

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		17/11/2015	
		N/A / attached		<b>Consultation Expiry Date:</b>		23/10/2015	
<b>Officer</b>				<b>Application Number(s)</b>			
Kate Phillips				2015/5472/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
1 West End Lane London NW6 4NU				2110/LOC; 2110/1; 2110/2.			
<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 A1 (retail) to C3 (dwellinghouse) to create 1 no. self-contained studio flat at ground floor							
<b>Recommendation(s):</b>							
<b>Application Type:</b>		GPDO Prior Approval Class M change of use of A1/A2 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>18</b>	No. of responses	<b>00</b>	No. of objections	<b>00</b>
				No. electronic	<b>00</b>		
<b>Summary of consultation responses:</b>		A site notice was displayed on 02/10/2015. No consultation responses have been received.					
<b>CAAC/Local groups* comments:</b> *Please Specify		N/A					

## Site Description

No. 1 West End Lane is an end of terrace, 3 storey, brick building on the north-west side of the road. The building comprises a retail unit on the ground floor and residential accommodation on the upper floors.

The building is not listed and it is not within a conservation area. There are no article 4 directions covering the application site.

## Relevant History

2007/1256/P - Alterations to shopfront including installation of new glazed entrance door, to allow provision of separate access to existing retail unit - Alterations to shopfront including installation of new glazed entrance door, to allow provision of separate access to existing retail unit.

9400275 - The installation of a new shopfront - Refuse Full or Outline Permission 22-07-1994.

## 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) (England) Order 2015**

**The Environmental Protection Act 1990(a) part IIA**

**The Contaminated Land Statutory Guidance issued by the SoS for Environment, Food and Rural Affairs in April 2012**

## Assessment

### The proposal

The proposal seeks to change the use of the ground floor of the building from a shop (Class A1) to residential use (Class C3), to provide 1 no. self-contained residential unit.

### Procedure

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, Class M (a) (i) allows for development consisting of a change of use of a building from a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.

Class M (b) allows for building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

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

- (a) transport and highways impacts of the development,
- (b) contamination risks in relation to the building,
- (c) flooding risks in relation to the building,
- (d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use—
  - (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or
  - (ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and
- (e) the design or external appearance of the building,

Paragraph W sets out the procedure for applications for prior approval under Part 3. This application seeks to ascertain whether the proposed change of use would constitute permitted development and whether prior approval is required.

### Compliance with Paragraph M.1

**Development is not permitted by Class M if —**

- (a) the building was not used for one of the uses referred to in Class M(a)—**
  - (i) on 20th March 2013, or**
  - (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;**

The proposal complies. At the time of the officer's site visit, the use of the ground floor of the building was unclear because the shutters were closed (the unit appears to be vacant). However, Council records suggest that the lawful use of the building on 20<sup>th</sup> March 2013 was Class A1 (retail) and an initial investigation suggests that appropriate business rates have been paid for a shop and premises prior to that date. The Council's latest retail survey suggests that the unit was previously used as a hairdressers.

**(b) permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;**

The proposal complies. Council records suggest that the use of the unit has always been Class A1 (retail).

**(c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;**

The proposal complies. The cumulative floor space of the existing building changing use does not exceed 150 square metres; it would amount to approximately 41 square metres.

**(d) the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;**

The proposal complies. No other part of the building has previously changed use under Class M and no other applications under Class M at the building are pending determination.

**(e) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;**

The proposal complies. The only proposed change to the external appearance of the application building is a change to the fenestration design. This would not alter the external dimensions of the building.

**(f) the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order); or**

The proposal complies. The proposal does not involve any demolition works.

**(g) the building is—**

**(i) on article 2(3) land;**

The proposal complies. The application site is not on article 2(3) land.

**(ii) in a site of special scientific interest;**

The proposal complies. The application site is not in a site of special scientific interest.

**(iii) in a safety hazard area;**

The proposal complies. The application site is not within a safety hazard area.

**(iv) in a military explosives storage area;**

The proposal complies. The application site is not within a military explosives storage area.

**(v) a listed building; or**

The proposal complies. The application building is not statutorily listed.

**(vi) a scheduled monument.**

The proposal complies. The application building is not a scheduled monument.

It is concluded that the proposal constitutes permitted development, pursuant to the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, Part M.1.

### **Compliance with Paragraph M.2**

**Where the development proposed is development under Class M(a) together with development under Class M(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—**

**(a) transport and highways impacts of the development,**

The application site has a PTAL rating of 6a which means it is highly accessible by public transport; and it is located within the Kilburn Priory controlled parking zone (CA-K), which operates between 0830 and 1830 hours on Monday to Friday.

The provision of any parking 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 and prior approval of the Council is considered to be necessary. Subject to a Section 106 legal agreement designating the development as 'car free', the proposal is considered to have an acceptable impact in this regard.

Ordinarily, 1 cycle parking space should be provided for a 1-bed unit. However, the constraints of the application site do not allow for this. The proposal is therefore considered to be acceptable in this regard also.

**(b) contamination risks in relation to the building,**

The application site is not identified as being at risk from land contamination and the history of the building suggests that there have not been any potentially hazardous uses occupying the site for a considerable period of time. As such the prior approval of Council with regard to contamination is not considered to be necessary.

**(c) flooding risks in relation to the building,**

The application site is in an area identified in Camden's Strategic Flood Risk Assessment as being at risk of surface water flooding, because West End Lane flooded in 2002. As such, prior approval of the Council with regards to flooding risks on the site is considered to be necessary.

In response to the Council's request for further information, the applicant notes that the building has 100% site coverage and surface water and rainwater collect at the adjacent property, which is out of their control. There is limited scope to implement measures to mitigate flood risk and the impact on the existing drainage infrastructure at the site; however, the applicant has demonstrated a willingness to install a low water use WC, an eco-shower and an eco-basin tap at the property.

The Town and Country Planning (General Permitted Development) (England) Order 2015, Part W (13) notes that the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The abovementioned measures can therefore be secured by condition.

Given the circumstances of the application site, it is considered that the applicant has satisfactorily demonstrated how methods will be included in the proposal to ensure there is no additional strain on adjoining sites or the existing drainage infrastructure; and that the development will cope with being flooded. The proposal is therefore considered to be acceptable in this regard.

**(d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use—**

**(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or**

**(ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and**

No evidence has been provided to suggest that there is no reasonable prospect of the building being used for Class A1 (retail) use again in the future (it is currently vacant). Nevertheless, the application site is within Kilburn Town Centre (as defined by the LDF) which features a wide range of small, independent shops which serve the day-to-day needs of the local population.

The application site does not form part of a designated Core or Secondary Frontage. West End Lane (in the vicinity of the application site, at its western end) leads away from Kilburn High Road (the main shopping street) and it includes a few small commercial units (at the time of the officer's site visit these included an estate agents, a hairdressers and a taxi cab office).

It is not considered that the proposal would detrimentally impact on adequate provision of Class A1 (retail) units in the town centre and neither is it considered that the proposal would cause harm to the sustainability of Kilburn Town Centre as a shopping destination. As such, prior approval is not required in this respect.

**(e) the design or external appearance of the building,**

Class M. (b) allows for building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule. The proposal involves changes to the fenestration design at the front; however the proposed changes are minimal and reasonably necessary to convert the building to residential use. Therefore prior approval is not required in this respect.

**Recommendation:** Grant prior approval, subject to conditions.