

<b>Delegated Report</b> (MEMBERS BRIEFING)		<b>Analysis sheet</b>	<b>Expiry Date:</b>	17/11/2016
		N/A / attached	<b>Consultation Expiry Date:</b>	11/11/2016
<b>Officer</b>			<b>Application Number(s)</b>	
Charles Thuaire			2016/5336/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
1A Highgate Road London NW5 1JY			Refer to Draft Decision Notice	
<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 warehouse (Class B8) to 13 self-contained residential units (Class C3).				
<b>Recommendation(s):</b>		Grant Prior Approval subject to S106 legal agreement		
<b>Application Type:</b>		GPDO Prior Approval Class P Change of use of B8 to C3		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
<b>Consultations</b>						
Adjoining Occupiers:	No. notified	21	No. of responses	03	No. of objections	03
			No. electronic	00		
Summary of consultation responses:	<p><b><i>Note that consultation will finish on Friday 11<sup>th</sup> November after this report has been placed on to the Members Briefing panel agenda- any late comments received will be reported directly to Members on Monday 14<sup>th</sup>.</i></b></p> <p><u>Objections from 3 neighbours at 1 Highgate Road-</u> (Many of these are similar issues to those raised to last application for Prior Approval)</p> <p>This further application is simply final confirmation that this developer always intended to build as many 2 floor units as he could. This is not what the 'Change of use' legislation is for. A change of use to 11 ground floor single storey units in a single story warehouse is what has been agreed. This application is simply a further attempt by this developer to avoid planning legislation rules that are in place to protect neighbouring homes that are in such close proximity to 1 – 7 Highgate Road from being overwhelmed and squashed up against.</p> <p>External alterations unacceptable- objections submitted to other application for changes to roof profile (ref 2016/4663/P) relevant here- loss of light, outlook, privacy, change of roof gable orientation; attempt to put 2nd floor into ground floor single storey warehouse to maximise space and avoid planning regulations.</p> <p>Lack of adequate plans (including sections elevations, plans and models) and information- design, materials, size and height of new buildings or extensions; loss of light and privacy of neighbours; access for disabled people; fire access; servicing; ventilation plant on roof; drainage; noise from new uses.</p> <p>Bike storage location unacceptable; no indication of its location, but must not be against no. 1's wall due to noise nuisance; inadequate fire escape for 13 units; increased density, inadequate refuse strategy, must not be stored on shared alleyway; poor disabled access; no ventilation details to 1st floor kitchens; noise reports misleading as they are based on current occupation with windows closed, not flats wanting windows open; transport statement misleading as it refers to non-existent 1st floor; servicing almost impossible along narrow alleyway for deliveries, refuse collections, cycles etc- traffic generation will increase with 13 units and office.</p> <p>Concerned about adequate domestic drainage provision for this project with past flooding and collapsed drains. This development needs to have its own new drains running from the new flats to the main drain system in Highgate Road totally separate from the drains that run under number 1 Highgate</p>					

	<p>Road</p> <p><i>Officer comments:</i></p> <ul style="list-style-type: none"> <li>• Impact on transport, noise and drainage are matters that are considered below (see sections P.2.b.ii, iv, v), as these are conditions of Schedule 2, Part 2 Class P of the GPDO.</li> <li>• Matters such as loss of amenity to neighbours, inadequate plans, poor residential standards, inadequate fire and disabled access, etc. are not matters that can be considered under the requirements of Schedule 2, Part 2 Class P of the GPDO under which this application is assessed. However compliance with Building Regulations is subject to control under other legislation, which will be advised via informative.</li> <li>• There is no control as part of assessing this application over insertion of additional floors at mezzanine or 1<sup>st</sup> floor levels within the building, or over the number of dwellings proposed- the application is only for change of use to Class C3 dwellings and no external changes or extensions are proposed.</li> </ul>
<p><b>Other groups* comments:</b> *Please Specify</p>	<p><u>Thames Water</u> comment-</p> <p>With regard to surface water drainage, it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. With regard to water infrastructure capacity, we would not have any objection.</p> <p>Thames Water recommend the following informative be attached- Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.</p> <p><u>Note-</u> in relation to the last Prior Approval application for conversion to 11 units, ref 2016/2279/P, TW requested a condition requiring details of a drainage strategy to be submitted for approval. They have now agreed a drainage strategy report submitted to discharge this condition under app ref 2016/4862/P.</p> <p><i>Officer comments:</i></p> <p>This is assessed under the heading below in section P.2.b. '(iv) flooding risks in relation to the building'. A condition will be imposed regarding this.</p> <p>Note that <u>Theatres Trust</u> objected to the last Prior Approval application on grounds of potential adverse effect on the ongoing operation of the Forum Kentish Town, but no responses have been received this time.</p>

## Site Description

1.1 The site contains an L-shaped single storey double height warehouse building comprising 2 elements- a storage area with main door entrance and a series of parallel pitched roof structures containing clerestory elements, and a garage with simple pitched roof and roller shutter door vehicular entrance. Both elements are interconnected by a door and window. The 19<sup>th</sup> C building is vacant and dilapidated but last used as a Class B8 piano store. It has a total Gross Internal Area of approx. 569sqm. It is accessed via a narrow cobbled alleyway from Highgate Road between adjoining buildings and is shared with rear access to the Bull and Gate public house at 389 Kentish Town Rd.

1.2 The site is bounded to the south and west by the railway tracks, to the east and north by Grade II listed buildings including a public house and a 4 storey residential terrace at Nos.1-7 Highgate Road. Further north is the Forum, a music venue which also has its service yard alongside the railway to the west of the site.

1.3 Furthermore the site lies between 2 parts of the Industrial Area in Kentish Town- Regis Road industrial estate to the south and Murphy's depot site to the north.

1.4 There is limited vehicular access to the site given the narrow alleyway and no parking on site. The site benefits from a Public Transport Accessibility Level (PTAL) of 6 (excellent) and it is considered that the area is extremely well served by public transport. The site is also located within Flood Risk Zone 1 (low risk) according to the Environment Agency's Flood Risk Zone.

## Relevant History

2014/1689/P – Planning permission for demolition of existing warehouse buildings (Class B8) and redevelopment to provide 5 dwelling houses (2 x 2-bed and 3 x 3-bed) and a two storey office building (Class B1), with associated landscaping, refuse and recycling storage, and cycle parking was Refused on 17/04/2015 on grounds of loss of amenity to neighbours (light, outlook, privacy).

2016/0091/P- GPDO Prior Approval Class P Change of use of B8 to C3- Change of use from warehouse (Class B8) to 16 x residential units (Class C3). Refused 16/02/2016 on grounds of several issues, including insufficient evidence and lack of S106.

2016/2279/P- GPDO Prior Approval Class P Change of use of B8 to C3- Change of use from warehouse (Class B8) to 11 self-contained residential units (Class C3). Granted 22/06/2016 subject to S106 and conditions.

2016/4862/P- application to discharge Details required by conditions 2 (noise assessment), 3 (sound insulation), 4 (building vibration levels), 5 (contamination assessment), 6 (contamination investigation), 8 (cycle storage) and 9 (drainage strategy) – awaiting determination.

2016/4663/P- application for Alterations to roof and elevations of building, including changes to roof profiles, new rooflights, new doors and windows in front and rear elevations, plus new paving and fencing in front entrance courtyard – awaiting determination.

## 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 Schedule 2, Part 2 Class P**

### **LDF Core Strategy and Development Policies**

- CS5 - Managing the impact of growth and development
- CS6 - Providing quality homes
- CS8 - Promoting a successful and inclusive Camden economy
- CS11 - Promoting sustainable and efficient travel
- CS13 - Tackling climate change
- CS16 - Improving Camden's health and well-being
- CS17 - Making Camden a safer place
- CS19 - Delivering and monitoring the Core Strategy
  
- DP13 - Employment sites and premises
- DP16 - Transport implications of development
- DP17 - Walking, cycling and public transport
- DP20 - Movement of goods and materials
- DP22 - Sustainable construction
- DP23 - Water
- DP26 - Managing the impact of development on occupiers and neighbours
- DP28 - Noise and vibration
- DP32 - Air quality

### **Assessment**

**Note- This application for Prior Approval has to be determined by Thursday 17<sup>th</sup> November otherwise the approval is given by default.**

**Due to delays in validation, consultation does not finish until Friday 11<sup>th</sup> November. However this report takes account of the 3 objections received so far.**

**This scheme is almost identical to the previous Prior Approval scheme ref 2016/2279/P (except that it involves slightly more floorspace) and raises identical issues as before, hence the structure of this report is identical to the previous Prior Approval report submitted to MB panel on 20<sup>th</sup> June.**

#### **1. Proposal**

1.1 The proposal is effectively an amendment to the previous Prior Approval scheme ref 2016/2279/P dated 22.6.16 (see above history) to change the use of the warehouse from storage use (Class B8) to residential use (Class C3), in that it now seeks to provide 13 self-contained residential units instead of 11 and includes an additional 46sqm floorspace within the associated garage structure, to give an enlarged total of 493sqm. The ground floor plan shows that a strip of additional space within the interlinked garage will be used to provide more floorspace to the scheme and this will be enclosed by a partition to separate it from the remaining garage space to be used as an office; the 1<sup>st</sup> floor plan has been revised to clarify that the 11 flats will now be one bedroom only with the new 1<sup>st</sup> floor confined to the existing roof profile.

1.2 The proposal otherwise remains the same- it involves only part of the site up to a maximum of 500sqm, and it involves the insertion of a mezzanine level to create additional internal floorspace. No external changes or extensions are proposed.

1.3 The application material is identical or similar to that provided for the previous Prior Approval (PA) application and includes reports to address the issues required for assessment under the GPDO procedure, ie. air quality, flood risk, contaminated land, noise impacts, transport impact. Since the last

PA decision, further studies have been carried out and submitted to discharge the various pre-commencement conditions, under ref 2016/4862/P - see history above. These reports have been now deemed acceptable by officers and Thames Water and are thus being incorporated in the documentation for the latest PA scheme so as to obviate the need to reimpose these conditions on this approval.

1.4 It should be noted that the GPDO requirements are very specific and precise and the application for change of use can only be assessed against certain criteria as listed below (P2b). No assessment can be made of other issues, such as impact on neighbour amenity (in terms of light, outlook, privacy and noise), refuse storage, size and location of proposed flats, design, etc.

## **2. Procedure**

2.1 The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 came into force on 15th April 2015 and introduced within Part 3 a Class P, which allows for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.

2.2 This is subject to a number of conditions listed within sub-paragraph P.1 [(a)-(j)] and a subsequent condition in sub-paragraph P.2 requiring that before beginning the development, the development must –

a) submit a statement, which must accompany the application referred to in paragraph (b), to the local planning authority setting out the evidence the developer relies upon to demonstrate that the building was used solely for a storage or distribution centre use on the date referred to in paragraph P.1(a) and for the period referred to in paragraph P.1(b);

(b) apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (i) impacts of air quality on the intended occupiers of the development;
- (ii) transport and highways impacts of the development,
- (iii) contamination risks in relation to the building,
- (iv) flooding risks in relation to the building,
- (v) noise impacts of the development, and
- (vi) where the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services,

2.3 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 ('GPDO') and whether prior approval is required. It states particularly in sub-para (13) 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 conditions and requirements relating to Paragraphs P.1 and P.2 are discussed in turn below.

### **Compliance with Paragraph P.1**

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

**(a) the building was not used solely for a storage or distribution centre use on 19th March 2014 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;**

The proposal complies. The application site was vacant at the time of the officer's site visit; however the Council Business rates records indicate that the site has been in use as a storage warehouse since 1993.

**(b) the building was not used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins;**

The proposal complies. Council business rates records indicate that the site has been in use as a storage warehouse since 1993.

**(c) the use of the building falling within Class C3 (dwellinghouses) of that Schedule was begun after 15th April 2018;**

The proposal complies. At the time of the officer's site visit, the change of use had not commenced and it is considered that there is sufficient time for the change of use to occur before 15th April 2018.

**(d) the gross floorspace of the existing building exceeds 500 square metres;**

The floorspace of the total existing building (including both interlinked warehouse and garage structures) exceeds 500sqm, as it measures 616sqm. On that basis, the first PA application was refused as the entire building exceeded this threshold, even though the part of it entailing the change of use did not.

The last PA application ref 2016/2279/P related solely to the warehouse element and excluded the integral garage element; its area measured 447.4sqm. The current PA application now entails using an additional 45.9sqm floorspace from the garage element, thus totalling 493.3sqm. The same argument is used by the applicant as for the previous application, ie. the legislation allows changes of use under Class P to refer to 'parts of a building' as well. The definition of a 'building' in the GPDO explicitly states-

"building"- (a) includes any structure or erection and (except in Class F of Part 2, Class B of Part 11, Classes A to I of Part 14, Classes A, B and C of Part 16 and Class T of Part 19, of Schedule 2) includes any part of a building; (*my underlining*)

It is clear that a building as so defined can include any part of it and this interpretation is not excluded with reference to Class P (unlike some other Classes within the GPDO as specified above). There is no reference in this condition (d) to specify that it refers to the whole existing building only and no part of it. Also there is no reference made within this Class to a restriction on maximum cumulative floorspace involved in a change of use, as is the case with some other Classes. Consequently it is agreed that any area of floorspace less than 500sqm within the building, as defined on plans accompanying this application, complies with this condition. This can include both a physically distinct building defined by walls, such as the warehouse structure in this case, and also a part of a separate building defined only by a notional line across the floor, such as the portion of garage in this case; the latter would be subsequently physically defined by a partition which can be installed as 'permitted

development'.

Therefore the proposal complies on this basis.

**(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;**

The proposal complies. There is no evidence to suggest it is occupied under an agricultural tenancy.

**(f) less than 1 year before the date the development begins—**

**(i)an agricultural tenancy over the site has been terminated, and**

**(ii)the termination was for the purpose of carrying out development under this Class, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural purposes;**

At present, the proposal complies. There is no evidence to suggest that an agricultural tenancy over the site exists.

**(g) the building is within—**

**(i)an area of outstanding natural beauty;**

**(ii)an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(a);**

**(iii)the Broads; or**

**(iv)a National Park;**

**(v)a World Heritage Site;**

The proposal complies. The site does not lie within any of these areas.

**(h) the site forms part of –**

**(i)a site of special scientific interest;**

**(ii)a safety hazard area;**

**(iii)a military explosives storage area;**

The proposal complies. The site does not form part of any of these areas.

**(i) the building is a listed building or is within the curtilage of a listed building;**

The proposal complies. The application building is not listed. It must be noted that the boundary walls of the application site form garden walls to adjoining listed buildings of 1-7 Highgate Road and 389 Kentish Town Road; however the application site itself is not within the curtilage of a listed building nor does it include any listed buildings.

**(j) the site is, or contains, a scheduled monument.**

The proposal complies. The application site is not, nor contains, a scheduled monument.

**Compliance with Paragraph P.2**



**P.2 Development is permitted by Class P subject to the condition that before beginning the development, the developer must—**

**(a) submit a statement, which must accompany the application referred to in paragraph (b), to the local planning authority setting out the evidence the developer relies upon to demonstrate that the building was used solely for a storage or distribution centre use on the date referred to in paragraph P.1(a) and for the period referred to in paragraph P.1(b);**

The agent supplied for the previous PA application further evidence to comply with this condition. He advises that he attended the site on 8th December 2012 and was able to witness the premises in operation. He also supplied a photograph to show evidence of pianos stored inside. He also states that the Council's Committee Report dated 03/03/15, relating to a previous redevelopment scheme ref 2014/1689/P (see history above), records the property as being in B8 use. This evidence is not disputed by the Council, as already noted above in discussions under Paras P1.(a) and (b).

Therefore the development is permitted by Class P2(a).

**P.2 Development is permitted by Class P subject to the condition that before beginning the development, the developer must -**

**(b) apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to— (*items i to vi as follows*)**

**(i) impacts of air quality on the intended occupiers of the development;**

It is considered that, given the proximity of a railway and busy nearby roads and the fact that the development would bring in new residents into an area of poor air quality, prior approval would be required in order to address these potential impacts.

An Air Quality Assessment report, identical to that for the previous PA application, has been submitted which shows predicted concentrations of PM10 and NO2 are below the relevant objectives. In particular it shows that NO2 emissions on the perimeter of the building are all under 40mg/m<sup>3</sup> which means that they are below maximum levels of 60mg where mitigation measures would be required. Although Kentish Town Road is known to have high levels above the legal limit, the low levels experienced at this site are due to the fact that the site is well recessed from the road and set behind frontage buildings (the terraced houses and public house) which help protect any impact of emissions from the road. The report has been previously assessed by the Council's Air Quality Officer and, as before, is considered acceptable.

Thus Prior Approval is required and can be granted for this issue.

**(ii) Transport and highways impacts of the development,**

The location of the application site with a constrained access and the nature of the scheme with 13 new residential units is likely to have transport impacts, so prior approval would be required in order to address these potential impacts. A similar Transport Statement as for the 11 unit scheme has been submitted.

Trip generation from the new flats so close to public transport facilities is likely to be very low. Servicing is likely to be much less than that from the previous warehouse. Thus no objection is raised on these grounds.

The application site has a PTAL rating of 6a (excellent) which means it is highly accessible by public transport. 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 particularly as there are no onstreet parking spaces available immediately outside the site in Highgate Road, Kentish Town Road and Fortess Road.

Construction works relating to any conversion or redevelopment will also have an impact due to the very constrained access to the site via a narrow alleyway and due to the amount of works and level of material that will be required and removed from the site.

Finally any such access by vehicles may result in damage to the adjoining pavements and cobbled crossover entrance which will require the developer to pay for repairs. 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.

Furthermore, in order to provide alternative transport options for occupants, it is considered that 13 cycle parking spaces should be provided at 1 per unit. The layout as shown on the plans is considered unacceptable as the stands do not comply with CPG standards, so more details will be required for submission and approval by condition.

Transport Officers consider the scheme to have an acceptable impact on the highway network subject to the same S106 legal agreement as used for the previous PA scheme, to cover 3 above-mentioned issues- designating the housing as 'car free', requiring a Construction Management Plan (CMP), plus an associated Construction Management Plan Implementation Support Contribution of £1,140; and a Highways Contribution of £2848 to repair any damage to the site's entrance on the public highway caused by the construction.

The applicant has agreed to enter into this Section 106 legal agreement (which will be identical to the previous one dated 22.6.16) and this is currently being drafted by the Council's legal team before a final decision is issued on the 17th November.

Therefore Prior Approval is required and can be granted for this issue on the basis of a satisfactory S106.

### **(iii) Contamination risks in relation to the building**

The application site does have a risk of contamination and therefore Prior Approval is required and the Council's Contaminated Land Environmental Health Officer (EH) has been consulted.

The EH officer had previously reviewed the resubmitted Contamination report dated December 2015. It notes that, although there may be contamination subsurface, the current site is completely hard surfaced, both inside the building and at its entrance, and the scheme only involves a change of use, so the risk of any contamination is likely to be low. The EH officer advised that the site is located on a former Welding and Engineering Works which are considered medium to high risk sites as they have the potential to cause ground contamination. In particular there is the potential for VOC's to be

present within the soils. Therefore she recommended that the Council's standard conditions be imposed requiring submission of a scheme of assessment, site investigation and submission of remediation scheme.

Since then, as part of these condition requirements, more detailed investigations have been carried out on site and a detailed report submitted to discharge that condition. The EH officer is satisfied with the findings and remediation measures. Notably the deposits of arsenic and lead do not exceed relevant maximum criteria and no other contaminants were found. No formal remedial measures are thus proposed. However the report states that the presence of further hotspots between sampling points cannot be ruled out and that, should any contamination be encountered, a suitably qualified environmental consultant should be informed immediately, so that adequate measures may be recommended.

Therefore, Prior Approval is required and can be granted for this issue subject to a condition requiring the development to be carried out in accordance with the report's recommendations.

#### **(iv) Flooding risks in relation to the building,**

The applicant has submitted the same Flood Risk Assessment report as last time. The Environment Agency's online Flood Maps indicate that the site is located within in Flood Zone 1 ("Low" probability of flooding), identified as comprising land assessed as having a less than 0.1% (1 in 1000 year) chance of flooding in any given year from river sources.

However the Camden Strategic Flood Risk Assessment shows that Highgate Road was flooded in 1975. The site is also located close to the railway which is classified as a high to medium risk of flooding in the London Borough of Camden Flood Risk Assessment. As such, prior approval of the Council with regards to flooding risks on the site was considered to be necessary.

The Council's Sustainability Officer advises that the site lies within Flood Risk Zone 1 (low risk) and that it does not fall within one of our Local Flood Risk Zones. The immediate development site is not in an area identified in Camden's Strategic Flood Risk Assessment as being at risk of surface water flooding and therefore the site itself is not at risk from flooding. However the SFRA maps indicate high risk of surface water flooding just south of the site. There has been a history of flooding in nearby streets. Therefore the development should reduce run-off in order to reduce downstream impacts and flood risk to nearby properties, particularly as foul water discharge rates to the combined sewer are increasing on the existing levels as a result of the development. Thames Water, in response to the previous PA application, was concerned at potential additional strains imposed on existing drainage and sewage infrastructure, thus a condition was imposed requiring a drainage strategy to be submitted and approved beforehand, as well as TWA's requested informatives.

A detailed report has been submitted to discharge this condition. It states that there is limited opportunity to install SUDS measures as the site is almost totally covered by hard surfaces and there will be no increase in surface water. A drainage strategy is proposed for rainwater and a new foul drainage network under the site to link to the existing sewer. TWA has confirmed that this strategy is acceptable.

Therefore, Prior Approval is required and can be granted for this issue subject to a condition requiring the development to be carried out in accordance with the report's recommendations, as well as TWA's requested informatives.

## **(v) Noise impacts of the development**

The site is very closely located to a public house and residential terraced houses, both at its rear boundary, as well as the Forum building to the north which is an existing music venue and has also a storage yard with waste compactor unit alongside the railway to the west of the application site. Thus the development sits in the middle of two active entertainment premises that may be impacted by this development and it is important that continued use of these venues is not compromised by the need to protect future residential amenities here.

With this close proximity to nearby buildings, any potential noise impacts of the development are considered to be of significance and therefore Prior Approval is required.

The previous PA application used a Noise Survey dated 29 November 2013 and the Council's Noise Pollution Environmental Health Officer (EH) was concerned that this Survey was quite old and so the data cannot be relied upon as totally accurate for use in 2016. Thus he requested another noise survey to be carried out to inform appropriate sound insulation measures. He was also concerned that there was potential impact that may affect the two prominent entertainment venues and that the submitted report had not fully assessed this impact both on the proposal and current operations. It is important that the amenities of future residents here are not affected by nearby well-established music venues and likewise that the latter's operation is not compromised by new residential units. However he was satisfied that this can be controlled by suitable rigorous conditions to require an up-to-date noise survey and revised insulation strategy, details of vibration levels from the railway, and details of enhanced sound insulation measures. Three conditions were accordingly imposed.

Two detailed noise reports have been subsequently submitted to discharge these conditions. They have been reviewed by the Council's EH Officer who confirms that they are now acceptable. These reports have also been submitted for the new PA application. They have been revised further to take account of the new 13 unit scheme and to take account of the Forum's noise levels.

The noise report is based on a new updated survey carried out in December 2015 and examines the background noise and vibration levels in front and behind the site resulting from road and railway traffic. It also attaches a separate survey, carried out in conjunction with the Forum music venue consultants, to take account of the worst-case scenario relating to music noise and vibration levels, as required by the previously imposed conditions. Based on the 2 surveys, the report recommends that acoustic measures be installed such as suitable double glazing for all windows, with upgraded specifications to deal with noise from the Forum music venue, so that adequate internal habitable accommodation can be achieved on site to meet national BS standards. The report also concludes that the vibration levels will not be detrimental to adjoining buildings and that the external amenity terraces will conform with international guidance on community areas, except for one facing the railway which is considered acceptable in this instance. The other report on proposed sound insulation measures is considered acceptable as it shows that they will meet national standards on adequate internal amenities.

Therefore, Prior Approval is required and can be granted for this issue subject to a condition requiring the development to be carried out in accordance with the report's recommendations.

**(vi) where the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services**

The site lies in close proximity to the Kentish Town Industrial Area, which includes Regis Road industrial estate to the south and Murphy's depot site to the north of the railway line, as well as a cluster of creative and cultural businesses along Highgate Road. The application site lies just off to the east of this designated Industrial Area and thus is not actually within the designated area requiring protection, although it is recognised that it is in very close proximity to a surrounding area of employment. Thus it is considered that prior approval is required to assess its impact here.

Although not a small building, its access is very tight and constrained and is poorly located for modern warehouse usage and servicing. It is not directly adjoining industrial or warehouse uses (Classes B1/B8) but rather residential flats, a public house and a music venue. Its location and access has no effect on the operation of nearby employment uses. Accordingly the loss of this warehouse here has already been accepted in principle by the Council as part of its assessment of the previous residential redevelopment scheme for this site in 2014. It is considered that the loss of these premises to residential use would not have an adverse impact on the sustainability of the surrounding industrial, storage and distribution services.

Therefore, Prior Approval is required and can be granted for this issue.

### **Conclusion**

1. The proposal is now considered to accord with the provisions of paragraph P.1 (d) and therefore constitutes permitted development.
2. The developer has now complied with the requirements of condition P.2 (a) and therefore implementation of the development is permitted.
3. The developer has complied with the requirements of condition P.2 (b)(i-v) and therefore implementation of the development is permitted subject to relevant conditions as allowed under paragraph W.
4. The applicant has agreed to enter into a Section 106 legal agreement to designate the development as 'car-free', provide a Construction Management Plan (CMP) and a highways contribution, in order to address the issues in condition P.2 (b)(ii) and therefore prior approval can be granted on this basis.

### **Recommendations:**

1. Grant Prior Approval subject to conditions and S106
2. If a decision with S106 is not issued within the statutory time period, ie. 17<sup>th</sup> November 2016, then Prior Approval is refused on grounds of lack of S106 on 3 matters, and inadequate cycle parking for

the proposed flats.

***The decision to refer an application to Development Control Committee lies with the Executive Director of Supporting Communities. Nominated members will advise whether they consider this application should be reported to the Development Control Committee on Monday 14<sup>th</sup> November 2016. For further information, please go to [www.camden.gov.uk](http://www.camden.gov.uk) and search for 'Members Briefing'.***