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| Delegated Report | | Analysis sheet | Expiry Date: | 12/10/2016 |
| | | N/A / attached | Consultation Expiry Date: | |
| Officer | | | Application Number(s) | |
| John Diver | | | 2016/4347/P | |
| Application Address | | | Drawing Numbers | |
| 79 Gloucester Avenue London NW1 8LB | | | See draft decision notice | |
| PO 3/4 | Area Team Signature | C&UD | Authorised Officer Signature | |
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| Proposal(s) | | | | |
| Change of use from office use (B1a) to residential use (C3) at ground and lower ground floor levels to provide 1 x 2 bed unit under the Class O of the General Permitted Development Order 2015 | | | | |
| Recommendation(s): | | Granted Prior approval subject to Section 106 Legal agreement | | |
| Application Type: | | GPDO Prior Approval Class O Change of use B1 to C3 | | |

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| Conditions or Reasons for Refusal: | Refer to Draft Decision Notice | | | | | |
| Informatives: | | | | | | |
| Consultations | | | | | | |
| Adjoining Occupiers: | No. notified | 08 | No. of responses | 00 | No. of objections | 00 |
| Summary of consultation responses: | <p>A site notice was displayed between the 26/08/16 and the 14/09/16. The application as advertised in the local press between the 26/08/16 and the 15/09/16.</p> <p>No comments were received in relation to the proposed works.</p> | | | | | |
| CAAC/Local groups comments: | <p>One letter of comment was received from the Primrose Hill Conservation Area Advisory Committee. The comments raised can be summarised as follows:</p> <ul style="list-style-type: none"> - The loss of B1 office space is regrettable but it is acknowledged that this change is outside the control of local planning policies - Wish to draw attention to the importance of the shop front of the building and to note that any later proposals to remove this heritage asset would be strongly resisted. - Request for informative to be added to remind the applicant of the significance of this asset. <p><u>Officer's response:</u></p> <ul style="list-style-type: none"> - As outlined, the proposed works may only be assessed against the criteria of Class O of the GPDO 2015 - The importance of the heritage asset is acknowledged. This application does not include any exterior alteration to any elevation; however an informative will be added to remind the applicant that any external alterations to this frontage would require express permission. | | | | | |

Site Description

The application site hosts a 3 storey end of terrace property on the corner of Gloucester Avenue and Edis Street. The property had historically featured a shop at ground floor and ancillary residential accommodation above. The ground and lower ground floor levels of the property have been used for office purposes since the mid 70's with a self-contained residential unit above, however the historic shop front to the ground floor frontage has survived.

The site is located within the Primrose Hill Conservation Area. The application property is not listed. There are no Article 4's which might limit permitted development rights for the application site.

Relevant History

2016/1713/P

Certificate of Lawfulness (Existing) found that the continuing 'Use of ground and basement floors as office (Class B1a)' was found Lawful on the 21/06/2016

H10/12/19/35811

Planning application granted permission for 'Use of the ground floor and basement as offices' on the 21/04/1983

H10/12/19/27301

Planning application granted permission for 'Continued use of the ground floor and basement as offices' for a temporary period on the 21/11/1978

H10/12/19/14885

Planning application refused permission for 'Change of use of the ground floor and basement of 79 Gloucester Avenue, NW1, from use as factory and shop to use as offices' on the 21/11/1978. Reason for refusal was due to *"(1) The proposed use as office is not in accordance with the zoning in the initial development plan which is for residential purposes..."*

H10/12/9/14452

Planning application refused permission for 'Change of use of the ground floor and basement from light industrial to office at 79 Gloucester Avenue N.W.1.' on the 29/09/1972. Reasons for refusal were due to *"(1) The proposed use as office is not in accordance with the zoning in the initial development plan which is for residential purposes... (2) The proposal does not accord with the Councils policy of restricting the growth of office floor space as set out in the Written Statement of the Initial Development Plan..."*. This decision was subsequently appeal allowed with a time restriction of 5 years (appeal ref. T/APP/4408/A/73/2374 dated 26 July 1974)

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

1. Proposal

1.1. This application seeks prior approval for the change of use from office use (B1a) to residential use (C3) at ground and lower ground floor levels to provide 1 x 2 bedroom residential unit. This application is in sole relation to the change of use of the unit and is not assessing any external alterations which would require a separate planning application.

2. 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. This was updated as of the 6th April 2016. 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:

- Transport and highways impacts of the development;
- Contamination risks on the site;
- Flooding risks on the site.
- and impacts of noise from commercial premises on the intended occupiers of the development,

It also refers to paragraph W and its provisions apply to such an application.

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

3. Use of the site.

3.1. In order for the proposed change of use to be lawful, it must first be demonstrated that the unit was used for a use falling within Class B1(a) (offices) on 29th May 2013 or, 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.

3.2. Prior to the submission of this Prior Approval, the applicant has acted to confirm the current lawful use of the site via the submission of the Certificate of Lawfulness (Existing) ref. 2016/1713/P. As outlined in the history section of the report, this certificate was assessed and the lawful use of the site was confirmed to be office (B1a) via the granting of this certificate.

3.3. Since this determination (21/06/2016) there is no evidence to suggest that the use of the site has been altered or that might contradict the former assessment. As such it is considered that the site has been used for a use falling within Class B1(a) (offices) since and prior to May 2013.

4. Sub-paragraph O.1

4.1. The development is assessed against paragraphs (a)-(f). Development is not permitted where:

(a) the building is on article 2(5) land and an application under paragraph O.2(1) in respect of the development is received by the local planning authority on or before 30th May 2019;

- The proposal accords: the application site is not on article 2(5) land (Central Activities Zone and Tech City, London).

(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 areas defined by a red line in the floor plans have been used as Class B1(a) offices since before 30 May 2013. Evidence has been submitted that, confirms that on the balance of probability, the ground and lower ground floor unit has been registered as an office premises for business purposes prior to May 2013 (see para.3.1-3.3).

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

- The proposal accords – it is not in a safety hazard area.

(d) the site is or forms part of a military explosives storage area;

- The proposal accords – it is not part of a military explosives area.

(e) the building is a listed building or a scheduled monument.

- The proposal accords – the building is not listed.

4.2. The proposal therefore accords with all of the sub-paragraphs of O.1.

5. Impacts and risks

5.1. 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— 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); 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;

5.2. Conditions under O.2 of the Order

5.3. The applicant has submitted information in order for

5.4. The Council must therefore make a determination as to whether prior approval (with regards to sub para O.2) is required as to:

- A. Transport and highways impacts of the development;
- B. Contamination risks on the site; flooding risks on the site; and
- C. Impacts of noise from commercial premises on the intended occupiers of the development.

5.5. It also states that: the provisions of paragraph W shall apply in relation to any application (see above).

5.6. (a) Transport and highways impacts of the development

5.6.1. Transport & parking impacts

5.6.2. 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.

5.6.3. The site has a PTAL rating of 3 which means it has good access to public transport. The provision of any permits to future occupants would thus 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.

5.6.4. 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.

Cycle parking

5.6.5. The proposed residential development consists of 1x 2 bed unit. The London Plan would require 2x cycle parking spaces per 2 bedroom property. Hence, cycle parking facilities should be provided for the new unit. These should be covered, secure and fully enclosed.

5.6.6. To accommodate this need, a cycle store on the ground floor is shown on the proposed plans, as well as a Sheffield Stand for additional parking externally. The internal storage would be vertically hung, which is not the Council’s preferred approach, however as this is the only viable siting for internal storage at ground floor level and additional external parking is proposed, this provision is considered to meet the criteria of the London Plan.

5.7. (b) Contamination risks on the site

5.7.1. 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.

5.7.2. The site has not been identified as being at risk from land contamination. Furthermore the history of the unit suggests that there have not been any potentially hazardous uses occupying the site. It is noted, the development is for a change of use within the building only with proposals affecting the internal area of the ground floor level and with no extensions proposed, and the ground itself is not being disturbed. As such, there is no concern in respect of land contamination and the Council’s prior approval is not required on this point.

5.8. (c) Flooding risks on the site

5.8.1. 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.

5.8.2. The site does not fall within Flood Zone on the Environment Agency's flood risk map and the site is not identified as being at risk of surface water flooding. As such, the proposal is considered to accord with this aspect of the assessment and is therefore acceptable.

5.9. (d) Impacts of noise from commercial premises on the intended occupiers of the development

5.9.1. Amendments to the GPDO which came into force on the 6th of April 2016 added part (d) as a new topic for determination of development under this class. The purpose for this amendment is to ensure that the impacts of noise from adjacent commercial premises would not cause a significant impact upon the residential amenities of the intended occupiers of the proposed unit.

5.9.2. In this instance there are no commercial premises adjacent to the site which might pose a threat to the residential amenities of future occupiers due to noise impacts. The proposed unit would abut other residential units/sites to its side, above and behind and as such it is not considered that the future occupier of the proposed unit would suffer from noise issues as a result of nearby uses. The application site is situated at ground/lower ground floor levels and fronts a street, however Gloucester Avenue is not a main traffic thoroughfare and noise from traffic along this road would not limit the residential amenities of future occupiers. As such, the proposal is considered to accord with this aspect of the assessment and is therefore acceptable.

5.10. Therefore, the proposal accords with sub-paragraph O.2.

6. Additional issues

6.1. *National Planning Policy Framework*

6.1.1. Paragraph 17 of the NPPF states that, "planning should always seek...a good standard of amenity for all existing and future occupants of land and buildings".

6.2. Neighbouring amenity

6.2.1. The NPPF falls short of providing specific standards protecting the amenity of adjoining and nearby properties. The proposal would not give rise to any overlooking to rear or front based upon the fenestrations of the property as existing. It was noted that concerns were raised about the impacts that might be formed via the alteration of the front fenestrations of the property; however these alterations would require full planning permission and would thus be assessed against the local policy framework. The replacement of any windows is not a matter that may be considered in the determination of this application under Class O of the GPDO.

6.2.2. As such, the residential accommodation is not considered likely to result in unacceptable impacts upon the amenities of adjoining or nearby properties.

6.3. Standard of accommodation

6.3.1. The NPPF falls short of providing specific standards relating to standards of accommodation. The proposed unit would have a Gross Internal Area (GIA) of 117sqm which would be in accordance with the criteria of the 'Technical Housing Standards'

(DCLG) 2015 document. As such the standard of accommodation is considered to be acceptable.

6.4. Community Infrastructure Levy

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

7. Recommendation

7.1. Prior approval is required and is granted, subject to a section 106 legal agreement securing:

- Car-free development

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