

<b>Delegated Report</b> (Refusal)		Analysis sheet		Expiry Date:	
		N/A		Consultation Expiry Date:	
<b>Officer</b>			<b>Application Number(s)</b>		
Jaspreet Chana			2020/5999/P		
<b>Application Address</b>			<b>Drawing Numbers</b>		
106 Hampstead Road London NW1 2LS			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(s)</b>					
Erection of two additional storeys to provide 2 x 1 bedroom residential units above a mixed use building					
<b>Recommendation(s):</b>		Refuse Prior Approval			
<b>Application Type:</b>		GPDO Prior Approval Part 20, Class AB			

Conditions or Reasons for Refusal:	<i>Refer to Decision Notice</i>					
Informatives:						

### Consultations

Adjoining Occupiers:	No. notified	<b>00</b>	No. of responses	<b>00</b>	No. of objections	<b>00</b>
Summary of consultation responses:	<p>Site notices were displayed from 28/10/20 to 21/11/20. Four letters of support were received from occupiers of the property.</p> <p>No comments were received</p>					

### Site Description

The application property is a detached three storey building located on the eastern side of Hampstead Road. The building is in mixed use with an office at basement and ground floor level and two residential units occupying the first and second floor levels. The surrounding area is a mixture of commercial and residential buildings which vary in height, scale and design.

The site is not situated within a conservation area and is not listed. The site is within Flood Zone 1 but is not located within a critical drainage area.

### Relevant History

None relevant to this application

### Relevant policies

**The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020**

**NPPF 2019**

**London Plan 2021**

**Camden Local Plan 2017**

## Assessment

### 1. Proposal

- 1.1. The proposal seeks prior approval for the erection of two additional storeys of new residential units above the existing detached mixed-use building.
- 1.2. The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 came into force on 31st August 2020 and introduced Class AB to Part 20 of Schedule 1 'Construction of New Dwellinghouses', which allows for development consisting of works for the construction of up to two additional storeys of new residential units immediately above the topmost storey on terrace buildings in commercial or mixed use.
- 1.3. As confirmed in Part 20 (GPDO 2020), in this context a terrace building is defined as '*the row of two or more terrace buildings of which it forms part*', where each building in the row:-
  - a. Shares a party wall with, or has a main wall adjoining the main wall of, the building on either side. Or
  - b. If it is the end of a row-
    - (i) In the case of a row comprising more than two buildings, it shares a party wall with, or has a main wall adjoining the main wall of, a building which fulfils the requirements of paragraph (a); or
    - (ii) In the case of a row comprising only two buildings, it shares a part wall with, or has a main wall adjoining the main wall of, the other building in the row;
- 1.4. From google street view and photographs sent in by the applicant the application site appears to be a detached building (please see below) with a clear gap being seen between 108 Hampstead Road and 106's side flank wall.



Photo from google street view July 2019



Photo from agents February 2021

- 1.5. Given the above photographs it is evident that No.106 is not a terrace building but a detached building. The site does not come within the description of Class AB. For the purposes of Part 20. "terrace building" means a building which is not detached. The above

photos show that whilst there may be some parts of the buildings that abut one another, the main relationship is a clear gap between the buildings.

- 1.6. The gap is also shown on the submitted drawings. The prior approval should therefore be refused under paragraph B (3) of Part 20 as this is not a valid application.
- 1.7. In addition to the above legal definition, officers note that a terrace generally displays at least some degree of continuity or connection. These two buildings are not of similar period, design, scale, use or character, and they do not share a party wall.
- 1.8 On the above basis, the application has been refused as the site would not come within the description of Class AB under Schedule 1, Part 20 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended 2020). Prior approval is therefore refused under Paragraph B(3) of Part 20.
- 1.9 Notwithstanding the above, officers have done a without prejudice 'notwithstanding' assess of the proposal against the relevant legislation. Any proposal that did qualify for this type of application (i.e. not this one) would need to comply with a number of conditions listed within sub-paragraph A.1 [(a)-(o)] and a subsequent condition in sub-paragraph A.2 relating to the need for the developer to apply to the local planning authority for prior approval as to:
  - a) transport and highways impacts of the development;
  - b) air traffic and defence asset impacts of the development;
  - c) contamination risks in relation to the building;
  - d) flooding risks in relation to the building;
  - e) the external appearance of the building
    - (i) the design and architectural features of:
      - (aa) the principle elevation; and
      - (bb) any side elevation that fronts a highway; and
    - (ii) the impact of any works under paragraphs AB(3)(c) or (d);
  - f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
  - g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
  - h) impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;
  - i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;
  - j) whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012 issued by the Secretary of State.
- 1.10 The proposals would fail parts a) and e) above, due to its failure to secure car-free housing and cycle parking and the external appearance of the building, which would significantly detract from the host building, the adjacent locally listed building and the surrounding area generally. An assessment is located below.

## **2. Assessment**

2.1. *Assessment against Part 20, Class AB conditions*

Class AB: New dwellinghouses on terrace buildings in commercial or mixed use		
If yes to any of the questions below the proposal is not permitted development:		Yes/No
(a)	The building was constructed before 1st July 1948, or after 5th March 2018;	No
(b)	On 5th March 2018 the building was in a use other than— (i) a use or mixed use within paragraph AB(2)(a) or (b); or (ii) a use falling within Class C3 of the Schedule to the Use Classes Order;	No
(c)	The additional storeys are constructed other than on the principal part of the building;	No
(d)	The floor to ceiling height of any additional storey, measured internally, would exceed the lower of— (i) 3 metres; or (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building; (in this case 2.45m)	No - (Floor to ceiling height 2.5m)
(e)	The new dwellinghouses are not flats;	Yes – (two 1b1p 46sqm2 flats)
(f)	The height of the highest part of the roof of the extended building (not including plant) would be greater than 18 metres;	No
(g)	The height of the highest part of the roof of the extended building would exceed by more than 3.5 metres the height of the highest part of the roof of every other building in the row of terrace buildings of which it forms part (not including plant, in each case	<b>The building is detached and not part of a terrace</b>

(h)	The height of the highest part of the roof of the extended building would exceed the height of the highest part of the roof of the existing building (not including plant, in each case) by more than— (i) 3.5 metres, where the existing building consists of one storey; or (ii) 7 metres, where the existing building consists of more than one storey;	No
(i)	The existing building has been enlarged by the addition of one or more storeys above the original building, whether in reliance on permission granted under this Part or otherwise;	No
(j)	Development under Class AB(3)(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;	No
(k)	Development under Class AB(3)(a) would consist of engineering operations other than works within the existing curtilage of the building to— (i) strengthen existing walls; (ii) strengthen existing foundations; or (iii) install or replace water, drainage, electricity, gas or other services;	No
(l)	In the case of Class AB(3)(b) development there is no existing plant on the building;	No
(m)	In the case of Class AB(3)(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the extended building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;	No
(n)	Development under Class AB(3)(c) would extend beyond the curtilage of the existing building;	No
(o)	Development under Class AB(3)(d) would— (i) extend beyond the curtilage of the existing building; (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building; or	No
(p)	The land or site on which the building is located, is or forms part of— (i) article 2(3) land; (ii) a site of special scientific interest; (iii) a listed building or land within its curtilage; (iv) a scheduled monument or land within its curtilage; (v) a safety hazard area; (vi) a military explosives storage area; or (vii) land within 3 kilometres of the perimeter of an aerodrome.	No

### **3. Transport and highways impacts**

- 3.1. The subject site comprises of three storeys plus basement level, offices at ground floor and basement level and two flats above. Separate entrances on Hampstead Road are provided for the offices and the flats. The site does not consist of existing off-site parking.
- 3.2. In line with section 9 of the NPPF, cycle parking should be provided. This would require the provision of 2 spaces. The proposal does not include any cycle parking. This is unacceptable; however, officers not that details could be sought via a planning condition if this application was valid and acceptable.
- 3.3. In accordance with section 9 of the NPPF, all of the new residential units would be secured as on-street parking permit free by means of a Section 106 Agreement. This would prevent any future occupiers from adding to existing on-street parking pressures, traffic congestion and air pollution, whilst also encouraging the use of more sustainable modes of transport such as walking, cycling and public transport. The refusal of the application, and therefore the failure to enter into a legal agreement to secure car-free housing, becomes another reason for refusal.
- 3.4. Hampstead Road is a Red Route and as such forms part of Transport for London's Road Network (TLRN). There are Pelican crossing markings immediately outside the site and a bus lane either side of this, which prevents any loading from taking place. The nearest loading bay is located to the south of the site, outside 100 Hampstead Road. This is available for use between 10am and 4pm Monday to Saturday. Given these constraints, and the proximity of the site to the HS2 construction site to the north, it is considered that a Construction Management Plan and Implementation Support Contribution of £3,136 would need to be secured by means of the Section 106 Agreement if permission were to be granted.
- 3.5. On this basis, in the absence of a legal agreement to secure car free development, the proposal would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, and would therefore be contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of Camden Local Plan 2017.

### **4. Air traffic and defence asset impacts**

- 4.1. The site is not in close proximity to aeronautical assets.

### **5. Contamination risks in relation to the building**

- 5.1. The submitted contamination report concludes that there is a low risk of contamination on the site and therefore there would be no contamination risks by the proposed development.

### **6. Flooding risks in relation to the building**

- 6.1. The site is located within Flood Zone 1 suggesting a low level of risk to the area. The submitted Flood Risk Assessment demonstrates that the risk of flooding to the proposed development is low from all sources.

## **7. The external appearance of the building**

- 7.1. The proposal has been reviewed by the Council's Urban Design and Conservation Officers. The existing 1904 built neighbouring site the 'St Pancras Girls Orphanage' (108 Hampstead Road) is a prominent corner site located on Hampstead Road with considerable architectural and historic interest, and is locally listed (i.e. a Non-Designated Heritage Asset). The host building which is proposed to be extended by two additional storeys is considered to be of poor design quality and does not warrant being given greater prominence than it already has and certainly not more than the higher quality locally listed building the lies adjacent. It is also considered the proposed extension would completely conceal the side elevation of the locally listed building by the additional two storey's and would attach to the side chimneys and parapet wall. This is considered to be detrimental to character and appearance of the locally listed building and the streetscape. Harm would therefore result to the Non-Designated Heritage Asset.
- 7.2. Overall the proposals would provide a negative response to the character of the host building and the surrounding area. The proposed development, by reason of its design, height, scale and massing would be detrimental to the character and appearance of the adjacent locally listed building (108 Hampstead Road) and the surrounding area.
- 7.3. The proposal would therefore be unacceptable under condition AB.2 (1) (e) and contrary to policies D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017 and Design CPG and the Publication London Plan 2020 and section 12 (Achieving well-designed places) of NPPF 2019. The prior approval is therefore unacceptable due to the detrimental impact under paragraph AB.2. (1)(e) of Part 20 (external appearance) of the Town and Country Planning (GPDO) 2015 (as amended 2020).

## **8. The provision of adequate natural light in all habitable rooms of the new dwellinghouses**

- 8.1. The proposed two new units would be west/east dual aspect and the habitable rooms will have large window openings. It is therefore considered the proposed new units would have an adequate provision of natural light in all habitable rooms.

## **9. Impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light**

- 9.1. The proposed additional two storeys would be added to the existing flat roof of the two flats. The extension would be to the same footprint as the existing and not any wider or deeper.
- 9.2. A Daylight and Sunlight study has been submitted to support the prior approval application. The report assesses No. 108 Hampstead Road 'St Pancras Girls Orphanage' (to the north of the application site), Maria Fidelis Convent Lower School (to the south east) and 1 Robert Street (Surma Community Centre) (opposite the site).



### *Sunlight and daylight*

- 9.3. The report demonstrates that the proposed scheme would not cause a noticeable change in light levels to existing properties around the site and that existing properties would still receive adequate annual probable sunlight hours and adequate sunlight hours during the winter period. The report finds that all windows and rooms pass the VSC (vertical sky component), DD (daylight distribution) and APSH tests where they relate to known habitable rooms. Therefore both new units will provide adequate standard of daylight for future occupiers.

### *Overlooking and privacy*

- 9.4. The sunlight available and extent to any overshadowing of the external amenity space at Maria Fidelis Convent Lower School and 108 Hampstead Road has been assessed using BRE guidance; results show that the proposed development would have a negligible effect on the sunlight available to the outdoor spaces when assessed on 21st March, in accordance with BRE recommendations.
- 9.5. Overall, the proposed development would not adversely impact neighbouring amenity in regards to loss of light, sunlight, daylight, overlooking and privacy impacts.

## **10. Impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;**

- 10.1. A noise survey was undertaken and it was found that the commercial noise sources were not influencing the results above road traffic noise, indicating that the impact of noise from commercial premises is low. Therefore the inclusion of use Class C3 at 106 Hampstead Road would not alter the existing mix of uses in the area. Therefore the extension would provide an acceptable living environment and would not be impacted by noise from any commercial properties.

## **11. Impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;**

- 11.1. The existing site already consists of two flats, this proposal would increase this to four flats in residential use. The surrounding area is in mixed use and it is considered that the addition of two new units would have a positive impact on the area and help boost local businesses.

**12. Whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012 issued by the Secretary of State.**

12.1. The site sits within the Landmark Viewing Corridor from Parliament Hill towards the Palace of Westminster. The proposed two storey roof extension is not considered to be taller than the adjacent locally listed building (108 Hampstead Road) and therefore it will not have any affect on the viewing corridor.

**3. Recommendation:** Refuse Prior approval