

Delegated Report		Analysis sheet	Expiry Date:	04/03/2020
		N/A	Consultation Expiry Date:	28/02/2020
Officer		Application Number(s)		
Obote Hope		2020/0087/P		
Application Address		Drawing Numbers		
74 Fortune Green Road London NW6 1DS		See draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Change of use of part of the rear ground floor retail unit (Class A1) comprising of 1 x studio flat.				
Recommendation(s):		Granted subject to s106 legal agreement		
Application Type:		GPDO Prior Approval Class M change of use of A1 to C3		
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice		
Informatives:				
Consultations				
Adjoining Occupiers:		No. of responses	00	No. of objections
		No. electronic	00	00
Summary of consultation responses:		A site notice was displayed on 13/01/2020. No consultation responses have been received.		
CAAC/Local groups* comments: *Please Specify		<u>No comment received from Fortune Green and West Hampstead Neighbourhood Forum:</u>		

Site Description

The application site is a three-storey terrace property located on the east side of Fortune Green Road just north of the junction with Achilles/Ajax Road. The property is mixed-use consisting of retail unit on the ground floor with maisonette on the first and second floors. However, the upper floors were recently granted planning permission for 3 x self-contained flats, consisting of 2 x 1bed self-contain unit and a studio flat.

The application site is within a designated Neighbourhood Centre (Fortune Green and West Hampstead). The application site is also within a Local Flood Risk Zone and a Neighbourhood Planning Area (Fortune Green and West Hampstead). It is not listed or within a conservation area.

Relevant History

2019/3748/P - Change of use of ground floor retail unit (Class A1) to residential (Class C3) comprising a 1 bedroom self-contained flat. Refused permission on 01/10/2019.

Reason for refusal:

The proposed change of use of the ground floor from retail (A1) to residential (C3) would have a detrimental impact on the adequate provision of services in the area and the sustainability of a key shopping area, i.e. the Fortune Green Neighbourhood Centre. This would be contrary to policy TC2 (Camden's centres and other shopping areas) of the London Borough of Camden Local Plan 2017 and policy 15 (Fortune Green Road Neighbourhood Centre) of the Fortune Green and West Hampstead Neighbourhood Plan 2015. The loss of the retail unit and its impact on a town centre would also be contrary to chapter 7 of the National Planning Policy Framework 2019.

2018/2812/P – Planning permission for erection of a mansard roof extension with front and rear dormers to provide ancillary residential floor space (Class C3). **Granted** on 17/09/2018.

2018/4600/P – Planning permission for the 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** subject to s106 legal agreement on 11/04/2019.

2018/4601/P – Planning permission for 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.

Relevant policies

National Planning Policy Framework (2019)

Chapter 4 (Promoting sustainable transport)

Chapter 10 (Meeting the challenge of climate change, flooding and coastal change)

Chapter 11 (Conserving and enhancing the natural environment)

The Town and Country Planning (General Permitted Development) (England) Order 2015

The Environmental Protection Act 1990(a) part IIA

The Contaminated Land Statutory Guidance issued by the SoS for Environment, Food and Rural Affairs in April 2012

Assessment

1.0 Proposal

1.1 The proposal seeks to change the use of part of the rear ground floor of the building from a shop (Class A1) to residential use (Class C3), to provide 1Bed studio flat.

1.2 The resulting unit proposed would be a 1 bedroom, 1 person dwelling that would occupy the part of the ground floor.

2.0 Prior approval procedure

2.1 The Town and Country Planning (General Permitted Development) (Amendment) (England) Order (GPDO) 2015, Schedule 2, Part 3, Class M allows for the change of use of a building from a use falling within Class A1 (shops), to a use falling within Class C3 (dwellings) of that Schedule, subject to a prior approval process as well as conditions. Class M (b) also allows for building operations reasonably necessary to convert the building.

2.2 Developments that accord to sub-paragraph M.1 (a) – (g) are permitted by this class, subject to a number of conditions listed within sub-paragraph M.2 (1) [(a)-(e)]. Development is also subject to subsequent conditions in sub-paragraph M.2 relating to the need for the developer to apply to the local planning authority for a determination as to whether prior approval of the authority is required and to apply time limits for implementation. According to the above sub-sections, this application seeks to establish whether prior approval is required as to the following:

- transport and highways impacts of the development,
- contamination risks in relation to the building,
- flooding risks in relation to the building,
- 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 A1 (shops), but only where there is a reasonable prospect of the building being used to provide such services, or (ii) where the building is located in a key shopping area, on the sustainability of that shopping area,
- the design or external appearance of the building,

2.4 Paragraph W (GDPO 2018) sets out the procedure for applications for prior approval under Part 3 and this application seeks to ascertain whether the proposed change of use would constitute permitted development and whether prior approval is required. Part W (13) of the legislation notes that the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

Assessment under Part 3, Class M of the GPDO Compliance with Paragraph M.1 Development is not permitted by Class M if-

- a) the building was not used for one of the uses referred to in Class M(a) on 20th March 2013, or in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
- 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;
- c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;
- 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;

- 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;
- 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);
- 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.

2.5 The proposal complies with part a): Records show that the ground floor unit has remained in a retail use (A1) since prior to 2013. The existing business occupying the retail unit has been in situ and operational since at least 2008, with records indicating that a bookshop has previously occupied the site.

2.6 The proposal complies with part b): The application unit has remained within the A1 use class for a number of decades, which was not subject to a previous change of use under this Part of the GPDO.

2.7 The proposal complies with part c): The cumulative floor space of the existing building changing use under Class M does not exceed 150 square metres;

2.8 The proposal complies with part d): The proposed flat would have a gross internal area of approximately 50sqm. The application site including the curtilage has a total area of 57sqm. The development (together with any previous development under Class M) would not result in more than 150 square metres of floor space in the building having changed use under Class M;

2.9 The proposal complies with e): the development would not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

2.10 The proposal complies with f): the development does not involve any demolition;

2.11 The proposal complies with g): The application site is not within a conservation area or land otherwise designated under the definitions of article 2(3) land. The site is not an SSSI, safety hazard area or explosive storage area. In addition, the application site does not contain or adjoin any listed buildings or scheduled monument.

2.12 In light of the above, the proposal would accord with the conditions of paragraph M.1, falling within the remit of development permitted subject to prior approval under paragraph M.2.

Compliance with Paragraph M.2

2.13 Where the development proposed is development under Class M(a) together with development under Class M(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a 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,

(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 A1 (shops) or Class A2 (financial and professional services) of that Schedule or, as the case may be, a building used as a launderette, but only where there is a reasonable prospect of the building being used to provide such services, or

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area,

(e) the design or external appearance of the building'

2.14 Assessment against the above clauses will be set out below in turn:

3.0 Transport and highways impacts of the development,

3.1 The application site is located within a highly accessible location with a PTAL level of 4. It is also located within the Fortune Green controlled parking zones (CA-P (a)) which operates between 08:30 – 18:30 Monday – Friday and CA-P (c) in operation between 10:00 -12:00.

Construction impacts

3.2 Given the modest level of building operations proposed. Thus, the operational development aspect of the proposed development would not be likely to result in detrimental impacts upon the highways network. However, in order to ensure that the development promotes sustainable modes of transport and mitigates against a potential worsening of local traffic, parking, and air quality conditions, the new flat would be expected to become 'car-free' and to provide adequate storage for cycles.

Transport impacts

3.3 The submitted statement confirms that no off street parking is proposed and the area is well served with car club schemes should future occupiers need to make use of a private vehicle from time to time. Therefore, the proposed unit would need to be secured as a 'car-free' dwelling via a Section 106 legal agreement, in a similar way to the approved flats to upper floors (see planning history). This would ensure that new residents could not apply for parking permits within the already oversubscribed CPZ, would promote more sustainable modes of transport. Therefore, avoid increases to local problems of air quality and congestion.

Cycle parking

3.4 No cycle parking spaces have been shown on proposed plans and table 6.3 of the London Plan would require all new residential dwelling provide, accessible, covered, secure and fully enclosed cycle parking space per dwelling. 1 x cycle storage place would be required and this solution would be acceptable and could reasonably be conditioned.

4.0 Contamination risks in relation to the building

4.1 The proposal was assessed by or Pollution Team and the Council's records indicate that the site is at risk of land contamination; this is particularly due to its location within 100m of numerous garages that would likely exhibit significant elevated contamination levels with potential to cause harm. Whilst this concern remains, the proposed development as a change of use would not include any ground excavations and so there is no greater risk of exposure to ground contaminants. However, the pollution team also acknowledges that, given the age and construction of the property, asbestos-containing materials (ACMs) may have been used in construction and/or maintenance of the building. In light of this, it is recommended that an asbestos survey is undertaken so that any ACMs present can be managed accordingly to protect future occupiers or construction/demolition workers.

4.3 The aforementioned issues above could reasonably be dealt with via pre-commencement conditions.

5.0 Flooding risks in relation to the building

5.1 The application site is located with The Environment Agency's Flood Zone 1 indicating that there is a low probability of flooding occurring from sea or rivers. The area is, however, at risk of surface water flooding, with both the Environment Agency's Flood Map for Surface Water as well as Camden's 'Strategic Flood Risk Assessment' (2014) showing the site as being at risk. This primarily due to the existing levels of stressed placed upon the local drainage network.

5.2 In situations where a site is known to have a particular drainage issue or elevated flood risk, policy CC3 (Water) of the adopted Local Plan would require development to not place additional strain on existing drainage

infrastructure. The Local Plan (2017) also requires that new development be designed to cope with being flooded. Specifically, the Council's policy requires developments to reduce their water consumption, the pressure on the combined sewer network and the risk of flooding by:

- incorporating water efficient features and equipment and capturing, retaining and re-using surface water and grey water on-site;
- limiting the amount and rate of run-off and waste water entering the combined storm water and sewer network through the methods outlined in part a) and other sustainable urban drainage methods to reduce the risk of flooding; and
- reducing the pressure placed on the combined storm water and sewer network from foul water and surface water run-off and ensuring developments in the areas identified as being at risk of surface water flooding are designed to cope with the potential flooding

5.3 In this instance, the proposed development would involve the creation of new residential unit, which typically have a much higher water use than commercial uses, resulting in increased impact on the sewer system due to the generation of more wastewater. Despite this, there are no existing or proposed basements within the unit and there is negligible change in floor area. With this in mind, the main areas of outstanding concern relate to the following:

5.4 There should be no net increase in water consumption from present use through selection of suitable water efficiency measures – or at least targeting no more than 110 litres/person/day (including 5 litres/p/d for external use) by means of:

- Efficient water fittings;
- Feasibility study for greywater recycling or rainwater harvesting;
- Feasibility for green and/or blue roof(s) to be incorporated in designs;
- Calculations to show existing and future water consumption and savings, with / without the proposed measures.

5.5 There should be designs to incorporate flood-resistance measures including the new entrance doors and all other potential water entry points. Internal measures for coping in case of water ingress. However, there is limited scope to implement measures to mitigate flood risk and the impact on the existing drainage infrastructure at the site; however, the applicant should incorporate low water use WC, an eco-shower and an eco-basin tap at the property. The proposals are therefore considered acceptable in this regard.

6.0 Impact of change of use on adequate provision of Class A1 retail services and on the sustainability of a key shopping area

6.1 The key issue is whether it is undesirable for the building to change to a Class C3 use due to the impact of the **adequate provision of retail services (criteria (d)(i) cited above)** and, where the building is located in a key shopping area, on the **sustainability of that shopping area (criteria (d)(ii) cited above)**. The site is within the designated Fortune Green Neighbourhood Centre. Policy in the NPPF and in the Development Plan gives a helpful guide on how the council should assess both adequate mix of uses in a key shopping area (and therefore an adequate provision of retail services), and the viability and sustainability of the shopping area.

6.2 Para.85 of the NPPF (2019) states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Paragraph 85(b) states that as a result the LPA should define the extent of town centres and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre.

6.3 The proposed would not lead to the loss of a retail unit that would contribute to an under-provision of retail units in the area and create an over-concentration of non-retail uses within the designated frontage by retaining approximately 33sqm of commercial space at the site. Notwithstanding this, the proposal was accompanied by a supporting statement commissioned by Jon Hughs of Dexters who confirmed that a small unit would be better suited in this location covering "*circa 30-35 square metres in size would be more viable for this location with a view to trying to attract a smaller, more niche, tenant*".

6.4 Therefore, it is not considered that the proposal would detrimentally impact on adequate provision of Class A1 (retail) units in the town centre and neither is it considered that the proposal would cause harm to the

sustainability of Fortune Green which is a designated Neighbourhood Centre and shopping destination. As such, the proposal is considered acceptable in this respect.

6.5 The Town and Country Planning (General Permitted Development) (England) Order 2015, Part W (13) notes that the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The abovementioned measures can therefore be secured by condition.

7.0 Design or external appearance of the building

7.1 The proposal does not involve any changes to the design or external appearance of the application building. The only building operations necessary to convert the building are internal works. Therefore, prior approval is not required in this respect. It is worth noting that, if the change of use was allowed, future occupiers of the new residential unit may want to alter the traditional shopfront, which may or may not have an impact on the character of the shopping parade and area.

8.0 Conclusion

8.1 The proposal would be in accordance with The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 Part 3 Class M. Which allows for development consisting of a change of use of a building to a use falling within Class C3 (dwellinghouses) of the Schedule.

9.0 Recommendation

9.1 Grant Prior approval for the application subject to a section 106 legal agreement securing the new dwelling as car free.