

Delegated Report		Analysis sheet	Expiry Date:	24/01/2020
		N/A / attached	Consultation Expiry Date:	13/06/2020
Officer			Application Number(s)	
Laura Hazelton			2019/5886/P	
Application Address			Drawing Numbers	
86 Fortune Green Road London NW6 1DS			Please refer to decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal				
Subdivision of existing maisonette at 1 st and 2 nd floor level to 5 x studio flats (Class C3) [retrospective].				
Recommendation:		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 use as 5 self-contained studio flats at 1 st and 2 nd 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.		
Application Type:		Full Planning Permission		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	00	No. of objections	00
Summary of consultation responses:	<p>A site notice was displayed from 20/05/2020 to 13/06/2020</p> <p>No responses were received.</p>					
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 ground floor unit is in A2 use (financial and professional services) and currently occupied by a firm of accountants. The upper floors are in residential use, originally as a single flat, and are the subject of the current application.

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

2020/1846/P - Change of use of part of the rear ground floor retail unit (Class A2) to residential (Class C3) comprising of 1 x studio flat and associated installation of 1 x window to rear under the General Permitted Development Order 2015 Schedule 2, Part 3, Class M. Recommended for approval, pending S106 legal agreement.

2019/5992/P - Change of use of ground floor rear office (B1 use) to residential studio unit (C3 use) (Retrospective). Refused and enforcement action recommended 06/03/2020.

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 H10 Housing with shared facilities
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
Policy DM1 Delivery and monitoring

Fortune Green & West Hampstead Neighbourhood Plan 2015

Policy 1 Housing
Policy 2 Design & character
Policy 7 Sustainable Transport
Policy 8 Cycling

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 the subdivision of existing maisonette at 1st and 2nd floor level to 5 x studio flats (Class C3) [retrospective].

2.0 Assessment

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

- Land use and standard of residential accommodation
- Design
- Neighbouring Amenity
- Transport Considerations

3.0 Land use and standard of accommodation

- 3.1 Permission is sought for the conversion of the existing residential dwelling at first and second floor into a five bedroom house in multiple occupation (HMO) (Class C4). Class C4 Small Houses in Multiple Occupation are defined in The Town and Country Planning (Use Classes) Order 1987 (as amended) as small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.
- 3.2 The property was originally in use as a single residential unit, before being converted at some point to shared accommodation. Council Tax records show Flats 1 – 5 at the application site being created in August 2017. Before then, Council Tax records show records for no.86 (ground floor) and 86a (first and second floor), suggesting that the works were carried out less than four years ago.
- 3.3 The pre-existing floor plans show each of the five rooms with their own kitchenette and two bathrooms shared between the five rooms, which would appear to be a Class C4 HMO. Since then, the first and second floor have been split into five self-contained studio rooms, each with its own small kitchenette and bathroom facilities, measuring approximately 19sqm, 14sqm, 24sqm, 15sqm and 24sqm. The planning statement submitted with the application refers to the site being in use as a licensed HMO (ref: 86827 date: 25/01/2019) and assesses the units against Housing Standards. However, Housing Standards and Planning are different regulatory regimes and the Housing Act 2004 and the Town and Country Planning Act 1990 (as amended) provide different definitions of HMOs. Given each room is self-contained with its own kitchen and bathroom facilities, they do not meet the definition of a Small HMO set out in the Town and Country Planning Act, in which basic amenities must be shared by occupants. Although the room layout shown on the pre-existing floor plans appears to be a C4 HMO, the current arrangement is not. As such, though permission is sought for C4 use, the Council considers each room to be a self-contained studio flat (Class C3), and they must be assessed against the relevant standards for a single dwelling.

3.4 In principle, the creation of four additional residential dwellings would be supported as housing is regarded as the priority land use of the Local Plan. However, the Council also requires development to contribute to the creation of mixed and inclusive communities by containing a mix of large and small homes (Policy H7), and Policy H6 (Housing choice and mix) sets out the Council's intention to seek a wide variety of high quality homes suitable for Camden's existing and future households. The Council will attach equal weight to the quality and quantity of new homes proposed in the borough and will not sacrifice housing quality in order to maximise overall housing supply. Policy 1 (Housing) of the Fortune Green and West Hampstead Neighbourhood Plan also requires residential development to provide a range of different unit sizes, including three and four bedroom homes.

3.5 In this instance, the studio flats would measure between 14sqm and 24sqm. The Nationally Described Space Standards require a minimum gross internal floor area of 37sqm for a one person flat, which all units would fall far short of. As such, the flats would be extremely small, and would provide substandard residential accommodation for future occupants.

Land use conclusion

3.6 Although new housing is a priority land use in the borough, the development would provide substandard residential accommodation for future occupants, contrary to policy H6 of the Camden Local Plan, and Policy 1 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. Of relevance to the current application, Policy D1 requires housing development to provide a high standard of accommodation, incorporate outdoor amenity space and promote health. 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 Neighbouring Amenity

5.1 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.

5.2 Given the lawful use of the first and second floor as a residential dwelling, the conversion to provide additional dwellings with no external alterations would not cause unacceptable impacts on the amenity of existing residential neighbours in terms of outlook, daylight/sunlight or privacy.

6.0 Transport Considerations

Cycle parking

6.1 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 and 2 short stay spaces per 5-40 dwellings, equating to a requirement of 5 long stay and 2 short stay spaces. Policy 8 of the Fortune Green & West Hampstead Neighbourhood Plan also requires the provision of appropriate bicycle storage in residential and commercial development.

- 6.2 As this is a retrospective application, with limited space for internal cycle parking within the building, the Council's Transport Officer has confirmed that financial contributions could be made for a bike hanger, which would need to be secured by S106 legal agreement. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

Parking

- 6.3 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.
- 6.4 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 reason for refusal.

7.0 Conclusion

- 7.1 It is recommended that the application is refused due to the substandard residential accommodation provided, which is contrary to policy H6 of the Camden Local Plan, and policy 1 of the Fortune Green & West Hampstead Neighbourhood Plan.

1.0 Recommendation

Recommendation 1: Refuse planning permission

Recommendation 2: That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 171(1)(a) of the Town and Country Planning act 1990 as amended at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Explanatory Note at the end of the Notice and the enclosures to which it refers contain important additional information.

THE LAND TO WHICH THE NOTICE RELATES

Land at 86a Fortune Green Road, London, NW6 1DS

to **cease the use as 5 self-contained studio flats at 1st and 2nd 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:

Without planning permission: The subdivision of the existing property at 1st and 2nd floor level to 5 x self-contained studio flats.

WHAT YOU ARE REQUIRED TO DO:

Within a period of 6 months of the Notice taking effect:

1. Cease the use of the first and second floors as 5 self-contained flats.
2. From the property at first and second floor, remove all but one set of kitchen facilities.
3. Reinststate the property as detailed in the existing plans referenced 201-B (Previous Plans) associated with the application referenced 2019/5886/P and attached at appendix A below.
4. Remove from the property all constituent materials resulting from the above mentioned works.
5. Make good any damage caused as a result of the above works.

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE

1. The unauthorised development has occurred within the last 4 years.
2. The residential studio units, by reason of inadequate dwelling size, would provide substandard residential 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 self-contained studio units, in the absence of a legal agreement for car-free housing, would be 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).
4. The residential self-contained studio units, in the absence of a legal agreement securing a contribution towards cycle parking, would fail to promote sustainable forms of transport, contrary to policies T1 (Prioritising walking, cycling and public transport) and CC1 (Climate change mitigation) of the Camden Local Plan 2017 and policy 7 (Sustainable Transport) of the Fortune Green and West Hampstead Neighbourhood Plan (2015).

Appendices

Appendix A



General Notes

- Do not use this drawing, stated or implied, for any purpose other than that for which it was prepared.
- Any discrepancy or inconsistency between this drawing and any other drawing or document shall be resolved by the architect.
- Measurements for construction shall be taken from the finished floor level unless otherwise stated.
- Dimensions shall be taken from the finished floor level unless otherwise stated.
- The drawings shall be to be to the latest national standards.
- Dimensions and measurements to be checked on site.
- The following materials must not be used under any circumstances:
 - Asbestos products
 - Concrete of this strength as shown by Keythall Design

Rev	Description	Date
1	Issue for tender	20.03.20
2	Issue for construction	20.03.20
3	Issue for construction	20.03.20

KEYVTHALL DESIGN
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86 Fortune Green Road
London NW6 1DS

Previous Plans

Ref	Date	Notes
1	1910	
2	March 2020	201-B
3	1:50 (A2)	