable housing contribution is calculated are provided below.

*Additional residential floorspace [(314 sqm GIA) x target % (capacity for 3 additional homes = 6%)] x £5000 = £94,200.*

## **6. Design and Heritage**

- 6.1. The Council's design policies are aimed at achieving the highest standard of design in all developments. Policy D1 outlines that development should respect local context and character and comprise details and materials that are of high quality and complement the local character.
- 6.2. Policy D2 states that the Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and listed buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 6.3. No external changes are proposed and therefore the proposal would not cause harm to the character and appearance of the host property or adjacent conservation area, nor would it impact on the setting and significance of the adjoining listed buildings.
- 6.4. It is noted that the replacement windows as shown on the proposed elevations have already been approved under planning approval 2020/1195/P and therefore these works do not form part of the current application.

## **7. Standard of Accommodation**

- 7.1. Policy D1 and Principle 9 of the FAAP expects all housing development to provide a high standard of accommodation. Policy H6 outlines how the Council will seek to secure high quality accessible homes in all developments that include housing. We will:
  - a. Encourage design of all housing to provide functional, adaptable, and accessible spaces;
  - b. Expect all self-contained homes to meet the nationally described space standard;
  - c. Require 90% of new-build self-contained homes in each development to be accessible and adaptable in accordance with Building Regulation M4(2); and
  - d. Require 10% of new-build self-contained homes in each development to be suitable for occupation by a wheelchair user or easily adapted for occupation by a wheelchair user in accordance with Building Regulation M4(3).

- 7.2. Officers have raised numerous concerns with the internal layout and poor standard of accommodation provided by the proposal.
- 7.3. Unit A would be a 2-bedroom, 4-person unit with two double bedrooms, two bathrooms and a combined living/kitchen/dining area. The total gross internal floor area (GIA) would be 64sqm, falling short of the required 70sqm, and therefore this unit would be undersized. The unit would also be single aspect and south facing.
- 7.4. Unit B would be a 2-bedroom, 3-person unit with one double and one single bedroom, one bathroom and a combined living/kitchen/dining area. The total GIA would be 65sqm which exceeds the required 61sqm. The double bedroom would be dual aspect; however, the main living area would be a long and narrow single aspect room.
- 7.5. Unit C would be a 1-bedroom, 2-person flat with a double bedroom, two bathrooms, a combined living/kitchen/dining area and a study/office room to the rear. The total GIA would be 76sqm, which greatly exceeds the required 50sqm. The main living area would be a long and narrow single aspect room, similar to Unit B. The study to the rear would be served by a window facing the light well, however this would look directly into Unit D and would compromise the privacy of future occupants of both units and is unacceptable.
- 7.6. Unit D would be a 2-bedroom, 3-person flat, with one double and one single bedroom, two bathrooms, a combined living and dining area, a separate kitchen and a study/office room to the rear. The total GIA would be 88sqm, which greatly exceeds the required 61sqm. The unit would be dual aspect, which is supported, however the kitchen would have no windows and no way of receiving natural light which is unacceptable. As noted above, the study to the rear would be served by a window facing the light well, however this would look directly into Unit C and would compromise the privacy of future occupants of both units and is unacceptable.
- 7.7. It is noted that a floor to ceiling height of 2.5m would be achieved, along with adequate built-in storage, as required by Policy D6 of the London Plan.
- 7.8. It is evident based on the observations above that the space available has been poorly apportioned across the units, resulting in both undersized and excessively oversized units, in addition to two single aspect units in the middle. The applicant was advised to review the layout to make better use of the space and to optimise opportunities for dual aspect within the primary living spaces; however subsequent amendments were unable to provide a suitable alternative.
- 7.9. Paragraph 3.6.2 of the London Plan, states that Boroughs are encouraged to resist dwellings with floor areas significantly above those set out in Table 3.1 for the number of bedspaces they contain due to the level of housing need and the need to make efficient use of space.
- 7.10. In terms of daylight, whilst an average daylight factor assessment has been submitted with the proposal, this is not based on the current proposed layout and therefore cannot be relied upon to demonstrate that the habitable spaces would receive adequate daylight. Of particular concern are the central two units given that the living spaces are long and narrow, extending deep into the building plan, and are single aspect, and, also given the kitchen of Unit D has no windows. The study rooms within Units C and D would also be provided with very limited levels of natural light.
- 7.11. With regard to outlook, each habitable room would be provided with at least one window, with the exception of the kitchen in Unit D, therefore the outlook provided would be largely acceptable. The privacy of the units would also be adequate, with the exception of the study rooms in Units C and D which would look directly into one another.
- 7.12. In terms of noise, had the proposal been otherwise acceptable, a condition would have been

imposed requiring noise insulation to be installed between the ground floor commercial unit and the residential units above to minimise noise impacts on future occupants.

7.13. Whilst it is acknowledged that the proposal involves the retrofit of an existing building, none of the units would have access to private external amenity space as required by Policy D6 of the London Plan. Options to provide such amenity space through retrofitting balconies to the existing building or through providing access to a shared amenity area at roof level have not been explored or otherwise expressly ruled out.

7.14. In summary, the current proposal fails to provide an adequate standard of accommodation for future occupants for the following reasons:

- The space available has been poorly apportioned across the units, resulting in both undersized and excessively oversized units, in addition to two single aspect units in the middle and therefore the proposal does not provide high-quality accommodation, nor does it make the most optimal use of the site.
- None of the units would not be provided with private external amenity space which is not supported.
- The applicant has failed to demonstrate that all habitable rooms would receive adequate levels of daylight
- The proposed windows in the study rooms of Units C and D would be directly facing one another and this arrangement would have an unacceptable impact on the privacy of future occupants.

7.15. Poor residential quality is therefore a reason for refusal (RfR 2).

## **8. Neighbouring Amenity**

8.1. Local Plan Policies A1 and A4 and Principle 9 of the FAAP seek to protect the amenity of Camden's residents by ensuring that the impact of development is fully considered. They aim to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. This includes loss of privacy through overlooking, loss of outlook, and implications on daylight, sunlight, and noise. The CPG for 'Amenity' provides specific guidance with regards to these factors.

8.2. The proposed development does not include any substantial external changes to the scale or massing of the building, with the majority of the works occurring internally. Thus, the proposal would not result in impacts on privacy, overlooking, or loss of light for adjoining neighbours. The proposed residential use is not anticipated to result in unacceptable levels of noise and disturbance.

## **9. Transport**

9.1. Policy T1 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 cycle networks and facilities, and improving links with public transport.

9.2. In line with Policy T1, it is expected that all developments provide cycle parking in accordance with the standards set out in the London Plan. 1no. space is required for studios and 1-person/1-bedroom units, 1.5no. spaces for 2-person/ 1-bedroom units, and 2no. spaces for all other dwellings. Therefore, the proposed development would be required to provide a minimum of 7.5 cycle spaces.

- 9.3. This policy also requires cycle parking to be designed and laid out in accordance with the guidance contained in the London Cycling Design Standards (LDCS). Residential cycle parking should be secure, with access for residents only, well located close to the entrance of the property, avoiding obstacles such as stairs, multiple doorways and narrow spaces, covered and fully accessible.
- 9.4. The proposal includes an 11m<sup>2</sup> space for cycle storage at ground floor level, accessed from Warren Street. Whilst this is an acceptable arrangement for Flats A, B and C which would be accessed from Warren Street, the cycle store would not be well located for Flat D which would be accessed from Euston Road on the other side of the building. A separate cycle store should be provided closer to the Euston Road access for Flat D. Whilst there would be space on site to do so, it would require a slight reconfiguration of the ground floor plan and potential additional loss of commercial floor space, therefore it is not appropriate to require these details via condition and rather they should be provided upfront prior to a decision being issued. As such, failure to provide secure and accessible cycle storage for Flat D is an additional reason for refusal (RfR 4). It is noted that had the proposal been otherwise acceptable, details of the cycle store for Flats A, B and C would have been secured via condition.
- 9.5. Policy T2 limits the availability of parking in the borough and requires all new developments in the borough to be car free. Therefore, had the proposal been otherwise acceptable, the development would have been secured as residents parking permit (car) free development by means of a Section 106 Agreement. This would prevent future occupants from adding to existing on-street parking pressures, traffic congestion and air pollution, whilst encouraging the use of more sustainable modes of transport such as walking, cycling and public transport. This constitutes a reason for refusal that can be overcome by entering into a legal agreement or undertaking (RfR 6)

## **10. Sustainability**

- 10.1. Policies CC1 and CC2 require all development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards. This includes measures to reduce the impact of urban and dwelling overheating, including application of the cooling hierarchy. Principle 10 of the FAAP expects all development in Fitzrovia to incorporate appropriate measures to make the area more sustainable and tackle climate change.
- 10.2. Policy CC4 seeks to ensure that the impact of development on air quality is mitigated and ensure that exposure to poor air quality is reduced in the borough. Policy CC4 requires the submission of air quality assessments (AQA) for developments that could cause harm to air quality, and mitigation measures are expected in developments located in areas of poor air quality.
- 10.3. In line with the CPG on Air Quality, a Basic Air Quality Assessment is required as the proposal would introduce new sensitive receptors (being the residential dwelling) into an area of very poor air quality.
- 10.4. The application site has a frontage to Euston Road which is a highly polluted area with very poor air quality. Given the proximity of the proposed new units to Euston Road and that the proposal includes bringing in new residential receptors with some opening windows, an Air Quality Assessment (AQA) is required to assess the impact of the air quality on future occupants of the site.
- 10.5. The proposal includes the use of mechanical ventilation within the proposed residential units. The proposal has been reviewed by Council's Sustainability Officer who confirmed that mechanical ventilation is acceptable in this instance given the location of the site adjacent to a busy and highly polluted Road. The location of the air ventilation inlet is likely

to be acceptable as the lightwell is open on one side and therefore has access to fresh air. However, the AQA is required to model the air quality at the inlet location to assess if further mitigation such as filtration is required.

- 10.6. In the absence of an Air Quality Assessment, the application has failed to demonstrate that future occupants would not be exposed to unacceptable levels of air pollution and subsequently that the site is suitable for residential use, contrary to Policy CC4 of the Camden Local Plan. This is therefore an additional reason for refusal (RfR 3).

## **11. Recommendation: Refuse planning permission**

- 11.1. Refuse planning permission for the following reasons:

### **Substantive reasons for refusal**

1. The principle of development is not supported as the applicant has failed to demonstrate that suitable marketing has been undertaken for the mezzanine commercial space to demonstrate that there is no viable or desired use for this space, which would result in a loss in employment space which is vital to maintaining and developing Camden's successful economy, contrary to policy E2 (Employment premises and sites) of the Camden Local Plan 2017.
2. The proposed development, by reason of the under-sized units, poorly apportioned and inefficient layout of the units, lack of external amenity space, privacy impacts on the occupants of Units C and D, and failure to demonstrate that all habitable rooms would receive adequate levels of daylight, would provide unacceptable and substandard living accommodation for future occupiers of the development, contrary to policies H6 (Housing choice and mix) and D1 (Design) of the Camden Local Plan 2017, D6 (Housing quality and standards) of the London Plan 2021, and Principle 9 (Residential amenity) of the Fitzrovia Area Action Plan 2014.
3. The proposed development, in the absence of an Air Quality Assessment, has failed to demonstrate that future occupants would not be exposed to unacceptable levels of air pollution and subsequently that the site is suitable for residential use, contrary to Policy CC4 (Air quality) of the Camden Local Plan.
4. The proposed development, by reason of failure to provide secure, convenient and accessible cycle parking for Unit D, would fail to promote sustainable and active transport modes contrary to Policy T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017.

### **S106 reasons for refusal (can be overcome through legal agreement)**

5. In the absence of a legal agreement securing an affordable housing contribution, the development would fail to maximise the supply of affordable housing to meet the needs of households unable to access market housing, contrary to policy H4 (Affordable housing) of the Camden Local Plan 2017 and Principle 1 (Housing and affordable housing) of the Fitzrovia Area Action Plan 2014.
6. In the absence of a legal agreement securing the development as car-free, the development would contribute to parking stress, congestion in the surrounding area, environmental impacts, and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017.