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| Delegated Report | | Analysis sheet | | Expiry Date: | | 15/03/2016 | |
| | | N/A / attached | | Consultation Expiry Date: | | | |
| Officer | | | | Application Number(s) | | | |
| Shane O'Donnell | | | | 2016/0200/P | | | |
| Application Address | | | | Drawing Numbers | | | |
| The Basement Level 122 Drummond Street London NW1 2HN | | | | 4462/4, PP-02 Rev P1. | | | |
| PO 3/4 | | Area Team Signature | | C&UD | | Authorised Officer Signature | |
| | | | | | | | |
| Proposal(s) | | | | | | | |
| Proposed Change of Use of the basement level of a Shop (Class A1) to a Class C3 (Dwellinghouse). | | | | | | | |
| Recommendation(s): | | Refuse Prior Approval | | | | | |
| Application Type: | | GPDO Prior Approval Class M change of use of A1/A2 to C3 | | | | | |
| Conditions or Reasons for Refusal: | | Refer to Draft Decision Notice | | | | | |
| Informatives: | | | | | | | |
| Consultations | | | | | | | |
| Adjoining Occupiers: | | No. notified | 06 | No. of responses | 02 | No. of objections | 00 |
| | | | | No. electronic | 00 | | |
| Summary of consultation responses: | | 2 letters of support received form retail unit on ground floor and from a neighbouring resident | | | | | |
| CAAC/Local groups* comments: *Please Specify | | N.A. | | | | | |

Site Description

The application site relates to a mixed use four storey building with a residential accommodation above and retail use at ground floor and basement.

The application site has been designed as falling within the Neighbourhood Centre and Euston Growth Area under the Camden Council proposals Map

The application site has been the subject of an enforcement investigation and an Enforcement Notice issued under Section 172 of the Town & Country Planning Act 1990 as amended, requiring the cessation of the basement unit for C3 purposes. At the time of the site visit for the current application (1st of March 2016) it did not appear that the property was currently occupied.

The application site is not within a conservation area and is not listed.

Relevant History

2013/1039/P-Conversion of basement level ancillary to ground floor shop (Class A1) to self-contained studio flat (Class C3), including the re-opening of front lightwell with the addition of an external staircase (retrospective).

Refused 17/05/2013 Appeal Dismissed 27/11/2013

2014/5443/P-Part retrospective planning permission for the change of use of basement from A1(shop) to 1x one bed self-contained flat (C3) and proposed alterations to the external pavement vault form a bedroom.

Refused 08/01/2015 Appeal Dismissed 13/11/2015

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) (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

Proposal

The proposal seeks to change the use of the basement of a retail unit (A1) to residential use (C3), to provide 1 no. self-contained 1-bed studio flat.

Assessment

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 came into force on 15th April 2015 and introduced Class M, which allows for development consisting of a change of use from A1 (retail) or A2 (financial and professional) or a betting shop or pay day loan unit to a residential use (C3).

This change of use is subject to a number of conditions set out in sub-paragraphs M.1 [(a)-(g)] and M.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.**

Paragraph W sets out the procedure for applications for prior approval under Part 3. This 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.

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;**

Response: Council Tax has been paid on this residential unit since the 26th of March 2013. On the 23rd of March 2013, the council received a retrospective application for 'conversion of basement level ancillary to ground floor shop (Class A1) to self-contained studio flat (Class C3), including the re-opening of the front lightwell with the addition of an external staircase'. The front lightwell that services the proposed residential unit was already built when this application was determined. It would seem reasonable to conclude that the basement unit was converted at the same time as completion of the front lightwell. The site visit of this application in April 2013 revealed an internal configuration including bathroom and kitchen facilities, as well as residential storage units. The site visit of the current application which took place on the 1st of March 2016 confirmed an internal layout the same as that witnessed in April 2013. It is noted that a statutory declaration by the site owner was received on the 09/03/2015 stating that works were completed on site on the 26/03/2013 and that the basement flat had never been occupied by a residential user. However it is not clear what the configuration of the property was on the 20th of March 2013, although works were not complete there would remain the question whether the basement was available for A1 use as it is not clear that at this date the 20th March 2013 that the ground floor premises and the basement were a single planning unit.

- (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 ground floor and basement unit has always been in A1 retail use for the known past until the unauthorised conversion of the basement level to residential accommodation

(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.

(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. The development would result in 11 square metres of floor space changing use under Class M.

(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 proposed development as relating exclusively to the conversion of the internal existing basement area would comply. However there are related external unauthorised works that would support the use of the area as a residential flat.

(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. No demolition is proposed.

(g) The building is–

- (i) on article 2(3) land;**
- (ii) in a site of special scientific interest;**
- (iii) in a safety hazard area;**
- (iv) in a military explosives storage area;**
- (v) a listed building;**
- (vi) or a scheduled monument.**

The proposal complies. The building is not on article 2(3) land; in a site of special scientific interest; in a safety hazard area; in a military explosives storage area; a listed building; or a scheduled monument.

Compliance with Paragraph M.2

Development under Class M 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–

The proposal fails to comply. The change of use has already started. A site visit took place on the 1st of March 2016 confirming the conversion of the unit into residential accommodation. Toilet and kitchen facilities had been installed as well as residential fitting and fixtures prior to the submission of the prior notification application. No evidence of an A1 use remained.

(a) Transport and highways impacts of the development;

The proposal would comply with S106 legal agreement. Development policy DP18 states that the Council seeks to ensure that developments provide the minimum necessary car parking provision. The Council expects development to be car free in the Central London Area, the town centres of Camden Town, Finchley Road/Swiss Cottage, Kentish Town, Kilburn High Road and West Hampstead, and other areas within Controlled Parking Zones that are easily accessible by public transport. The site is located in a Somers Town Parking Zone (CA-G) . In addition, the site has a PTAL rating of 6B (excellent) which means it is highly accessible by public transport. A car free development therefore needs to be secured as a Section 106 planning obligation if planning permission is granted. This would allow the proposal to be in accordance with Core Strategies CS11 and CS19 and Development Policies DP18, DP19 and DP21. Furthermore, in order to provide alternative transport options for occupants, it is considered that 2 cycle parking spaces should be provided.

Subject to a Section 106 legal agreement designating the development as 'car free' and a condition requiring that cycle parking space be provided on site prior to occupation, the proposal would be considered to have an acceptable impact on the highway network.

(b) Contamination risks on the site;

The proposal complies. 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 on the site,

The proposal complies: This site does not fall within one of Camden's Local Flood Risk Zones as defined by Camden's Strategic Flood Risk Assessment (SFRA). This site is also not in an area identified in the SFRA as being at risk of surface water flooding.

Conclusion: The conversion of the basement level has already occurred by the installation of residential facilities such as a toilet, kitchen facilities, and residential storage units.

The proposal thus fails to comply with condition M.2 and condition M.2 (a) (as a legal agreement was not sought in this case).

Recommendation: Refuse Prior Approval for failure to satisfy the requirements of Class M – Part 3 of the Town and Country Planning (General Permitted Development)(Amendment)(England) Order 2015.