

Delegated Report		Analysis sheet		Expiry Date:		04/01/2017	
		N/A / attached		Consultation Expiry Date:		15/12/2016	
Officer				Application Number(s)			
Hugh Miller				2016/6388/P			
Application Address				Drawing Numbers			
50 - 52 Eversholt Street London NW1 1DA				Refer to draft decision.			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use of the ground floor level from A1 (retail) to residential (Class C3) to create 4 x residential units.							
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	00	No. of responses	00	No. of objections	00
				No. electronic	00		
Summary of consultation responses:		At time of writing no responses were received.					
CAAC/Local groups* comments: *Please Specify		No CAAC or statutory local groups.					

Site Description

50-52 Eversholt Street is a basement plus 3- storey terrace building located on the north side. It has a double front retail unit at ground floor and B1(a) floorspace at lower ground floor, first and second floor levels. The lower ground floor has been used as B1a office space for over ten years.

Relevant History

May 1984 – PP Refused - Change of use of entire property from light industrial and retail/betting shop to a health club including sauna gymnasium and ancillary residential flat; ref. 8400179

August 2015 – Pp Granted - Change of use from office (Class B1a) to 4 x studio flats (Class C3); ref. 2015/4734/P

October 2015 – PP Granted - Change of use from office (Class B1a) to 4 x studio flats (Class C3) at lower ground floor level;ref.2015/4950/P

Relevant policies

LDF Core Strategy and Development Policies are not relevant to the determination of the application.

Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013

Explanatory Memorandum to the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 No. 564

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

The National Planning Policy Framework (the 'NPPF') 2012

Chapter 4 Paragraphs 29 and 35

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 4 no. self-contained residential units.

Assessment Procedure

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 Part 3 Class M (a) (i) allows for development consisting of a change of use of a building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class A1 or A2 or a mixed use as a dwelling house with a use falling within Class A1 or A2 and building operations necessary to convert the building to 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.

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) (a) transport and highways impacts of the development,
- (b) (b) contamination risks in relation to the building,
- (c) (c) flooding risks in relation to the building,
- (d) (d) whether it is undesirable for the building to change to a use falling within Class C3
- (e) (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 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;

The proposal does not comply. At the time of the officer's site visit, the use of the ground floor of the building was unclear because the substantive building works had commenced. It transpires too that one additional unit was created to form 5 studio units although the original submitted drawing had shown 4 studio units. Prior to this the unit was largely vacant until recent prior approvals permissions to provide residential units at the basement, 1st and 2nd floor levels. Notwithstanding, the ground floor lawful use was Class A1 (retail).

(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 proposal does not involve any changes to 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.

(a) 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

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—

The proposal does not comply. - At the time of the officer's site visit, substantive building works had commenced subdivided the ground floor into separate studio flats. It transpires too that one additional unit was created and revised drawings to clarify this will be submitted. Prior to this the unit was largely vacant until recent prior approvals permissions to provide residential units at the basement, 1st and 2nd floor levels. Notwithstanding, the ground floor lawful use was Class A1 (retail).

(a) transport and highways impacts of the development,

Car-free development

Development policy DP18 states that the Council seeks to ensure that developments provide the minimum necessary car parking provision. The site is close to Euston, Kings Cross and Mornington Crescent underground stations also mainline railway services interchanges. The application site has a PTAL rating (public transport access level) of 6a (Excellent). No off-street parking spaces are currently provided on site. 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 1 cycle parking space should be provided for each new residential unit.

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. However, the applicant has failed to enter into a Section 106 legal agreement and therefore prior approval is refused on this basis.

Normally, if the application was otherwise considered to be acceptable, a condition could require the submission and approval of details of cycle parking to serve the new residential units, prior to the occupation of the new units. However, there is not enough space to provide internal or external cycle parking; as such a condition would not have been required.

Highway network impact

The proposal would involve a limited amount of construction work, the majority of which would be internal. The proposed works are therefore not considered to have a significant impact on local transport networks and so a construction management plan is not considered to be necessary.

(b) contamination risks in relation to the building,

The application site has not been identified as being at risk from land contamination. It is noted, the development is for a change of use within the building only with proposal affecting the ground floor level and with no extensions or alterations 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.

(c) flooding risks in relation to the building,

The site falls within Flood Zone 1 on the Environment Agency's flood risk map. 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.

(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

At the time of the officer's site visit, (22/12/2016) the use of the ground floor of the building was unclear because the substantive building works had commenced. It transpires too that one additional unit was created to form 5 studio units although the original submitted drawing had shown 4 studio units. Prior to this the unit was largely vacant possibly since May 2015; and until recent prior approvals permissions to provide residential units at the basement, 1st and 2nd floor levels. Notwithstanding, the ground floor lawful use was Class A1 (retail).

The proposed impact on the character, function, vitality and viability of the wider Eversholt Street. The application site is located within a designated Neighbourhood Centre within the Central London Area [16-76 Eversholt Street (Euston House) (east side); 42-44 Doric Way and 80-118 Eversholt Street (east side)]. The applicant has submitted a marketing statement which supports the proposal. It states that an exchange of contracts fell through following the terrace of buildings which comprises the application building being designated as a 'safeguard area linked to the Crossrail 2' rail project. Subsequently, the Co-op retail chain withdrew their interest in the site owing to low footfall in that section of Eversholt Street. More particularly, there are a number of vacant retail units in the area and the surviving shops are limited to specialist retailers, betting officers or restaurants. The applicant considers that the Crossrail 2 has generated a negative blight on retail use in this section of Eversholt Street. A site survey could only identify 1 vacant unit at no.78 Eversholt Street, which suggests a low level of vacant uses with the remainder of the units occupied with a mix of retail and units. Notwithstanding the 'safeguard area linked to the Crossrail 2' the character, function, vitality and viability of this section of the Neighbourhood Centre would appear to be successful; and the proposal is considered unacceptable.

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

Within the designated Neighbourhood Centres within the Central London Area, the Council normally resists proposals that would result in less than 50% of ground floor premises being in A1 retail use; more than 25% of premises being in food, drink and entertainment uses; and or more than 2 consecutive premises being in non-retail use (CPG5, paragraph 4.84). Furthermore CPG5 explicitly states that no loss of A1 retail units would normally be allowed in this specific frontage (Eversholt Street) as the proportion of A1 units is already below 50%.

The frontage (Nos. 16 -76 Eversholt Street and 80-118 Eversholt Street consists of 32 separate units. There

are 11 x A1 units or 34.37%, 3x A2 units 9.37%, 4x A3 units 12.5%, 1x A4 or 3.12%, 2x B1c or 6.25%, 3x Sui generis units or 9.37% and 1 x vacant unit C3 or 3.12%.

The proposal would result in less than 50% of ground floor premises in the neighbourhood centre being in retail use and is not compliant with the council's policy and guidance. Neither would the proposal result in more than 2 consecutive premises being in non-retail use. Nevertheless, it is considered that the introduction of a C3 use within the frontage, in between a restaurant and a café, would not only undermine the potential viability and function of the parade; it is likely to cause a significant amenity impact on residential occupiers. This is because commercial uses (e.g. A1, A2, A3 and certain Sui Generis uses) generate trips which benefit surrounding businesses, whereas the proposed C3 use would not attract visitors who might also visit the retail parade of shops. Instead, the residential use would be at odds with the neighbouring uses and the general commercial character of the neighbourhood centre.

If the change of use to residential was allowed, this may also impact on nearby owners' ability to market their premises (or encourage them to seek a similar change of use), and if increasing numbers of retail units within neighbourhood centres are lost, this will certainly harm the sustainability of those shopping areas.

It is acknowledged that the host buildings being within the designated 'safeguard area linked to the Crossrail 2' may be less attractive to some chain store retailers such as The Co-op. However, the units can still provide access to start-up retail business and therefore the retail A1 function remain a viable retail unit in this neighbourhood centre.

In conclusion, it would be undesirable for the ground floor unit to change to a use falling within Class C3 (dwellinghouses) because the loss of the retail unit would have a detrimental impact on the sustainability of the Eversholt Street Neighbourhood Centre shopping area. Prior approval is therefore refused on this basis.

(d) the design or external appearance of the building

The proposed plans show changes to the shopfront, but insufficient information has been submitted to assess the impact on the design and external appearance of the building.

Conclusion

Prior approval is refused for the following reason:

- 1 The proposed development, in the absence of a Section 106 legal agreement to secure the residential units as car-free, would contribute unacceptably to parking stress and traffic congestion in the surrounding area and would not promote the use of sustainable transport contrary to the National Planning Policy Framework chapter 4, paragraphs 29, 30, 35 and 39.
- 2 The implementation of the development commenced prior to the application for prior approval contrary to Condition M.2(1) of, Schedule 2 Part 3 Class M of The Town and Country Planning (General Permitted Development) Order 2015.
- 3 The proposal would lead to the loss of a retail unit in the Eversholt Street South Neighbourhood Centre contrary to the National Planning Policy Framework chapter 2, paragraph 23.
- 4 The proposed plans show changes to the shopfront, but insufficient information has been submitted to assess the impact on the design and external appearance of the building, and whether such changes would be permitted under Schedule 2 Part 3 Class M of The Town and Country Planning (General Permitted Development) Order 2015.

Recommendation: Refuse.

