

Delegated Report		Analysis sheet		Expiry Date:	11/12/2018
		N/A / attached		Consultation Expiry Date:	18/11/2018
Officer			Application Number(s)		
Kate Henry			2018/4983/P		
Application Address			Drawing Numbers		
Outbuilding to rear of 35A Broadhurst Gardens London NW6 3QT			Please refer to draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use from light industrial (Class B1c) to residential (Class C3) comprising 1x studio flat					
Recommendation(s):		Grant prior approval			
Application Type:		GPDO Prior Approval Class PA Change of use B1 to C3			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	0	No. of responses	1	No. of objections	1
Summary of consultation responses:	<p>A site notice was displayed on 24/10/2018 (consultation expiry date 17/11/2018) and a notice was placed in the local press on 25/10/2018 (consultation expiry date 18/11/2018)</p> <p>1 letter of objection has been received from the occupier of Flat 1, 35 Broadhurst Gardens. The comments are summarised as follows:</p> <ul style="list-style-type: none">• Will affect the environment of Flat 1 while building works are ongoing• Reduction in garden size <p>Officer comment:</p> <p><i>This application seeks prior approval for the proposed change of use and the Council is therefore limited in its control over the development. The relevant legislation does not allow for the Council to consider the impact on the residential amenities of adjoining occupiers, although it does allow the Council to consider transport and highway impacts and this can include impacts caused by the construction phase. In this case, the proposed works involve a change of use and no building works. As such, the impact on adjoining occupiers is not considered to be unduly harmful.</i></p> <p><i>As there will be no building works there would be no reduction in garden size.</i></p>					
Hampstead CAAC	No comments received (consultation expiry date 21/11/2018).					

Site Description

The application site is the outbuilding to the rear of No. 35a Broadhurst Gardens. No. 35a, which is at the lower ground floor level within the four storey building, was formerly a recording studio (B1c use); however, prior approval has been given for a change of use to residential (planning reference 2018/1961/P, dated 21/06/2018). The upper floors of the building are in separate residential use.

The outbuilding to the rear is accessed via the side of the building and occupies part of the rear garden. It has previously been used in association with the recording studio use of No. 35a.

The application site is within the South Hampstead Conservation Area. The site has a PTAL rating of 6b (highest). The site is located in a controlled parking zone and there are 2 off-street car parking spaces with a vehicular crossover to the front, both belonging to No. 35a.

Relevant 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
- G6/10/3/5522 - Formation of a means of vehicular access to highway and use of part of front garden for the parking of one car – Refused - 09/09/1968.
- 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
- 22631 - Construction of a means of access to the highway and front garden vehicular hardstanding – Granted - 16/06/1976.
- 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
- 25245 - Retention of air-conditioning plant housing at rear – Granted - 09/11/1977.
- 26288 - The retention of the garden shed in the rear garden - Granted - 25/05/1978.
- 2017/1341/P - Conversion of recording studios (Class B1) to residential (Class C3) providing 1 x 2 bed flat (Class O, Prior Approval Application) - Refused - 28/04/2017
- 2017/4976/PRE - Change of use of the lower ground floor level from a recording studio (Use Class B1c) to residential (Use Class C3) to provide a 2 bedroom residential flat, single storey rear extension with green roof (following demolition of existing rear outbuilding and reduction in part of garden level), replacement balustrading to upper floor terrace, alteration to window/door openings on the side elevation, external side access ramp, external side access gate and canopy, replacement of paving with soft landscaping to the rear and replacement side wall in rear garden – Pre-application advice issued - 12/02/2018.
- 2018/1218/PRE - Single storey rear extension with green roof (following demolition of existing rear outbuilding and reduction in part of garden level), replacement balustrading to upper floor terrace, alteration to window/door openings on the side elevation, external side access ramp, external side access gate and canopy, replacement of paving with soft landscaping to the rear and replacement side wall in rear garden – Pre-application advice issued - 05/06/2018
- 2018/1961/P - Change of use from a recording studio (B1c light industrial use) to residential (C3 use) comprising 1x2 bedroom flat with off-street parking. - ranted Prior approval subject to

Relevant policies

National Planning Policy Framework 2018

The Town and Country Planning (General Permitted Development) Order 2015 (as amended).

The Use Classes Order 1987 (as amended)

Assessment

The proposal

This application seeks to change the use of the outbuilding from light industrial use (Class B1c) to residential use (Class C3), to provide 1x self-contained studio flat.

Procedure

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016, Schedule 2, Part 3, Class PA allows for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.

This is subject to a number of conditions listed within sub-paragraph PA.1 and a subsequent condition in sub-paragraph PA.2 relating to the need for the developer to apply for prior approval for the assessment of the i) transport and highways impacts of the development; ii) the contamination risks in relation to the building; iii) the flooding risks in relation to the building, and iv) where the authority considers the building to which the development relates is within an area that is important for providing industrial services or storage or distribution services or a mix of those services (which includes, where the development relates to part of a building, services provided from any other part of the building), 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.

Compliance with Paragraph PA.1

Development is not permitted by Class PA if—

(a) an application under paragraph PA.2(1) in respect of the development is received by the local planning authority on or before 30th September 2017;

The proposal complies: The application was received on 16/10/2018.

(b) the building was not used solely for a light industrial 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 outbuilding has been used in association with 35a Broadhurst Gardens, in the main building. Prior approval has been granted for a change of use of that unit from light industrial use to residential use. The Officer's Report noted the following: *"The existing use of the ground floor of the site is a recording studio. The planning history indicates that the site has been in this use since the 1960s. The Land Use Gazetteer lists a recording studio as a generic B1 use. 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 existing use of the ground floor of the site is a recording studio, which is therefore explicitly listed within the Use Classes Order as a light industrial B1c use. The applicant has submitted a statement which demonstrates that the site has been used as a recording studio (B1c)*

and a site visit has been made to verify this use. The Council's Business Rates records also confirm that the site has been registered and paying business rates as a recording studio"

A planning application was approved in 1968 for the erection of a garden-type shed for use as a store and workroom incidental to film and sound recording studio at the rear, and various subsequent applications have been approved to retain the outbuilding.

A site visit has been made to verify the use. The officer is satisfied that the building was used in association with the use of part of the main building as a recording studio.

(c) the prior approval date falls on or after 1st October 2020;

The proposal complies: The application was received on 16/10/2018.

(d) the gross floor space of the existing building exceeds 500 square metres;

The proposal complies: The gross floor space of the existing building is approximately 17sqm.

(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: The site is not 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;

The proposal complies: The site has not been occupied under an agricultural tenancy.

(g) the site is, or 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 is not located in a site of special scientific interest; a safety hazard area or a military explosives storage area.

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

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

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

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

Compliance with Paragraph PA.2

Development under Class PA is permitted 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 light industrial use on the date referred to in paragraph PA.1(b)

The proposal complies: The applicant has submitted a statement which demonstrates that the site has been used as a recording studio (B1c), ancillary to the main building, and a site visit has been made to verify the use.

(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) transport and highways impacts of the development,

Car parking

The application site has a PTAL rating of 6b (highest) which means it is highly accessible by public transport; and it is located within a controlled parking zone. 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. 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. Subject to a Section 106 legal agreement designating the development as 'car free' the proposal is considered to have an acceptable impact on the highway network.

Cycle parking

In order to provide alternative transport options for occupants, it is considered that 1 cycle parking space should be provided. Subject to a condition to require the provision of 1 space, the proposal is considered to have an acceptable impact on the highway network.

(ii) contamination risks in relation to the building,

A Desk Study has been provided which identifies a medium risk of contamination on site due to historical land use activities on, and neighbouring the application site. This work was followed by an intrusive site investigation comprising No.4 exploratory window sampler holes to a depth of 2.0mbgl. This investigation was limited to garden areas due to restricted access created by existing buildings and buried services.

A total of No.6 samples recovered from arisings from top soils and the Made Ground. Samples were laboratory tested and assessed in accordance with the CLEA methodology. The results identified significantly elevated concentrations of As and Pb. A revised conceptual model identified pollution linkages connecting contaminated soils and the following receptors:

- Construction/site workers
- Future residents
- Flora and fauna
- Buried structures and services

The report recommend a "Remediation Strategy for approval by the LPA," the following includes comments from the LBC.

- Removal of contaminated soil/material to a depth of 600mm. It is recommended this point be expanded to confirm the approximate volume of excavated soils/material to be removed for off-site disposal (landscaped areas to be excavated to a depth of 600mm).
- Voids should be reinstated with a geotextile membrane/marker sheet and clean cover material. In soft landscaped areas this should comprise certified clean subsoil to a depth of 450mm and 150mm cover of certified clean topsoil (total depth of 600mm), which effectively serves the pollution linkage.
- Clean imported material is to be accompanied by suppliers' certificates confirming suitability for

proposed use (copies included in a Verification Statement).

- All excavated material to be WAC tested and supported by either Waste Transfer Note or Consignment Note (waste producer's Duty of Care obligation), copies to be included in a Verification Statement.

A revised Remediation Strategy, which address the points above is required for approval by the LPA (prior to occupation). For a remediation scheme to be approved a Verification Report is required (prior to occupation) to demonstrate the Remediation Strategy has been undertaken, and the identified land contamination at the site has been appropriately addressed.

An asbestos survey has been provided which indicates that no asbestos has been found in the building/area.

Subject to a condition to require the verification report, the proposal is considered to be acceptable in this regard.

(iii) flooding risks in relation to the building,

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 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 experienced surface water flooding. As such, prior approval of the Council with regards to flooding risks on the site is considered to be necessary.

In accordance with the NPPF the development should not place additional strain on adjoining sites or the existing drainage infrastructure. Furthermore, the development should be designed to cope with being flooded.

The applicant has submitted a Drainage and Water Usage report with this prior approval application which states that the development would be fitted with low flush WCs and water efficient appliances to reduce discharge and there would be no increase in built footprint and no increase in surface water discharge.

A planning condition is suggested to require details to be submitted to demonstrate that the proposed internal water efficiency and/or water recycling equipment to ensure that the development will pose no additional strain on adjoining sites or the existing drainage infrastructure; and the proposed internal measures to ensure the development has been designed to cope with potential flooding. Subject to this condition, the proposal is considered to be acceptable.

(iv) where the authority considers the building to which the development relates is within an area that is important for providing industrial services or storage or distribution services or a mix of those services (which includes, where the development relates to part of a building, services provided from any other part of the building), 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 is not located in an area which the Council considers to be important for industrial or storage and distribution services. The development would therefore have no impact on the sustainability of the provision of industrial or storage and distribution services in the area and the prior approval of the Council in this regard is not considered to be necessary.

Other matters

The proposed residential unit would fail to meet the Government's space standards in terms of floor

space and would therefore fail to provide a satisfactory standard of living for future occupiers. However, this application seeks prior approval from the Council and the legislation does not give the Council scope to assess the proposal in terms of the impact on living standards.

Conclusion

The proposal complies with The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016, Schedule 2, Part 3, Class PA and **Prior Approval** is therefore **Granted (Subject to Section 106 Legal Agreement)**