

## **282 Finchley Road NW3 7AD**

### **Description of the Proposed Development**

#### **1.0 Proposal**

- 1.1. This application seeks prior approval for the change of use from office use (B1a) to residential use (C3) at ground and first floor levels to provide 4 x 1 bedroom residential units. 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.

#### **2.0 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,
- 2.4 It also refers to paragraph W and its provisions apply to such an application. 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.

#### **3.0 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 The property at 282 Finchley Rd NW3 7AD has been in continuous use as offices (B1(a) since at least July 1994 when the current owner (then Wisprole Investments) purchased the

premises. (see attached copy of original purchase agreement 'FYD\_Purchase contract dated 1994'.)

- 3.3 The VOA records indicate that a Notice of Alteration was issued on 8th January 2008, and business rates have been continually been paid at the premises from that date (ie in excess of 10 years). See attached document 'FYD\_VOA Notice of alteration'.
- 3.4 The applicant has provided a set of letterhead for companies that operate from the premises – see attached document 'FYD\_Letterheads of companies at 282 Finchley Rd'.
- 3.5 The applicant has provided an affidavit to certify the continued use of the premises as offices for the last 24 years – see attached document 'FYD Affidavit declaration'.
- 3.6 We conclude that there can be no doubt that the existing use is B1(a) and has been used for a use falling within Class B1(a) (offices) since and prior to May 2013.

#### **4.0 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.

#### **5.0 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 Change of Use from B1(a) use to C3 residential use.

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 5 (see attached PTAL report) which means it has good access to public transport. The applicant is prepared to agree to a restriction on provision of any permits to future occupants in order to reduce pressure on the availability of on-street parking in the vicinity of the site and associated traffic impacts with vehicles searching for spaces.

5.6.4. Subject to a Section 106 legal agreement designating the development as ‘permit 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 permit free.

5.6.5 There is currently 1 no. garage with 1 no. parking space on the site. There is space to turn the car to avoid reversing onto the highway, which is busy in this location. With the change of use there would be no additional car parking on the site and no change to the existing crossover.

Use of cars to and from the site will be no different to the current use. Therefore there will be no impact from the proposed change of use on the highway.

### **Cycle parking**

5.6.5. The proposed residential development consists of 4 x 1 bed units. The London Plan would require 1 x cycle parking spaces per 1 bedroom property. Hence, 4 no. cycle parking facilities would be provided for the new unit. These would 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.

### **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 (see attached flood map report) 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 and rear 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/first floor levels and fronts a busy street,

however the house is set back from the road at a similar distance to neighbouring residential properties 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.

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.