

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	<b>06/03/2012</b>
<b>(Members Briefing)</b>		N/A		<b>Consultation Expiry Date:</b>	06/03/12
<b>Officer</b>			<b>Application Number(s)</b>		
Adrian Malcolm			2011/6368/P		
<b>Application Address</b>			<b>Drawing Numbers</b>		
Block 8, Fairfax Mansions 173A Finchley Road London NW3 6JY			Site Location Plan; Drawing No(s) (Prefix PR8) -03; 01; 04 & SK01		
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>		
<b>Proposal(s)</b>					
Erection of extension at rear first floor level and change of use of first to third floor from offices (Class B1) to 2 x self contained residential flats (1 x 1-bed and 1x 2-bed) (Class C3).					
<b>Recommendation(s):</b>		Grant planning permission, subject to a legal agreement			
<b>Application Type:</b>		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	18	No. of responses	01	No. of objections	01
			No. Electronic	01		
Summary of consultation responses:	<p>One objection from the occupiers of the application site- a firm of Chartered Accountants who occupy the premises as offices.</p> <p>-They state that the site has been used as office space since the 1980's and was fully occupied until one year ago. They occupy 60% of the 165sqm floorspace and have aspirations to occupy the remainder of the space (subject to reaching agreement on acceptable lease terms with the owner).</p> <p>-PPS4 urges local planning authorities to adopt a positive approach to planning applications for economic development; the London Plan encourages new office provision in competitive locations in Outer London and to consolidate the strengths of diverse office markets (outside the central London office market) by promoting their competitive advantages, focus new development in viable locations with good public transport, plus to encourage renewal and modernisation of existing stock in viable locations to improve quality and flexibility.</p> <p>-Consider the proposal to be contrary to Camden Policy DP13 which states that the Council will resist change of business use unless it is demonstrated that it is no longer suitable for its existing business use and there is evidence that the possibility of retaining or reusing the site for alternative business use has been fully explored over an appropriate period of time. The site is occupied for employment purposes and suitable for continued occupation (contrary to the applicant's assertions). No evidence of any marketing has been submitted. The site currently provides good quality space due to its excellent public transport links, it is an appropriate size for occupation by a small business and has secure parking for visitors. The objector accepts that Camden Policy CS8 advises of a good supply of offices in the borough and that this is not a prime office location or Growth Area in the LDF, and that the site can only be used for office purposes.</p> <p>-The site supports a successful business with 8 staff – the building could potentially accommodate up to 14 office workers (using recognised Employment Density calculations). Neither staff nor visitors raise objections to the quality or location of the business, thus they refute the applicant's assertions that, as tenants, they have degraded the existing space to such an extent that it would not be attractive to future tenants and that it would require unviable amounts of investment to raise to levels where it would be useable by future tenants.</p> <p>-The objectors would not move from these premises unless forced to do so as a result of this proposal being granted.</p> <p>-Existing and potential future employment opportunities would be lost as a result of the proposal.</p>					
CAAC/Local groups comments:	None					

## Site Description

The site is located within a large four storey building with retail units at ground floor level and generally flats on the upper floors. However, the application premises themselves are the upper floors of number 173a which are in use as offices (currently partly occupied).

The site is in a prominent location on the western side of Finchley Road, close to Finchley Road Station. The rear of the property backs onto Naseby Close and Fairfax Road.

The building is not located within a conservation area, nor is it a listed building.

## Relevant History

2011/2725/P: Planning permission was refused on 5 September 2011 for erection of extension at rear first floor level and change of use of first to third floor from offices (Class B1) to 4 x self contained residential flats (2 x studios and 2 x 1-bedroom) (Class C3). This was due to the failure to provide an appropriate mix of homes and thus failing to contribute to the creation of mixed and inclusive communities, plus the failure to provide car free housing (in the absence of a legal agreement) thus unacceptably adding to parking stress and congestion.

2010/6962/P- Planning permission was refused on 4 March 2011 for replacement of existing varied timber frame sash windows and uPVC double glazed sash windows with new double glazed white uPVC framed sash windows at upper floors to all elevations (Class C3).

It should be noted that, while it is not formal planning history as such, the Council were approached in 2007 for pre application advice on the redevelopment of site for the redevelopment of site to provide 13 HMO rooms/apartments, 14 x 1 bedroom apartments, 8 x 2 and 8 x 3 bedroom apartments. It was approached again in 2010/2011 for pre application advice on the internal alterations and possible redevelopment of the site to provide 17 residential units and retail units.

Other applications of relevance at Fairfax Mansions:

2011/2533/P- Planning permission was refused on 23 August 2011 for use of land to rear of Fairfax Mansions as 27 bay car parking area providing 10 spaces for the commercial units on Finchley Road and 17 spaces for visitors to the commercial uses and/or the residential flats above together with landscaping, bicycle storage cage and bin storage areas.

## Relevant policies

### LDF Core Strategy and Development Policies

#### Core Strategy

CS1 (Distribution of Growth)  
CS3 (Other Highly Accessible Areas)  
CS5 (Managing the Impact of Growth and Development)  
CS6 (Providing Quality Homes)  
CS7 (Promoting Camden's centres and shops)  
CS8 (Promoting a successful and inclusive Camden economy)  
CS11 (Promoting sustainable and efficient travel)  
CS13 (Tackling climate change through promoting higher environmental standards)  
CS14 (Promoting High Quality Places and Conserving Our Heritage)  
CS17 (Making Camden a Safer Place)  
CS18 (Dealing with Our Waste and Encouraging Recycling)  
CS19 (Delivering and Monitoring the Core Strategy)

#### Development Policies

DP2 (Making Use of Camden's Capacity for Housing)

DP5 (Homes of Different Sizes)  
DP6 (Lifetime Homes and Wheelchair Homes)  
DP12 (Supporting strong centres and managing the impact of non retail town centre uses)  
DP13 (Employment sites and premises)  
DP17 (Walking, cycling and public transport)  
DP18 (Parking Standards and Limiting the Availability of Car Parking)  
DP19 (Managing the impact of parking)  
DP22 (Promoting sustainable design and construction)  
DP23 (Water)  
DP24 (Securing High Quality Design)

## **Camden Planning Guidance**

### **London Plan**

#### **Proposal**

The proposal involves the erection of a small extension at rear first floor level. The application states that the existing use is Class B1 offices and proposes a change of use of first to third floor to 2 x self contained residential flats. These would be 1 x 1-bed and 1x 2-bed (70.5sqm and 129.4sqm respectively).

#### **Assessment**

##### *Change of use of the office use in principle*

The site is occupied as offices, although previously used for residential purposes like the corresponding neighbouring premises. No specific planning permission was granted for the use and it is noted that in 2007 the applicant was unsure whether this use was lawful. However, it would appear that at least part of the site and most probably all of it has been occupied as offices for over ten years thus, on the face of it, the office use at the premises has the potential to be lawful.

Following consideration of the matter, in refusing the previous application for residential conversion of the premises on 5 September 2011, the Council did not cite the loss of office space as a reason for refusal. The report made some reference to the draft CPG on employment uses, however this document was adopted shortly after the previous decision and thus has significantly more weight.

If one were to assume the existing is authorised as Class B1 (as appears likely on the balance of probability), Policy DP13 would be of particular relevance. This policy relates to all employment uses (not only offices) and states that the Council will resist a loss of premises suitable for continued business use to non-business use unless it can be demonstrated that the building is no longer suitable for its existing business use and there is evidence that the possibility of retaining the building for similar business use has been fully explored over time. However, it also states that if the site is unsuitable to use for any other purpose other than B1a offices, the Council may allow change of use to permanent residential use (except in Hatton Garden).

The *guidance* in the now adopted CPG5 suggests a series of criteria be used to test whether loss of office space to a non business use should be allowed. It refers to the criteria in para 13.3 of the supporting comments to Policy DP13 – these appear to be of more relevance to more industrial uses are not obviously directed to office uses, however considering these criteria, the site is not in an Industry Area in the LDF or other area suited large scale industry; it is not a site particularly suitable for a mix of uses; it is easily accessible to the major road network and is very accessible by public transport; it has no space for servicing; it is amongst residential uses (albeit that offices need not cause particular difficulties to nearby residential uses); its condition is referred to below; it is not near

other industry or warehousing or other noise/pollution generating uses; it does not provide a range of unit sizes, but could be sub-divided and is suited to use by small businesses for office use (though its condition is not ideal).

Other CPG5 office tests suggest that older office premises (as is the case here) may be more suitable for conversion; it is quite simple accommodation and does not particularly include features required by tenants seeking modern office accommodation (e.g. air conditioning) and it is not purpose-built office accommodation, indeed it was previously used for residential purposes and no formal planning permission was ever granted to change use to office accommodation (though this may now be lawful). The CPG mentions that poor quality premises that require significant investment to bring up to modern standards (as has been referred to by the applicant in order to be attractive to potential future office occupiers) may be suitable for conversion.

However, the premises does provide accommodation for a small business and there are existing tenants in the building who have mentioned they have no intention of relocating (2 other criteria). The occupier has stated in their objection of their desire to occupy the remaining area (subject to reaching agreement with the owners with whom they are in dispute over their tenancy of the building following the expiry of a lease from whom the occupiers has sub let the premises. This is due to be resolved in the County Court, with the owners opposing the granting of a new lease on the grounds of redevelopment. The current occupiers claim security of tenure). The premises is not located in a prime office location and there is understood to be vacant office floorspace in the locality (the occupier has yet to find any in the locality that suit his requirements), however 60% of the building is occupied for office purposes and there is no evidence of marketing. There are other examples of change of use to residential accommodation in the area (though each case has its own set of considerations). The criteria mention that where it would be difficult to make an assessment, additional information in the form of a marketing assessment may be required, no such information has been provided, however it is clear that the current occupier has aspirations to occupy the entire premises, which allow his small business to relieve the current cramped conditions and potentially occupy more space.

This site is only accessed by a narrow pedestrian corridor and its configuration makes it poorly suited to any other B1 use than offices. There is a general good supply of offices in the borough and para 8.8 to Policy CS8 states that the Council will consider proposals for other uses of older office premises if they involve the provision of permanent housing. CPG5 on employment (and other uses) states that it will not be necessary to supply marketing evidence to justify a change of use in these circumstances.

It should also be borne in mind that the other upper floors to Fairfax Mansions are in residential use and thus a residential use would relate better to these neighbouring uses.

Even though the change of use may involve the loss of office floorspace occupied by a small business (that may expand), it is considered that in the context of the good supply of offices and the strong unmet demand for housing and the balance of considerations set out above, the change of use is on balance acceptable in principle.

*-further information provided by the applicant following deferral:*

On the last occasion this was considered at a Member Briefing meeting, it was requested that the applicant provide additional information, particularly in respect of marketing. The applicants have now responded.

They point out that it has not been possible to market the premises as the existing tenants have not allowed the applicant to enter the premises, thus the applicants have been unable to provide marketing information for the premises themselves. However, they have provided evidence received from local estate agents regarding ready availability of Class B1 business use floorspace in the locality. Details of 15 addresses are provided with floorspace capable of occupation by small businesses, ranging from 16-883sqm but generally below 100sqm or capable of subdivision (a summary with addresses with floorspace is attached, though fuller information has been provided). It is therefore contended that there is ample alternative accommodation for the occupiers in locations

nearby.

The applicant also points out that the premises are relatively old for office premises (constructed early 20<sup>th</sup> Century) and originally built as a residential dwelling, which Policy CS5 cites as examples of circumstances in which the Council may allow a change of use from Class B1a office use, in the context of an supply of office use that is projected to meet demand in the borough over the LDF plan period.

Further analysis is provided in terms of paragraph 13.3 and the tests in the guidance in CPG5, much of which repeats information already set out above, however additional information is also provided. The applicant advises that this is the only non-residential use on the upper floors of this terrace of buildings, that they understand the building to be low quality and not suitable to a range of occupiers nor lend itself to conversion or subdivision in their opinion, that it does not provide space of under 100sqm and does not include modern office features. The existing tenants wish to remain, however they are not paying rent and the applicants contend that they have allowed the premises to degrade to a low quality (there is a tenancy dispute which is referred to above), however there is adequate alternative space nearby. They state the premises provide accommodation for medium-sized businesses, are low quality, not purpose-built and require investment that would not be financially viable given the likely return on rental. The location is not a prime office area and there is evidence of vacancy in the area.

The applicant states that they have received no approach to occupy the remainder of the space and the terms of occupation proposed by the tenants has been below market levels and generally described as entirely unreasonable.

They consider the proposal to be consistent with the aims and objectives of the development plan in that they would free up lowest quality offices for much needed residential accommodation in much greater demand. The applicant reasonably expects a market rent and there are ample other premises available in the area.

#### *Acceptability of the proposed mix and units*

The proposed mix is a considerable improvement on the previous application (2 x 1 beds and 2 x studio units). It would provide a large two bedroom unit and a large one bedroom unit. Private 2 bedroom flats are identified in the table in para 5.4 supporting Policy DP5 as being of very high priority and the proposal exceeds the proportion of 2 bedroom units sought within development schemes(40%). This unit has a large living rooms and a large dining room and could be readily adapted to another bedroom if needed in future, thus it could potentially provide family accommodation. The other one bedroom unit (lower priority in the aforementioned dwelling size priorities table) is logical, given the arrangement of the property and acceptable in this location on the busy Finchley Rd and next to a shopping area.

The Council previously pointed out in pre application advice that conversion of Fairfax Mansions (which is also understood to be under the control of the applicant) to 17 units would require a contribution to affordable housing. No other schemes to convert the other parts of Fairfax Mansions have yet come forward and this scheme in itself would not trigger the requirement, however it is recommended that an informative be attached advising the developer that in the event of other conversions coming forward for Fairfax Mansions, any residential units created at this address are likely to be included when considering the appropriate contribution towards affordable housing.

The proposed flats comfortably meet floorspace and room size standards and would provide acceptable accommodation.

The lifetime homes assessment has not been updated from the previous application and as a consequence provides outdated information, however the previous assessment indicates that there is potential to provide acceptable provision in the circumstances of the site and it is therefore recommended that a condition be attached to any permission requiring the submission of further details in this respect.

The only available space for cycle storage is in the lobby area where stores for the two flats are proposed. Refuse would need to be taken to put out in the communal areas on the day of collection.

The proposed flats need to be car free in this location that benefits from 'excellent' access to services and public transport, with a PTAL of 6B. This is recommended to be secured by a legal agreement.

*Appearance and impact on neighbouring amenity*

The proposed extension would not cause any additional issues of overlooking or lead to any unacceptable loss of light.

The appearance of the proposed extension would be acceptable and materials could be conditioned to match existing.

*Community Infrastructure Levy (CIL):*

The proposal involves the change of use and small extension (adding 6sqm internal floorspace) and conversion to create two new residential units to an existing building that is partly occupied and has been so for some years. As set out above, on the balance of probability, the existing occupation for business space is likely to be lawful (though no express planning consent appears to have been granted). The existing building has a gross internal area of 165sqm, with around 60% (about 100sqm) currently being occupied.

It is understood that floorspace resulting from change of use will be disregarded where it has been in continuous lawful use for at least six months in the 12 months prior to the development being permitted. Thus it is understood that the CIL would not apply (indeed, even without any lawful occupation of the premises effectively only the 6sqm extension would be chargeable, thus the collection of a mere £300 would most probably have been unviable to collect).

*Recommendation:* Grant Planning Permission with a legal agreement (car free units)

**DISCLAIMER**

**Decision route to be decided by nominated members on Tuesday 10<sup>th</sup> April 2012. For further information see**

<http://www.camden.gov.uk/ccm/navigation/environment/planning-and-built-environment/planning-applications/development-control-members-briefing/>