

Date: 22/07/2019
Your Ref:
Our Ref: 14132



Planning Department
Camden Council
5 Pancras Square
Kings Cross
London, N1C 4AG

6 New Bridge Street
London EC4V 6AB
T: 020 7489 0213
F: 020 7248 4743
E: info@dwdllp.com
W: dwdllp.com

SUBMITTED BY E-MAIL:
planning@camden.gov.uk

Dear Sir or Madam

APPLICATION FOR PRIOR APPROVAL CHANGE OF USE FROM RETAIL (USE CLASS A1) TO 1 X RESIDENTIAL FLAT (USE CLASS C3) AT 74 FORTUNE GREEN ROAD, WEST HAMPSTEAD, LONDON, NW6 1DS

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015 (AS AMENDED)

1. DWD are instructed to submit an application for prior approval for a proposed change of use at 74 Fortune Green Road, West Hampstead, London, NW6 1DS ("**Property**") from Class A1 (retail) to Class C3 (residential) to provide 1 dwelling on the ground floor and basement. This application for prior approval change of use is submitted under Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("**GPDO**").
2. The application has been submitted via email to planning@camden.gov.uk with the following documents attached.
 - Application Form;
 - Community Infrastructure Levy (CIL) Form;
 - Site Location Plan Ref: DWD.01; and
 - Existing and Proposed Drawing Ref: M-100;
3. Payment for the application has been made direct to the Council over the phone on the date of this letter, the date of submission.

The Proposed Development

4. The "**Proposed Development**" is for:

"Application for Prior Approval under Class M for change of use of ground and basement floors at 74 Fortune Green Road, West Hampstead, London, NW6 1DS from retail unit (Class A1) to residential (Class C3) to provide 1 self-contained dwellings comprising of 1 X 1 bed units."

Partners

N M Fennell BSc MRICS
R J Greeves BSc (Hons) MRICS
A R Holden BSc (Hons) FRICS
G Bullock BA (Hons) BPI. MRTPI

A Vickery BSc MRICS IRRV (Hons)
G Denning B.Eng (Hons) MSc MRICS
B Murphy BA (Hons) MRUP MRTPI
A Meech BSc MRICS

S Page BA MA (Cantab) MSc MRTPI
S Price BA (Hons) DipTP MRTPI
P Roberts FRICS Cenv
T Lodeiro BA (Hons) PGDip MSc MRICS



Relevant Planning History

5. An online search of the planning history at the Property reveals the following applications for planning permission:

Address	Ref	Description	Status
<i>Site address</i>	2016/5213	Installation of air source heat pump on the 2nd floor roof terrace to the rear of the residential dwellinghouse (Class C3)	Granted. 11/11/2016
	2018/2812	Erection of a mansard roof extension with front and rear dormers to provide ancillary residential floor space (Class C3)	Granted. 20/09/2018
	2018/4600	Excavation of the existing cellar for a new basement extension under the footprint of the building, installation of new shopfront and alterations to the rear fenestration	Granted. 11/04/2019
(Land to the rear of the Property) 74 Fortune Green Road London NW6 1DS	2013/3568	Construction of a 3 storey 2 bedroom dwelling following demolition of existing storage building.	Granted. 21/08/2013
	2014/1586	Details of cycle storage area (condition 4) of planning permission granted on 21/08/2013 (ref: 2013/3568/P for the construction of a 3 storey 2 bedroom dwelling following demolition of existing storage building.)	Granted. 27/03/2014
(1st And 2nd Floor Maisonette) 74 Fortune Green Road London NW6 1DS	2018/4601	Infill of existing void at first and second floor level associated with sub-division of existing maisonette to form 3 x self-contained flats consisting of 2 x 1 bed and 1 x studio flats.	Granted. 22/01/2019
	2019/1816	Details of secure cycle storage required by condition 3 of permission 2018/4601/P dated 22/01/2019 for infilling of existing void at first and second floor level associated with sub-division of existing maisonette to form 3 x self-contained flats consisting of 2 x 1 bed and 1 x studio flats.	Granted. 28/05/2019

Prior Approval Change of Use

6. The Proposed Development is permitted by Class M of the GPDO subject to the pre-requisite conditions listed at M.1(a to g). Those conditions and the Property's ability to satisfy them are tabulated below.

Article	Condition	Status
M.1(a)	the building was not used for one of the uses referred to in Class M(a) on 20 th March 2013.	As evidenced by Google Streetview imagery the Property was in use as an A1 retail unit on the requisite qualifying date.
M.1(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.	Class M has not been used on the Property to date.

M.1(c)	the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres.	The Gross Internal Area of the ground and basement floor changing use under this application measures 50q.m.
M.1(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.	Class M has not been used at the Property to date.
M.1(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.	No external building alterations are proposed.
M.1(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).	No demolition work is proposed.
M.1(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 Property is not situated on land designated under M1(g).

7. In accordance with Article M.2(1) of the GPDO, before the commencement of development the applicant must apply to the Council for determination as to whether the prior approval of the authority will be required as to:

- a) Transport and highways impacts of the development;
- b) Contamination risks in relation to the building;
- c) Flooding risks in relation to the building; and
- d) Whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of 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 A (shops) of that Schedule.

a) Transport and Highways Impacts

8. Prior to allowing the permitted development right for change of use to be implemented, the GPDO seeks to understand what impact the proposed change of use from retail to residential use will have on the local highways and transport infrastructure and what the appropriate mitigation measures are required where that impact is considered to be material.
9. GPDO paragraph W(5) clarifies this by stating that *“Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult (b) The local highway authority...”*.
10. The Property is located within the CA-P(a) Fortune Green Controlled Parking Zone (“CPZ”). The CPZ is in operation from Monday to Friday between 0830 to 1830 with uncontrolled hours on the weekends.

The Property is also located close to the CA-P(c) CPZ which has commuter restrictions 1000-1200 Monday to Friday.

11. In order to mitigate the impacts of car parking and stress upon the local highways, the applicant has completed a Unilateral Undertaking which has the effect of prohibiting future occupiers from applying for a parking permit. The requirement to formally adopt the Unilateral Undertaking could form the subject of a planning condition.
12. Therefore, the Proposed Development will have no impact on the local highways network and will not *“result in a material increase or a material change in the character of traffic in the vicinity of the site”*.

b) Contamination risks in relation to the building

13. The Property has been used as an A1 retail unit for over 10 years and no contaminant uses have taken place or take place near to the Property. There is no risk of the Property containing contamination that would be harmful to future occupiers.

c) Flooding risks in relation to the building

14. The Environment Agency Flood Map for Planning identifies that the Property is located within Flood Zones 1 and is therefore not at risk of flooding.

d) Desirability for the building to change to a use falling within Class C3

15. The Property is located within the ‘Fortune Green Neighbourhood Centre’ as designated within the Council’s adopted development plan and Town Centres and Retail CPG, but does not reside in a key shopping area. That Policy designation of the Property engages part (i) of GPDO condition M.2(1)(d) whereby the change of use to residential use should not impact *“on adequate provision of services of the sort that may be provided by a building falling within Class A (shops)”*.
16. DWD have undertaken a survey of the neighbourhood centre on Friday 19th July 2019. The designated ‘neighbourhood centre’ covers the even numbered units from 56 to 118 on the eastern side of Fortune Green Road. The neighbourhood centre is characterised by a number of A1 units interspersed between the non-A1 units, the majority of which consist of compatible non-A1 uses such as professional services, restaurants and health/dentistry facilities.
17. The objective of the Camden Local Plan Policy TC2 ‘Camden’s centres and other shopping areas’ is to seek to retain convenience shopping for local resident and to manage the Council’s response to applications for development which may *“harm the function, character or success of that centre”*. Notwithstanding the various policy guidance percentages imposed by the Local Plan policies and the Town Centre and Retail CPG, Article M.2(1)(d) part (i) of the GPDO requires the Council to only consider the impact of the proposed change of use *“on the adequate provision of services”* and not the resultant percentage of A1 retail units within the neighbourhood centre or the acceptability of the use (i.e. Class C3 residential). In other words, a Local Plan aspiration for certain percentages of Use Classes within a particular shopping frontage is not a consideration when determining an application for prior approval change of use under GPDO Class M.
18. With regards to the implementation of the proposed change of use, the existing neighbourhood centre fails to meet the Council’s guidance for level of A1 uses in a neighbourhood centre at 34%, which would be reduced to 31% with the implementation of the proposed change of use but would not reason the neighbourhood centre decreases below 50%. Notwithstanding the percentage change, the survey identified that the neighbourhood centre is still functioning in accordance with the development plan

policy aims as evidenced by the lack of long-term vacancies in the centre, and the assimilation of A1 and non-A1 uses which strengthen the vitality of the neighbourhood centre. Convenience retailing amongst the percentage of A1 units remains sustainable, and offers local residents a range of retailing options commensurate to the size of the neighbourhood centre. Implementation of the Proposed change of use would not adversely impact the provision of A1 units in the centre with 31% being considered better than the qualifying 'adequate' provision in Article M.2(1)(d) part (i) of the GPDO.

19. The proposed change of use to residential will not have a detrimental impact on the sustainability of the Neighbourhood Centre nor harm the retail convenience of local residents thus preserving its vitality and viability and ensuring the good provision of A1 units in the neighbourhood centre. The proposed change of use therefore responds positively to Article M.2(1)(d) part (ii) of the GPDO.

Conclusion

20. The proposed development positively responds to the requirements and conditions prescribed by Class M of the GPDO for the change of use from Class A1 retail to residential Class C3.
21. The Property has been in A1 use on and prior to 20th May 2013 and there is no perceived risk from flooding or contamination. The submitted Unilateral Undertaken prohibiting future occupiers from obtaining residents car parking permits has the effect of securing the Proposed Development as 'car free' and consequently there will be no adverse impact on the local highways network as a result of the proposed change of use.
22. The proposed change of use will not adversely impact convenience retailing in the neighbourhood centre which will continue to enjoy significant percentages of Class A1 retail units and a diverse mix of town centre uses which maintain the Local Centre's vitality and viability.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Alex Chalkin', written over a light blue horizontal line.

Alexander Chalkin

Associate

DWD LLP

ac@dwdllp.com

07780661060