

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	24/01/2020
		N/A / attached	<b>Consultation Expiry Date:</b>	28/02/2020
<b>Officer</b>			<b>Application Number(s)</b>	
Laura Hazelton			2019/5992/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
Workshop And Premises At Ground Floor Rear 86 Fortune Green Road London NW6 1DS			Please refer to 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 ground floor rear office (B1 use) to residential studio unit (C3 use) (Retrospective).				
<b>Recommendation:</b>		i) Refuse planning permission  ii) That the Borough Solicitor be instructed to issue an Enforcement notice under Section 172 of the Town and Country Planning act 1990 as amended to cease the unauthorised use as a residential studio unit at rear ground floor, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.		
<b>Application Type:</b>	Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
<b>Consultations</b>						
Adjoining Occupiers:			No. of responses	<b>00</b>	No. of objections	<b>00</b>
Summary of consultation responses:	No responses					
CAAC/Local groups comments:	N/A					

## Site Description

The application site is a three storey mid terrace property on the east side of Fortune Green Road. The front ground floor unit is in A2 use (financial and professional services) and currently occupied by a firm of accountants.

The rear rooms at ground floor level are the subject of the current application and were previously in use as an office (B1 class) but have recently been converted into a residential studio unit (C3 class) without the benefit of planning permission. The upper floors are in residential use.

The application site is not located within a conservation area, although it is located within the Fortune Green and West Hampstead Neighbourhood Area.

## Relevant History

9400797 - Change of use of the ground floor from retail to a residential lettings office within Class A2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987. Granted 01/09/1994.

8804108 - The change of use of the ground floor from retail to estate agents /office purposes. Refused 14/12/1988.

8601299 - The change of use of part of the ground floor from launderette to retail purposes. Granted 03/09/1986.

## Relevant policies

### National Planning Policy Framework 2019

#### The London Plan 2016

#### The Draft New London Plan consolidated with suggested changes 2020

#### Camden Local Plan 2017

Policy G1 Delivery and location of growth  
Policy H1 Maximising housing supply  
Policy H6 Housing choice and mix  
Policy H7 Large and small homes  
Policy E1 Economic development  
Policy E2 Employment premises and sites  
Policy A1 Managing the impact of development  
Policy D1 Design  
Policy T1 Prioritising walking, cycling and public transport  
Policy T2 Parking and car-free development

#### Fortune Green & West Hampstead Neighbourhood Plan 2015

Policy 1 Housing  
Policy 2 Design & character  
Policy 7 Sustainable Transport  
Policy 8 Cycling  
Policy 12 Business, commercial and employment premises and sites

#### Camden Planning Guidance

CPG Interim Housing 2019  
CPG Housing 2019

CPG Design 2019  
CPG Amenity 2018  
CPG Transport 2019  
CPG8 (Planning obligations (July 2015, updated March 2018).

## Assessment

### 1.0 Proposal

1.1 Retrospective planning permission is sought for change of use of the rear ground floor (measuring approximately 39sqm) from office use (B1 class) to a residential studio flat (C3 class).

### 2.0 Assessment

2.1 The material planning considerations in the assessment of this application are:

- Land use
- Standard of residential accommodation
- Design
- Neighbouring Amenity
- Transport Considerations

### 3.0 Land Use

#### Creation of new residential dwelling

3.1 The proposals involve the creation of one new residential flat. Housing is regarded as the priority land use of the Local Plan under Policy H1, and given the new residential unit would be in addition to the existing flats in the building and to the rear of the site, the principle of new housing in this location would be compliant with Camden's policy in this regard subject to meeting all other qualifying criteria discussed further below.

3.2 The Council requires development to contribute to the creation of mixed and inclusive communities by containing a mix of large and small homes. Where possible, a mix of large and small homes should be provided for all tenures. Two and three bedroom homes are the highest priority for market housing in Camden. The development would provide 1 x 1 bedroom flat. Although this is a lower priority dwelling size, given the size and location of the site, a one bedroom dwelling is considered to be in compliance with the aims of Policy H7.

#### Loss of office (Class B1)

3.3 The Council seeks to prevent the loss of office floorspace unless it can be demonstrated that the site is no longer suitable for its existing business use and that there is evidence that the possibility of retaining, reusing or redeveloping the site for a similar use has been fully explored appropriately. This criteria is set out in policy E2 (para 5.37). Paragraphs 8 to 12 of the Employment Sites and Business Premises CPG gives other considerations regarding the loss of office use.

3.4 Policy 12 of the Fortune Green and West Hampstead Neighbourhood Plan, echoes the requirements of policy E2 and states that development shall promote economic growth and employment, and that developments that provide sites and premises for business, commercial and employment use will be supported. It goes on to state that development of commercial premises shall support economic growth and employment by:

- i. A presumption in favour of retaining existing employment sites*
- ii. Ensuring that where the redevelopment of existing employment sites takes place, the level of employment floorspace is maintained or increased.*
- iv. The provision of a range of different sized units, particularly smaller spaces for micro-businesses and studio space.*

- 3.5 The development would result in the loss of 39sqm of office space. No justification for the loss of the existing office space has been provided and no marketing evidence has been conducted. Policy E2 is clear that the Council will resist the loss of a business use to a non-business use unless it has been thoroughly explored whether there is possibility for that use to continue. The Council will consider the suitability of the location for business use; whether the premises are in a reasonable condition to allow the use to continue; the range of unit sizes; and whether the business use is well related to nearby land uses (para. 5.37). Where a change of use to a non-business use is proposed, the applicant must demonstrate to the Council's satisfaction that there is no realistic prospect of demand to use the site for an employment use. The applicant must submit evidence of a thorough marketing exercise, sustained over at least two years. The premises should be marketed at realistic prices, include a consideration of alternative business uses and layouts and marketing strategies, including management of the space by specialist third party providers (para. 5.39). No such evidence has been provided, and as such, it is not possible for the Council to determine if there is a realistic prospect of demand to use the site for an employment use. In the absence of this information, the proposals would be contrary to policy E2.
- 3.6 Furthermore, given the small size of the unit in question, it would be particularly suitable for smaller premises, as supported by Policy 12 part (iv) of the Fortune Green and West Hampstead Neighbourhood Plan and Policy E1 parts (a) and (b) of the Camden Local Plan.

#### Land use conclusion

- 3.7 Although new housing is a priority land use in the borough, this does not outweigh the loss of employment floorspace provided by the existing office use which has not been thoroughly justified or demonstrated to the Council's satisfaction that there is no realistic prospect for this use to continue. As such, the proposals are contrary to policies E1 and E2 of the Camden Local Plan, and Policy 12 of the Fortune Green and West Hampstead Neighbourhood Plan and this forms a reason for refusal.

#### **4.0 Design**

- 4.1 The Council's design policies are aimed at achieving the highest standard of design in all developments, including where alterations and extensions are proposed. Policy D1 of the Local Plan requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area; and Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings. Policy 2 of the Fortune Green & West Hampstead Neighbourhood Plan requires all development to be of a high quality of design which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead.
- 4.2 Camden's Local Plan is supported by CPG (Design).
- 4.3 The proposals do not involve any external alterations and as such, would not impact the character and appearance of the host building or the wider streetscene.

#### **5.0 Standard of residential accommodation**

- 5.1 The new dwelling would measure 39sqm which would meet the nationally described space standard for a single storey, one bedroom, one person flat.
- 5.2 The dwelling would be located within the rear two rooms of the ground floor with access via Rose Joan Mews to the rear of the site. The flat would comprise a small shower/WC room, kitchen/lounge area and a separate bedroom measuring 9.2sqm. The flat would be single aspect, with one window serving the bedroom and one small window and two rooflights serving the kitchenette. Both windows look out onto the rear passage providing access to the flat. Due to the location and size of the window serving the kitchenette, and the location of the window serving the bedroom, it is likely that the flat would suffer from poor levels of daylight and sunlight, substandard outlook and poor levels of ventilation. No daylight and sunlight report has been submitted to demonstrate that the flat would receive acceptable levels of daylight and sunlight.
- 5.3 As such, the proposed dwelling is considered to provide substandard residential accommodation contrary to policy H6, and this forms a second reason for refusal.

## **6.0 Neighbouring Amenity**

- 6.1 Policies A1 and A4 of the Local Plan seek to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and would not harm the amenity of neighbouring residents. This includes privacy, outlook, noise, daylight and sunlight.
- 6.2 The bedroom and kitchen windows would both look out onto a gated rear passage way. Although the rear extension to no. 84 is in very close proximity, there are no side facing windows to this property and no extensions proposed to the application building, and as such, the residential use would not cause unacceptable impacts on the amenity of existing residential neighbours in terms of outlook, daylight/sunlight or privacy.
- 6.3 A 1 bedroom residential flat would not be considered to result in an increased level of noise and disturbance to neighbouring properties and would be considered acceptable in this regard.

## **7.0 Transport Considerations**

### Cycle parking

- 7.1 Policy T1 of the Camden Local Plan requires development to provide cycle parking facilities in accordance with the minimum requirements of the London Plan and the design requirements outlined in the Transport CPG. The Draft London Plan requires a minimum of 1 long stay space per 1 bedroom/studio unit. Policy 8 of the Fortune Green & West Hampstead Neighbourhood Plan also requires the provision of appropriate bicycle storage in residential and commercial development.
- 7.2 The plans do not show any cycle parking; however, a condition could secure details and the retention of a cycle parking space if the proposals were considered acceptable in all other regards.

### Parking

- 7.3 Policy T2 of the Camden Local Plan states that the Council will limit the availability of parking and require all new developments in the borough to be car-free. This includes limiting the availability of both off-street and on-street parking. Policy 7 of the Fortune Green & West Hampstead Neighbourhood Plan also aims to promote a reduction in car use by supporting car-free developments. The proposals do not include the provision of residential car-parking, in accordance with Policy T2.
- 7.4 If the proposals were acceptable in all other regards, the Council would require the development

to be secured as car free via S106 legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits. Without this, this forms a third reason for refusal.

## **8.0 Conclusion**

8.1 It is recommended that the application is refused due to the loss of office space and substandard residential accommodation provided and unacceptable parking stress in the absence of a signed s106 legal agreement for car free development, which are contrary to policies E1, E2, H6, T1 and T2 of the Camden Local Plan, and policies 1, 7 and 12 of the Fortune Green & West Hampstead Neighbourhood Plan.

## **9.0 Recommendation**

**Recommendation 1:** Refuse planning permission

**Recommendation 2:** That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning act 1990 as amended to **cease the use as a residential studio unit at rear ground floor**, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

**The Notice shall allege the following breach of planning control:**

The change of use of rear ground floor from office (Class B1) to residential use (Class C3).

### **WHAT YOU ARE REQUIRED TO DO:**

1. Cease the use of rear ground floor as a residential studio unit and reinstate the B1 office use;
2. Make good any damage caused as a result of the above works.

### **PERIOD OF COMPLIANCE**

The Notice shall require that the residential use ceases within a period of 3 months of the Notice taking effect.

### **REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE**

1. The loss of the office use, in the absence of sufficient justification demonstrating that the premises is no longer suitable for continued business use fails to support economic activity in Camden and result in the loss of employment opportunities within the Borough contrary to policy E2 (Employment Premises and Sites) of the Camden Local Plan (2017) and policy 12 (Business, Commercial and Employment Premises and Sites) of the Fortune Green and West Hampstead Neighbourhood Plan (2015).
2. The residential studio unit, by reason of substandard outlook and daylight/sunlight results in substandard accommodation, harmful to the amenities of future occupiers, contrary to policy H6 (Housing choice and mix) of the Camden Local Plan (2017) and policy 1 (Housing) of the Fortune Green and West Hampstead Neighbourhood Plan (2015).
3. The residential studio unit, in the absence of a legal agreement for car-free housing, is likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking) and A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017 and policy 7 (Sustainable Transport) of the Fortune Green and West Hampstead Neighbourhood Plan (2015).

