

Delegated Report		Analysis sheet		Expiry Date:		29/09/2014	
		N/A		Consultation Expiry Date:		08/09/2014	
Officer				Application Number(s)			
Niall Sheehan				2014/4733/P			
Application Address				Drawing Numbers			
Merlin House 122-126 Kilburn High Road London, NW6 4HY				Refer to Decision Notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Change of use from offices (Class B1a) to provide 12 x studio units (Class C3) at 1st, 2nd & 3rd floor levels.							
Recommendation(s):		Refuse Prior Approval					
Application Type:		GPDO Prior Approval Class J Change of use B1 to C3					
Conditions or Reasons for Refusal:		Refer to Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	38	No. of responses	00	No. of objections	00
				No. electronic	00		
Summary of consultation responses:		No responses have been received.					
CAAC/Local groups comments:		No responses received.					

Site Description

The site relates to a four-storey corner building (Merlin House) located on the east side of Kilburn High Road on the junction with Quex Road. The situation is such at present that an A1 retail unit is located to the ground floor with offices located to the upper floors (subject of the application). The first, second and third floor levels (634 sqm) are authorised and used as B1a use (Offices for the purposes of administration for a variety of small business). The building is neither listed, located within a Conservation Area or under any form of protection

Relevant History

2014/2279/P: Prior Approval Refused for "Change of use from offices (Class B1) to provide 12 x 1 bed residential units (Class C3) at 1st, 2nd & 3rd floor levels". Decision Date: 20/05/2014

Reason for Refusal: Unacceptable Transport Impacts, S106 could not be agreed with the council's legal team for the provision of Car Free development, Highways Contribution and the production of a Construction Management Plan.

PWX0103944: PP Granted for "Erection of telecommunication equipment on roof, including one screened equipment cabin and 6 pole mounted antennae" Decision Date: 18/12/2001.

Relevant policies

National Planning Policy Framework (2012): Chapter 4 - Paragraphs 29, 32 and 35

Assessment

1. Proposal

1.1 The change of use of the entire office building at first and second floor levels to provide 12 residential units (12 x studio flats) measuring 634sqm.

1.2 The application is to ascertain whether the proposed change of use would constitute permitted development within the General Permitted Development ('GDPO') and therefore be lawful development and whether prior approval is required.

Development not permitted by Class J where -

(a) the building is on article 1(6A) land; - complies, it falls outside of the 'exempt office area' designation in Camden.

(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; - complies, the building is used and it's lawful use is as Class B1(a) offices

(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 – complies, it will commence in 2014.

(d) the site is or forms part of a safety hazard area; - complies, it does not form part of a safety hazard area.

(e) the site is or forms part of a military explosives storage area; - complies, it does not form part of a military explosives storage area

(f) the building is a listed building or a scheduled monument – complies, the building is not listed or a scheduled monument

1.3 The application complies with each of the above criteria.

Conditions:

1.4 The applicant has submitted information 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

1.5 Each of these criteria will be considered below.

(a) Transport and highways impacts

1.6 In determining these types of applications Class N(7) states that the local planning authority may require the developer to submit such information regarding the impacts and risks referred to in paragraph J2 [i.e. the transport and highways impacts of the development],... as the case may be, as the local planning authority may reasonably require in order to determine the application, which may include—

(a) assessments of impacts or risks;

(b) statements setting out how impacts or risks are to be mitigated.

(8) 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 paragraphs (3)

[noted above]...;

(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; 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.*”

On-street parking

1.7 The Council has considered the highways impacts of the change of use and whether to seek appropriate mitigation measures to mediate against any highways impacts. Camden’s strategy and policies in line with national planning policy consider access to car parking and seek to encourage car-free and car-capped developments in areas of moderate or good public transport accessibility. The site has a Public Transport Accessibility Level (PTAL) of 6a (excellent) and is easily accessible by public transport; Kilburn High Road Overground located approx. 300m away(South), and a variety of bus stops serving numerous different routes located 0m-300m away on Kilburn High Road and Kilburn High Road Underground Station(North) is located 800m away.

The Council’s Transport Team has advised that given the number of new residential units proposed being located within an area where parking spaces are in scarce supply, the development is likely to result in a significant material increase in local pressures on parking and the character of traffic in the vicinity of the site. In accordance with policies DP16 and DP18 and the NPPF objectives in favour of sustainable transport the proposed residential units should be secured as car free. This would be secured by s106 legal agreement.

Wider Sustainable transport Impacts

Paragraph 8(b) of the GDPO as amended states that the local planning authority shall have regard to the NPPF as if the application were a planning application in relation to the three categories that can be considered by the Council. Paragraph 29 of the NPPF states:

“the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.” In paragraph 35 it goes on to advise that “developments should be located and designed where practical to...give priority to pedestrian and cycle movements, and have access to high quality public transport facilities.”

1.8 On assessment of the wider sustainable transport impacts of the development, although the provision of cycle spaces would be viewed as a welcome addition given the given the overall scale of this particular development, cycle spaces are not considered to be an area for which the council would seek a financial contribution for.

On larger schemes where there is likely to be greater wider environmental and pedestrian impacts arising from the development, we would usually seek a financial contribution towards improving the pedestrian environment/sustainable transport. In this case the scale of development is not sufficiently large to require such a contribution.

Protection of footway/roadway

1.9 A financial contribution was set out in negotiations and designed to adequately cover any damage to the footway or highway which may occur during the construction phase. This was agreed as part of a Section 106 and would provide safeguards to the footway or highway during the construction phase, and, if damage were to occur, the council would be able to re-cooperate and may have to bear the costs of repair.

Construction Impacts

1.10 Being located on a busy junction, the applicants/developers would need to demonstrate how any impacts to access and the highway would be managed and mitigated during the construction phase. Otherwise, other users would be significantly affected. For any Construction Management Plan(CMP) to be legally enforceable including aspects of the CMP relating to the roadway/footway on Kilburn High Road and Quex Road which is outside the site boundary, it is necessary to secure this through a s106 planning agreement.

A S106 has been agreed between the council and the applicant for a commitment to car free, a highways contribution and the protection of the footway alleviating further stress to the highway thereby complying with Class J2(a).

(b) Contamination risks on the site

The site is not identified as potentially contaminated.

(c) Flooding risks on the site

The site is not identified as being at risk of river or surface water flooding.

2. Amenity

On assessment of residential amenity impacts of the proposal, the flats predominantly view onto the public roadway at Kilburn High Road and Quex Road. The nearest residential units which could be affected by the proposal are located a significant distance away(affected windows in excess of 18m away) at Quex Mews, across a residential laneway to the east of the site. Furthermore the nearest window openings in the application site serve a stairwell leading from ground to third floor. Given all of the aforementioned the proposed development would be most unlikely to create adverse overlooking or a loss of privacy issues to any neighbouring residential properties

3. Recommendation

Prior approval is required and is granted subject to a section 106 legal agreement securing the new residential units as car free, securing a highways contribution and a Construction Management Plan, in compliance with Class J2(a) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.