

Delegated Report		Analysis sheet		Expiry Date:		18/03/2019	
		N/A		Consultation Expiry Date:		24/02/2019	
Officer				Application Number(s)			
Gideon Whittingham				2018/6087/P			
Application Address				Drawing Numbers			
21 South End Road London NW3 2PT				B-01 Rev A; A-01 Rev A; A-02 Rev A; A-03 Rev A.			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use of ground and part rear first floor level from retail (Use Class A1) to create self-contained office (Use Class B1a) and installation of associated door to rear flank elevation to provide access via Maryon Mews.							
Recommendation(s):		Refused					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	00	No. of responses	00	No. of objections	00
Summary of consultation responses:		Site notice – 25/01/2019 expired 18/02/2019 Press notice – 31/01/2019 expired 24/02/2019 No consultation responses were received in response to this planning application.					
CAAC/Local groups comments:		The Hampstead CAAC, Hampstead Neighbourhood Forum, and Heath and Hampstead Society were directly notified of this proposal and provided no comment.					

Site Description

This is a three-storey property just off Pond Street. The application relates to the ground and rear first floor part of the property, which is an A1 use. The upper floors are in residential use. At the rear is a private mews (Maryon Mews) which provides access to the upper floor residential flats.

The application site is designated within the South End Green Neighbourhood Centre.

Relevant History

2004/3396/P - Installation of air conditioning unit on roof of single storey rear extension. Granted 29/10/2004

Enforcement (The below enforcement case are subject to ongoing investigations):

EN18/0881 - Creation of studio unit without planning permission

EN18/0978 - Installation of AC units

Relevant policies

National Planning Policy Framework 2019

The London Plan 2016

Local Plan 2017:

Policy G1 Delivery and location of growth

Policy A1 Managing the impact of development

Policy D1 Design

Policy D2 Heritage

Policy TC2 Camden's centres and other shopping areas

Policy TC4 Town centre uses

Camden Planning Guidance:

[CPG Amenity](#) (Adopted on 26 March 2018)

[CPG Employment sites and business premises](#) (Adopted on 26 March 2018)

[CPG Planning for health and wellbeing](#) (Adopted on 26 March 2018)

[CPG Town centres](#) (Adopted on 26 March 2018)

[CPG 1 Design \(July 2015 updated March 2018\)](#)

The Hampstead Conservation Area statement (2001)

Hampstead Neighbourhood Plan 2018-2033

Assessment

1. Background:

- 1.1 Following a planning enforcement enquiry, an inspection on 22/11/2018 indicated that the property had been sub-divided in order to create an additional unit and that a new entrance door had been created, providing access into the unit via the external walkway at 1st floor level in Maryon Mews. The original internal entrance had been boarded up and plastered over to provide the self-contained unit. The enforcement officer was advised that the space was to be used for an office.
- 1.2 The applicant was advised to regularise matters and this application is the result.

2. Proposal:

- 2.1 Retrospective planning permission is required for the following:
- The change of use of the part 1st floor level from retail (Use Class A1) to create self-contained office (Use Class B1a). The office is 13sqm, comprises a shower room (shower, toilet and wash basin) and kitchen and serves 2 staff.
 - The installation of an associated door to the rear flank elevation to provide access to the office via Maryon Mews.

3. Assessment:

- 3.1 The main considerations material to the determination of this application are summarised as follows:
- Land Use
 - Amenity
 - Design & Character

4. Land Use

Loss of retail floorspace

- 4.1 The Council recognises the rear first floor of 21 South End Road to be Use Class A1 retail floorspace, albeit ancillary space used for storage and a toilet.
- 4.2 Policy TC2 (Camden's centres and other shopping areas) seeks to protect and enhance the role and unique character of each of Camden's centres.
- 4.3 With specific regard to housing above shops, the Council supports the development of housing within centres and Central London including above and below shops where this does not prejudice the town centre function and particularly the ability of the ground floor to be used for town centre uses.
- 4.4 Policy EC1 (Healthy retail mix) of the Hampstead Neighbourhood Plan supports development that enhances the vitality and viability of Hampstead Town Centre and the South End Green Neighbourhood Centre by:
- Providing office and retail units at first floor level.
 - Resisting the change of use from A1 (retail) to A2 (estate agents, banks, building societies) that would result in less than 75% of premises in core frontages being in retail use or less than 50% of premises in secondary frontages being in retail use.
 - Preserving small shop and retail premises that enhance the character and vibrancy of the area.

- Where permission is required, the change of use of space in Class A or B1a uses at first floor or higher above shops to residential occupation will not be supported unless it can be shown that there is a long history of vacancy.
- 4.5 Preserving ancillary space, such as storage and workrooms, is important to the long-term viability of primary and secondary frontage buildings. In order to show that premises located directly above shops are no longer viable for business or employment use, Policy EC1 requires applicants to submit evidence of a marketing strategy for the property, covering a period of at least two years. The premises must be marketed at a realistic price reflecting market rents in the local area and the condition of the property.
- 4.6 The application site is located in the South End Green Neighbourhood Centre. The Council will seek to retain convenience shopping for local residents in Camden's Neighbourhood Centres and will ensure that development in them does not harm the function, character or success of that centre.
- 4.7 The proposal would not result in the loss of retail floorspace in the Kentish Town Area Core South End Green Neighbourhood Centre frontage. The proposal would however result in the loss of 13sqm of retail floorspace at upper floor level.
- 4.8 Whilst the thrust of policy TC2 and E2 would resist the loss shopping floorspace within a designated area such as this, the retained ground and upper floor level area of 79sqm, by virtue of its size and accessibility to the upper floor level would not significantly impinge the existing retail operator from their day to day operations as a retail unit. Therefore the proposal would not significantly impinge the character, function, vitality or viability of the neighbourhood centre or local area.

Provision of office floorspace

- 4.9 As per Policy E2 (Employment premises and sites), the Council will encourage the provision of employment premises and sites in the borough. In assessing the proposed use, the Council will seek to ensure that future employment uses can operate effectively without being in conflict with other sensitive uses such as housing.
- 4.10 Although the relevant policies and guidance for offices do not dictate minimum size requirements, given the size of the office proposed, in addition to its level of accessibility and adjacent residential uses, the space would likely be occupied by a small enterprise.
- 4.11 Although the proposal is adjudged not to conflict with the aims of Policy TC2, its proximity with housing is considered in conflict and future discussed in the 'Amenity' section below.

5. Amenity

- 5.1 Policy A1 of the Local Plan seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of neighbouring residents. This includes privacy, outlook, noise and impact on daylight and sunlight. Camden's Local Plan Document is supported by CPG6 (Amenity).
- 5.2 The proposal involves the introduction of an office use (Class B1a) of 13sqm adjacent within a residential building, sharing a gated access (via an existing walkway from Maryon Mews) with occupiers of the residential units located at upper floor level.
- 5.3 The applicant has submitted details to suggest the following management of the office use:
- A maximum of two staff would be onsite at any one time

- Customers shall be in attendance only by appointment.
- No hours of operation have been proposed

5.4 In assessing the suitability of the proposed use in this location, it is important to assess the potential impacts on the amenity of neighbouring occupiers.

5.5 At present, the entrance arrangement and operation of the use at 21 South End Road is reasonably segregated. All commercial operations are accessed via the frontage on South End Road, or this now separate entrance directly from Maryron Mews.

5.6 Residential access to the upper floor levels of 21 South End Row is via a separate passage from Maryron Mews. Although two windows from the existing commercial operation look over this passage, these windows are set 1.2m high and 0.5m (h) x 0.5 (w) in dimension, affording no detrimental overlooking.

5.7 The proposal would utilise the residential passageway to gain entry to the proposed office, introducing a doorway in the flank elevation alongside the two windows.

5.8 As result of this proposal, areas to the building would now be shared by both residential occupiers and those for commercial purposes, leading to staff and clients being within 3m of the rear elevation of the building, which contains a window serving habitable residential accommodation.

5.9 Within this context, the nature of the site, the arrangement of access points to the office use, the communal nature between both residential and commercial uses and proximity to residential units, specifically the habitable accommodation that relies on the window for sole outlook, sunlight/daylight and natural ventilation, demonstrate the office use's incompatibility.

5.10 The proposed use, without a reasonable means of regulation, would result in the potential for a significant and detrimental increase in noise levels, disturbance and overlooking which demonstrates the incompatible nature of each use in this instance, contrary to Policy E2 and A1, becoming a reason for refusal. Furthermore, the conflict of uses and lack of access control in the residential passageway could lead to potential for crime with no way of separating visitors to the commercial use, contrary to policy C5.

5.11 Acknowledging the management of the office could take place and secured by legal obligation, there would be an increase in general coming and goings to a residential building both midweek and weekend, which would materially impact the character of this quiet residential building in terms of noise and disturbance. It is considered that such an impact cannot be mitigated against by the use of conditions, (eg. limit the operational hours during the evening and at weekends) or a legal obligation, particularly in light of not knowing how many clients the applicant will have on any given day/on average or having set hours of operation. Although the Council can attach an appropriate condition to restrict the hours of use, in the absence of an acceptable scheme (and hence no section 106 agreement) to secure the service management plan to mitigate all likely issues, this becomes a reason for refusal.

5.12 The proposal requires a single external alteration, namely the insertion of a door upon the flank elevation for access in to the office. The alteration is located on an elevation the subject of limited views, in addition it is greatly obscured by its proximity to the shared boundary wall, which may give rise to security issue, particularly late at night to the detriment of existing residential amenity.

6. Design & Character

6.1 The Council's design policies are aimed at achieving the highest standard of design in all

developments, including where alterations and extensions are proposed. The Local Plan policy D1 (Design) requires development to be of the highest architectural and urban design quality which improves the function, appearance and character of the area. Policy D2 (Heritage) states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas. Camden's Local Plan Document is supported by CPG1 (Design).

6.2 Although the materials used are UPVC, this is used already on the parent building and is therefore considered acceptable.

6.3 Taking the above matters into consideration, it is concluded that the proposal would preserve the character and appearance of the Conservation Area and would meet the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.4 Under section 72 of the Planning (listed building and conservation area) Act 1990 requires special attention to be paid to the desirability of preserving and enhancing the character and appearance of a conservation area. This has been given great weight and importance as is required by law

7. **Conclusion**

7.1 The proposed development, by reason its nature and intensity of use in close proximity to existing residential accommodation would harm the amenity of neighbouring residents.