

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		29/08/2011	
		N/A / attached		<b>Consultation Expiry Date:</b>		03/08/2011	
<b>Officer</b>				<b>Application Number(s)</b>			
Conor McDonagh				2011/1582/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
281-283 Finchley Road London NW3 6ND				See draft DN			
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>				
<b>Proposal(s)</b>							
Use of lower ground (part), ground (part), first, second and third floors to 4 residential units (Class C3) (4 x 1-bed) and 14 apart-hotel units (Class C1) (1 x 2-bed, 5 x 1-bed, 8 x studio units).							
<b>Recommendation(s):</b>		Grant permission subject to s106					
<b>Application Type:</b>		Full Planning Permission					
<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>24</b>	No. of responses	<b>10</b>	No. of objections	<b>00</b>
				No. electronic	<b>00</b>		
<b>Summary of consultation responses:</b>		One off site notice displayed until 3/08/11.  10 letters of <b>support</b> received from the existing tenants.					
<b>CAAC/Local groups* comments:</b> <small>*Please Specify</small>		N/A					

### Site Description

The application site is located on the west side of Finchley Road between its junctions with Rosemont Road and Midland Crescent. The buildings were originally two-storeys in height comprising ground and first floor level. No. 283 also had a basement. Works were carried out to the buildings following a grant of planning permission in 2003. The buildings now comprise basement (it is now shown as being under both Nos. 281 and 283), ground and three upper floors. Part of the basement and ground floor are currently in use as a hairdressers (Class A1), dry cleaners (Class A1) and estate agents (Class A2), the remainder of the building is in residential use as 5 self contained flats (Class C3) and 13 apart-hotel units (Class C1). The property is not listed or located within a conservation area. The site is located within Finchley Road Town Centre.

## Relevant History

### 281-283 Finchley Road

**PWX0103754** Erection of ground floor rear extension to no. 281 Finchley Road and first floor extension to 281 and 283 Finchley Road together to provide 5 x 1 bed flats, with the erection of a new second floor to provide 2 x 3 bed flats and a new third floor to provide 2 x 2 bed flats and associated works. **GRANTED** 08/05/03 subject to a legal agreement.

**EN03/0655** An enforcement investigation was opened on 06/08/2003 following a complaint that the property had been extended and converted on the upper floors to over 10 residential units (studio flats).

**2007/1738/P** Change of use of (part) basement and (part) ground floor from retail to 5 self-contained flats (3 studios and 2 x 1-bedroom) and first to third floor from 9 residential units (5 x 1-bedroom, 2 x 3-bedroom and 2 x 2-bedroom) to 16 self-contained flats (10 studios, 4 x 1-bedroom and 2 x studios) (Retrospective). **REFUSED** 17/08/2007. Lack of family sized units and sub-standard flat size.

**2008/1526/P** Use as 21 self-contained flats (13 studios, 6 x 1-bedroom and 2 x 2-bedroom). LDC Existing **REFUSED** 16/05/2008.

### 285-287 Finchley Road

**PWX0103752** Erection of a first floor rear extension and conversion of first floor to 4 x 1-bedroom flats, together with the erection of a new second floor to provide 2 x 3-bedroom flats and a new third floor to provide 2 x 2-bedroom flats and associated works. This was subject to a legal agreement to secure the development as car free and that it must be carried out concurrently with the permission PWX0103754R1 granted for 281-283 Finchley Road. **GRANTED** 28/03/03 subject to a legal agreement.

**EN06/0307** An enforcement investigation was opened on 25/04/06 following a complaint that the property which was originally intended to be 8 residential units was being used as 27 flats.

**2007/1231/P** Change of use of basement and (part) ground floor from retail to 8 self-contained studios and first to third floor from 8 residential units (4 x 1-bedroom, 2 x 3-bedroom and 2 x 2-bedroom) to 19 self-contained flats (18 studios and 1 x 1-bedroom) (Retrospective). **REFUSED** 15/06/07. An enforcement notice was issued 09/07/07.

**2007/4826/P** Change of use of basement and (part) ground floor from retail to 8 self-contained studios and first to third floor from 8 residential units (4 x 1-bedroom, 2 x 3-bedroom and 2 x 2-bedroom) to 16 self-contained studio flats and 3 x non self-contained flats with shared kitchen (retrospective). **REFUSED** 17/01/2008. Lack of family sized units and sub-standard flat size.

**Public Inquiry** held on 16/09/2008 **DISMISSED**, however Inspector accepted a 'nil' use for the building because construction made former lawful uses unusable whilst the approved intended use was yet to commence.

**2010/2233/P** Change of use of part lower ground, part ground, 1st, 2nd and 3rd floors of the building from 'Nil use' to 9 residential units (Class C3) and 15 Apart-Hotel units (Class C1) . **REFUSED** 17/08/2010. Unaccepted mix with too many small units, shared residential and apart hotel entrance amenity issues. **Written Reps Appeal ALLOWED** on 07/02/2011.

## Relevant policies

### LDF Core Strategy and Development Policies

- CS1 – Distribution of growth
- CS3 – Other highly accessible areas
- CS5 – Managing the impact of growth and development
- CS6 – Providing quality homes
- CS7 – Promoting Camden's centres and shops
- CS8 – Promoting a successful and inclusive Camden economy
- CS9 – Achieving a successful Central London
- CS11 – Promoting sustainable and efficient travel
- CS13 – Tackling climate change through promoting higher environmental standards
- CS14 – Promoting high quality places and conserving our heritage
- CS15 – Protecting and improving our parks and open spaces and encouraging biodiversity
- CS18 – Dealing with our waste and encouraging recycling

- DP1 – Mixed use development
- DP2 – Making full use of Camden's capacity for housing
- DP3 – Contributions to the supply of affordable housing
- DP5 – Homes of different sizes
- DP6 – Lifetime homes and wheelchair housing
- DP12 – Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses
- DP14 – Tourism development and visitor accommodation
- DP16 – The transport implications of development
- DP17 – Walking, cycling and public transport
- DP18 – Parking standards and limiting the availability of car parking
- DP19 – Managing the impact of parking
- DP22 – Promoting sustainable design and construction
- DP23 – Water
- DP24 – Securing high quality design
- DP26 – Managing the impact of development on occupiers and neighbours
- DP29 – Improving access

Camden Planning Guidance 2006 (partly amended 2011)

## Assessment

**Land use principle:** Permission was granted in 2003 for 9 self contained flats (637sqm) with associated rear extensions. The works commenced but were not built in accordance with the approved plans and instead 30 inadequately sized self contained units were unlawfully accommodated in the extended building. This later changed to 21 unlawful self contained flats and currently the building is unlawfully laid out as 18 self contained flats.

Under policy DP2 the Council would normally resist the loss of permanent residential floorspace that would now occur. The proposed 4 flats would total 199.5sqm, which is a 437.5sqm loss of permanent residential from what the 2003 consent secured. However a recent appeal decision for 285-287 Finchley Road (same applicant with a building with a similar history of planning breaches) has set a strong material precedent for the determination of this proposal. In the appeal decision the Inspector stated, that although construction had started, the actual approved use of the building was yet to commence whilst simultaneously the building's former lawful use was no longer tenable and therefore the building would have a 'nil' use. Although the appeal was dismissed on other grounds, the Inspector's clarification on the building having a 'nil' use resulted in the applicant subsequently submitting a change of use application from 'nil' use to a mix of permanent residential and apart-hotel. The Council had no alternative but to accept this application as not leading to a loss in permanent residential floorspace from 285-287's original 2003 approval.

As such, the policy approach for 285-287 must be applied consistently for 181-183, and the Council has no reasonable grounds to refuse for a loss of permanent residential floorspace. To do so would

be both inconsistent and unreasonable and likely lead to a successful appeal by the applicant.

With regards to the principle of the proposed apart-hotel units, these are supported by policy DP14 particularly on sites within town centres with excellent levels of public transport accessibility, like this.

**Quality and mix proposed residential accommodation:** All 4 flats would exceed minimum floor space standards. All would be single aspect; however the east-west orientation of the site would ensure good levels of light with excessive overheating in the summer. Three of the 4 flats would face the rear which is positive in protecting residents from noise pollution. A mix of 1-beds is acceptable given the Town Centre location, and particularly as there is no access to private outdoor amenity space that family sized accommodation would require. There are no planning policy standards or guidance to assess the living quality of the 14 apart-hotel units, however they all appear to adequately sized and laid out.

It is noted that one of the basement apartments will share the entrance with the four flats. This arrangement is acceptable, especially in the context of the Inspector's decision at 285-287 Finchley Road, where he supported the apart-hotel units and permanent residential flats to share the same entrance. As such it would be unreasonable to object in this case.

**Inclusive design:** The applicant has submitted a Lifetimes Homes assessment to justify the criteria that cannot be met. The justification is acceptable given the constraints faced when refurbishing an historic building, particularly at upper floor levels.

**Impact on neighbouring amenity:** No external alterations are proposed and the residential use has been accepted in previous applications as to not impact on neighbouring amenity.

**Urban design:** No external alterations are proposed.

**Transport and servicing:** The site has an excellent public transport accessibility level and car free housing will be secured in the s106. Details of the secure parking for 5 cycle parking will be secured by condition. The flats have adequate internal storage space for waste and recycling bags that will be left on the pavement on collection days.

**S106 Obligations:** As only 4 flats are proposed, financial obligations towards education, public open space or community are not necessary.

**Sustainability:** For a conversion involving 5 or more flats an EcoHomes assessment is required and this has been provided to indicate a 'excellent' rating, which shall be secured in the s106. An energy statement has also been submitted indicating that PV panels will off-set over 20% of the site wide carbon emissions and this too will be secured in the s106.

**Recommendation:** Grant permission subject to conditions and s106.