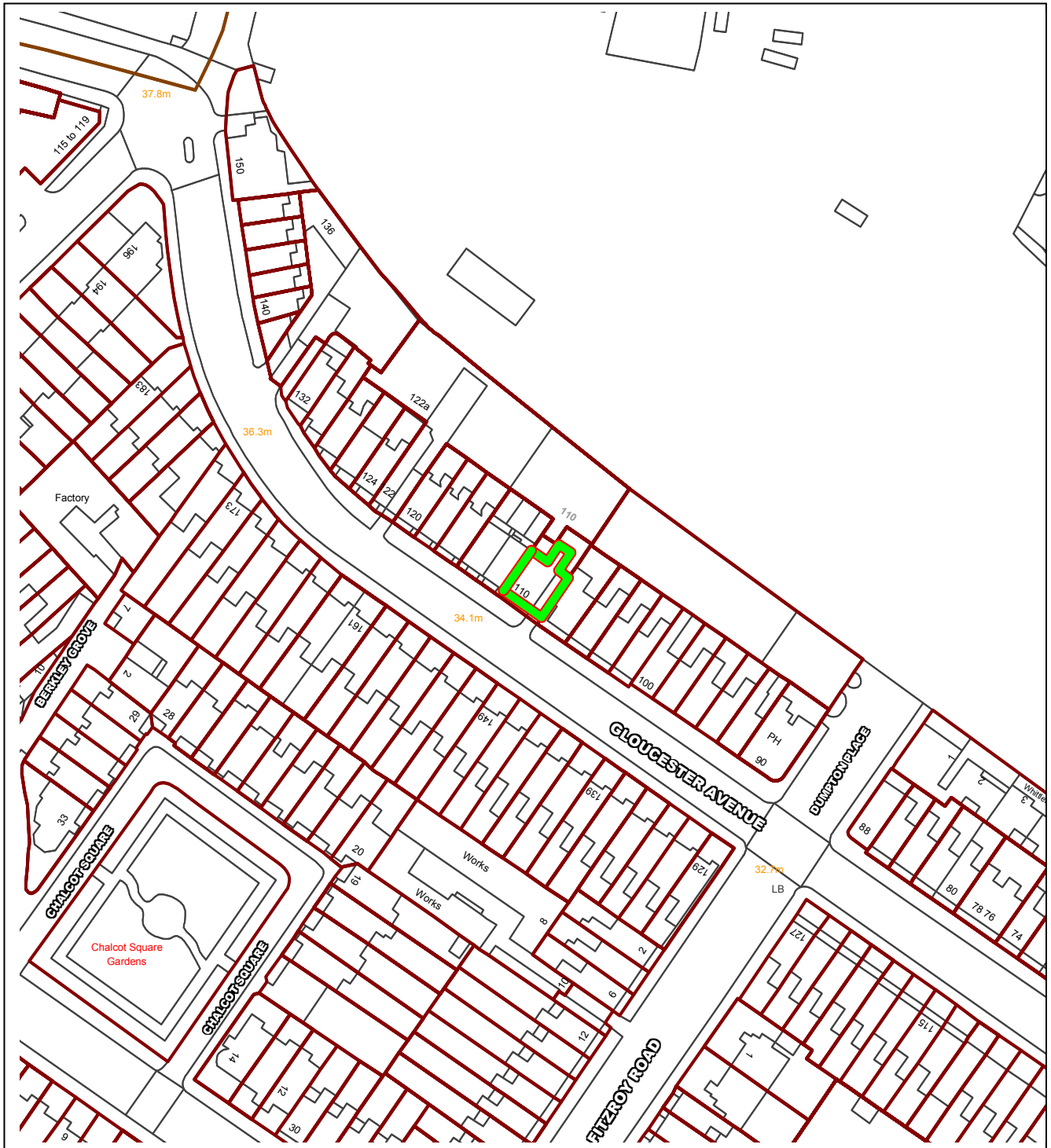


Front of 110 Gloucester Avenue 2015/3491/P



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1.



Front facade

2.



Location of site

Delegated Report		Analysis sheet		Expiry Date:	24/07/2015
(Members Briefing)		N/A / attached		Consultation Expiry Date:	16/07/2015
Officer			Application Number(s)		
Rachel English			2015/3491/P		
Application Address			Drawing Numbers		
Front of 110 Gloucester Avenue London NW1 8HX			See draft decision		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use from offices (Class B1) to residential (Class C3) comprising 7 flats					
Recommendation(s):		Grant prior approval subject to a S106			
Application Type:		GPDO Prior Approval Class O Change of use B1 to C3			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	23	No. of responses	03	No. of objections	03
Summary of consultation responses:	<p>Site notice displayed from 24/06/2015 until 15/07/2015 Press notice displayed from 25/06/2015 until 16/07/2015</p> <p>3 objections received from 112-114 Gloucester Avenue and Flat 1, 2 Albert Terrace with the following concerns:</p> <ol style="list-style-type: none"> 1) This is the only business centre left in Primrose Hill and is a viable business use 2) Provides a vital lifeline to shops during the week and without it the restaurants and shops will struggle to survive 3) It will not bring anything to the neighbourhood 4) The proposal will create noise and disturbance during construction 5) The loss of the offices will harm the conservation area 6) It will take up more parking spaces and lead to an increase in traffic <p><u>Officer response</u></p> <ol style="list-style-type: none"> 1) – 5) These points cannot be taken into account as they fall outside of those matters that may be considered in the determination of this application under Class O of the GPDO. The application does not propose any external changes. 6) See section 3.12 and 3.13 					
CAAC/Local groups* comments: *Please Specify	<p>Primrose Hill CAAC –</p> <ol style="list-style-type: none"> 1) We very much regret the use of GPDO prior determination to cause further loss of employment space within the conservation area, harming its character and appearance by this loss of employment and mix of uses. 2) We note the Planning Inspector’s comments on the importance of the employment uses in coming to his decision on the recent appeal on this site in December 2014 (APP/X5210/A/14/2226097) at para 14 when he stated: “ I note the appellant’s suggestion that there is a shortage of office space in the locality and the at the centre provides an important source of serviced, small-scale office space for small and upcoming businesses. The service provided for the local community would clearly benefit from the improved and expanded accommodation and I further note the Advisory Committee’s concern to support the proposed increase in employment space.” The appellant is now applying to destroy what he identified as an “important source of serviced, small-scale office space for small and upcoming businesses.” We note that any additional accommodation which might come available under the consent granted by the Inspector in 2014 would not fall within the time limits set by the GPDO and the timing of this 					

application.

- 3) In this location we are concerned that the transport impacts of residential use would be harmful: not only possible vehicle use by residents, but by vehicles delivering to or collecting from the new accommodation in a street which is already heavily trafficked and intensively parked. Access to the site is across a heavily used footway.”

Officer response

- 1) These matters fall outside of those factors that may be considered in the determination of this application under Class O of the GPDO.
- 2) This is noted however it does not form part of the assessment of this application
- 3) See sections 3.9 – 3.11

Site Description

The site comprises a four storey building with basement, located on the north side of Gloucester Avenue. The site is located in the Primrose Hill Conservation Area.

The building is used as offices (Class B1).

Relevant History

2015/3057/P - Change of use from offices (Class B1) to residential (Class C3) comprising 12 flats. Decision currently pending

2014/1062/P - Formation of curtain walling to existing external staircase to front of the building to provide a sheltered enclosure with associated front door. Alteration to the front facing gable end to form eaves and double dual pitch roof to southern element. Raising of the eaves and roof ridge to northernmost element to the front. Raising of eaves to rear and installation of 9 x windows to rear to create second floor level. Allowed on appeal 22/12/2014 (ref APP/X5210/A/14/2226097)

Relevant nearby sites

2015/0462/P - 44-44A Gloucester Avenue – Prior approval granted for change of use from Office (B1) to (C3), to provide 1 x 1 bedroom and 16 x 2 bedroom residential units with retention of existing house. Granted subject to a S106 on 25th March 2015

Relevant policies

National Planning Policy Framework 2012

- Chapter 4 (Promoting sustainable transport)
- Chapter 10 (Meeting the challenge of climate change, flooding and coastal change)
- Chapter 11 (Conserving and enhancing the natural environment)

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015

The Environmental Protection Act 1990(a) part IIA

The Contaminated Land Statutory Guidance issued by the Secretary Of State for Environment, Food and Rural Affairs in April 2012

Assessment

1.0 Proposal

1.1 The proposal seeks to change the use of the front of 110 Gloucester Avenue which is currently in use as offices (Class B1) to residential use (Class C3) to provide 7 residential units.

2.0 Procedure

2.1 The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 came into force on 30 May 2013 and introduced Class J, which allows for development consisting of a change of use of a building and any land within its curtilage to a use falling within C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class B1(a)(office) of that Schedule.

2.2 The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 which came into force on the 15 April 2015 supersedes the 2013 amendment and considers change of use from B1 offices to C3 residential under Class O. There is little material change in the permitted development rights.

2.3 This is subject to a number of conditions listed within sub-paragraph O.1 [(a)-(g)] and a subsequent condition in sub-paragraph O.2 relating to the need for the developer to apply to the local planning authority for a determination as to whether the prior approval of the authority is required as to:

- (a) transport and highways impacts of the development;
- (b) contamination risks on the site; and
- (c) flooding risks on the site.

2.4 It also refers to paragraph W and its provisions apply to such an application. The application is to ascertain whether the proposed change of use would constitute permitted development within the General Permitted Development Order ('GDPO') and whether prior approval is required.

3.0 Assessment

3.1 The development is assessed against O.1 paragraphs (a)-(g). Development is not permitted where:

(a) the building is on article 2(5) land;

The proposal complies: the site falls outside any article 2(5) land.

(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;

The proposal complies: the site has been used as Class B1(a) offices since before 30 May 2013.

(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;

The proposal complies: at the current time the use has not commenced and so the proposal accords as far as is possible at this stage.

(d) the site is or forms part of a safety hazard area;

The proposal complies: it is not in a safety hazard area

(e) *the site is or forms part of a military explosives storage area;*
The proposal complies: it is not part of a military explosives area

(f) *the building is a listed building or within the curtilage of a listed building;*
The proposal complies: the building is not listed or within the curtilage of a listed building.

(g) *the site is, or contains, a scheduled monument;*
The proposal complies: the site is not, and does not contain, a scheduled monument.

3.2 Therefore, the proposal accords with sub-paragraph O.1.

3.3 As the above pre-requisites are complied with, it falls to the Council to assess the proposal. With regard to the terms of reference of that assessment paragraph W(10) of the GPDO states: (10) The local planning authority shall, when determining an application:

(a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);

(b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application;

3.4 The applicant has submitted information with regards to sub para O.2 in order for the Council to make a determination as to whether prior approval is required as to:

(a) transport and highways impacts of the development;

(b) contamination risks on the site; and

(c) flooding risks on the site

3.5 The Planning Practice Guidance which was published on 6th March 2014 offers clarity on the prior approval process. Of relevance it states,

'By its nature permitted development should already be generally acceptable in planning terms and therefore planning obligations would ordinarily not be necessary. Any planning obligations entered into should be limited only to matters requiring prior approval and should not, for instance, seek contributions for affordable housing.'

(Planning Obligations, Paragraph: 005 Reference ID: 23b-005-20140306)

3.6 It is clear from the above that the Government acknowledged that there was some ambiguity in Class J of the Order and that they intended to clarify how it should be interpreted. It was not until 13th March 2014 when the explanatory memorandum to the Town and Country Planning (General Permitted Development) Amendment and Consequential Provisions) (England) Order 2014 was published that this clarity was provided.

3.7 The Explanatory Memorandum paragraph 4.7 states:

'In light of feedback on these provisions since they were enacted in 2013, the prior approval procedures in paragraph N of Part 3 of Schedule 2 to the General Permitted Development Order are amended to clarify that local planning authorities:

- must only consider the National Planning Policy Framework to the extent that it is relevant to the matter on which prior approval is sought;
- may attach conditions to grants of prior approval, as long as those conditions are relevant to the matter on which prior approval is sought;
- may refuse the application if they are not satisfied that the proposed development qualifies as permitted development, or if they have insufficient information to establish whether the proposed development qualifies as permitted development; and
- may invite further information from applicants relevant to the matters on which prior approval is sought or to the question of whether the proposed development qualifies as permitted development.’

3.8 The Council has obtained further legal advice from Counsel on whether the Order, in light of the above statement and additional guidance, enables consideration of wider issues than transport, flooding and contamination. The Council has been advised that this additional statement which is now supported by guidance clarifies the intent of Class J (now Class O under the 2015 amended GPDO), being that the NPPF can only be taken into consideration in relation to transport and highway impacts and contamination and flooding risks. As such, it is considered that assessment of this application can only take into consideration the matter of transport and highways impacts and flooding and contamination risks and not wider issues such as such as impact on amenity (unless the harm would contravene Article 8 of the European Convention on Human Rights - right to respect for private and family life) affordable housing, educational and community facilities contributions, and public open space contributions.

a) Transport and highways impacts of the development

3.9 The NPPF confirms that transport policies have an important role to play in facilitating sustainable development. Paragraph 29 states that “the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel”. It also recognises that “different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.” Given that Camden is within a densely populated urban area of London it is considered necessary to maximise sustainable transport solutions.

3.10 The site has a PTAL rating of 4 which means it has good access to public transport. It is located in the Primrose Hill controlled parking zone. The provision of any permits to future occupants would put pressure on the availability of on-street parking in the vicinity of the site and have associated traffic impacts with vehicles searching for spaces. As such the proposal is considered likely to have a material impact on the character of traffic in the vicinity of the site. For this reason, prior approval of the Council is considered to be necessary.

3.11 Subject to a Section 106 legal agreement designating the development as ‘car free’, the proposal would be considered to have an acceptable impact on the highway network. The Applicant has agreed to enter into a Section 106 legal agreement designating the units as car free.

(b) Contamination risks on the site

3.12 The NPPF notes that the planning system should contribute to and enhance the local environment by remediating contaminated land, and that the responsibility for ensuring a safe development rests with the developer.

3.13 The site is identified as being at risk from land contamination however the development is for a change of use within the building only with proposals affecting the existing building. There are no extensions or excavation proposed and there is no outdoor garden space for the site which means the

ground itself is not being disturbed. As such, there would not be a concern in respect of land contamination and so the impact is considered acceptable.

(c) Flooding risks on the site

3.14 The NPPF also confirms that flooding is an issue to be considered when determining planning applications, and so it is important that this is considered for this type of application.

3.15 The site is identified as being at risk of surface water flooding. The surrounding area mainly consists of residential terraced properties along Gloucester Avenue. These all have original lower ground floors under the footprint. The proposed change of use does not propose any additional basement and therefore an assessment on local ground, surface water and ground water conditions would not be required for this Prior Approval application.

3.16 The site falls within Flood Zone 1, which is assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). It is considered that a Flood Risk Assessment would not be required in the determination of this prior approval application as the proposed change of use should not have any adverse impact nor create any risk requiring mitigation.

4.0 Community Infrastructure Levy (CIL)

4.1 As the proposal results in new dwellings, it will be liable for the Mayor's and Camden's Community Infrastructure Levy (CIL). A standard informative is attached to the decision notice drawing CIL liability to the Applicant's attention.

5.0 Conclusion and recommendation

5.1 The proposal complies with Class O.2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015.

Grant prior approval subject to Section 106 legal agreement securing the units as car-free.

DISCLAIMER

Decision route to be decided by nominated members on Monday 20th July 2015. For further information please click [here](#)

Form London Limited
235 Netherwood Street
London
NW6 2JXApplication Ref: **2015/3491/P**
Please ask for: **Rachel English**
Telephone: 020 7974 **1343**

16 July 2015

Dear Sir/Madam

DRAFT
DECISION

In accordance with section 60 (2B) and (2C) of the Town and Country Planning Act 1990
(as amended by section 4(1) of the Growth and Infrastructure Act 2013)

Process set out by condition O.2 of Schedule 2 Part 3 Class O of the Town and Country
Planning (General Permitted Development) Order 1995 (as amended by SI 2008 No. 2362
and SI 2013 No. 1101)

Certificate of Lawfulness (Proposed) Prior Approval granted subject to the completion of a
S106

DECISION

The Council, as local planning authority, hereby confirm that their **prior approval is granted subject to the completion of a S106** for the proposed development at the address shown below, as described by the description shown below, and in accordance with the information that the developer provided to the local planning authority:

Address of the proposed development:**Front of 110 Gloucester Avenue
London
NW1 8HX****Description of the proposed development:**

Change of use from offices (Class B1) to residential (Class C3) comprising 7 flats

Details approved by the local planning authority:

Drawing Nos: Site location plan, (R339) 009, 010, 011, 109, 110, 111 and Design and Access Statement dated 11.05.2015.

Reason for approval:

The change of use from office (Class B1) to residential flats (Class C3) is permitted under Schedule 2 Part 3 Class O of the Town and Country Planning (General Permitted Development) Order 2015.

Informative(s):

- 1 The London Borough of Camden introduced the Community Infrastructure Levy (CIL) on the 1st of April 2015 to help pay for local infrastructure. This is in addition to the Mayoral CIL which helps fund the Crossrail introduced on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay the CIL charge.

The proposed CIL charge will be calculated in accordance with the regulations set out in Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended). For further information on the Camden CIL or Mayoral CIL charge please refer to the information on the Camden website which may be accessed via the following link: http://www.camden.gov.uk/ccm/cms-service/stream/asset/?asset_id=3298006

You are required to assume liability and notify the CIL team on commencement using the forms that can be downloaded from the planning portal; <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will issue an assumption of liability setting out the calculation and CIL demand notice setting out the method of payment accordingly. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or queries to CIL@Camden.gov.uk

- 2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020

7974 4444 or on the website
<http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

- 4 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.
- 5 You are reminded of the need to provide adequate space for internal and external storage for waste and recyclables. For further information contact Council's Environment Services (Waste) on 020 7974 6914/5 or see the website <http://www.camden.gov.uk/ccm/content/environment/waste-and-recycling/twocolumn/new-recycling-rubbish-and-reuse-guide.en>.
- 6 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ.
- 7 Under Section 25 of the GLC (General Powers) Act 1983, the residential accommodation approved is not permitted for use as holiday lettings or any other form of temporary sleeping accommodation defined as being occupied by the same person(s) for a consecutive period of 90 nights or less. If any such use is intended, then a new planning application will be required which may not be approved.

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully

Director of Culture & Environment

It's easy to make, pay for, track and comment on planning applications on line. Just go to www.camden.gov.uk/planning.

It is important to us to find out what our customers think about the service we provide. To help us in this respect, we would be very grateful if you could take a few moments to complete our online survey at the following website address: www.camden.gov.uk/dmfeedback. We will use the information you give us to help improve our services.