

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	22/04/2019
		N/A	<b>Consultation Expiry Date:</b>	14/04/2019
<b>Officer</b>			<b>Application Number(s)</b>	
Ben Farrant			2019/1070/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
First Floor 39 College Crescent London NW3 5LB			See 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(s)</b>				
Change of use from office (use class B1a) to therapy clinic (use class D1).				
<b>Recommendation(s):</b>		Refused		
<b>Application Type:</b>		Full planning application		

Conditions or Reasons for Refusal:	Refuse Permission			
Informatives:				
<b>Consultations</b>				
Adjoining Occupiers:	No. of responses	<b>26</b>	No. of objections	<b>22</b>

A site notice was displayed on 20/03/2019 (consultation end date 13/04/2019), and a press notice was displayed on 21/03/2019 (consultation end date 14/04/2019).

Representations were received from 26 address points, 22 objections were received on the following grounds:

1. Loss of office space is contrary to policy E2
2. Loss of open space contrary to policy A2 as the front courtyard could no longer be used by children
3. The other floors are likely to be used for D1 use too, not B1 as specified
4. The property has been advertised at an inflated price of £46sq.ft plus £8000 service charge which is an extremely inflated price
5. Conflict of uses with people waiting outside the building
6. Courtyard is used for children playing, the noise from this would cause friction with the therapeutic activities of the building
7. Previous office had the same 6-10 members of staff with no public access and low foot traffic - proposed would allow hundreds of patients to access the building
8. There is no way for patients to access the building other than through the residential area
9. The proposal would have the potential to result in 400 members of the public visiting per week in addition to staff
10. Noise disruption to local residents
11. Overlooking concerns where members of the public can overlook at first floor level - previously these were staff known to the residents
12. Patients would be inclined to loiter/make calls within the courtyard before/following consultations
13. The properties on 39 College Crescent have only small rear gardens and so the front is relied upon as amenity space
14. Application form is incorrect, access is only via the shared courtyard and not from the road
15. Building is too small to accommodate a business of such a scale
16. Parking concerns in an already congested area
17. Use of the car park would result in friction
18. Already significant pollution in the area - this will increase with further vehicles
19. Wheelchair access is not provided - how would disabled people access the space without using the ground floor too?
20. Gate could be left open by visitors which is unsafe
21. Safeguarding issue with patients mixing with children in the area
22. Security concern from shared commercial and residential access
23. The change of use would allow patients to access the site up until 10:00pm given the new opening hours
24. Patients would have free access to the car park
25. Patients could accidentally ring residents on the intercom rather than the clinic
26. Door could be jammed open or people tailgated to get in
27. The property was purchased as it offered additional security
28. Children's social development is hindered if they can't use the front garden as a play space
29. Impact on property values
30. Other more suitable sites exist within the area, closer to Swiss Cottage

**Summary of consultation responses:**

**Fitzjohn's/Netherhall  
Conservation Area  
Advisory Committee  
(CAAC)**

No response received.

## Site Description

The application site is the first floor of 39 College Crescent. The property has two storeys (plus basement), and is of a characterful design, noted as a positive contributor within the Fitzjohns Netherhall Conservation Area Statement.

The property is accessed via a private courtyard behind a secure entry gate off of College Crescent. The building is part of a small development (ref: 2008/5896/P allowed at appeal ref: APP/X5210/E/09/2105723 dated 01/10/2009) of 6 residential units and an office building (the subject of this application). The residential units and application site are all accessed off of the central courtyard behind the secure entry gate. An underground car park is also accessible from the site (through the basement of the property).

The site has a B1a (office) use class though it is currently vacant, and has been such since the previous occupier left in November 2018. The site has a PTAL of 6a (very good) meaning it is highly accessible by public transport.

## Relevant History

The site and street has a long planning history, below are the most relevant to this application:

### **39 & 40 College Crescent (Application Site)**

**2019/6409/P** - Temporary change of use for three years of basement and first floors from Class B1 (business) to Class D1a (health services). – **Lawful Development Certificate granted 29/01/2020** confirming temporary change of use for up to 3 years – use not yet implemented (notice has not been served on the local planning authority).

**2008/5896/P** - Change of use and redevelopment involving the erection of a three storey building comprising 6x dwellings, plus basement, following the partial demolition of No.39 College Crescent (work shop, Class B1) and western wing of No.40 College Crescent (known as Palmers Lodge). **Refused 21/05/2009, appeal allowed (ref: APP/X5210/E/09/2105723 dated 01/10/2009).**

## Relevant policies

### **National Planning Policy Framework (2019)**

### **London Plan (2016)**

### **Draft New London Plan (2019)**

### **Camden Local Plan (2017)**

A1 Managing the impact of development

A2 Open space

A4 Noise and vibration

C1 Health and wellbeing

C5 Safety and security

C6 Access for all

E1 Economic development

E2 Employment premises and sites

T1 Prioritising walking, cycling and public transport

T2 Parking and car-free development

### **Camden Planning Guidance**

CPG Access for all (2019)

CPG Amenity (2018)

CPG Community uses, leisure facilities and pubs (2018)

## **Fitzjohns Netherhall Conservation Area Statement (2001)**

### **Assessment**

#### **1. The proposal**

1.1. This application seeks planning consent for the following works:

- Permanent change of use of the first floor (80sq. m) from office space (use class B1a), to healthcare clinic (use class D1).
- The practice is an holistic clinic offering psychologist, nutritionist and CBT therapists to treat a range of conditions including: Child educational assessments, less stress better nutrition, nutrition consultations, solution-focused therapy, psychoanalytic therapy, acceptance and commitment therapy, schema therapy, dynamic interpersonal therapy, person centred therapy, integrative therapy, dialectical behaviour therapy, existential therapy, hypnotherapy, relationship counselling, family therapy, psychotherapy and counselling.
- The proposed occupier's team comprises of psychologists, social workers, nutritionists and clerical workers. The site would accommodate ten part time consultants working across three therapy rooms which could be provided within the 80 sq. m first floor. As such, there would be a maximum of three consultants seeing clients at any one time. All appointments would be pre-booked, and entry would be via the existing secured entry intercom into the courtyard. The entrance door to the site is the closest entrance within the courtyard, located a few metres from the secure entry gate (see photos). It is anticipated that the therapy clinic would result in approximately 48-58 movements per day, compared to the office use of 48-52 movements.
- Camden residents would be given the opportunity to access 'pro bono' (free) appointments as part of the business' mission to give back in a timely manner (when people cannot access therapy for up to a year in most Boroughs compared to 1-2 weeks with the proposal).
- All referrals are triaged to fully understand the clients prior to their appointments. High risk or forensic patients are not seen whatsoever, and are instead referred to specific services that are best equipped to see them.
- No external physical alterations are proposed to the building.

#### **2. Revisions**

2.1. No revisions were received during the course of the application.

2.2. The applicant did amend the application to apply for a change of use of the site for a temporary period of 3 years. This would be in line with their permitted development rights established under Class D of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

2.3. The applicant was advised to instead utilise their permitted development rights to gain consent for the temporary change of use of the site. Accordingly they were granted a lawful development certificate for the temporary change of use (ref: 2019/6409/P dated 29/01/2020).

2.4. Following the approval of the above referenced lawful development certificate, the applicant reverted this application to propose the permanent change of use of the site (as originally applied for).

2.5. The details assessed here remain as originally applied for.

### 3. Land use principle

- 3.1 Policy C1 of the Camden Local Plan highlights the need to reduce health inequalities across the borough and to support the provision of new or improved health facilities in line with Camden's Clinical Commissioning Group and NHS England requirements. CPG Planning for health and wellbeing continues to explain the significant role planning has in improving the health and wellbeing of Camden's residents.
- 3.2 It is noted however that the formation of the therapy clinic would require the loss of 80sq. m of B1 office space at first floor level, contrary to policy E2 of the Local Plan which seeks to protect business premises.
- 3.3 Policy E2 stipulates that the Council will resist development of business premises and sites for non-business use unless it is demonstrated to the Council's satisfaction that: a) the site or building is no longer suitable for its existing business use; and b) that the possibility of retaining, reusing or redeveloping the site or building for similar or alternative type and size of business use has been fully explored over an appropriate period of time.
- 3.4 CPG Employment Sites and Business Premises (2018) then sets out further criteria required to form a thorough marketing exercise. Requirements include (but are not limited to): the use of a reputable agent with a history of sales/lettings within Camden; internet publishing of marketing; use of a visible board throughout the marketing process; reasonable rates for the area and property condition; and attractive lease terms.
- 3.5 The CPG requires continuous marketing for over 2 years, but para.47 of the CPG states that the Council will consider shorter marketing periods where: a) premises have been actively marketed for at least 12 months up to the submission of the application b) premises have been completely vacant for at least three continuous years to the date of submission, or c) where the premises have the benefit of a valid planning permission involving demolition and or redevelopment of the premises.
- 3.6 The application has been supplemented with market analysis report, however it fails to comply with the criteria of policy E2 and CPG Employment Sites and Business Premises (2018). Policy E2 requires the following information (in italics and underlined, followed by a comment from the Officer):

*"Marketing material should be published on the internet, including popular online property databases such as Focus and should include local or specialist channels where appropriate – e.g. jewellery-specific press in Hatton Garden, through Business Improvement Districts, the GLA's Open Workspace Group or other workspace providers."*

- 3.7 The applicant submitted a report by 'Dutch and Dutch' which provides an analysis of the local market, but does not provide a report on the marketing of the property in particular. The example properties they provide are all found through Rightmove. There has been no evidence provided to demonstrate that appropriate property databases have been used. The application site was not listed on Rightmove (the chosen database of 'Dutch and Dutch') at the time of assessment. As such, the submission would fail to comply with the above.

*"Lease terms should be attractive to the market:*

*- be for at least three years, with longer terms, up to five years or longer, if the occupier needs to undertake some works Camden Planning Guidance: Employment sites and business premises*

*- and/or include short term flexible leases for smaller premises which are appropriate for SME*

*- appropriate rent-free periods should be offered to cover necessary fit out or refurbishment costs."*

3.8 An advert for the property was submitted to the Council on 02/10/2020. The advert is dated September 2018, and states that the lease term expires on 22/01/2020 (16 month lease length). This is an extremely short lease length and would not provide an attractive offer to future occupants. It would fail to comply with the minimum 3 year lease length required by the above policy criteria.

“A commentary on the number and details of enquiries received, such as the number of viewings and the advertised rent at the time, including any details of why the interest was not pursued”

3.9 This has not been provided.

3.10 Policy E2 goes on to state that the Council will consider shorter marketing periods in the certain circumstances, including:

“Where the premises have been actively marketed for sale for at least 12 months up to the date of the submission of the planning application”

3.11 As above, further evidence is required in order to confirm that an attractive offer has been actively marketed for a sustained period.

3.12 On the basis of the above, the proposal fails to demonstrate that the property has been actively marketed for a sustained period of time, and fails to comply with policy E2 of the Camden Local Plan and CPG Employment Sites and Business Premises (2018). In the absence of such evidence, the proposal would constitute the permanent loss of business floorspace without sufficient justification, contrary to policy E2 of the Camden Local Plan. The fallback position offered by permitted development rights for a temporary three year use (as confirmed by Lawful Development Certificate 2019/6409/P) is a material planning consideration. However, this fallback is only for a temporary use. In this particular case it would not outweigh the protection afforded to the current B1 office under the development plan, and refusal is warranted on this basis.

#### **4. Amenity**

4.1. Policy A1 of the Local Plan seeks to protect the quality of life of neighbouring occupiers. The factors to consider include: visual privacy and outlook; sunlight, daylight and overshadowing; artificial light levels; noise and vibration.

4.2. As no external alterations are proposed to the property, the proposal is considered not to result in undue harm to neighbours in terms of daylight/sunlight, or outlook.

##### Noise

4.3. The proposed therapy clinic would operate in a similar way to an office in terms of noise. The therapy sessions would be meetings and conversations within the first floor of the building and would not result in levels of noise audible beyond the external envelope of the building.

4.4. The number of trip generations would be broadly similar to an office occupier, and whilst there may be more visitors to the site than there may be with an office use, these would be by appointment only via secure entry intercom with all clients triaged. Clients would not be encouraged to loiter within the courtyard area, though they would have access to it in the same way as previous occupiers of the office. It is noted that the entrance to the proposed therapy clinic is the first entrance within the development, located away from the residential units, so staff and clients would not walk past residential units.



4.5. Given the above, it is considered that by reason of the type of work undertaken on site, the location of the access (away from residential units), secure entry system, and similar trip generation to that reasonably expected of an office, the proposal would not result in unduly harmful levels of noise.

### Security

4.6. The office use at present utilises the existing access off of the courtyard, the proposal would seek to maintain this arrangement. The courtyard is accessed via secure entry system and clients would need to pre-book appointments and use the intercom to access the site. The property access is the first door within the development (located a few metres from the secure entry) and all clients are appropriately triaged prior to their consultation.

4.7. The proposal would not represent harm to the safety or security of the development or residents.

4.8. There is no evidence to suggest that the proposed use would represent a safeguarding issue for residents of the development.

### Overlooking

4.9. The proposal would maintain existing fenestration at first floor level, the level of overlooking would be unchanged from the existing. There would be no harm in terms of overlooking.

4.10. Given the details of the proposal, subject to the attached conditions, the proposal is considered not to result in undue harm to the residential amenities of neighbouring occupiers in compliance with policy A1 of the Local Plan.

## **5. Conservation and design**

5.1. Local Plan Policy D1 states that the Council will seek to secure high quality design in development. The Council will require that development: a. respects local context and character; b. preserves or enhances the historic environment and heritage assets in accordance with policy D2 (Heritage).

5.2. Given that no external alterations are proposed, there are no conservation and design considerations arising as a result of this proposal.

## **6. Transport & Waste**

6.1. No additional car parking would be provided as a result of the change of use, which is considered to be acceptable in compliance with policies T1 and T2 of the local plan. It is anticipated that staff and clients would utilise public transport in this area which has a PTAL rating of 6a.

6.2. Waste storage would be retained as existing, which is considered to be acceptable.

### **Recommendation:**

Refuse planning permission.