

Delegated Report		Analysis sheet		Expiry Date:		30/12/2013	
		N/A / attached		Consultation Expiry Date:			
Officer				Application Number(s)			
Fergus Freaney				2013/7113/P			
Application Address				Drawing Numbers			
25-26 HAMPSTEAD HIGH STREET LONDON, NW3 1QA				See decision notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use of the upper floors of the above property from B1(a) office to C3 Residential to create 5x 2 bedroom dwellings.							
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	20	No. of responses	00	No. of objections	00
				No. electronic	00		
Summary of consultation responses:		Consultation letters to adjoining neighbours: 12/11/2013 – 03/12/2013					
CAAC/Local groups comments:		Hampstead CAAC – No comments received					

Site Description

The site is located on the north side of Hampstead High Street. It comprises a mid terrace property with large roof extension accommodating office space.

The site is not listed, but is within the Hampstead Conservation Area.

Relevant History

No recent relevant history

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

Proposal:

This application is to ascertain whether the proposed change of use would constitute permitted development under part J of the GPDO.

The scheme is for the change of use from B1 office to C3 Residential comprising 5x2 bedroom dwellings from 1st to 5th floors of the property.

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 (dwelling houses) 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

Assessment:

Development not permitted by Class J.1 where:-

- (a) The building is on article 1(6A) land; - complies, it falls outside of the 'exempt office area' designation in Camden.
- (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; - complies, it 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 – complies, no part of the site is currently within use class C3.
- (d) The site is or forms part of a safety hazard area; - complies, it does not form part of a safety hazard area.
- (e) The site is or forms part of a military explosives storage area; - complies, it does not form part of a military explosives storage area.
- (f) The building is a listed building or a scheduled monument – complies, the building is not listed or a scheduled monument.

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

In determining these types of applications paragraph Class N(7) states that the local planning authority may require the developer to submit such information regarding the impacts and risks referred to in paragraph J2 [i.e. the transport and highways impacts of the development],... as the case may be, as the local planning authority may reasonably require in order to determine the application, which may include—

- (a) assessments of impacts or risks;
- (b) statements setting out how impacts or risks are to be mitigated.

As noted above, paragraph N(8)(b) states:

(8) The local planning authority shall, when determining an application-
[...]

(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;

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.

The applicant proposes to convert an the existing 5 storeys of office (use class b1) into 5x2 bedroom residential units the site fronts onto Hampstead High Street and has access from Gayton Road to off-street parking for 9 vehicles. The public transport access to the site is PTAL 4 with good access to Tube, Train and Bus routes. 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. Given the PTAL rating for this site and acknowledging that the site already has access to potentially 9 off-street car parking space it is considered that the scheme would need to be car-capped by way of legal agreement to ensure that residents do not add to existing on-street parking issues in the future. In the absence of section 106 legal agreement to restrict this proposal as car capped, the application is recommended for refusal.

The work would be internal to the building and given that there is not much alteration to the internal arrangement there is not considered to a significant impact on the local transport network so a CMP would not be merited for this application. As the development fails to provide cycle parking this would also constitute a reason for refusal on transport grounds.

(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.

(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 (chapter 6, Paragraph 50) 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 be below this trigger and therefore not apply. As the scheme is below 10 residential units, wheelchair housing would not apply.

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 as a payment in lieu (including all capital costs, maintenance and design/admin). 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 5 new units is considered to place a substantial demand on existing facilities in the area. Based on local guidance the Council would seek a financial contribution 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 5x 2-bed dwellings would attract a financial requirement for 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 form 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, community facilities 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.

