

Delegated Report		Analysis sheet		Expiry Date:		04/05/2017	
				Consultation Expiry Date:		04/05/2017	
Officer				Application Number(s)			
Robert Lester				2017/1341/P			
Application Address				Drawing Numbers			
35a Broadhurst Gardens London NW6 3QT				Refer to Decision Notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Conversion of recording studios (Class B1) to residential (Class C3) providing 1 x 2 bed flat (Class O, Prior Approval Application)							
Recommendation(s):		Refuse Prior Approval					
Application Type:		GPDO Prior Approval Class O Change of use B1 to C3					
Conditions or Reasons for Refusal:		Refer to Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified		No. of responses	01	No. of objections	01
				No. electronic	01		
Summary of consultation responses:		<p>A site notice was erected on the 07/04/17 and a press advert was placed on the 13/04/2017 (note: only a site notice and not a press advert is required by the GPDO regulations).</p> <p>1 response was received with the following points of objection:</p> <ul style="list-style-type: none"> The application should be refused as there is a shortage of recording studios in the area. 					
CAAC/Local groups* comments:		Hampstead CAAC – No response.					

Site Description

The application site is at 35a Broadhurst Gardens which is a recording studio (B1 use) located at lower ground floor level within a four storey building, located just to the west of Swiss Cottage.

The recording studio is accessed from the side of the building at lower ground floor level. Internally the building contains a reception area, 3 studios used for recording/editing/control together with ancillary facilities including toilets. The upper floors of the building are in separate residential use.

The site has a PTAL of 6b (best). The site is located in a controlled parking zone (CA-R (Swiss Cottage)) and site has 2 off street car parking spaces with a vehicular crossover.

Relevant Planning History

- TP/19341/177296 - Internal alterations to the existing conservatory at rear on ground floor.
- TP/19341/219 - Training school voice production. – Refused - 11/06/1949
- TP/19341/4389 - Use as film and recording studios - Refused - 26/04/1957
- TP/19341/20835 No permission given for film studios/no application received - 09/07/1960
- G6/10/3/5262 - Erection and retention for a limited period of a garden-type shed for use as store and workroom incidental to film and sound recording studio at the rear – Granted 19/06/1968
- CA_348_A_4831 - A single sided internally illuminated box sign reading Pan Sound Studio Recordings in red on an opal background - Granted - 29/07/1971.
- G6/10/3/12521 - The retention for a further limited period of a garden shed at the rear – Granted - 11/02/1972.
- 20140 - The retention of a garden shed in the rear garden for a further limited period – Granted 06/03/1975
- 25245 - Retention of air-conditioning plant housing at rear – Granted - 09/11/1977.
- 23237 - Erection of a new side entrance canopy, erection of air conditioning plant housing at rear, the provision of a new pavement crossover, and the use of part of the forecourt for car parking – granted - 15/10/1976
- 26288 - The retention of the garden shed in the rear garden - Granted - 25/05/1978.

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 (as amended).

The Use Classes Order 1987 (as amended)

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

Conversion of recording studios (Class B1) to residential (Class C3) providing 1 x 2 bed flat (Class O, Prior Approval Application).

Procedure

Class O of the General Permitted Development Order 2015 (as amended) permits the change of use from offices (B1a) to dwellinghouses (C3) subject to compliance with the provisions of paragraph O.1 of the order and subject to the requirement in paragraph O.2 to apply for prior approval for the assessment of the transport and highways impacts of the development; the contamination risks on the site; the flooding risks on the site, and the impacts of noise from commercial premises on the intended occupiers of the development.

Paragraph O.1 Requirements

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

(a) the building is on article 2(5) land and the application is received by the local planning authority on or before 30th May 2019;

The proposal complies: the site falls outside any article 2(5) land and the application has been received before 30th May 2019.

(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 does not comply.

The existing use is a recording studio which is not considered to fall within the B1a (offices) use class. The Use Classes Order 1987 (as amended) states that B1a is an office other than a use within class A2 (financial and professional services). The application has been submitted with insufficient information to demonstrate that the existing use is B1a office use.

The recording studio involves the use of specialist technical equipment to record and edit sounds. The site contains 3 studios which occupy the majority of the floor area together with some ancillary facilities including toilets and a small office and kitchen. There are also some outbuildings to the rear which provide further ancillary space.

The recording studio use is considered to be the primary use of the site with the office forming an ancillary element (i.e. it would be ancillary to the main use and not a separate or independent use and it would not constitute the site forming a mixed use). This is consistent with the site planning history, which indicates film and or recording studio use at the site since the 1960s.

The Land Use Gazetteer lists a recording studio as a generic B1 use and not a specific office (B1a) use. Officers do not consider that a recording studio fits within the definition of a B1a (office) use and the applicant has not sufficiently demonstrated that it does. The Use Classes Order 1987 states that B1c use (light industrial) relates to industrial processes which is defined in the order as including the making of any article or part of any article (including film, video or sound recording). The application site involves sound recording which is explicitly listed within the Use Classes Order as a light industrial B1c use.

The application is contrary to Class O (O.1)(b) as the building (recording studio) was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order on 29th May 2013.

(c) Sub-paragraph c has been omitted by the GPDO 2016 amendments.

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

The proposal complies: it is not in a safety hazard area

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

The proposal complies: it is not part of a military explosives area

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

The proposal complies: the building is not listed or within the curtilage of a listed building.

(g) the site is, or contains, a scheduled monument;

The proposal complies: the site is not, and does not contain, a scheduled monument.

Paragraph O.2 Requirements

Paragraph O.2 requires an application for prior approval for the assessment of the transport and highways impacts of the development; the contamination risks on the site; the flooding risks on the site and the impacts of noise from commercial premises on the intended occupiers of the development.

Paragraph W sets out the specific provisions which apply where a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.

In accordance with Paragraph W (3) The local planning authority may refuse an application where, in the opinion of the authority the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.

(a) transport and highways impacts of the development

The prior approval application proposes the change of use of the existing recording studio into a 2 bedroom flat. The site is located in a highly accessible area (PTAL 6b) to public transport. The site is located in the Swiss Cottage CPZ (CA-R) which is one of the most stressed CPZ's in the borough. The Council's data (2012) shows that the CA-R parking zone has a parking stress ratio of 1.10 meaning that for every 100 spaces 110 parking permits were issued.

The proposed 2 bed flat would benefit from 2 off-street car parking spaces which exist within the application site. The applicant has argued that this would mean that the future occupiers would therefore not need to park on the street. However, if unrestricted, the new residential flat would be fully entitled to obtain on-street car parking permits for their use which would be unsustainable and add to the already severe parking stress of the area.

The Council expects development to be car free in areas that are easily accessible by public transport

(PTAL 4 and above). The Council would therefore require any change of use into residential to include a legal agreement to ensure that future occupants are aware they are not entitled to apply for on-street parking permits and would limit on-site car parking to spaces designated for the occupiers of development specified as car capped (Camden Development Policies 2010 Policy DP18 and Draft Local Plan 2016 Policy T2). Camden has been successfully securing car-free housing since 1997 as a way of encouraging car-free lifestyles, promoting sustainable ways of travelling, and helping to reduce the impact of traffic. While the Council's preference would be for the development to be car-free (i.e. for the on-site parking spaces to be removed) as this would further promote sustainable transport, Officers consider that this is outside its remit as these spaces are existing and would therefore allow a car-capped development in this instance. The prevention of allowing any prospective occupiers access to on-street parking permits is essential to limit the possibility of further cars being parked in this area which already experiences significant levels of parking stress. This would have serious highways impacts on the surrounding streets and must therefore be secured. The failure to secure a legal agreement for a car-capped development must therefore form a reason for refusal.

The GPDO Paragraph W (10) (b) states that the local planning authority must, when determining an application, have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application. Paragraph 30 of the NPPF states that local planning authorities should therefore support a pattern of development which facilitates the use of sustainable modes of transport.

Overall, the prior approval proposes the change of use of the existing recording studio to a 2 bed residential flat. The site has 2 existing off-street spaces and the development would therefore need to be car-capped which would be secured by s.106 agreement in the interests of encouraging car-free lifestyles, promoting sustainable ways of travelling, and helping to reduce the impact of traffic in the area.

The development has also failed to provide on-site cycle parking for the development. However, had the development been otherwise acceptable this could have been secured by planning condition.

In the absence of a legal agreement to secure car-capped housing in this highly accessible PTAL 6 location, the development would fail to encourage car free lifestyles, promote sustainable ways of travelling, help to reduce the impact of traffic and would increase the demand for on-street parking in the CPZ.

(b) contamination risks on the site

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.

The site has no former known industrial use, however the soil exhibits high Lead levels in the made ground. Additionally, the former use of the surrounding sites include medium to high risk sites i.e. Railway Lands, Electrical Sub Station and Unknown Industrial within 10 to 30m of the above site which have the potential to cause ground contamination.

Therefore had the prior approval application been otherwise acceptable a planning condition would have been applied requiring a written programme of ground investigation for the presence of soil and groundwater contamination and landfill gas, an investigation and a written scheme of remediation measures.

(c) flooding risks on the site

The NPPF states that developments should reduce the causes and impacts of flooding and ensure that development is protected from flood risk and does not increase flood risk elsewhere.

The site falls within Flood Zone 1, which is assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). A Flood Risk Assessment (FRA) is not be required in the determination of this prior approval application.

However, the site does not fall within one of Camden's Local Flood Risk Zones as defined within the Strategic Flood Risk Assessment (SFRA). The site is also not in an area identified in as being at risk of surface water flooding, but it is adjacent to a site which has previously experience surface water flooding.

In accordance with the NPPF the development should not place additional strain on adjoining sites or the existing drainage infrastructure. It also requires that the development is designed to cope with being flooded.

Therefore had the prior approval application been otherwise acceptable a planning condition would have been applied requiring details of water efficient features and equipment for the capturing, retaining and re-using of surface water and grey water on-site; limiting the amount and rate of run-off and waste water entering the combined storm water and sewer network including by sustainable urban drainage methods and reducing the pressure placed on the combined storm water and sewer network from foul water and surface water run-off.

d) the noise impacts on the site

The site is located on a residential street with no adjacent commercial uses and it is not considered that the proposed residential flat would be impacted by noise from commercial premises.

Additional issues

Consultation Response

One consultation response was received which objected on the grounds that the recording studio should be retained due to lack of supply in the area, however this is not a relevant consideration on this application.

National Planning Policy Framework

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".

The NPPF falls short of providing specific standards protecting the amenity of adjoining and nearby properties. The proposal would not give rise to any additional overlooking to rear or front. As such, the residential accommodation is not considered likely to result in additional unacceptable privacy impacts on adjoining or nearby properties.

Conclusion and recommendation

The proposal does not comply with Class O.1 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 and **Prior Approval** is therefore **Refused**.