

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		06/02/2019	
		N/A / attached		<b>Consultation Expiry Date:</b>		07/01/2019	
<b>Officer</b>				<b>Application Number</b>			
Obote Hope				2018/5725/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
Ground floor 226 Kilburn High Road London NW6 4JP				Refer to draft decision notice			
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>				
<b>Proposal</b>							
Change of use of the rear ground floor from retail to 2 x studio flats (Class C3) and alteration to the rear elevation.							
<b>Recommendation:</b>		Grant Subject to a Section 106 Legal Agreement					
<b>Application Type:</b>		GPDO Prior Approval Class M change of use of A1/A2 to C3					
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>	No. notified	00	No. of responses	00	No. of objections	00	
			No. electronic	00			
<b>Summary of consultation responses:</b>		At time of writing up the application, no responses were received.					
<b>CAAC/Local groups comments:</b>		No CAAC or statutory local groups.					

## Site Description

The application site is located near the boundary with the London Borough of Brent. The application relates to a four-storey with basement, mid-terraced property on the east side of Kilburn High Road, halfway between its junctions with Gascony and Messina Avenue. The building is used as a shop on the ground and basement floors, with a three self-contained flats on the upper three floors.

The site is within the Kilburn Shopping Centre the host building is not located in a conservation area. The site is located within a secondary frontage within the kilburn, Town Centre.

## Relevant History

2004/1869/P: Change of use of the rear part of the retail unit at basement and ground floor level to residential use and erection of a first floor rear extension to create a 3-storey 3 bedroom self-contained maisonette- Granted subject to s106 legal agreement 25/10/2004.

## Relevant policies

**The Local Plan 2017 policies are not relevant to the determination of the application.**

**Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015**

**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') 2018**

## Assessment

### Background

The previous application has been revised from an addition 2 x studio flats in the basement due to planning constraints, namely the risk of flooding.

### Proposal

The application relates to the ground floor level of 226 Kilburn High Road. The proposal seeks to change the use of the rear of the ground floor from retail (Class A1) to provide 2 x studio flats (Class C3). The proposal would remove the existing door to the rear flank elevation and installation of a rooflight to the rear at ground.

### Assessment:

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 Part 3 Class M. 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.

The application is to ascertain whether the proposed change of use would constitute permitted development ('pd') within the General Permitted Development ('GDPO') and therefore be "lawful development" and whether prior approval is required.

Development is not permitted by Class M where -

- 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;
- 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;
- c) the cumulative floor space of the existing building changing use under Class M exceeds 150 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;
- 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;
- 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
- g) 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; or
  - (vi) a scheduled monument.

The application complies with each of the above criteria.

### **Conditions**

The applicant has submitted information in order for the Council to make a determination as to whether prior approval is required as to:

- a) transport and highways impacts of the development;
- b) contamination risks on the site; and
- c) flooding risks on the site
- d) desirability of change to a use falling within Class C3 having regard to 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) design or external appearance of the building;

Each of these criteria will be considered below.

#### (a) Transport and highways impacts

The site is accessed principally from Kilburn High Road, with no current parking spaces and has a PTAL Rating of 6a.

The proposal would result in the creation of 2 studio flats. Table 6.3 of the London Plan would require the provision of covered, secure and fully enclosed cycle parking space per dwelling. The proposal would include secured internal wall hung units for 2x cycle as annotated on drawing no.6931/12C.

#### *Car-free development*

Camden's strategy and policies in line with national planning policy consider access to car parking and seek to encourage car-free and car-capped developments in areas of moderate or good public transport accessibility. The application site has a PTAL rating (public transport access level) of 6a (Excellent). No off-street parking spaces are currently provided, on site and so in accordance with the NPPF objectives in favour of sustainable transport. The proposed residential units would have to be secured as car-free via a S106 agreement (i.e. with no right to apply for on-street car parking permits) to minimise impact on the highway network in accordance with paragraph 29 of the NPPF.

#### *Highway network impact*

The proposal would not have any implications with Highway infrastructure, 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 necessary.

#### (b) Contamination risks on the site

Considering the age of the building there is a low risk that asbestos containing material (ACM) may be present within the building fabric. Therefore, an informative is attached accordingly.

#### (c) Flooding risks on the site

The site is located in a flood risk zone. However, the basement element associated with the proposed change of use was omitted from the proposal.

#### (d) Impact on shopping area

The proposed impact on the character, function, vitality and viability of the wider Kilburn Town Centre is not considered high. Furthermore, the proposal would retain 33.42sqm of retail floor space.

Therefore, It would be hard to demonstrate that the conversion of the rear of the retail unit to residential would harm the character, function, vitality and viability of the town centre.

#### (e) Design matters

The proposed new lightwell to the rear elevation would add addition light to the ground floor and basement, the removal of the rear door would not have a detrimental impact with the host building's design and appearance.

#### Conclusion

The proposal would be in accordance with The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 Part 3 Class M. Which allows for development consisting of a change of use of a building to a use falling within Class C3 (dwellinghouses) of the Schedule.

#### **Recommendation**

Grant Prior approval for the application subject to a section 106 legal agreement securing the new dwellings as

car free.