

Delegated Report		Analysis sheet		Expiry Date:	14/01/2025
		N/A		Consultation Expiry Date:	24/12/2024
Officer			Application Number(s)		
Brendan Versluys			2024/5078/P		
Application Address			Drawing Numbers		
22 Hanway Street London W1T 1UQ			See decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use of first floor bar (Sui Generis) to residential use (Class C3) to provide a studio flat.					
Recommendation(s):		Full Planning Permission			
Application Type:		Refuse Planning Permission			
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice			
Informatives:					
Consultations					
Adjoining Occupiers:		No. of responses	0	No. of objections	0
Summary of consultation responses:		<p>Site notices were displayed from 27/11/2024 until 21/12/2024 and a press notice was published on 28/11/2024, which expired on 22/12/2024.</p> <p>No responses from residents were received. One letter of objection was received from the Campaign for Real Ale (CAMRA), North London Branch, whose concerns can be summarised as follows:</p> <ul style="list-style-type: none"> The proposal would result in the unjustified loss of bar floorspace and there has been insufficient marketing or vacancy evidence to demonstrate a lack of demand for public house floorspace. The proposed change of use from public house (Sui Generis use) to a residential use, contrary to policy HC7 of the London Plan 2021 <p><u>Officer Response</u></p> <ul style="list-style-type: none"> Please see section 3 of this report for assessment of land use principles including the loss of employment floor space and loss of a public house. 			
Site Description					

The application site relates to the first floor commercial unit, occupied by a bar. The bar operates under the name 'Troy 22' and is described on the operator's website as having operated for over 50 years.

The ground floor unit of the building is occupied by a private members club, whilst the second and third floors of the building are in residential use.

The site is a mid-terrace building located on the north side of Hanway Street, which is situated within the Hanway Street Conservation Area.

The character of Hanway Street is distinguished by various drinking establishments and 'hole in the wall' type bars and forming part of the Central London Area and the London Plan 'CAZ' (Central Activities Zone).

Relevant History

None relevant

Relevant Policies

National Planning Policy Framework 2024

The London Plan 2021

Camden Local Plan 2017

Policy H1 Maximising housing supply

Policy H6 Housing choice and mix

Policy H7 Large and small homes

Policy C4 Public houses

Policy E2 Employment premises and sites

Policy A1 Managing the impact of development

Policy A4 Noise and vibration

Policy D1 Design

Policy D2 Heritage

Policy T1 Prioritising walking, cycling, and public transport

Policy T2 Parking and car-free development

Policy DM1 Delivery and Monitoring

Camden Planning Guidance (CPG)

CPG Amenity (January 2021)

CPG Community uses, leisure, and pubs (January 2021)

CPG Design (January 2021)

CPG Employment sites & business premises (January 2021)

CPG Housing (January 2021)

CPG Transport (January 2021)

Fitzrovia Area Action Plan 2014

Principle 4 Small and Medium Enterprises

Hanway Street Conservation Area appraisal and management strategy 2011

Assessment

1. Proposal

- 1.1. Planning permission is sought for the change of use of the first floor bar to a residential studio flat.
- 1.2. The studio would have a floor area of 27sqm. No external alterations are proposed.

2. Planning Considerations

2.1. The material considerations in the determination of this application are as follows:

- Land use
- Residential amenity
- Agent of change
- Transport

Assessment of proposals

3. Land use

Loss of employment space

- 3.1. Policy E2 (Employment premises and sites) states that the Council will protect premises or sites that are suitable for continued business use, in particular premises for small businesses, businesses and services that provide employment for Camden residents, and those that support the functioning of the CAZ (Central Employment Zone) or the local economy. The Council will resist development of business premises and sites for non-business use unless it is demonstrated to the Council's satisfaction that:
 - a) The site or building is no longer suitable for its existing business use; and
 - b) 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.
- 3.2. In relation to point (a), supporting text paragraph 5.37 explains that when considering whether there is potential for business use to continue, the following points will be considered:
 - a) The suitability of the location for any business use;
 - b) Whether the premises are in a reasonable condition to allow the use to continue;
 - c) The range of unit sizes it provides, particularly suitability for small businesses; and
 - d) Whether the business use is well related to nearby land uses.
- 3.3. Principle 4 of the Fitzrovia Area Action Plan (FAAP) aims to support small and medium enterprises (SMEs) by seeking to ensure that existing business premises suitable for SME use are retained.
- 3.4. In this case, the site is in a suitable location for business use, being located in a central London location with excellent public transport and convenient access to a range of amenities.
- 3.5. The existing tenancy is tenanted/operated by a bar, though it is noted the applicant has indicated they do not intend to renew the lease for the existing tenancy.
- 3.6. While the applicant is entitled to cease operations of the existing bar operating from the unit, it is possible the unit could be operated by a range of Class E uses, particularly given the site's

central London location. The applicant has not undertaken any marketing of the existing premises and would not meet the marketing requirements stipulated under item 44 of Camden's Employment sites and business premises CPG, which would require the unit to be marketed for a minimum of 2 years. Additionally, no extenuating or exceptional circumstances have been noted that would allow the Council to consider a shorter marketing period.

3.7. No evidence has satisfactorily been submitted to meet any of the Employment sites and business premises CPG criteria to support the loss of commercial/employment floor space. Therefore, the loss of employment floor space is contrary to Policy E2 and would constitute a reason for refusal.

Loss of a public house

3.8. Policy C4 (Public houses) of the Camden Local Plan 2017, seeks to protect public houses which are of community, heritage or townscape value. Policy HC7 (Protecting public houses) of the London Plan, states applications that propose the loss of public houses with heritage, cultural, economic or social value should be refused unless there is authoritative marketing evidence that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future.

3.9. The existing bar is understood to have operated for over 50 years and is described on its website as a 'Vintage, spit and saw-dust Rock and Roll Bar'. Whilst not having serving any particular known local community function, it does contribute to the collective value of a cluster of smallscale drinking establishments that continue an historic tradition of this street as a lively but self-contained enclave forming a northward extension of Soho before the character changes to the more low key mixed use nature of Fitzrovia. Further, Camden's CPG Town Centres, identifies food, drink, and entertainment uses within Fitzrovia as an important part of the mixed use character of the area. These uses add to its viability and vitality and extend activity into the evenings and weekends.

3.10. No evidence has been provided to suggest there is no interest in the continued use of the property or site as a public house, nor that there is no reasonable prospect of a public house being able to trade from the premises over the medium term.

3.11. As described in the 'Loss of employment floor space' above, no marketing evidence has been submitted that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future.

3.12. It is acknowledged that policy C4 focuses on protecting public houses that predominantly serves a local residential or 'protected group'. However, London Plan policy HC7 has a wider remit and seeks to protect public houses where they have a heritage, economic, social or cultural value, or where they contribute to wider policy objectives for town centres, night-time economy areas, Cultural Quarters and Creative Enterprise Zones. In this case the site is located in a night-time economy area where the street's character is influenced by its eclectic mix of shops, bars and restaurants. The loss of the public house would contribute to the erosion of the choice and extent of Hanway Street's nighttime entertainments offering, and the public house should be sought to be retained in this regard.

3.13. In summary, the proposed change of use would result in the unnecessary loss of a valued public house that has a demonstrable heritage, economic and social or cultural value. There is no evidence to justify the loss of this public house and its consequent harm to the vibrancy and vitality of this part of Camden's central London area. The loss of the public house and its change of use to a residential unit is therefore unacceptable and contrary to LocalPlan policy C4 and London Plan policy HC7.

Creation of new residential (Class C3) floorspace and standard of accommodation.

- 3.14. Policy H1 (Maximising housing supply) of the Local Plan states that self-contained housing is the priority land use for the Council. Therefore, the proposed change of use of the first-floor from commercial space to provide a residential flat is in accordance with Policy H1. The proposal does not involve any external works and the upper floors of the building and adjoining buildings are in residential use, and as such the proposed dwelling would therefore appropriately integrate within the context of the existing environment.
- 3.15. Policy H7 (Large and small homes) seeks to provide a range of unit sizes to meet demand across the Borough. The supporting text to the policy provides the Dwelling Size Priorities table, which outlines the demand for dwellings of various sizes and types. For market units, 1 bedroom flats/studios and 4 bedroom or more units are considered to have a lower priority, whilst 2 and 3 bedroom units are higher priority. The proposal would provide a studio dwelling, which is not identified as a high-priority accommodation offering. However, the proposal would provide an additional dwelling and add to Camden's housing stock.
- 3.16. The proposed floor area of 27sqm would be notably short of the minimum 37sqm required for a one person one bedroom dwelling, as outlined in the Nationally Described Space Standards. The studio would be provided with adequate in-built storage and two generously sized south-facing windows, allowing for outlook over the street and a good level of daylight and sunlight into the unit. It also has a rational layout which maximises the daylight to the main living area. Were there to be no other suitable uses then it might be suitable to consider options for some form of single person residency but it has not been demonstrated appropriate to do so in this instance. The substantial shortfall (approximately 31%) in the required floor space for a one person one bedroom dwelling would provide a substandard level of accommodation to future occupiers.
- 3.17. The proposed residential unit would therefore be unacceptable and the proposed studio would fail to provide an acceptable level of accommodation in accordance with policies H6 and D1.
- 3.18. Policy H4 ensures development maximises the provision of affordable housing. The Council will expect 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, and where developments have capacity for fewer than 10 additional dwellings, the Council will accept a payment-in-lieu of affordable housing. In this case as the proposal is for less than 100m² additional residential floor space (being approximately 27m² additional residential floor space), an affordable housing contribution is not required.

4. Residential Amenity to neighbouring occupiers

- 4.1. Policy A1 (Managing the impact of development) of the Local Plan seeks to protect the quality of life of occupiers and neighbours. The policy notes that the factors to consider include: visual privacy and outlook; sunlight, daylight and overshadowing; artificial lighting levels; impacts of the construction phase; and noise and vibration.
- 4.2. The proposed studio would not allow for any increase in overlooking/loss of visual privacy compared to the existing situation. The lack of any external alterations would mean there would be no impact with regards to outlook, daylight, or sunlight on neighbouring occupiers.
- 4.3. Overall, the proposal would result in acceptable amenity effects.

5. Agent of change

- 5.1. The site is located in the Central London Area, with a concentration of night-time, leisure and entertainment activities. Policy A4 outlines planning permission will not be granted for development sensitive to noise in locations which experience high levels of noise, unless appropriate attenuation measures can be provided and will not harm the continued operation of existing uses. The supporting text of policy A4 notes 'In some cases the Council may require the developer to be responsible for future costs of soundproofing (known as the "agent of change" principle), secured by a legal agreement'. LP policy HC6 supports the night-time economy by protecting evening and night-time cultural venues. These points are emphasised in LP policy D13, as well as the Camden Local Plan, which stresses the importance of Agent of Change.
- 5.2. The proposed residential use would introduce new noise-sensitive development directly above a private members club, in a Central London location with an important focus on night-time economy uses.
- 5.3. In line with the policies of the Local Plan, the scheme has been designed separating new noise-sensitive development where possible from existing noise-generating businesses and uses, in particular through retention of the existing sound insulation between the ground floor and first floor, which ensures the unit would achieve Council's airborne sound insulation performance requirement. It is also noted the unit is not located on a main road, and aside from the private members club at ground floor (which is understood to operate on Fridays and weekends only) there are no other noise generating activities/uses in close proximity to the site.
- 5.4. The Council's Noise Officer has reviewed the proposal and advised that the applicant's pre-completion sound insulation tests indicate that the proposed scheme should be capable of achieving the Camden's environmental noise criteria for acceptable sound insulation.
- 5.5. Overall, it is considered the proposed dwelling would be sufficiently insulated against noise intrusion, in particular from the existing ground floor private members club.
- 5.6. Notwithstanding the above and given the importance of protecting existing night-time economy uses and not restricting new night-time economy uses from opening near to the site in the future, an Agent of Change clause would have been secured by s106 legal agreement in the event that the application could be recommended for approval. This would have ensured future occupiers of the proposed studio flat would be aware of and understand the potential noise impacts from nearby uses. Occupiers would also be made aware of the robust noise insulation that has been designed into the scheme to ensure noise is mitigated (in relation to the ground floor private members club) when these measures are properly utilised, and the obligation would have ensured that these measures are maintained in perpetuity. The lack of the Agent of Change clause secured by legal agreement would mean that the proposal would not be acceptable and would constitute a reason for refusal.

6. Transport

- 6.1. Policy T2 (Parking and car-free development) requires all new residential developments in the borough to be car-free. Parking is only considered for new residential developments where it can be demonstrated that the parking to be provided is essential to the use or operation of the development (e.g. disabled parking). It should be noted that Policy T2 is wide ranging and is not merely about addressing parking stress or traffic congestion. It is more specifically aimed at improving health and wellbeing, encouraging and promoting active lifestyles, encouraging and promoting trips by sustainable modes of transport (walking, cycling and public transport), and addressing problems associated with poor air quality in the borough. Thus, car-free housing is required in the borough, regardless of any parking stress that may or may not locally exist.

6.2. The existing first floor bar does not have any associated on-street parking permits nor is any on-site parking provided. The applicant has indicated that they would be willing to agree to the new dwelling (if it were to be found acceptable in all other respects) being secured as 'car free', which would prevent the owner/occupier from obtaining any on-street parking permit for the dwellings. The 'car free' provision would have been secured via a s106 legal agreement, were the application to have been recommended for approval.

6.3. Policy T1 (Prioritising walking, cycling, and public transport) requires cycle parking facilities in the form of 1 x long-stay cycle space, to be provided for the new dwelling, in accordance with the London Plan. No cycle parking is proposed, mainly due to the spatial constraints from the existing building footprint. In lieu of providing 1 x on-site cycle parking space, a cycle parking contribution of £750, towards the provision of a cycle hanger in the vicinity of the site, would need to be secured as part of a s106 legal agreement. The lack of a legal agreement to secure this constitutes a reason for refusal.

7. Planning Balance and Conclusion

7.1. No weight has been given to the additional housing as the proposal would proposed single residential unit would provide substandard accommodation. Significant weight has also been given to the loss of employment (Class E) floorspace and a public house without full justification. Although the proposed scheme would provide the public benefits of one additional new dwelling, it is not sufficient to outweigh the loss of employment space and a valued public house as outlined above. Thus, the application is recommended for refusal on this basis.

8. Recommendation

8.1. Refuse planning permission on the following grounds:

- The proposed loss of a valued public house and replacement with a residential unit, would undermine the functioning of a concentration of night-time economy uses which bring wider benefits to the vibrancy and vitality of Camden's Central London Area, contrary to Policy C4 (Public houses) of the London Borough of Camden Local Plan 2017 and Policy HC7 (Protecting public houses) of the London Plan 2021.
- The proposed development, by reason of the resultant loss of an existing business premises which has not been demonstrated as incapable of continued occupation or reoccupation, would have a detrimental effect on employment opportunities in the Borough contrary to Policy E2 (Employment premises and sites) of the London Borough of Camden Local Plan 2017 and Principle 4 (Small and Medium Enterprises) of the Fitzrovia Area Action Plan 2014.
- The proposed residential unit by reason of its small internal floor area, would provide a substandard level of accommodation to future occupiers, contrary to policy H6 (Housing choice and mix) of the London Borough of Camden Local Plan 2017.
- The proposed development, in the absence of a legal agreement securing car-free housing, would contribute 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.
- The proposed development, in the absence of a legal agreement securing a cycle parking contribution, would fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to Policies T1 (Prioritising walking, cycling and

public transport) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

- The proposed development, in the absence of a legal agreement securing an Agent of Change clause to ensure future occupiers of the proposed studio flat would be aware of and understand the potential noise impacts from nearby uses, would fail to protect the night-time economy by protecting evening and night-time cultural venues, contrary to policy A4 (Noise and vibration) of the London Borough of Camden Local Plan 2017 and policies HC6 (Supporting the night-time economy) and D13 (Agent of change) of the London Plan 2021.