

Address:	235 - 237 Finchley Road London NW3	
Application Number:	2008/1454/P	Officer: Tania Skelli-Yaoz
Ward:	West Hampstead	
Date Received:	12/03/2008	
<p>Proposal: Change of use from educational use (Class D1) and office use (Class B1) to 9 residential units (2 x studio flats; 5 x 1-bedroom flats; 1 x 2-bedroom flat and 1 x 3-bedroom flat) on 1st to 4th floor levels over existing retail use, extension at rear 4th floor level and creation of 4th floor level roof terrace, installation of rooflights on front roofslope and replacement of front and rear windows with powder coated aluminium windows.</p>		
<p>Drawing Numbers:</p> <p>10615/TP/002; 001; 100; 101; 102; 103/D; 106; 104/C; 200/A; 201/A; 300/A; 301/B; Pre-assessment Estimator Summary Report; Accessibility Statement; Preliminary Acoustic Insulation Statement ref. 12102915 dated 12/5/08, Supplementary Statement (Dec 2008).</p>		
RECOMMENDATION SUMMARY: Grant planning permission subject to S. 106		
Applicant:	Agent:	
Bestway Cash & Carry Ltd Mr Zahir Fazaldin 2 Abbey Road Park Royal London NW10 7BW	Cornish Architects Priory House 25 St Johns Lane LONDON EC1M 4HD	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	B1 D1	Business	280.4m ²
		Non-residential institution	209.1m ²
		Total	489.5m ² *
Proposed	C3	Dwelling House	481m ²

[illegible]

Proposed	Flat	5	1	1	-	-	-	-	-	2
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* The difference in floor areas is because the extension only adds a very small amount of additional floorspace, and the overall internal useable areas are slightly reduced as a result of the need to re-configure sections of the staircase and landings to accommodate access to the flats.

OFFICERS' REPORT

Reason for Referral to Committee: A Minor Development involving the creation of five or more residential units from the conversion of an existing building and the making of a planning obligation under Section 106 of the Town and Country Planning Act 1990 [Clauses 3 (iii) and (vi)].

1. SITE

- 1.1 The application site comprises of 2 x 4-storey period terraced buildings on the south-western elevation of Finchley Road.
- 1.2 The ground floor is used for retail with the upper floors previously used for education purposes (1st and 2nd floors) and office use (3rd and 4th floors). The upper floors are currently vacant. The area is characterised by a mix of uses, including shops, restaurants, offices and residential; the latter mostly on upper floors.
- 1.3 The existing entrance to the upper floors, which leads from the street into an enclosed hallway and to a back open corridor, leads to the residential premises at the rear of 229-233 Finchley Road and offices at 239 Finchley Road. This is considered as a common right-of-way for those occupiers.
- 1.4 The site is located on a designated TfL Red Route, and within the Finchley Road town centre and the Kilburn Renewal Area.

2. THE PROPOSAL

Original

- 2.1 The proposal is for the conversion of the upper floors into residential use together with the creation of a shared roof terrace at fourth floor level, and minor external alterations.
- 2.2 The existing right of way to the rear of the site is unchanged and is proposed to be retained.

Revisions

- 2.2 Following comments made on the original submission, the proposal was revised to include:
- i) Additional information was submitted regarding the marketing of the premises.
 - ii) Additional details have been submitted with regards to Code for Sustainable Homes requirements.
 - iii) A clear separation has been shown between the private and communal roof terraces.
 - iv) The enlargement of the communal roof terrace.
 - v) The inclusion of a 3-bed family unit.
 - vi) The first floor management office changed into a general storage unit for bikes, prams and meters for residents.

3. RELEVANT HISTORY

- 3.1 Planning permission (ref: PWX0103790) for the continued use of the first and second floors of the building as a College for English Language Courses, within Class D1 was granted 20/11/2001.
- 3.2 Planning permission (ref: PI/8804162/G6/7/K) for the extension of fourth floor office at rear of the building was refused 13/12/1988.

4. CONSULTATIONS

Statutory Consultees

4.1 Transport for London (TfL)

No objections are raised provided that a Construction Management Plan is submitted and approved by TfL before construction commences in order to ensure minimal impact on traffic. The lack of cycle parking provision is unacceptable and contrary to the London Plan policies.

4.2 London Underground

No reply received.

4.3 Thames Water

No objections.

4.4 Adjoining Occupiers

Original	
<i>Number of letters sent</i>	16
<i>Total number of responses received</i>	2
<i>Number of electronic responses</i>	1

<i>Number in support</i>	2
<i>Number of objections</i>	0

- 4.5 239A Finchley Road: Comment. Occupy 2nd, 3rd and 4th floors of 239A. The entrance to their office is via a passageway, which is shared with the occupants of 235-237 Finchley Road. No objection provided that this access is not affected including entry phone system and that noise during is kept to minimum during construction and that light is not diminished by the extension.
- 4.6 231 Finchley Road: Comment. Request that the right of way to flats 1-4 at no. 231 and to no. 233 should be unaffected and maintained.

5. POLICIES

5.1 Replacement Unitary Development Plan 2006

S1/S2 Sustainable development (**Complies subject to s. 106 conditions**)
SD1 Quality of Life (**Complies**)
SD2 Planning Obligations (**Complies**)
SD6 Amenity for occupiers and neighbours (**Complies**)
SD7 Light, noise and vibration pollution (**Complies, subject to conditions**)
SD8 Disturbance (**Complies**)
SD9 Resources and energy (**Complies subject to section 106**)
E2 Retention of existing business uses (**Complies**)
H1 New Housing (**Complies**)
H7 Lifetime homes and wheelchair housing (**Complies**)
H8 Housing Mix (**Complies**)
C2 Protecting community uses (**Complies**)
B1 General Design Principles (**Complies subject to conditions**)
B3 Alterations and extensions (**Complies**)
T3 Pedestrian and cycling (**Complies**)
T8 Car Capped housing (**Complies**)
T9B Impact of parking (**Complies subject to section 106**)
T12 Works affecting highways (**Complies subject to a Section 106**)
N4 Providing public open space (**Complies subject to s 106**)
N5 Biodiversity (**Complies**)

5.2 The London Plan (Consolidated with Alterations since 2004) February 2008

3A Living in London (**Complies**)
3C.1 Integrating transport and development (**Complies sub. to s. 106**)
3C.17 Tackling congestion and reducing traffic (**Complies s. to 106**)
3C.23 Parking Strategy (**Complies subject to s.106**)
4A Climate change and London's Metabolism (**Complies s. to 106**)
4B Design in London (**Complies**)

5.3 **Camden Planning Guidance (CPG) 2006 (Complies)**

6. **ASSESSMENT**

The principal considerations material to the determination of the applications are summarised as follows:

- Land use and accessibility
- Design
- Residential amenity
- Open space
- Transportation issues
- Sustainability
- Waste and Recycling
- Educational contributions

6.1 **Land use**

- 6.1.1 This proposal will result in a loss of the existing office and educational floorspace on the upper floors. There is a general presumption against the loss of business uses where there is potential for that use to continue. Where it is considered that a site does not have potential to continue the existing business use, consideration needs to be given to maintaining on site an alternative business use, with priority given to flexible space for B8 or B1 light industry. If it can be demonstrated that the upper floors are only suitable for B1(a) office use, the policy allows for the loss if the change is to residential.
- 6.1.2 The applicants, in their design and access statement, have indicated that the office premises have been vacant for some time, and that initial investigation suggests that there is a surplus of available office accommodation in the area, meaning that any attempts to let the offices will prove unsuccessful. The applicants have subsequently submitted additional information regarding the marketing of the premises, and showed that there is a surplus of accommodation in the area and that continued office use on this site is no longer viable.
- 6.1.3 The policy also states that consideration must be given to alternative B1c/B8 accommodation where there is a loss of office floorspace. In this case it is clear that provision of such a use on this site would not be practical. Uses such as these usually require large floor-to-ceiling heights for machinery, hoists and service lifts, and good vehicular access with adequate service bays. This site does not lend itself to such requirements, and therefore a B1c/B8 use is not suitable for this site. Accordingly, and as a change of use to new residential accommodation is proposed, the proposal is considered to comply with policy E2.
- 6.1.4 Planning history shows the educational use to be the lawful use on site and a site visit confirmed the educational floorspace to be vacant. The

agent has confirmed the vacancy to be for over 2-years (since April 2007), with the most recent use being as a school for the English Language (since April 1998). The agent has also confirmed that active marketing has been carried out since its vacation with little or no interest. A marketing analysis has been submitted to show where in the area other similar schools are available (four establishments listed) and also a list of nearby available office units which could be converted into such community use (subject to planning permission) if need can be demonstrated. It is considered that educational facilities are no longer required on site and given similar facilities are available in the area their loss is not considered detrimental. It is also unlikely to be suitable accommodation for the provision of any other community facilities within Class D1. It is therefore considered that the proposed change of use complies with policy C2.

- 6.1.5 In terms of the provision of new housing, the Council's policy H1 seeks the fullest use of underused sites and buildings for housing, provided that the accommodation reaches acceptable standards. This proposal would provide 9 residential units and as such complies with policy H1.
- 6.1.6 The application proposes 2 x studio apartments, 5 x 1-bed units, 1 x 2-bed unit and 1 x 3-bed unit as part of the scheme. Policy H8 seeks to secure a mix of unit sizes, including large and small units, on new residential development. In particular, the Camden Housing Needs Survey 2004 identified a need for a range of dwellings to ensure that those who are in need of larger dwellings can find suitable housing within the Borough. The proposed mix gives a predominance of smaller units, and policy would normally seek at least one larger 3 or 4-bed unit. Policy H8 also states that it will take into account the site locations and conditions; it will seek that where possible – large units suitable for families should be provided on the ground floor and should have access to gardens or public open space where children can play in safety. Where this is not possible - units should be within 400m of a public open space or alternative external amenity space.
- 6.1.7 It is therefore considered that, given the conditions of the site and its location (above a shop unit in a busy location), it is considered likely that families may not be the natural target audience for this site. It is also considered that, were a large family unit provided as part of this proposal, it would not benefit from a garden area or other significant nearby open space on site or within 400m. Whilst the proposed roof terrace is welcomed, it may not be considered as safe for the amenity of children as for the use of adults. However, the proposal results in a net gain of 9 units and includes a 3-bed family unit on the top floor with a small outdoor patio. On balance, it is considered that the proposed mix of units is acceptable.
- 6.1.8 Policy H7 requires new housing development to be accessible to all. The applicant has demonstrated how the scheme addresses the 16 'Lifetime Homes' criteria. 10% of new housing should also be designed

to be wheelchair accessible. The applicant's Design and Access Statement indicates how the proposals meet the relevant criteria, and the proposed scheme is considered acceptable in the context of this policy.

6.1.9 It is noted that a lift to all floors is not provided. The 'Lifetime Homes' criteria no. 5 which addresses communal stairs & lifts states that where a lift is provided it should be fully accessible, but is not a requirement in itself. It also gives criteria for the provision of stairs. The applicant has confirmed that the stairs have been adjusted and improved to comply with that criteria. The applicant has also justified the absence of a lift for reasons of practicality, due to existing communal area floor areas available for the inclusion of a lift shaft, pit and waiting areas and which if provided would be at the loss of significant sections of the retail areas at ground and basement levels and the residential upper levels. Given this and the applicant's confirmation that the proposal goes beyond the minimum on other criteria within the Lifetime Homes standards, it is considered that on balance acceptable levels of accessibility would be reached in this conversion and that policy H7 is complied with.

6.1.10 The existing access to the upper levels, adjoining offices and adjoining properties has been confirmed to be unchanged and will be maintained as existing. The existing escape route at fourth floor level is also maintained to no. 239.

6.2 Design

6.2.1 The proposal includes an extension at fourth floor level, the creation of a roof terrace, the installation of rooflights on the front roofslope and the replacement of the front and rear windows with powder coated aluminium windows. The proposed extension at fourth floor level is to provide an additional 0.5-3m of depth to the existing built area on that floor, and will not be any higher than existing. This is in order to homogenise the elevation at this level, by providing a full-width rear façade. Railings are proposed to enclose the terrace.

6.2.2 The extension will not be visible from the public realm and is considered acceptable. Whilst an extension to this floor was previously refused, it was proposed to cover almost the entire roof and therefore was much larger. This extension is considered minor, and not detrimental to the appearance of the building. It is recommended to condition the materials to match the existing. The installation of rooflights and the window replacements are minor changes to the fabric of the building that are considered acceptable. Accordingly, the proposal complies with policies B1 and B3.

6.3 Residential amenity

6.3.1 The proposed living accommodation standards are considered acceptable and comply with Camden Policy Guidance. All 9 flats are

accessed from the main entrance at street level and in accordance with Secured by Design Officer advice are to be fitted with British Standard secure doors, windows, lighting and control-system access. A general storage area is provided at first floor area for shared use. This is considered to comply with policy SD1.

- 6.3.2 A proposed part private/part shared roof terrace is proposed as part of this conversion. The private part will form part of and will adjoin the top floor level flat, and access via the communal stairwell will be provided to a shared roof garden overlooking the railway lines. Both areas are shown to be clearly defined and landscaped. This is considered to comply with policy SD6.
- 6.3.3 The extension is due south of a 4th floor dormer window at no. 239. Calculations show that the proposal does not impact on that window. In addition, (on plan) that window may already be affected by the existing stairwell at the subject site. BRE guidelines state that loss of sunlight may occur only if both tests (elevation and plan) fail; if one of the tests is outside the 45-degree zone no impact is considered likely. None of the tests show to fail on this proposal. Moreover, this floor has been confirmed to be used as offices by adjoining occupiers. Accordingly, the extension is considered minor and not detrimental to any of the adjoining occupiers and is not likely to cause harm. It is considered to comply with policy SD6.
- 6.3.4 The proposed roof terrace's main outlook is towards the existing railway lines and does not create other overlooking into adjoining properties. On the boundary with no. 239, it adjoins a window used for office purposes. As such, it is considered acceptable and complies with policy SD6.
- 6.3.5 An acoustic report has been submitted in respect of the insulation to residential windows on site, given the site's location adjacent to existing railways and a busy trunk road. LBC Environmental Health Noise Team has expressed concerns over the ambient noise at this location being very high; therefore indicating that the principle of a residential development at this location is not ideal. Nevertheless, it is accepted that there is already significant residential development above commercial units in the immediately surrounding area, and it would be difficult to refuse the application solely for this reason.
- 6.3.6 The Noise Team occasionally receives complaints from flats above Finchley Road station over noise disturbance from maintenance work, which generally takes place at night and also about PA noise from the station. It is considered that the subject site would experience similar noise impacts in addition to noise from the operation of train services.
- 6.3.7 Notwithstanding the existing ambient noise levels, the report indicates that reasonable internal noise levels could be achieved, albeit only with

the use of a mechanical ventilation system to overcome the need to open windows for ventilation.

- 6.3.8 Accordingly, given the location of the site it is considered that subject to conditioning details of mechanical ventilation to all flats [such that future occupiers can choose whether to open their windows or not], a residential development at this site is considered acceptable, on balance. It is also recommended to request details specifying the standard of acoustic glazing to be implemented in order to achieve acceptable living standards, in line with the submitted report. This is considered to comply with policy SD6.

6.4 Open Space

- 6.4.1 Policy N4 requires the provision of 9m² of open space per person for residential developments providing 5 or more additional dwellings. This requirement may be off-set by communal space provided on site. The proposal includes the provision of a roof garden at 4th floor level with 26m² (area facing railway) for communal use and the remaining 6m² for the private use of the top floor flat. As the development provides for the accommodation of 11 people, CPG requires the provision of 99m² of equivalent open space provision. The applicant has therefore agreed to provide a financial contribution in lieu of the outstanding 73m² of open space required. This would amount to £4,431 (£4,015.00 + £416.10) to be secured via a S.106 (this sum includes 5-years maintenance). The proposal is therefore considered to comply with policy N4.

6.5 Transport

- 6.5.1 The site is located on Finchley Road, a TfL Red Route, in the Finchley Road/Swiss Cottage town centre. There is no vehicular access to the site and access to public transport is excellent (PTAL 6a).
- 6.5.2 Camden's Parking Standards for cycles and policy T3 requires that 1 storage or parking space is required per residential unit. The proposal is for 9 residential units; therefore 9 bicycle storage/parking spaces are required. The applicant has not included provision for the required amount of cycle storage/parking in the proposed design; however as there are no proposed changes to the ground floor level, it would be unreasonable to expect this requirement to be satisfied. Therefore, Transport officers recommend that this requirement is waived.
- 6.5.3 While standard bike storage is not provided, the applicant has provided a general storage room at first floor level which could cater for bicycles, prams and other shared use. This is considered acceptable and may cater for some of the residents.
- 6.5.4 Policy T8 (UDP) seeks car-free housing in the Central London Area, The King's Cross Opportunity Area; Town Centres; and in other areas within Controlled Parking Zones that are easily accessible by public

transport. Policy T9 (UDP) states that the Council will not grant planning permission for development that would harm on-street parking conditions or add to on-street parking where existing on-street parking spaces cannot meet demand. This is supported by the London Plan.

6.5.5 Given that The London Plan Consolidated with Alterations since 2004 (February 2008) should be taken into consideration as well as the UDP; car-free should not only be sought for housing but also for developments in general and should be ensured by Boroughs in areas of high public transport accessibility. Therefore, this development should be made car-free through a S.106 planning obligation for the following reasons:

- The site has a Public Transport Accessibility Level of (PTAL) of 6a (excellent) and is within a Controlled Parking Zone.
- The site is within the designated Finchley Road/Swiss Cottage town centre.
- Not making the development car-free would increase demand for on-street parking in the Controlled Parking Zone (CPZ) the site is within. Swiss Cottage (CA-R(b)) CPZ operates Mon-Sat 08:30 – 22:00, and has a ratio of parking permits to available parking bays of 1.20:1. This means that more parking permits have been issued than spaces available.

For car free housing and car capped housing, the Council will:

- not issue on-street residential parking permits;
- use planning obligations to ensure that future occupants are aware they are not entitled to on-street parking permits; and
- not grant planning permission for development that incorporates car parking spaces, other than spaces designated for people with disabilities, and a limited number of spaces for car capped housing in accordance with Council's Parking Standards.

Accordingly, this will be incorporated into a S.106.

6.5.6 The site is located on Finchley Road, a TfL red route, which is very constrained in terms of transport provision and has very high traffic flows. Given the site's location in front of a bus stop and bus lane; construction vehicles may have to stop in either the bus lane or the bus stop. Therefore, there will be a significant impact on the transport network. However, there is another means of accessing the site from the rear via a back access road running adjacent to the site so this should also be explored in terms of construction vehicles accessing the site during construction. The applicant has not specified that this access will be the only access to be used during construction (and not Finchley Road), and therefore a Construction Management Plan is necessary. In accordance with policy T12, this will be included in a S. 106. It is noted that the CMP needs to be agreed with TfL.

6.6 Sustainability and Biodiversity

- 6.6.1 BREAM assessments have now been superseded for housing by the Code for Sustainable Homes (CfSH), in order to determine the sustainability of new residential developments. A Code 'level 3' is considered to be the minimum requirement sought. Given the focus of the UDP on energy, water and materials, any proposed development will be expected to achieve 60% of the available credits in each of the energy and water sections, and 40% in the materials section. This is in accordance with policy SD9.
- 6.6.2 The CfSH assessment that has been submitted with this application indicates that the development can achieve a 'level 3' rating under the assessment. The report highlights that the scheme achieves scores of 49% on energy, 50% on water and 90% on materials. This includes upgrading the thermal insulation of the building and windows, to gain a 25% improvement over building regulations, low energy light fittings, drying space, and solar thermal panels.
- 6.6.3 It was considered that ground source energy and photovoltaics were impractical at this site due to the building being existing and its roof slope facing NE.
- 6.6.4 The applicants have subsequently justified their scores where they fell below requirements in the energy and water sections and agreed that the S.106 will include a post-construction review securing at least level 3 CfSH and attaining 50% in each of the credits in each of the energy, water and materials categories. This is considered acceptable and welcomed by policy SD9.
- 6.6.5 Policy N5 seeks to ensure that new development conserves and enhances wildlife habitats by greening the environment. The applicants propose to create a roof garden at 4th floor level, which is welcomed.

6.7 Waste and Recycling

- 6.7.1 The proposal includes details of the disposal of waste from the site. LBC Street Environment Services have raised no objections to the arrangement proposed. The proposal includes adequate refuse and recycling storage at ground floor level which needs to be put out for collection at set days/times and is to be managed and maintained on site. The proposal is considered to comply with policies SD6 and SD12.

6.8 Educational Contributions

- 6.8.1 As the scheme provides more than five additional flats, educational contributions should be sought. The S.106 legal agreement will secure £10,720 (1x 2-bed = £3,148; 1x 3-bed = £7,572) for this purpose.

7. CONCLUSION

- 7.1 The proposed loss of office and educational space and conversion to residential is considered acceptable and suitable in the context of this site. The design and living accommodation standards are considered of high quality and an improvement for this building.
- 7.2 The proposed extension and roof terrace would not result in a detrimental impact on the existing amenities of the occupiers of the adjoining properties in accordance with Policy SD6.
- 7.3 The scheme is considered to generally comply with all the relevant UDP policies, Camden Planning Guidance 2006 and the London Plan.
- 7.4 Planning Permission is recommended subject to a S.106 Legal Agreement covering the following Heads of Terms:-
- i) Construction Management Plan; this shall be approved prior to any works starting on site and the approved plan shall be followed, unless otherwise agreed with Transport for London and the Highway Authority.
 - ii) Financial Contribution towards education of £10,720.
 - iii) The development to be car-free
 - vii) A post-construction CfSH assessment to be submitted.
 - viii) Financial contributions towards open space of £4,431.

8. **LEGAL COMMENTS**

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