

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	<b>09/01/2014</b>
		N/A		<b>Consultation Expiry Date:</b>	<b>26/12/2013</b>
<b>Officer</b>			<b>Application Number(s)</b>		
Jenna Litherland			2013/7415/P		
<b>Application Address</b>			<b>Drawing Numbers</b>		
Carlow House Carlow Street London NW1 7LH			Refer to 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 from office (Class B1a) to residential (Class C3) forming 54 dwellings.					
<b>Recommendation(s):</b>		Prior approval is required and refused.			
<b>Application Type:</b>		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	69	No. of responses	31	No. of objections	21
			No. Electronic	00		
Summary of consultation responses:	A site notice was displayed from 05/12/2013 until 20/12/2013. A Press Notice was placed in the Ham and High on the 05/12/2013 (expired 26/12/2013).					
	<b>Procedure</b> <ul style="list-style-type: none"><li>Consultation should have been carried out over a wider area. <b>Case officer's response: Consultation was carried out in accordance with paragraph N (5) of the GPDO 2013 amendment.</b></li></ul>					
	<b>Transport</b> <ul style="list-style-type: none"><li>How will the increased demand for parking be dealt with (see paragraphs 2.5-2.7).</li><li>Increase traffic to the local area (see paragraphs 2.6-2.11).</li><li>Securing the units as car-free is not enough occupiers will find ways round this such as hiring lockup garages (see paragraphs 2.5-2.7).</li><li>A significant amount of construction is proposed. Construction traffic will result in disruption and heavy traffic (see paragraphs 2.6-2.11).</li></ul>					
	<b>Refuse</b> <ul style="list-style-type: none"><li>The proposal would result in increased amounts of litter (see paragraph 2.9).</li></ul>					
	<b>Community facilities</b> <ul style="list-style-type: none"><li>The proposal will increase pressure on local schools (see paragraph 3.14).</li><li>The proposal will increase pressure on local NHS facilities (see paragraph 3.13).</li><li>The proposal would result in pressure and demand on existing open space (see paragraph 3.12).</li></ul>					
	<b>Neighbour amenity</b> <ul style="list-style-type: none"><li>The proposal will harm this quiet residential area (see paragraphs 3.3-3.7).</li><li>Construction noise would harm neighbour amenity (<b>Case officer's response: If the application were to be approved a Construction Management Plan would be secured to minimise the adverse impact of construction on the highway. An informative would be added to any approval advising the applicant of the permitted hours for construction noise - this is controlled via the control of Pollution Act 1974</b>).</li><li>The proposal will result in overcrowding (<b>Case officer's response: The proposal would not result in a density of development that would harm amenity and all units would meet the minimum space standards</b>).</li><li>Loss of privacy (see paragraphs 3.3-3.7).</li></ul>					
	<b>Affordable housing</b> <ul style="list-style-type: none"><li>The proposal would not contribute towards affordable housing (see paragraph 3.10).</li></ul>					
	<b>Loss of employment floorspace</b> <ul style="list-style-type: none"><li>The loss of employment opportunities will be detrimental to the local area (<b>Case Officer's response: This is not something which can be considered as part of a Prior Approval application – the principle of change of use from offices to residential has already been established by Class J the Order</b>).</li></ul>					
	<b>Other</b> <ul style="list-style-type: none"><li>Use as student accommodation would result in unacceptable massing in the area. (<b>Case officer's response: The proposal is not for student accommodation and the massing of the building would not be altered</b>).</li></ul>					

	<p><b>Non-planning issues</b></p> <ul style="list-style-type: none"> <li>The proposal would result in the loss of two fire escapes for the existing residential units. (<b>Case officer's response: This is not a planning matter and would be addressed through building control</b>).</li> </ul>
CAAC comments:	<p><b>Camden Town CAAC:</b> Comment</p> <p>In principle we have no objection to the change of use from office to residential but only if the following is conditioned:</p> <ol style="list-style-type: none"> <li>1. There are too many flats in the scheme (54 in total). Most are single aspect and some have a very limited outlook onto the backs of the houses in Camden High Street. Why are there no windows looking into the lightwell? (<b>see paragraphs 3.3-3.8</b>).</li> <li>2. It is not suitable for student housing as we have a saturation of student residences in Camden Town already and an increasing issue with anti-social behaviour as a consequence. (<b>Case Officers response: The proposal is for permanent residential flats (Class C3) not student accommodation (Sui Generis)</b>).</li> <li>3. It must be car-free housing as there is insufficient space in CA-F for any more parking. (<b>see paragraphs 2.5-2.7</b>).</li> </ol>

## Site Description

The site is located on the north side of Carlow Street in close proximity to Symes Mews which is a pedestrian accessway from Camden High Street and Arlington Road to the west. It comprises a five storey building with commercial uses (B1a offices) on the ground to third floors and self-contained residential flats within the fourth floor set back. The site is surrounded by a mix of commercial and residential uses.

The building is not listed and lies with Camden Town Conservation Area.

## Relevant History

**2013/7899/P:** Application for planning permission for replacement of windows and plant equipment, creation of doors, provision of cycle and refuse storage and alterations to create double height reception to offices (Class B1). **Currently under consideration.**

**2013/5261/P:** Application for prior approval for change of use at ground to third floors from offices (Class B1) to 54 self-contained residential units (Class C3). **Application withdrawn by the applicant 30/09/2013**

## 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

### 1.0 Procedure and the proposal

- 1.1 Carlow House is within a B1a use from ground floor to third floor level. At fourth floor level there are 13 self-contained flats falling within a C3 use. This application relates solely to the ground to third floors of the building. The main reception is located at ground floor level along with a number of smaller rooms. At the upper floor levels the office is open plan. The proposal seeks a change of use to the building at ground to third floor level to create 54 self-contained flats.
- 1.2 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.
- 1.3 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.
- 1.4 It also refers to paragraph N and its provisions apply to such an application.

#### **Sub-paragraph J.1**

- 1.5 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 before 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

- 1.6 The floorspace at ground to third floor level as indicated on the submitted plans are considered to comply with the criteria in sub-paragraph J.1.

### 2.0 Impacts and risks

- 2.1 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) or (4) and any notice given under paragraph (6);*
- (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**

- 2.2 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*

It also states that: *the provisions of paragraph N shall apply in relation to any application* (see above).

### **Transport and highways impacts of the development**

- 2.3 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.
- 2.4 The applicant proposes to convert an existing 6,902 sqm office (use class B1) into 54 residential units comprising 42 one-bedroom units, 3 two-bedroom units, and 9 three-bedroom units.

### **Car-free development**

- 2.5 Camden's strategy and policies in line with national planning policy consider access to car parking and seek to encourage car-free and car-capped developments in areas of moderate or good public transport accessibility. The application site has a PTAL 6a (excellent), as such in accordance with the NPPF objectives in favour of sustainable transport the proposed residential units should be secured as car free.
- 2.6 The applicant has advised in their submission that no additional parking is proposed and that they would be willing to enter into an agreement to restrict parking permits to future occupiers. However, there are 5 existing on-site parking space used by the existing offices which the applicant indicates would be retained.
- 2.7 The applicant suggests that the residential use would generate less motor vehicle trips than the existing office use; and that the proposal would therefore be beneficial in terms of impacts on the operation of the public highway. This is not backed up by any evidence such as a TRAVL trip generator exercise. The Transport Planner has advised that residential uses generally result in a greater number of motor vehicle trips than an office use. The applicant has not provided any evidence to convince officers that motor vehicle trips would be reduced by the proposal. It has been considered whether the removal of the existing 5 car parking spaces should be secured via the S106 agreement. However, given the low number of spaces it is unlikely that the retention of these spaces would have a severe impact on the highway network (as set out in the GPDO). This aside all units would be secured as car capped (i.e. with no right to apply for on-street car parking permits) to minimise impact on the highway network in accordance with paragraph 29 of the NPPF.

### **Walking, cycling and public transport**

- 2.8 The proposal has included provision for 64 on-site cycle storage spaces within an existing store to the rear of the building at ground floor level. The Council actively encourages sustainable and efficient transport and supports the provision of high-quality cycle parking in line with national planning policy. The cycle parking provision is proposed with a two-tier mechanism. This is considered to comply with local and national policy and would be secured via a legal agreement if the application were to be granted to ensure it is provided and permanently retained thereafter.

### **Highway network impact**

- 2.9 National policy is concerned with how a site is to be serviced, and how this might impact on the highway network. Concern has been raised by Camden's Transport officers that insufficient information has been provided to identify how the site will be serviced (for example, refuse collection and deliveries to occupants from supermarkets and other online retailers) in connection with the new 54 residential units. It is likely that the building would be serviced in a similar fashion to the current arrangement. However, without full details it is possible that the proposal could result in a detrimental impact on the highway network. As such, a Service Management Plan would be secured via a S106 agreement should permission be granted.
- 2.10 The proposal could impact on the highway network if it results in an increased number of trips to and from the site. As stated above, the applicant suggests that the residential use would generate less motor vehicle trips than the existing office use; and that the proposal would therefore be beneficial in terms of impacts on the operation of the public highway. This is not backed up by any evidence such as a TRAVL trip generator exercise. This would have been useful to aid assessment as to whether a Travel Plan to promote sustainable travel would be required. In the absence of this information, this has been considered by the Transport Planner who has advised that on balance, in this instance, it is unlikely that the absence of a Travel Plan would result in severe impact on the highway network given that the site has an excellent level of public transport accessibility and that the units would be secured as car-capped.
- 2.11 Impact on the highway network and immediate environment is likely during construction. Given the size of the site and the level of internal works proposed the proposal is likely to represent a detrimental impact on the highway network during its construction period. No information has been provided that details how the site will be converted from the 6,902 sqm offices to 54 residential units. This likely level of works is considered sufficient to require a Construction Management Plan in order to mitigate any adverse impacts. This should be secured via a legal agreement should planning permission be granted.
- 2.12 The works may also result in damage to the footways surrounding the site. As such, it is recommended that a financial contribution towards the repaving of the footway adjoining the site on Carlow Street and Miller Street, following the completion of construction works, is secured via a S106 agreement should permission be granted. Without this the proposed works are likely to damage the footway adjacent to the site which would have an adverse impact on the highway network to the detriment of pedestrians and contrary to the NPPF.
- 2.13 A financial contribution towards wider pedestrian and environmental improvements in the area has been considered in line with paragraphs 32 and 35 of the NPPF. The proposal may result in an increase in pedestrian and cycle movements. However, this is unlikely to result in such a substantial increase in pedestrian movements that it would have a detrimental impact on existing provisions. As such, a contribution towards pedestrian and environmental improvements would not be required.

### **Contamination risks on the site**

- 2.14 The site is identified as falling within an area designated as contaminated land. However, as no works to the ground level are proposed as part of this application no risks are posed to the public and this proposal is considered acceptable.

### **Flooding risks on the site**

- 2.15 The site is not identified as one of the streets in Camden that suffered from surface water flooding in 1975 and 2002. The applicant has not submitted a Flood Risk Assessment. However given that the proposal relates to the ground floor and above and does not include any form of extensions or excavation it is considered that the proposal would not raise any flood risk issues and would be considered acceptable.

## **3.0 Additional issues**

- 3.1 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) or (4) and any notice given under paragraph (6);*
- (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;*

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

### **Residential amenity**

- 3.3 The closest residential property is located at fourth floor level of the building. As no external works are proposed the proposal would not harm the amenity of these neighbours in terms of daylight or outlook, neither would it result in overlooking. Residents have raised concern that the nature of the atrium will allow noise to travel from the new residential units to those existing units at fourth floor level resulting in disturbance. It has been noted on site that the atrium results in reverberation of noise. However, as none of the proposed units face on to the lightwell it is unlikely that noise from the proposed units would result in a level of disturbance which would harm the amenity of the existing occupiers at fourth floor level.
- 3.4 There are also residential units at Nos. 30-42 Arlington Road, the rear elevation of which are located approximate 11 metres from the windows on the western elevation of the building. CPG6- Amenity advises that 18 metres is sufficient distance to overcome overlooking. The NPPF states that proposals should secure a good level of amenity for all existing and future occupiers. A distance of 18 metres is not provided between the residential windows. However, considering the following the proposal is likely to be acceptable: that there is already residential units at 4<sup>th</sup> floor level at Carlow House and a roof terrace which already overlooks the rear windows of the properties at Nos. 30-42; that there is already a level of overlooking between the existing offices and the residential units; and that the units at No. 30-42 are dual aspect. As such, it is considered that as a result of the proposed development the amenity enjoyed by the existing occupiers of Nos. 30-42 Arlington Road would not be significantly worse than this existing situation such to substantiate a reason for refusal on a prior approval application.
- 3.5 There are residential units on the upper floors of the properties at Nos. 39-53 Camden High Street. There is a distance between the windows at Carlow House and the rear elevations of the Nos. 39-53 Camden High Street of 18 metres, as such, there would be no harm to amenity in terms of overlooking. At No. 49 there is a mews style rear extension which is used for residential purposes. The windows of these units face away from Carlow House and it is not considered the oblique views which would result from the proposal would harm amenity to such a degree as to warrant refusal of the application.
- 3.6 There are residential properties located opposite the site at Cobden House, on the junction of Arlington Road and Carlow Street. Cobden House comprises a five storey Council owned mansion block building with accommodation in the roof and is occupied by residential flats. There is a separation distance of approximately 16m between the front façade of the application building and this residential block. There would be a level of overlooking between the windows of the proposed units and the windows across the street however, buildings in residential use on either side of the highway with windows facing each other is a typical arrangement, the distance is accepted as providing an appropriate level of privacy.
- 3.7 To summarise, the proposed building would not impact on the amenity of adjoin neighbours in accordance with the NPPF.

### **Standards of accommodation**

- 3.8 All units would meet the overall space standards set out in the London Plan SPG. All units would be single aspect and some of the units at ground floor level and at upper floor levels on the western elevation are lit by obscure glazing only. As the layout of the units has not been provided and is not required for a prior approval application it is not possible to say whether all habitable rooms would benefit from natural light. However, given that the windows serving the units are large it is likely that the units would be able to provide reasonable daylight levels. The units with only obscurely glazed windows would have no outlook, however this is not considered to be sufficient reason to refuse the application as the majority of the units would have good outlook and it does come down to personal choice and would not impact on an existing resident's amenity. Following the change of use, it would of course be open to the owners to apply to replace part or all of the obscure glazed windows with clear glazed windows. This would be subject to normal planning controls and would be assessed against the policies of the development plan.
- 3.9 As such, the standard of accommodation is acceptable and meets the requirements of paragraph 17 of the NPPF.



### **Affordable housing**

- 3.10 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. Under the current circumstances, as the proposal was not negotiated for such a contribution, a payment in lieu for off-site affordable residential housing would be required at [ $\pounds 2650 \times 3451\text{sqm} =$ ]  $\pounds 9,145,150$ . This would be secured via a S106 agreement however, the applicant has advised that they are not willing to enter into an agreement to secure an affordable housing contribution. It is therefore considered that in this case, given the scale of the development and the number of units proposed, the absence of a provision towards affordable housing would fail to provide for mixed use and balanced communities in line with the NPPF, chapter 6 paragraph 50.

### **Lifetime homes and wheelchair housing**

- 3.11 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 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**

- 3.12 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 769.20sqm. As a payment in lieu (including all capital costs, maintenance and design/admin) the Council would expect  $\pounds 59,079$  as financial contributions for the absence of the provision of open space for the 54 residential units. In the absence of a legal agreement for such a contribution the proposal fails to comply with the NPPF.

### **Community facilities**

- 3.13 Schemes which create additional demand for community facilities should make an appropriate contribution towards community (including healthcare) infrastructure either on site or in the immediate area to meet the requirements of paragraph 70 of the NPPF. For a development of this nature, providing 54 new units, is considered to place a substantial demand on existing facilities in the area. Based on local guidance the Council would seek  $\pounds 980$  per bedroom and  $\pounds 73,500$  for the whole development. In the absence of a legal agreement for such a contribution the proposal fails to comply with the NPPF.

### **Education contribution**

- 3.14 A scheme of this nature, comprising 3 x 2-bed dwellings and 9 x 3-bed dwellings would attract a requirement for  $\pounds 63,537$  [ $3$  (2-beds)  $\times \pounds 2213 = \pounds 6639$  +  $9$  (3-beds)  $\times \pounds 6322 = \pounds 56,898 = \pounds 63,537$ ] as a contribution towards provision of education facilities in the borough, for which there is a pressing need in the locality. In the absence of a legal agreement for such a contribution the proposal fails to comply with paragraph 72 of the NPPF.

### **Sustainability**

- 3.15 The Council expects all new development, including conversions to reach very good in a BREEAM domestic refurbishment assessment. In the absence of a S106 legal agreement to secure a contribution towards the delivery of sustainable development and mitigating the impact of climate change the proposal fails to comply with paragraphs 93 and 95-97 of the NPPF.

## **4.0 S106 Agreement**

- 4.1 The Council have seen a draft Unilateral Undertaking being offered by the applicant which includes a number of planning obligations. At the applicants request the Council has commented on the wording of obligations that have been offered; not all of the Council's comments have been incorporated into the draft Undertaking by the applicant and as a result the terms of many of the obligations being offered are not acceptable to the Council. Furthermore, the Unilateral Undertaking does not incorporate all of the obligations set out in the Council's Heads of Terms which the Council considers necessary to grant this prior approval application. As a result, the Council is unable to accept the draft Unilateral Undertaking, if

it is offered, as it will not resolve all of the Council's objections to this application.

## **5.0 Conclusion**

- 5.1 The proposed development in the absence of a S106 agreement to secure the highways matters set out above would have an adverse impact on transport and the highway in the local area. The proposal is therefore considered to be unacceptable. 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. In view of this the development is also considered to be unacceptable in the absence of a legal agreement to secure contribution towards the provision of school spaces, open space, affordable housing, wheelchair housing or to the reduction of carbon emissions. The conclusion has been reached that the proposal is considered contrary to the National Planning Policy Framework.

## **6.0 Recommendation**

- 6.1 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.