

Delegated Report		Analysis sheet		Expiry Date:		07/07/2014	
		N/A		Consultation Expiry Date:		13/06/2014	
Officer				Application Number(s)			
Rachel Miller				2014/3220/P			
Application Address				Drawing Numbers			
7-9 Perrin's Court Hampstead London NW3 1QS				See draft decision notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use of ground floor of 9 Perrin's Court from retail (Class A1) to financial and professional services (Class A2).							
Recommendation(s):		Refuse planning permission					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	12	No. of responses	01	No. of objections	01
				No. electronic	00		
Summary of consultation responses:		<p>Press notice displayed from 22/05/2014 until 12/06/2014 Site notice displayed from 23/05/2014 until 13/06/2014</p> <p>One letter received – objecting for the following reasons:</p> <ul style="list-style-type: none"> • Object for the same reasons that a similar application was refused in 2012 • The proposed change of use from A1 to A2 would cause a loss of retail floorspace contrary to policy CS7 and policies DP10 and DP12 of the LDF • Perrins Court by virtue of its being one of the few pedestrian spaces in Hampstead is a lively retail quarter and the loss of valuable frontage to an enlarged estate agents office would be detrimental to the character and function of the Hampstead town centre. 					

**CAAC/Local groups*
comments:**
*Please Specify

Hampstead CAAC - comment on the application:

"We regret the loss of retail activity in such a location which is clearly due to the combination of business rates, high rents and relative lack of footfall. This last is exacerbated by change of use such as proposed. This threatens the desire of maintaining vibrancy a key element of Camden policy".

Heath and Hampstead Society – strongly object to the change of use

"As is well-known and disliked by those who live and would like to shop in Hampstead there are already a large number of estate agents. The diversity of shopping units has reduced substantially in the last few years.

There is no reason why estate agents should not use the existing first floor office spaces and every reason why they should not take up more shop frontage thus reducing the attraction of Hampstead as a shopping area.

In particular Perrins Court should be a lively pedestrian street full of diverse small shop units not lined with users such as estate agents.

We find it perverse and strange that a shop unit in such a busy area should remain unlet for so long. This fact should not be considered as relevant during the decision-making process.

We are pleased that the previous application was refused and we consider that Camden's Core Strategy 7 gives sufficient scope for this application also to be refused."

Site Description

The site contains a two storey commercial building located mid-way along Perrins Court – a pedestrian lane in Hampstead Village. The ground floor unit at number 9 is currently vacant however was formerly occupied by a hairdresser. The ground floor at number 7 is occupied by an estate agent (Class A2).

The site is located within a Core Retail Frontage in Hampstead Town Centre and within the Hampstead Conservation Area.

Relevant History

9 Perrins Court

2012/6324/P – Planning permission was refused on 30th January 2013 for the change of use from Class A1 (retail) to a 'flexible use' within Classes A1 (retail) and A2 (financial and professional services) for the following reason:

The proposed change of use, by reason of the loss of retail floorspace on a designated Core Frontage, would be detrimental to the character and function of the Hampstead Town Centre. This is contrary to policy CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP10 and DP12 of the London Borough of Camden Local Development Framework Development Policies.

This decision was appealed and dismissed by the Planning Inspectorate on 13th November 2013

2012/2947/P – Certificate of Lawfulness (Proposed) was refused on 07/09/2012 for the retention of retail shop (Class A1) at ground floor level and change of use from estate agent (Class A2) to residential flat at the first floor level.

2007/2190/P – Planning permission was refused on 06/03/2008 for the change of use of ground floor premises from Class A1 (retail) to Class A2 (financial and professional services).

7 Perrins Court

2012/5169/P - Certificate of Lawfulness (Proposed) was granted on 11th December 2012 - Retention of estate agent (Class A2) at ground floor level, change of use from estate agent on the first floor (Class A2) to 1 X 1Bed and 1 X2 bed self-contained flats (Class C3). This has not been implemented

2012/2937/P – Certificate of Lawfulness (Proposed) was refused on 07/09/2012 for the retention of estate agent (Class A2) at ground floor level and change of use from estate agent (Class A2) to

residential flat (Class C3) at first floor level.

7-9 Perrins Court

8804046 – Planning permission was granted on 22/09/88 for the change of use and sub-division of part of ground floor to form two units to be used separately for retail at no. 7 (Class A1) and financial and professional services purposes at no. 9 (Class A2).

8804045 – Planning permission was granted on 02/11/88 for external alterations to the front elevation in association with Savills occupation of the property.

8803816 – Planning permission was refused, and dismissed at appeal (appeal decision dated 10/05/89 for the erection of a new mansard second floor for use as offices.

2013/5170/P – Planning permission was refused on 19th November 2013 for the erection of mansard roof extension to create 2 x 1-bed residential flats (Class C3). Installation of green roof.

2014/3211/P - Erection of a roof extension to form 1x2 bed flat. Pending decision

Relevant policies

LDF Core Strategy and Development Policies

CS5 (Managing the impact of growth and development)

CS7 (Promoting Camden's centres and shops)

DP10 (Helping and promoting small and independent shops)

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)

Camden Planning Guidance

CPG5 (Town centres, retail and employment) 2013 chapters 1, 2, 3, and appendices 1 and 3

Hampstead Conservation Area Statement 2001

NPPF (2012)

The London Plan (2011)

Assessment

1.0 Proposal

1.1 Planning permission is sought to change the use of the ground floor of 9 Perrin's Court from retail (Class A1) to financial and professional services (Class A2). The proposed works involve amalgamation of Units 7 and 9 at ground floor level to expand the existing estate agents (Class A2) at number 7 Perrins Court. There are no external works proposed as part of this application.

1.2 Within the covering letter, the Appellant makes clear that number 9 Perrins Court has been vacant since June 2012 and states that there have been no formal offers for the premises from a retail operator since August 2013. The Appellant considers that the proposed development would bring the vacant floorspace back into an economically active use which would "have a positive impact on the streetscene and the overall vitality and viability and support sustainable economic growth".

1.2 The material consideration in relation to this application is the loss of retail.

2.0 Loss of retail

2.1 The application site is located within the Core Retail Frontage within Hampstead Town Centre. There is a general policy presumption in favour of protecting retail uses throughout the Borough's town centres in order to serve the needs of residents, workers and visitors.

2.2 Policy CS7 seeks to protect and enhance the role and unique character of each of Camden's town

centres and in doing so seeks to protect and promote small and independent retail shops. CS7 states that “the Council will promote successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors by:

e) seeking to protect and enhance the role and unique character of each of Camden’s centres, ensuring that new development is of an appropriate scale and character for the centre in which it is located;

f) providing for, and maintaining, a range of shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice;

g) protecting and promoting small and independent shops, and resisting the loss of shops where this would cause harm to the character and function of a centre;”

The LDF Core Strategy provides centre specific planning objectives for each of the Borough’s town centres. One of the key objectives for Hampstead is to “*Focus shopping provision in the core of the centre by managing the proportions of non-retail uses*”. More details of this approach are provided in the adopted Camden Planning Guidance 5.

2.3 Policy CS7 is supported by policy DP12 which seeks to support strong centres and manage the impact of food, drink, entertainment and other town centre uses. In doing so, it states that consideration will be given to effect of non-retail development on the shopping provision and the character of the centre in which it is located. Paragraph 12.6 states “The Council will not grant planning permission for development that it considers would cause harm to the character, amenity, function, vitality and viability of a centre or local area. We consider that harm is caused when an impact is at an unacceptable level, in terms of trade/turnover; vitality and viability; the character, quality and attractiveness of a centre; levels of vacancy; crime and antisocial behaviour, the range of services provided; and a centre’s character and role in the social and economic life of the local community. We will consider the cumulative impact of additional shopping floorspace (whether in a centre or not) on the viability of other centres, and the cumulative impact of non-shopping uses on the character of the area”.

2.4 Policy DP10 of the Camden Development Policies seeks to help and promote small and independent shops by encouraging the provision of small shop premises suitable for small and independent businesses.

2.5 Camden Planning Guidance 5 (Town centres, retail and employment) explains how the effect of non-retail development will be assessed in the Borough’s town centres. In Hampstead, CPG5 makes clear that in order to protect the town centre’s retail function, proposals that would result in the following circumstances will be resisted:

- Proposals that would result in less than 75% of the premises in Core Frontages being in retail use; and
- Proposals that would result in more than 2 consecutive premises within the Core Frontage being in non-retail use.

2.6 In determining the relevant section of the Core Frontage to assess, CPG5 explains that a frontage will start at a road or junction or where there are ground floor residential uses in the run, at the beginning of the first two consecutive non-residential uses at ground floor level.

2.7 Using the criteria set out in CPG5 to assess the retail provision of this part of the town centre, the relevant section of the Core Frontage to assess would be that which begins at no. 7 Perrin’s Court and ends at no. 4 Heath Street. This part of the frontage comprises the following units:

- 7 Perrin’s Court – Savills (Class A2);
- 9 Perrin’s Court – Currently vacant (Class A1); - APPLICATION SITE
- 5A Perrin’s Court - Ginger & White Coffee shop (Class A1);
- 1A Perrin’s Court / 8 Heath Street – Linea Ladies and Menswear (Class A1);
- 6 Heath Street – Vita electrical shop (Class A1);
- 4 Heath Street – Photocraft camera shop (Class A1).

2.8 The existing level of retail provision in this section of the Core Frontage is 83%. If no. 9 were to change to use as an estate agent (Class A2), this would be reduced to 66.6% which is below the 75% threshold set out by CPG5.

2.9 During the planning appeal at the site in 2012 (ref APP/X5210/A/13/2200845), the Inspector concluded that "The Council asserts that the retail provision along the relevant frontage would fall from 83% to 66.6%, were the proposed development to go ahead. The appellant, in support of its case, asserts that the ground floors of Nos 7 & 9 would be amalgamated, thus creating one unit – and thus, it considers that there would be no change to the proportion of units in retail use. However, the application and the plans for the proposed development relate to No 9 Perrins Court only and there are no detailed plans before me to substantiate this assertion." The Inspector found that the change of use would result in harm and the loss of non-retail function (para 8) to the detriment of the retail character of the area. The Applicant has now shown on plan that there would be an amalgamation of planning units at numbers 7 and 9 Perrins Court.

2.10 The Applicant argues that as the proposals involve the amalgamation of units 7 and 9 to create one A2 unit, it would mean that the percentage of retail within the frontage would decrease to just 80%. Paragraph 8.7 of CPG5 states that "in some instances a shop unit may include a number of addresses, such as where two shops have been combined into one. For the purposes of this guidance they will be counted as one unit." This paragraph of the CPG refers to existing units and not proposed.

2.11 The Applicant has however submitted advice from Paul Tucker QC, at his para 7 he says:

"...If the proposal is expressly based upon a change of use so as to facilitate an amalgamation of the two units into one and provided that an enforceable means is proposed to ensure that the newly combined unit could only operate as a single unit and could not be subdivided without the requirement for further planning permission to be secured – then the only lawful basis upon which the LPA should determine the application is on the basis of the proposed configuration and not the current."

2.12 The Applicant has argued that the 'only lawful' way to do this is if the Council is by basing the frontage calculation on the future assumption that this would be used one unit, however you will know that the policy does not calculate in this manner. At Appendix 3 of CPG5 it clearly sets out the 'Calculation of frontage percentages'. The retail units are presently separate and on this basis the calculation need to take place in accordance with the guidance that is stated at 8.6 to existing lawful uses. The Council's policy does account for units that have already been merged and are one unit at para 8.7 - as is being advocated by counsel's advice. It is the Applicants view that the calculation should be based on 5 rather than the 6 units because the units will operate as one unit, however this does not accord with policy that is set out at paras 8.6 and 8.7.

2.13 In respect of the second test, the proposals would not result in more than 2 consecutive premises being in non-retail use.

2.14 The Applicant has stated that they have marketing evidence showing the lack of interest in the A1 unit however this has not been submitted with the application.

2.15 Objections have been raised to the loss of the retail use by the Heath and Hampstead Society and the Hampstead CAAC as well as a local resident.

3.0 Conclusion

3.1 It is considered that the proposals are unacceptable as they would lead to a loss of retail floorspace and cause harm to the retail function of this part of Hampstead Town Centre. It is recommended that the application is refused.