

Delegated Report		Analysis sheet		Expiry Date:		20/12/2013	
		N/A / attached		Consultation Expiry Date:		29/11/2013	
Officer				Application Number(s)			
Eimear Heavey				2013/6819/P			
Application Address				Drawing Numbers			
254-256 Belsize Road London NW6 4BT				Refer to decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Change of use from office (Class B1(a)) to residential flats consisting of 13 x 1beds and 5 x 2 beds (Class C3).							
Recommendation(s):		Refuse prior approval					
Application Type:		GPDO Prior Approval Class J Change of use B1 to C3					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	113	No. of responses	00	No. of objections	00
				No. electronic	00		
Summary of consultation responses:		A site notice was displayed from 08/11/2013 until 29/11/2013. No responses received.					
CAAC/Local groups* comments: <small>*Please Specify</small>		The application site is not located within a conservation area.					
Site Description							
The application site comprises an existing building situated on the northern side of Belsize Road, at its intersection with Kilburn Vale. The building is formed of 2 separate building which have been joined and which were previously in use as a recording studio. The property is part three part 4 storeys in height and covers an area of 2,285sqm. The building is not listed, nor is it located within a conservation area.							
Relevant History							
2003/0302/P – Temporary planning permission was <i>granted</i> for use of part of the ground floor from as a Nursery (Use Class D1) for 1 year.							

2009/0207/P – Application for erection of a six storey residential building with balconies and terraces to provide 48 residential units (Class C3). 20 x 1 bed, 16 x 2 beds 12 x 3 beds with associated double storey basement parking following the demolition of existing three storey office building (Class B1) was *withdrawn* on 11/02/10.

2013/5085/P – Prior approval application for change of use from office (Class B1(a)) to residential flats consisting of 14 x 1beds and 6 x 2 beds (Class C3) was *withdrawn* on 04/10/2013.

Relevant policies

NPPF 2012

Core planning principles, paragraph 17

Chapter 4 paragraphs 29, 32, 35, 39 and 64

Chapter 6 paragraph 49, 50, 57, 59 and 64

Chapter 7 paragraph 56-59 and 64

Chapter 8 paragraphs 70, 72 and 73

Chapter 10 paragraphs 93, 95-97 and 121-122

Chapter 11 paragraphs 109 and 117-118.

The Environmental Protection Act 1990(a) part IIA; and

The Contaminated Land Statutory Guidance issued by the SoS for Environment, Food and Rural Affairs in April 2012

Assessment

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 came into force on 30 May 2013 and introduced Class J, which allows for development consisting of a change of use of a building and any land within its curtilage to a use falling within C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class B1(a)(office) of that Schedule.

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

- (a) transport and highways impacts of the development;
- (b) contamination risks on the site; and
- (c) flooding risks on the site.

It also refers to paragraph N and its provisions apply to such an application.

Sub-paragraph J.1

The development is assessed against paragraphs (a)-(f). Development is not permitted where:

- (a) the building is on article 1(6A) land;

The proposal accords: the site falls outside of the area defined by Part 4 of the amended Order and the accompanying map.

- (b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 30th May 2013 or, if the building was not in use immediately before that date, when it was last in use;

The proposal complies – the property has been used as Class B1(a) offices before 30 May 2013.

- (c) the use of the building falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order was begun after 30th May 2016;

The proposal accords: the use would begin following this date in the event prior approval was granted.

- (d) the site is or forms part of a safety hazard area;

The proposal accords – it is not in a safety hazard area.

- (e) the site is or forms part of a military explosives storage area;

The proposal accords – it is not part of a military explosives area.

- (f) the building is a listed building or a scheduled monument.

The proposal accords – the building is not listed.

Summary

The proposal therefore accords with all of the sub-paragraphs of J.1

Impacts and risks

As the above pre-requisites are complied with, it falls to the Council to assess the proposal. With regard to the terms of reference of that assessment paragraph N(8) of the GPDO states: (8) The local planning authority shall, when determining an application—

(a) take into account any representations made to them as a result of any consultation under paragraphs (3);

(b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application;

Conditions under J2 of the Order

The applicant has submitted information with regards to sub para J.2 in order for the Council to make a determination as to whether prior approval is required as to:

(a) transport and highways impacts of the development;

(b) contamination risks on the site; and

(c) flooding risks on the site

(a) transport and highways impacts of the development

The NPPF confirms that transport policies have an important role to play in facilitating sustainable development. Paragraph 29 states that “the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel”. It also recognises that “different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.” Given that Camden is within a densely populated urban area of London it is considered necessary to maximise sustainable transport solutions.

There are no car parking spaces on the site and none are proposed. However there is not considered to be any justification for future residents to be eligible for on-street parking permits, especially given the location of the site so near to public transport opportunities on Kilburn Park Road. The applicant will be required to enter into a section 106 legal agreement to restrict this proposal as car free, in order to address this matter.

The applicant has shown a room at ground floor level which would be for cycle parking. The requirement is for 1 space per unit. Given that 13 x 1 bed units and 5 x 2 bedroom units are proposed, this creates a need for 18 spaces in total. Although no specific layout is shown it is clear that the majority of these spaces could be provided here. A legal agreement would be required in order to secure their provision and their permanent retention.

The proposal is for a significant number of units and there would be some concern about the impact on the local highways network. Although the work would be internal to the building and there is the opportunity for vehicles to enter the site itself rather than having to unload directly from the highway it is of a scale where disruption could be caused. Therefore, a Construction Management Plan (CMP) would be secured via a section 106 agreement.

(b) contamination risks on the site

The NPPF notes that the planning system should contribute to and enhance the local environment by remediating contaminated land, and that the responsibility for ensuring a safe development rests with the developer.

Given that the application is for a change of use within the building only, and so the ground itself is not being disturbed it is unlikely that contamination will be an issue here. There is also no outdoor space

which would be disturbed and so the impact is considered acceptable.

(c) flooding risks on the site

The NPPF also confirms that flooding is an issue to be considered when determining planning applications, and so it is important that this is considered for this type of application. The site is not within an area which is known to flood, and so the proposal is considered to accord with this aspect of the assessment.

Other matters

The Council has considered the proposal against the criteria and conditions set out by Class J, and, as stated above will also:

- (a) take into account any representations made to them as a result of any consultation under paragraphs (3);
- (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application;

As no representations have been made by third parties to this proposal, the application will be assessed in the context of the NPPF.

The following sections discuss considerations that will arise from this proposal.

Affordable housing

The NPPF expects all residential developments to make a contribution towards affordable housing. Camden expects all residential development with a capacity for 10 or more units to make such a contribution. A scheme of this size would normally be expected to provide 50% affordable housing on site. It is considered that in this case, given the scale of the development and the number of units proposed, the absence of a provision towards this would fail to provide for mixed use and balanced communities in line with the NPPF, chapter 6 paragraph 50.

Lifetime homes and wheelchair housing

The NPPF encourages inclusive communities that support equal and independent access to high quality residential accommodation. It is considered that in order to meet this, the scheme should provide a proportion of wheelchair housing, 10% is considered to be reasonable and this should be secured via legal agreement. In the absence of this, it is considered to fail to meet the need for quality residential accommodation for all needs, contrary to paragraphs 17 and 50 of the NPPF.

Open space

The NPPF seeks to secure the provision of adequate open space to meet local needs for open space, in line with paragraphs 58 and 73. Camden's policies supported by guidance would expect 9sqm of outside amenity space per bedspace as a reasonable contribution. For a site of this nature, the current unit mix would generate an open space requirement of 237sqm. As a payment in lieu (including all capital costs, maintenance and design/admin) the Council would expect £17,141 as financial contributions for the absence of the provision of open space for the 18 residential units. In the absence of a legal agreement for such a contribution, this would result in a reason for refusal.

Community facilities

Schemes which create additional demand for community facilities should make an appropriate contribution towards community infrastructure either on site or in the immediate area to meet the requirements of paragraph 70 of the NPPF. A development of this nature, providing 18 new units is considered to place a substantial demand on existing facilities in the area. Based on local guidance the Council would seek £980 per bedroom and £17,640 for the whole development to support community facilities in the area. In the absence of a legal agreement for such a contribution, this

would result in a reason for refusal.

Education contribution

A scheme of this nature, comprising 13x1-bed dwellings and 5x 2-bed dwellings would attract a requirement for £11,065 as a contribution towards provision of education facilities in the borough, for which there is a pressing need in the locality. The absence of a S106 to secure such a contribution would be contrary to paragraph 72 of the NPPF and would therefore forms a reason for refusal.

Sustainability

The applicant has not submitted any information to incorporate sustainable development within the proposal. The absence of a legal agreement securing a contribution towards the delivery of sustainable development and mitigating the impact of climate change is considered to be contrary to paragraphs 93 and 95-97 of the NPPF. This will also form a reason for refusal.

Conclusion

The proposed development has the potential to result in severe impact on the highway network, local parking conditions and cycling movements. Having regard to the NPPF the development does not contribute towards the provision of school spaces, open spaces, affordable housing, wheelchair housing or to the reduction of carbon emissions.

The proposal is therefore considered unacceptable and unsustainable. While the proposal has been submitted as a prior approval application, the Council has considered in this case, to make its assessment having regard to local and national planning guidance. The conclusion has been reached that the proposal is considered contrary to Camden's LDF and the National Planning Policy Framework.

Recommendation

Prior approval is required and is refused on the basis that the application fails to comply with the requirements of paragraph N(8)(b) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.