

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	28/10/2014
		N/A / attached	<b>Consultation Expiry Date:</b>	
<b>Officer</b>			<b>Application Number(s)</b>	
Nanayaa Ampoma			2014/5880/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
258 Belsize Road London NW6 4BT			See draft decision notice	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>				
Change of use from office to 32 residential units (21 studio, 9 x 1 bed & 2 x 2 bed)				
<b>Recommendation(s):</b>		Grant Prior Approval subject to S106 legal agreement		
<b>Application Type:</b>		GPDO Prior Approval Class J Change of use B1 to C3		

<b>Conditions or Reasons for Refusal:</b>	Refer to Draft Decision Notice					
<b>Informatives:</b>						
<b>Consultations</b>						
<b>Adjoining Occupiers:</b>	No. notified	<b>123</b>	No. of responses	<b>01</b>	No. of objections	<b>00</b>
			No. electronic	<b>00</b>		
<b>Summary of consultation responses:</b>	<p>A Site Notice was displayed at the property for a period of 21 days between 24/09/2014 to 15/10/2014.</p> <p>Adjoining neighbours were also notified. A neighbour objection has been received from:</p> <ul style="list-style-type: none"> <li>Suite 217, 258 Belsize Road</li> </ul> <p>These comments can be summarised as follows:</p> <ul style="list-style-type: none"> <li>Conversion of property would have an adverse impact on the area</li> <li>There are very few non-residential or non-retail buildings in the neighbourhood/community</li> <li>It is increasingly difficult to find office buildings outside of central London</li> <li>The office property contributes to the economic wellbeing of the area</li> </ul>					
<b>CAAC/Local groups* comments:</b> *Please Specify	No comments have been received from any local groups.					

## Site Description

The application site relates to a large office block off Kilburn High Road. The site is west of the borough close to Kilburn High Street train station. The property is also near a railway line. The office block is built over four stories with a lower ground level. The area is not within a Conservation Area.

Under the policies plan the site falls within a Town Centre. The area around the site is characterised by commercial uses with a small number of residential properties nearby. The property itself is currently used as the offices for several different businesses and charities.

The site has been identified as falling within an area of potential contamination by the Council.

## Relevant History

**2014/3843/P** - Change of use from office to 32 residential units (21 studio, 9 x 1 bed & 2 x 2 bed) – **Refused 4/8/14**

**9401060** - Addition of a 5th floor roof extension as an amendment to the planning permission dated 14 September 1992 (Ref. 9100121R3) for the erection of a 4 storey office building as shown on drawing no(s) 259/200 201 3 computer images as revised on 12.09.94 - **Grant with Conds 29/09/1994**

**9300828** - Amendments to planning permission dated 14.09.92 (Reg: No: 9100121) for redevelopment of site by new showroom and office building in respect of front and rear elevations. as shown on drawing numbers 0101A-0104A as revised on 15.09.93. - **Grant 05/11/1993**

**9300785** - Approval of materials pursuant to condition 01 of planning permission dated 14.09.92 (Reg: No: 9100121/R3) for redevelopment of site by new 4 storey showroom office building as shown on drawing numbers 0101A-0104A letter dated 28.06.93 as revised 30.09.93 plus samples of grey stock brick Kashmir white granite and Portland stone. – **Grant 05/11/1993**

**9100121**- The redevelopment of the site by the erection of a four storey building to be used for showroom and office use as shown on drawing no(s) TP 01B 03D 04 11A 16 17 18 19 as revised on 28.07.91 08.10.91 and 25.10.91- **Grant with Conds. 03/09/1992**

**8804151** - Redevelopment by the erection of a four storey building for use as an auction room with ancillary office floorspace as shown on drawings numbered A1B A2B and A3B as revised on 13th March 24th August and 18th September 1989. - **Grant with Conds. 28/11/1989**

**J4/9/F/3646** - The installation of a new shopfront at 258 Belsize Road, Camden – **Grant 22/06/1967**

### **Relevant policies**

**The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013: Class J, Part 4**

**National Planning Policy Framework (2012) paragraphs 29, 30 and 35.**

## Assessment

Under Part 4, Class J of the GDPO (2013) permission can be given for the change of use from office (B1) to residential (C3) under the Prior Approval process if the site does not fall within the following criteria:

- (a) *the building is on article 1(6A) land; Article 1(6) represents that land designed as being exempt from this legislation.* The application site does not fall within the area designated as article 1(6A) identified under the Map 1.15 titled the London Borough of Camden; Area for Exemption - Central Activities Zone: Permitted Development rights for change of use from commercial to residential.
- (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.* An assessment of the property's planning history and a visit to the site on 8<sup>th</sup> July 2014 confirmed that the property was development in 1993 for office use and is currently used as such.
- (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;* It is not required that this is confirmed at this stage. It may be confirmed by the applicant at a later date.
- (d) *the site is or forms part of a safety hazard area;* Aside of contaminated land issues, there is no evidence to suggest that the site is a safety hazard area.
- (e) *the site is or forms part of a military explosives storage area;* A visit to the site confirmed that the site does not form part of a military explosives area.
- (f) *the building is a listed building or a scheduled monument;* planning records indicate that the property is not Listed or a scheduled monument.

In addition to the above, Class J also requires that the proposed change of use does not lead to issues of contamination, highway matters and flooding issues.

### Contaminated land and Flooding matters

Council records indicate that the property is not within a flood zone however, it is in an area of potential contamination. The previous submission included no supporting documents in answer to this issue. However the current submission included asbestos details as well as contamination assessments. The Council's Environmental Health Officer has commented that the details submitted adequately deal with possible contamination issues and there are no objections to the development.

### Transport

The application is supported by the Highways Officer subjection to a S106 agreement for Car Free, Construction Management and Associated Highways works (highways contributions of £10,000).

Chapter 4 of the National Planning Policy Framework sets out the guidelines for the assessment of highways matters when considering planning applications. This advocates for Councils to consider more sustainable means of travel for all proposed developments. In line with these aims, Camden Council has adopted transport policies that are strongly geared towards more sustainable practices.

Such as policies CS5, CS11 and CS19 of the Core Strategy as well as policies DP18, DP19, DP20, and DP26 of the Development Policies. These are further supported by supplementary planning guidance CPG7.

Additionally, the Council as a Highways Authority has recognised that there are significant pressures on its current highways infrastructure notably in relation to parking throughout the borough, especially in dense residential areas close to Town Centres. Therefore the Council's highways policies also reflect its wish to reduce the pressure on parking in the borough by strongly discourage the use of private motor vehicles and aiming to control any future unnecessary increase in off street parking. Hence the wish to secure the above S106 agreement.

*Car free:* The site is within the Kilburn Priory Controlled Parking Zone (CA-K). All CPZ's are identified as suffering from a high level of parking stress with more than 100 permits issued for every 100 parking bays and overnight demand exceeding 90%.

Policy DP18 (Parking standards and limiting the availability of car parking) states that the Council expects new developments in areas of high on-street parking stress to be either car free or car-capped. The reasons for this are to facilitate sustainability, help promote alternative, more sustainable methods of transport and stop the development from creating additional parking stress and congestion. This is also in accordance with policies CS11 (Promoting sustainable and sufficient travel); CS19 (Delivering and monitoring the Core Strategy); DP18 (Parking standards and availability of car parking); and DP19 (Managing the impact of parking).

The application site is located within the Town Centre Area and has a Public Transport Accessibility Level of (PTAL) of 6a (excellent). In light of the above, a car free development should be secured by the means of a Section 106 legal agreement as a planning obligation is considered the most appropriate mechanism for securing the development. This is because it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car free. The level of control is considered to go beyond the remit of a planning condition. This obligation is worded to comply with S106 of the Town and Country Planning Act. As such, it is the Council's position that securing car-capped accommodation is policy compliant and accords with the requirements of Section 106 as it is necessary to make the development acceptable and is directly related to the development.

*Construction management and Agreement in Principle (highways contributions):* The application site is located close to the Kilburn High Street rail and the A41 Finchley Road, which forms part of the Transport for London Road Network (TLRN) for which TfL are the responsible authority. In cases such as this where the construction impact is particularly significant, Camden will seek to ensure that any impact is properly managed by the developer through compliance with a Construction Management Plan ("CMP") and an Agreement in Principle (AIP) is secured. The proposed AIP allows the highways Authority to collect fees to be used in the event that the highways is damaged by the development, while the CMP ensures that the works are carried with care to the highways also. The potential impacts for the proposed demolition/construction works and servicing which should be controlled by a CMP and AIP include traffic generation from removal and delivery of materials and deliveries to the site. This could result in traffic disruption and dangerous situations for pedestrians and road users if not properly managed. This is in accordance with policies CS5, CS11, CS19, DP20, and DP26 and CPG7 – Transport. A planning obligation is considered to be the most appropriate mechanism for securing compliance with both the CMP and the AIP in this case.

Under the Planning Act conditions are used to control matters on land within the developers' control. However, a CMP and AIP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site but also around the site in order to minimize, as far as reasonable, the detrimental effects of construction on local residential amenity and/or highway safety on the nearby roads. Hence, using a condition to secure the type of off-site requirements usually included in a CMP and AIP would in this case be unenforceable.

As such, a Section 106 Agreement (rather than a condition) is the most appropriate mechanism in this instance to secure a car free development, CMP and highways contributions. This is in accordance with Circular 11/95, where it states at Appendix B as an example of an unacceptable condition, is one requiring loading and unloading and the parking of vehicles not to take place on the highway, as it purports to exercise control in respect of a public highway which is not under the control of the applicant.

## **CONCLUSION**

In light of the above, the application is recommended for approval subject to a S106.

**Recommendation – Grant Prior Approval Subject to S106**