

<b>Address:</b>	1 University Street 163 - 170 Tottenham Court Road London WC1E 6JQ		
<b>Application Number:</b>	2008/5779/P	<b>Officer:</b> Sharon O'Connell	
<b>Ward:</b>	Bloomsbury		
<b>Date Received:</b>	25/11/2008		
<b>Proposal:</b> Change of use of fifth and sixth floors from serviced apartment use (Sui Generis) to office use (B1).			
<b>Drawing Numbers:</b>  Location plan 2995/001; Renewable Energy Statement; Transport Statement; Breeam Pre-Assessment dated 14 August 2009; 2995/099; 100A; 105A; 106A; 109A; 110A; 115A; 116A; 401; 411; Letter dated 09/11/2009 from DP9 and Email dated 13/11/2009 from DP9.			
<b>RECOMMENDATION SUMMARY:</b> Grant planning permission subject to conditions and a S.106 legal agreement			
<b>Applicant:</b>		<b>Agent:</b>	
Kensington Commercial Property Investment Ltd c/o Agent		DP9 100 Pall Mall LONDON SW1Y 5NQ	

### ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	<i>Sui Generis</i>	<i>Serviced Apartments</i>	1360 m <sup>2</sup>
Proposed	<i>B1</i>	<i>Business</i>	1360 m <sup>2</sup>

Parking Details:		
	Parking Spaces (General)	Parking Spaces (Disabled)
Existing	10	0
Proposed	8	0

### OFFICERS' REPORT

**Reason for Referral to Committee:** The proposal is defined as a "Major" development comprising more than 1000m<sup>2</sup> of non-residential floorspace.

**Any grant of permission would also require the conclusion of a Section 106 Planning Obligation in part relating to matters outside the scheme of delegation.**

**1. SITE**

- 1.1 A 6-storey building located on the corner of Tottenham Court Road and University Street. The current uses include retail, offices and serviced apartments on the 5<sup>th</sup> and 6<sup>th</sup> floors. The building has 10 basement parking spaces, which are accessed from Mortimer Market at the rear. The building is not listed and it is not located within a conservation area.
- 1.2 The application relates to the 5<sup>th</sup> and 6<sup>th</sup> floor serviced apartments, which are currently vacant. These are accessed from an entrance on University Street. The 5<sup>th</sup> and 6<sup>th</sup> floors are accessed via a communal lift and stairwell, which also serve the offices on the lower floors.

**2. THE PROPOSAL**

- 2.1 The proposal is to change the use of the 5<sup>th</sup> and 6<sup>th</sup> floor serviced apartments to B1 office space. The B1 floorspace will be divided into 12 individual studio workspaces for use by small businesses. The proposal does not include any external alterations to the building. The cycle parking and refuse storage for the new units will be located in the basement area.

**3. RELEVANT HISTORY**

- 3.1 A Certificate of Lawfulness for the existing use of the 5<sup>th</sup> and 6<sup>th</sup> floors as serviced apartments (sui generis) (Ref: 2007/5557/P) was granted on 21/12/2007.

**4. CONSULTATIONS**

**Statutory Consultees**

- 4.1 None

**Local Groups**

- 4.2 Charlotte Street Association objected to the application:

- 4.2.1 "We would question the Sui Generis classification (only applies to houses in multiple occupation) and therefore the Class use is C3, so that no change of use is permitted. In addition the loss of the service flats would put additional pressure on the limited rented accommodation in the area and the application for change of use should be rejected."

- 4.3 **Adjoining Occupiers**

Original	
Number of letters sent	16

<i>Total number of responses received</i>	0
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## 5. **POLICIES**

### **Replacement Unitary Development Plan 2006**

- 5.1 SD1 Quality of life  
SD2 Planning Obligations  
SD6 Amenity for occupiers and neighbours  
SD9 Resources and Energy  
T1 Sustainable transport space  
T3 Pedestrian and cycling  
T7 Off street parking  
T11 Alternative use of existing car parks  
T12 Works affecting highways  
E1 Location of business use  
E3c Accommodation for small firms  
C5 Tourism uses

### **Other Relevant Planning Policies – The London Plan 2008 [Consolidated with Alterations since 2004]**

- 5.2 3B Working in London  
3D Enjoying London

### **Supplementary Planning Policies – Camden Planning Guidance 2006**

- 5.3 Access for all  
Clear zone region  
Cycle access and storage  
Energy and onsite renewables  
Designing safer environments  
Overlooking and privacy  
Planning obligations  
Public open space  
Sustainable design and construction  
Vehicle access to sites, car parking and servicing  
Waste and recyclables

## 6. **ASSESSMENT**

- 6.1 **The principle material planning considerations are as follows:**

- Land Use
- Transport
- Neighbour amenity
- Sustainability
- Access
- Community safety
- Waste and recycling

## 6.2 Land Use

- 6.2.1 These proposals relate to the 5<sup>th</sup> and 6<sup>th</sup> floors of the building, which have a lawful use as serviced apartments (Sui Generis). Permission is sought for a change of use to offices (Class B1). The applicants have stated that the apartments have been vacant since February 2007.
- 6.2.2 The Council issued a Certificate of Existing Lawful Use in December 2007 which confirmed the use of the 5<sup>th</sup> and 6<sup>th</sup> floors as serviced apartments. Therefore the proposal has to be considered in the context of Policy C5B (Hotels, B&B's and youth hostels). Policy C5 states that the Council will not grant planning permission for development involving the loss of existing hotels, B&B's and youth hostels in suitable locations. This is due to the high demand for such accommodation in Central London. This is supported by the London Plan. Therefore the applicant was required to provide justification for the loss of this use.
- 6.2.3 The current lawful use as serviced apartments was never granted planning permission and became lawful due to the amount of time it had operated. As a result, the building was never designed/adapted to properly accommodate such a use and this has resulted in a number of physical constraints to the provision of good quality serviced apartments for the tourist market. The apartments are located above four floors of office space and are accessed via a communal lift and staircase which are shared with the offices. There is no space at the University Street entrance to the apartments to provide a reception area to check guests in. There is also very limited space to provide back-of-house accommodation such as cleaning, catering and concierge services. The current apartments are in a poor state and would require significant investment to bring them up to the standard that is generally required for serviced apartments.
- 6.2.4 The applicants have stated that they have been unable to find a replacement tenant for the serviced apartments since they were vacated. This has mainly been because service providers for modern serviced apartments require the facilities detailed above e.g. reception area, back-of-house service area and a dedicated access core to provide viable good quality serviced apartments for tourists. They have also stated that the previous tenant operated another property with serviced apartments in the vicinity of the site and, due to this, was able to overcome the issues with regards to reception areas and storage. The previous tenant had a small laundry area which was located off the car park ramp in the basement. However, this was a source of numerous complaints due to the heat that was generated; this required the car park shutter doors to be opened, which compromised security. As a consequence, this facility was used infrequently. In the context of the physical constraints of the property, which prevent it from readily providing good quality serviced apartments, it is considered that if the proposed replacement use complies with policy requirements the loss of this C1 accommodation is justified.
- 6.2.5 The proposed replacement use is for B1 office space. The floorspace could be used by one tenant as two floors of office space. However, the current layout of the building is shown on the proposed drawings as being retained. This results in the building being divided into 12 individual workspace units which will be suitable for

small and start-up businesses. Policy E1 of the UDP encourages the provision of new office development in locations that are accessible by a range of means of transport. This central location is particularly suited to office development; given its excellent transport links being close to both Warren Street and Goodge Street underground stations and a number of bus routes. The new office accommodation would also be located within a building which is already predominately in office use.

- 6.2.6 In addition, Policy E3C states that the Council will grant planning permission for development that includes accommodation suitable for small firms. The supporting text of this policy states that small-scale business uses can make a positive contribution to the mixed-use character of accessible areas, and are especially appropriate where business development is proposed within the Central London Area and within town centres. It adds that, although demand for floorspace varies, the majority of businesses in Camden employ 20 or fewer people and further provision and retention of a range of a range of unit sizes would contribute to choice and variety for industrial and commercial tenants and consumers of their services. It places emphasis on the importance of providing units in a range from 50-120m<sup>2</sup> to meet the needs of business start-ups, small business and craft workshops. The proposed development includes 12 work spaces which would be suitable for such use. The sizes of the proposed workspace units within this building are between 49.5m<sup>2</sup> and 103.1m<sup>2</sup>. Each unit would contain workspace at 5<sup>th</sup> and 6<sup>th</sup> floors linked by an internal staircase. They also include a toilet and coffee making area. Each unit would be served by large windows providing high levels of natural light and ventilation. The applicants are proposing to carry out internal refurbishment works to bring the spaces up to standard.
- 6.2.7 It is considered that the replacement of the existing poor quality serviced apartments with office space that is capable of providing 12 workspaces for small and start-up business will create employment opportunities within the borough and will add to the mixed use nature of the Tottenham Court Road area, in accordance with the requirements of policies E1 and E3C of the Replacement Unitary Development Plan 2006.

### 6.3 Transport

- 6.3.1 The site is located on the southeast corner of the junction of Tottenham Court Road and University Street within the Clear Zone Region. There is currently a basement car-park access from Mortimer Market at the rear which has 10 car-parking spaces for the whole building. As part of the proposals, 2 of these spaces would be removed and replaced with 8 cycle parking spaces and a small refuse store for the new office space. The site has a Public Transport Accessibility Level (PTAL) of 6a (excellent). The application is for a change of use of the 1360sqm of "serviced apartments" (Sui Generis) on the 5<sup>th</sup> and 6<sup>th</sup> floors to 1360sqm of B1 (office).

#### 6.3.2 Cycle Parking

- 6.3.3 Policy T3 requires development to sufficiently provide for the needs of cyclists, which includes the provision of cycle parking, and UDP policy T7 states that development must comply with Camden Parking standards. Camden's Parking Standards for cycles (*Appendix 6 of the Unitary Development Plan*) state that 1

storage or parking space is required per 250sqm of B1 (office) and a minimum of an additional 2 spaces for visitors. The proposals are for 1380sqm of B1; therefore a minimum of 8 cycle parking spaces are required. These have been provided in the basement, at the expense of a reduction in 2 car parking spaces. The design and layout is acceptable. A condition is recommended requiring the cycle parking shown on the approved plans to be provided prior to first occupation of the new units and retained thereafter.

#### **6.3.4 Car Parking**

6.3.5 As discussed above, the proposal includes the removal of two of the existing car parking spaces in the basement and their replacement with 8 cycle parking spaces. Any employees wishing to use on-street parking would have to apply to Parking Services for on-street permits. Given that the site is located in the Clear Zone Region, which already suffers from very high parking stress, and that Parking Services will most likely not issue permits for commuting purposes in the Clear Zone (unless under exceptional circumstances), it is considered that the proposed development including the loss of two existing off-street parking spaces will not result in additional parking stress within the area.

#### **6.3.6 Construction Management Plan**

6.3.7 As no major structural works are being carried out to the building it is considered that a construction management plan will not be required.

#### **6.4 Neighbour Amenity**

6.4.1 The proposed use of the building will not involve any external alteration to the building; in addition there are no proposals for additional plant or equipment to be installed on the building. It is therefore considered that the proposal will not result in any detrimental impact on neighbouring residential properties.

#### **6.5 Sustainability**

6.5.1 Camden Planning Guidance and Policy SD9 of the UDP expects that new developments, particularly major schemes, incorporate sustainability principles into their design. However, it is acknowledged that the current application does not involve any external works and involves refurbishment work to a relatively small part of a larger building with several other occupants. The existing building is heated with a centralised hot air heating system, which is used by all tenants within the building. As such, the applicant has very limited options for enhancing the sustainability of the scheme, with on-site energy generation not being practicable. The existing floorspace does not require air conditioning, as each floor is served by openable windows and doors to the units located to the front of the building. The internal temperature in these rooms can be controlled during summer months by the installation of internal blinds. In addition the large areas of glazing to each room significantly reduce the requirement to use artificial light. During the refurbishment of the 5<sup>th</sup> and 6<sup>th</sup> floors, the applicants will be carrying out works to improve the U values of the floorspace by installing additional insulation.

- 6.5.2 The applicants have carried out a BREEAM pre-assessment which states that the scheme is capable of achieving a “very good” score. To ensure that this is achieved, a head of term has been added to the Section 106 requiring a post construction review.

## **6.6 Access**

- 6.6.1 Access to the workspaces will be via a communal staircase and lift. Each of the units is accessed via a single entry door on the 5<sup>th</sup> floor, with the 6<sup>th</sup> floor being accessed via an internal staircase. The entrance door on the 5<sup>th</sup> floor to each unit will have a clear opening of 800mm, which will enable wheelchair access to the lower floor. Because of the limited size of the units, it is not possible to provide lift access within each unit to provide disabled access to the 6<sup>th</sup> floor. The Council’s access officer was consulted during the consideration of the application. She has stated that, for the purposes of Part M of the Building Regulations, the proposed work will be considered a material alteration and as such any new or altered features are required to be upgraded to meet Part M of the Building Regulations. She considered that the proposed alterations were minimal and any alterations that may be required under the Building Regulations should not have any effect on the planning application. The application is therefore considered to satisfy Policy SD1c.

## **6.7 Community safety**

- 6.7.1 The proposed office space will be accessed via the existing entrance door on University Street. The Metropolitan Police Designing Out Crime officer was consulted on the application, and considered that the proposal would not raise any issues with regards to community safety.

## **6.8 Waste and recycling**

- 6.8.1 The refuse and recycling storage for the proposed units will be located within the basement of the building. The applicants have shown 2 x 1100 Eurobins. Camden Planning Guidance states that for non-residential development 1m<sup>3</sup> will be required per 300m<sup>2</sup>/500m<sup>2</sup> for refuse storage; therefore the proposed arrangement is considered to provide adequate storage for refuse. A 1100 eurobin is proposed for recycling storage. As the proposal is for office space, the majority of recycling will be for paper. However, should additional separation be required, there is space within the storage area to provide this. Should additional capacity be required then, as this will be a commercial operation, the occupiers of the property will have to pay for additional collections. The application is therefore considered to provide sufficient capacity for refuse and recycling storage.

## **6.9 Other issues raised by objectors**

- 6.9.1 The Charlotte Street Association have queried the Sui Generis use class given to the existing use on the premises. They have stated that Sui Generis is only used for HMO floorspace. The lawful use of the property was determined in 2007 to be Sui Generis serviced apartments. This was because the accommodation was let on a nightly basis and therefore could not be classed as permanent C3 residential accommodation. The Sui Generis use class is not restricted just to HMO

accommodation. Sui Generis is defined in Circular 03/2005, which sets out that “Article 3(6) of the Use Classes Order provides that certain uses are not within in any class of the Order. Such uses are *sui generis*. This does not mean that such uses will always be regarded as environmentally undesirable and thus liable to be refused permission, but rather that in most places where such uses are proposed, consideration by local planning authorities will be justified. The list of omissions is not exhaustive; many uses do not clearly fall within any class and new types of use are constantly emerging. The Courts have held that it is not necessary to go to extreme lengths to identify a class for every use.”

## **7. CONCLUSION**

7.1 It is therefore recommended that planning permission is granted subject to the conditions detailed below and a Section 106 with the following head of terms:

- BREEAM – at least a “very good” score with post construction review.

7.3 In the event that the S106 Legal Agreement referred to above has not been completed within 13 weeks of the date of the registration of the application, the Development Control Service Manager be given authority to refuse planning permission for the following reason:-

- The proposed development, in the absence of a legal agreement requiring the development to achieve at least a very good score in BREEAM with post construction review; would fail to be sustainable in its use of resources, contrary to policies SD9 and B1 of the London Borough of Camden Replacement Unitary Development Plan 2006.

## **8. LEGAL COMMENTS**

8.1 Members are referred to the note from the Legal Division at the start of the Agenda.