

Delegated Report		Analysis sheet	Expiry Date:	20/09/2013
		N/A / attached	Consultation Expiry Date:	21/08/2013
Officer			Application Number(s)	
Jonathan Markwell			2013/4786/P	
Application Address			Drawing Numbers	
Portland House Ryland Road London NW5 3EB			Site Location Plan and Floor Plans, dated 18 July 2013 by Clive Sall Architecture; Letter dated 25 July from Savills.	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Change of use of first floor from office (Class B1a) to 3 x 2 bedroom residential units (Class C3)				
Recommendation(s):	Grant 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	53	No. of responses	02	No. of objections	02
			No. electronic	01		
Summary of consultation responses:	<p>Two objections have been received from properties along Ryland Road. A summary of the issues raised are as follows:</p> <ul style="list-style-type: none"> - Does not this loss of workspace, and therefore jobs, contradict the Borough's plan to retain employment opportunities within the Borough? The delicate mix and balance of commercial and residential within the conservation area is being continually eroded by such piecemeal applications (in the context of other applications at the site). - Only purchased an apartment, on the basis, that the first floor was office space. Occupiers will be disproportionately affected by noise and disturbance if the planning permission is granted. - The applicant already has approval to turn an adjacent building on the site into "3 x 2 BR residential units", a change of use from office to residential. Felt that the building, originally heavily marketed as a ten unit set of apartments will have, with the additional floor of work, expanded by 60% over its original proposition, with no indication from the owners that they were embarking on a multi stage building development. - The noise of the proposed development, estimated by the owners as to be 5 months with an additional month for snagging (a timeframe disputed given their inability to deliver close to on time the original 10 units of the development) to be egregious. - It is disputed the owners assertion that it would be 'better for us' their proposal for a change to residential use was accepted. - Suggestion that the following is secured if planning permission is granted: 1. That the development of the first floor be done simultaneously with the development of the adjacent building, to minimise the timeframe for noise and disruption; 2. That the owners provide additional temporary substantial insulation during the works to minimise the sound disruption; 3. That the owners do not work on weekends at all to enable residents to get at least some respite from the noise; 4. That the owners provide additional security to disable the myriad of workmen or passers by from being able to access the stairwell or lifts which lead to the upper floors - there has already been a spate of thefts, and there is a fear of theft and to personal safety. <p>Officer response: As detailed in the assessment section below, the only matters able to be considered are transport, contaminated land and flooding matters. As such, many of the matters detailed above are not able to be taken into account. Notwithstanding this, informatives will be added to the decision notice in respect of construction practices and noise, in order to maintain a suitable level of amenity for nearby occupiers during the</p>					

	construction phase.
CAAC/Local groups* comments: *Please Specify	None.

Site Description

This application site is located on the corner of Ryland Road and also fronts onto Wilkin Street, with the access to off-street parking area and the building solely accessed from Ryland Road. The building is a large late 19th Century six storey industrial building. This building has recently been converted at second floor and above for residential use (see relevant history), with first occupation occurring earlier in 2013. To the south-west of the building, within the site, is a three storey 'showroom' structure, which has recently been granted permission for residential use (see relevant history). The site is located within the Inkerman Conservation Area and is identified as making a positive contribution to the character and appearance of the conservation area. The building is not listed.

The site is located close to Kentish Town West Mainline Station and line (to the west), beyond which is Talacre Open Space and the associated sports centre, games court and playground. The site currently has a lawful Class B1a office use at basement to first floor level, with residential flats (Class C3) above.

The buildings surrounding the application site are predominately residential along Ryland Road and Grafton Road at this point, with some commercial spaces (such as Imperial Works to the south of the application site and Ryland House to the east of the application site) also in close proximity to the site.

Relevant History

2011/1484/P: Change of use and works of conversion from office use (Class B1) to 9x residential units (Class C3) on second to fourth floors and retention of office space at basement, ground and first floors with associated works to include replacement windows, addition of balconies and a new entrance with glazed canopy on Wilkin Street.

This application was considered at the Development Control Committee Meeting on 11/08/2011, where it was resolved by members that planning permission could be granted subject to conditions and a S106 Legal Agreement covering the following Heads of Terms:

- Car capped
- Education Contribution of £33,804
- Affordable housing in lieu of direct provision a financial contribution of £369,145
- Open Space Contribution of £13,527
- Sustainability Plan (Eco Homes 'very good')

The S106 was signed and full planning permission granted on 21/02/2012.

2011/5370/P - Erection of a roof extension to create one three bed residential dwelling (Class C3) at fifth floor level.

The application was considered at the Development Control Committee Meeting on 02/02/2012, where it was resolved by members that planning permission could be granted subject to conditions and a S106 Legal Agreement covering the following Heads of Terms:

- affordable housing contribution – £94,207;
- car-free housing for the one unit created;
- education contribution of £6,322;
- open space contribution of £2,317;
- code for sustainable homes design stage and post construction assessment;
- energy statement;
- Provision of additional affordable housing if Portland House is extended or converted above and beyond the 10 residential units created by this and application 2011/1484/P.

The S106 was signed and full planning permission granted on 30/03/2012.

2012/2386/P - Change of use from office (Class B1) to residential (Class C3) to provide 3 x two bedroom self contained flats at first floor level. Withdrawn 20/06/2012.

2012/6831/P - Details of conditions 2 (window details), 3 (green roof and plant species), 6 (noise attenuation) of planning permission dated 30/03/12 (ref.2011/5370/P) for the erection of a roof extension to create one three bed residential dwelling (Class C3) at fifth floor level. Granted 21/02/2013.

2012/6833/P - Details of conditions 3 (boundary wall brickwork), 5 (green roof), 8 (noise attenuation) of planning permission dated 21/02/12 (ref.2011/1484/P) for the change of use and works of conversion from office use (Class B1) to 9 x residential units (Class C3) on second to fourth floors and retention of office space at basement, ground and first floors with associated works to include replacement windows, addition of balconies and a new entrance with glazed canopy on Wilkin Street. Granted 21/02/2013.

2012/6021/P - Change of use of existing showroom building (Class B1) to 1x3 bed residential unit (Class C3) and associated works including alterations to windows and doors, provision of balcony at first floor level and metal fins at second floor level on east (front) elevation, provision of window at first floor and balcony with metal fins at second floor level on north (side) elevation and installation of five windows on west (rear) elevation.

The application was considered at the Development Control Committee Meeting on 17/01/2013, where it was resolved by members that planning permission could be granted subject to conditions and a S106 Legal Agreement covering the following Heads of Terms:

- affordable housing payment in lieu contribution of £206,144;
- provision of additional affordable housing if the application site is extended or converted above and beyond the 11 residential units created by this and applications 2011/1484/P & 2011/5370/P;
- car-free housing for the one unit created;
- education contribution of £6322;
- open space contribution of £2317.

The S106 was signed and full planning permission granted on 27/08/2013.

Relevant policies

NPPF 2012

- Chapter 4: Promoting sustainable transport
- Chapter 10: Meeting the challenge of climate change, flooding and coastal change
- Chapter 11: Conserving and enhancing the natural environment

Assessment

Proposal

The proposal seeks prior approval for the change of use of the first floor of the building from offices (Class B1a) to 3x2 bedroom residential units (Class C3).

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 Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class B1(a)(office) of that Schedule.

However, 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 not permitted by Class J 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, most recently (as currently vacant) occupied as Class B1(a) offices (see relevant history for confirmation)
- (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 - at the current time the use has not commenced and so the proposal accords as far as is possible at this stage.
- (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

The proposal therefore complies with each of the above criteria.

Conditions

The applicant has submitted information 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". Each of these criteria will be considered below.

(a) Transport and highways impacts

In determining these types of applications 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.

(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) [noted above]...;

(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 of the NPPF 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 has submitted commentary in respect of the transport and highways impact of the proposed development.

On-street parking

The Council has considered the highways impacts of the change of use and whether to seek appropriate mitigation measures to mediate against any highways impacts. The development is likely to result in a material increase / material change in the character of traffic in the vicinity of the site and, therefore, seek mitigation measures to mediate against any impacts on the highway network.

The three new residential units could apply for residents parking permits if there are no restrictions in place to remove this. The site has very good access to public transport (PTAL rating of 5, as per the information submitted by the applicant and clarified by the local planning authority) and is within a controlled parking zone measured to be suffering from parking ‘stress’.

It is therefore considered necessary to remove the ability to apply for a parking permit by requiring a s106 agreement to ensure the development is car-free. Hence, all three units sought to be created will be made car-free. The offer to enter into an agreement has been made and the issuing of any approval is dependant upon it being completed within the statutory timescale. Otherwise, the application would be refused on grounds that measures to mitigate the impact to parking stress have not been secured. The applicant has however indicated a willingness to enter into the agreement, and for this agreement to be completed within the required timeframes.

Cycle parking

The applicant has not referred specifically to cycle parking provision as part of the submission. In line with the London Borough of Camden / London Plan standards, 3 cycle spaces would be expected for such a proposal. In previous recent permissions at the site, an external area within a forecourt area at

ground floor level has been secured for the required amount of cycle parking, as per these permissions. Paragraph 8(b) of the prior approval legislation states that the local planning authority shall have regard to the NPPF as if the application were a planning application in relation to the three categories that can be considered by the Council. Furthermore, to reiterate, Paragraph 29 of the NPPF states that “the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.” In paragraph 35 it goes on to advise that “developments should be located and designed where practical to...give priority to pedestrian and cycle movements, and have access to high quality public transport facilities.” The requirement for three cycle parking spaces, one for each of the new residential units proposed, will be secured by a section 106 legal agreement to ensure compliance in this regard in perpetuity. The s106 will detail that this will be an additional provision to that secured as part of previous recent permissions at the site (see relevant history).

Construction impacts

To reiterate, paragraph 8(b) of the GDPO as amended states that the local planning authority shall have regard to the NPPF as if the application were a planning application in relation to the three categories that can be considered by the Council. Paragraph 35 of the NPPF states:

“Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to

- *accommodate the efficient delivery of goods and supplies;*
- *give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;*
- *create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;*
-
- *consider the needs of people with disabilities by all modes of transport.”*

In this instance off-site vehicular access will be possible at the application site to assist in the implementation of the change of use to residential at first floor level. In recent permission 2012/6021/P, relating to the adjacent showroom building within the site, it was not considered necessary for a construction management plan to be secured, as the proposed works involved in this specific application are not of a level or nature which required this. More specifically, it was considered that the existing off-street parking area within the application site would provide adequate space for the works associated with that proposal. The same conclusion is arrived at in relation to the current application. However, a series of informatives will be added to the decision notice, in the interests of ensuring highway and pedestrian safety, and minimising transport related noise and disturbance through the movement of goods and materials during the construction process. More specifically, this relates to working hours and liaising with the Council’s Highways department where appropriate.

(b) Contamination risks on the site

In this regard the applicant has submitted commentary detailing that there is no evidence to suggest that the site is subject to contaminated risk. In addition, as part of information held by the Council, the site is not within an area of potential land contamination. On this basis it is considered that this proposal would not be impacted by land contamination.

(c) Flooding risks on the site

The applicant has submitted information from the Environment Agency’s website confirming the site is not within a floodplain. As part of the information held by the Council, the site is not within an area

susceptible to surface water flooding. Therefore, it is considered that the proposals are satisfactory in this regard.

Recommendation

Prior approval is required and is granted, subject to a section 106 legal agreement securing the three new units as car free and three cycle spaces (1 for each of the units). This is on the basis that appropriate mitigation measures are in place to manage the transport impacts of the proposal. The proposal complies with Class J2(a) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.