

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		27/04/2023			
		N/A		<b>Consultation Expiry Date:</b>		22/04/2023			
<b>Officer</b>				<b>Application Number(s)</b>					
Christopher Smith				2023/0901/P					
<b>Application Address</b>				<b>Drawing Numbers</b>					
34 Shoot-up Hill London NW2 3QB				See draft 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 four small HMOs (Class C4) to a single large HMO (Sui Generis).									
<b>Recommendation(s):</b>		Refuse Planning Permission							
<b>Application Type:</b>		Full Planning Application							
<b>Informatives:</b>		See decision notice							
<b>Consultations</b>									
<b>Adjoining Occupiers:</b>		No. of responses		None		No. of objections		None	
<b>Summary of consultation responses:</b>		<p>Site notice was displayed 29/03/2023 which expired 22/04/2023.</p> <p>No comments have been received. Fortune Green &amp; West Hamstead Neighbourhood Forum were consulted and did not comment on this application.</p>							

## Site Description

The application site is a two storey property with additional basement and converted roof space areas that is finished in white render with brown-tile roof. The building has been converted into four separate residential units that are accessed from Kingscroft Road.

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

## Relevant History

### Application Site

2023/3428/P. Details pursuant to condition 5 (Sound Insulation) for application reference 2017/3606/P dated 07/11/2017 for 'Conversion of no 2 garages into no 1 self-contained 1bed 2 person residential flat (C3) including single storey side extension, installation of ground floor lightwells, alterations to levels, landscaping and associated alterations. Granted October 2023.

2022/5222/P. Amendments (including changes to layout and access) to planning permission reference 2017/3606/P dated 07/11/17 for conversion of 2 garages into 1 self-contained 1bed2person residential flat (C3) including single storey side extension, installation of ground floor lightwells; alteration to levels, landscaping and associated alterations. Granted January 2023.

2017/3606/P. Conversion of no.2 garages into no.1 self-contained 1bed2person residential flat (C3) including single storey side extension, installation of ground floor lightwells; alteration to levels, landscaping and associated alterations. Granted November 2017.

2006/2720/P. Details of tree protection and hard and soft landscaping pursuant to conditions 3 and 4 of planning permission dated 22.12.04 (ref 2004/3491/P) for the demolition of an existing single dwellinghouse and the redevelopment of the site by the erection of 4x 3-storey 4-bedroom terraced houses. Granted August 2006.

2004/3491/P. The demolition of an existing single dwellinghouse and the redevelopment of the site by the erection of 4x 3-storey 4-bedroom terraced houses, one of which would have a basement garage. Granted December 2004.

### Enforcement History

EN11/0391. Enforcement notice issued 3<sup>rd</sup> July 2012 against the change of use of the building to 24 self-contained flats. Appeal via Public Inquiry dismissed 2<sup>nd</sup> January 2013.

- *The enforcement notice was amended to give the appellant 10 months to complete the necessary remedial work required to make the development acceptable. The appeal was therefore dismissed as 10 months was considered an appropriate timeframe within which to complete the required works.*
- *The works required to be completed included the removal of all 'kitchenettes' in each 'studio flat' and the establishment of communal kitchens, which it was agreed would facilitate appropriate HMO accommodation at this site. It was also agreed by all parties that bathroom facilities could remain in each room as part of the small HMO use.*

## Relevant policies

### National Planning Policy Framework 2024

### The London Plan 2021

#### Camden Local Plan 2017

- H1 – Maximising housing supply
- H3 – Protecting existing homes
- H6 – Housing choice and mix
- H10 – Housing with shared facilities
- A1 – Managing the impact of development
- A4 – Noise and vibration
- D1 – Design
- T1 – Prioritising walking, cycling and public transport
- T2 – Parking and car free development

#### Camden Planning Guidance

- CPG Design (2021)
- CPG Housing (2021)
- CPG Transport (2021)

### Fortune Green and West Hampstead Neighbourhood Plan (2015)

#### 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 Proposal

- 1.1 Planning permission is sought for the change of use of four existing 6-bed HMOs (Class C4) to a single large 24-bed HMO (Sui Generis) each with an en-suite and kitchenette. The relevant background to this application is explained below.
- 1.2 Permission was granted for four self-contained single family dwelling houses on this site in 2004 (application ref. 2004/3491/P). It is understood that work relating to the construction of the dwellings was completed in 2010. The four dwellings have been occupied as small HMOs (Class C4) for a significant period of time since the completion of works. The Council accepts that the provision of four six-bedroom HMOs within class C4 on this site is lawful as properties can change from C3 (single dwellings) to C4 (small HMOs) and vice versa without the need for planning permission.
- 1.3 Each property was subsequently split into self-contained units with their own kitchen facilities and bathrooms. Following investigative work, the Council issued an enforcement notice (ref. EN11/0391) on 3rd July 2012 which required the units to cease their use as self-contained flats. Following discussions the notice was amended to require that fixed cooking facilities be removed from each individual room. The notice was appealed, and the appeal dismissed. It is understood that works required by the notice were subsequently completed to the Council's satisfaction. The Council accepted that bathrooms could remain in situ without triggering the self-containment of

each room as a single dwelling unit in planning terms, as long as fixed cooking facilities were removed.

- 1.4 Each former dwelling has been licensed as an HMO with the Council since since 2016. The license states that all cooking facilities (specifically in the form of cookers and hobs) should be removed from individual rooms. The applicant has stated in their covering letter that this application has been submitted to address the concerns of the Council's Environmental Health Officer that the provision of cooking equipment was unhealthy and unsafe.
- 1.5 The enforcement notice, as amended at appeal, requires cooking facilities be removed. A small kitchenette unit in each room containing worktop, fridge and kitchen sink is not covered by this requirement.
- 1.6 The applicant has stated that, since the removal of the fixed cooking equipment, tenants are bringing demountable equipment into rooms instead. The applicant is therefore seeking permission for the creation of a single large sui generis 24-bedroom HMO in order to enable each room to have its own set of fixed cooking facilities in the form of a small kitchenette (formed of a combination oven and double hob plus other related items including a sink, worktop, non-slip impervious floor covering and related storage areas).
- 1.7 Four shared kitchen / dining areas at ground floor level would remain which would be the only shared facilities; however, it is important to note that, given the proposed inclusion of kitchen facilities within each unit, these would be additional facilities only and occupiers of each unit are not reliant on these shared facilities. Everything they require including kitchen, washing and sanitary facilities, is behind their front door thereby creating dwellings. As such, despite the development description what is being proposed is the creation of 24 self-contained units with additional ancillary areas in the form of four shared kitchens. The planning application is assessed accordingly.
- 1.8 No external alterations to the properties are proposed.
- 1.9 The material considerations for this application are as follows:
- Land Use
  - Residential Quality
  - —
  - Transport
  - S106/CIL

## **2 Land Use**

- 2.1 Policy H10 of the Local Plan states that the Council will aim to ensure that there is continued provision of housing with shared facilities and will support such development provided that it would not involve the loss of two or more self-contained homes. Policy H10 also states that the loss of HMO accommodation, or the self-containment of any part of it, shall be resisted unless: it can be demonstrated that the accommodation is otherwise incapable of meeting the relevant standards for HMOs or is genuinely incapable of use as housing with shared facilities; or, adequate replacement housing is provided; or the development provides self-contained homes for social rent.

2.2 In this case four C4 units would be lost and 24 substandard self-contained units would be created. Each unit would be capable of being rented out separately and whilst each planning unit provides a shared kitchen at ground floor level, these are unlikely to be used as all facilities are provided within each unit. This is unacceptable in several respects as the proposal could facilitate the loss of four good quality HMO units which currently don't comprise fixed cooking facilities within each unit and therefore rely on the shared kitchens. The proposed self-contained units would not be for social rent. As such, the proposal is contrary to policy H10.

2.3 Each self-contained unit would be sub-standard in floor area when considered against the nationally described space standards (NDSS) for dwellings, and in many cases the rooms would be substantially below these standards (for example units on the first floor would be approximately 17sqm in floor area, which is more than 50% below the NDSS requirement for a studio flat of 37sqm).

2.4 The aim of this application therefore appears to enable and formalise sub-standard self-contained accommodation, rather than to enable the ongoing effective enforcement and management and safe usage of the existing HMOs. The "shared" kitchens are token gestures to the need for HMOs to have shared facilities. However just as some blocks of flats would have a laundrette this provision does not alter the fact that self-contained units are provided within the buildings which have all the necessary facilities behind the front door. The Council has requested that the applicant remove all references to fixed cooking facilities within the rooms on the submitted plans to ensure the communal spaces are needed. However, the applicant has not agreed to make these changes.

2.5 The creation of self-contained accommodation in place of HMO accommodation is strongly opposed by the Council and is not in accordance with policies H3 and H10 of the Local Plan. The loss of four acceptable residential units to create 24 substandard units would also be contrary to planning policy if they were used as C3 residential units. The provision of permanent cooking facilities such as hobs and ovens would encourage residents to bring food and cooking facilities into rooms and would create additional management, amenity and residential quality concerns in terms of fire safety, fumes, smells, and ventilation of the accommodation. The formalisation of the fixed kitchenette layout in each room would also discourage use of the existing communal kitchens, thereby promoting isolationist and anti-social behaviour, which is contrary to the provision of mixed and balanced communities. These matters will be discussed further in the relevant sections below.

2.6 As such, it is considered that the proposed development is unacceptable in land use terms as the proposed accommodation would fail to comply with Policy H10 of the Local Plan by self-containing existing shared HMO units with no corresponding policy justification.

### **3 Residential Quality**

3.1 Paragraph 135(f) of the NPPF states that developments should be safe, inclusive and accessible, should promote health and well-being and should provide a high standard of amenity for existing and future users.

3.2 Policy H6 of the Local Plan seeks to provide new housing that is high quality, functional, adaptable and accessible, and meets space standards. Policy H10 states that the Council will ensure there is a continued provision of housing with shared facilities (such as HMOs) to meet the needs of small households with limited incomes by supporting development of such facilities provided that the proposal complies with relevant standards for HMOs.

- 3.3 The Fortune Green and West Hampstead Neighbourhood Plan 2015 includes Policy 1 which states that residential development shall provide a range of housing types and sizes, including homes which aim to meet or exceed national environmental standards. The supporting text to Policy 1 states that HMOs should be strongly controlled, and high standards enforced.
- 3.4 This application seeks to install permanent kitchen and cooking facilities into existing HMO living accommodation which would create de facto self-contained accommodation. The application also seeks to create a large single HMO of 24 self-contained units. There would be no connections through each of the 4 x units and as such, whilst the buildings are in the same ownership, the applicant seeks to create 4 x buildings with 24 units and ancillary kitchen space on the ground floor.
- 3.5 Self-contained one bedroom one person dwellings would usually be at least 37sqm in floor area, where the bathroom provided includes a shower for the occupant rather than a bath. The floor area for the proposed self-contained units would be well below this floor area requirement in all cases. The largest flats would be those in the basement, which are a maximum of 26sqm, whilst the smallest would be on the first floor where rooms measure approximately 14sqm – which is approximately a third of what the NDSS requires, highlighting the poor nature of the proposed accommodation. The roof accommodation is approximately 18sqm in floor area, though it is noted that around half of that accommodation is less than 2 metres in height (point 10(i) of the NDSS requires that the minimum floor to ceiling height for flats is 2.3 metres for at least 75% of the flat, which would also not be the case here).
- 3.6 As such, noting the floor space quantum for the proposed units as referenced above it is considered that the quality of accommodation, should fixed kitchen and cooking facilities be provided, would be substantially below that required one-bedroom studio flats, which the rooms would effectively become, leading to the creation of unacceptably poor residential accommodation. The units would not meet many of the requirements of Policy H6 of the Local Plan, including the requirement for all self-contained homes to meet the NDSS and the requirement to secure functional, adaptable and accessible spaces. The provision of 24 sub-standard self-contained units would also not secure a range of housing products as part of the large number of units which would be created on this site and thus the proposal would also prejudice the creation of mixed and balanced communities as a result.
- 3.7 The formalisation of the fixed kitchenette layout in each room would also discourage use of communal kitchens, thereby promoting isolationist and anti-social behaviour, which is contrary to the provision of mixed and balanced communities. The fact that there is scope for this space to be used by the occupants does not materially change the use of the individual units given as proposed they will contain the facilities required for day-to-day private domestic existence, (*Gravesham Borough Council v Secretary of State for the Environment* (1984) 47 P&CR 142).
- 3.8 The provision of fixed kitchen and cooking facilities within the existing rooms also raises further concerns about the quality of accommodation in terms of fire safety, and management of cooking-related issues such as smoke, fumes, smells and water vapour, and the impact of inadequate ventilation on the health of the occupier. In many cases the kitchen and cooking facilities are not located close to existing windows and most units would not benefit from through ventilation as the rooms are not dual aspect. The plans do not show provision of extraction equipment or related ducting towards the external facades of the property that may help to alleviate such issues.
- 3.9 The Council's Environmental Health Officer has acknowledged that extractors and vents would be needed, if the proposed room layouts were otherwise considered acceptable for all other

reasons, in order to meet environmental health requirements and secure an updated license for the HMO accommodation. Extraction equipment installations would be required on the external facades of the property, either within a large single installation or smaller installations to multiple rooms, and that this would be unlikely to be supported in design terms as such equipment would appear out of keeping with the character and appearance of the existing host properties and the local area. Installing necessary ducting facilities internally within individual rooms or in communal areas would also pose their own health and safety risks as well as further eroding the quality of the proposed accommodation (through reduced floor-to-ceiling heights, for example).

3.10 The applicant has stated in their covering letter that this application is intended to enable the regulation of the presence of kitchen and cooking equipment in rooms to reduce health and safety issues including fire safety risks. However, enabling the provision of inappropriately located permanent cooking equipment such as hot plates and ovens within individual rooms on a permanent basis would not sufficiently address these issues and would instead regularise an unacceptably substandard and high-risk unit layout.

3.11 As such, the application is unacceptable in terms of residential quality as it would fail to comply with the NPPF, Policy H6 of the Local Plan and Policy 1 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.

## **4 Transport**

4.1 Policy T1 of the Local Plan aims to promote sustainable transport by prioritising walking, cycling and public transport. 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, amongst other measures, and by using legal agreements to secure these actions.

4.2 There is no car parking proposed with the development. Had the development been otherwise considered acceptable it would have been secured as car free by legal agreement. 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.

4.3 Furthermore, there are no cycle parking facilities shown on the proposed plans. These would be secured through condition if that application had been considered acceptable in all other respects.

4.4 As such, it is considered that the proposed development would lead to unacceptable parking impacts contrary to Policy T2 of Camden's Local Plan.

## **5 Recommendation**

5.1 Refuse planning permission for the following reasons:

- The proposed development would create 24 sub-standard self-contained homes at the expense of 4 good quality HMOs. As such, the proposal would fail to provide an acceptable standard of living accommodation and result in the loss of housing with shared facilities contrary to Policies H3 (Protecting existing homes), H6 (Housing choice) and H10 (Housing with shared facilities) of the Camden Local Plan 2017, policy 1 of the Fortune Green West Hampstead Neighbourhood Plan and policies D6 (Housing quality and standards) and H9 (Ensuring the best use of stock) of the London Plan 2021.

- 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.