

Delegated Report		Analysis sheet		Expiry Date:		01/06/2021	
		N/A		Consultation Expiry Date:		22/05/2021	
Officer				Application Number(s)			
Matthew Dempsey				2021/1705/P			
Application Address				Drawing Numbers			
Ground floor units 3 & 4 72 - 76 Eversholt Street London NW1 1BY				Please refer to Decision Notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use from Sui Generis (amusement arcades/centre or casino) to C3 (residential, 2 x 1 bed units) at ground floor.							
Recommendation(s):		Prior Approval Required - Approval Refused					
Application Type:		GPDO Prior Approval Determination					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	00	No. of responses	00	No. of objections	00
Summary of consultation responses:		Site notices were displayed from 28/04/2021, which expired 22/05/2021. No responses were received during public consultation.					
CAAC/Local groups* comments: *Please Specify		N/a					

Site Description

The application building is a six storey plus basement property which sits on the eastern side of Euston Station and Eversholt Street, corner with Drummond Crescent. The site is not listed nor is it within any conservation area, however it does fall within the boundary of the Somerstown Neighbourhood Forum Area.

There area includes a mixture of commercial and residential uses throughout the building.

Relevant History

Planning application history:

2008/3555/P - Demolition of basement and ground floor office rear wing, erection of basement and 4 storey high rear extension to provide 6 new selfcontained flats and new lift; creation of new lightwells facing Eversholt Street and Drummond Crescent; rearrangements of commercial units to provide 2 x B1 units on front basement floor and 2 x A2 units on front ground floor; erection of mansard roof extension to provide 2 selfcontained flats as an amendment to planning permission dated 26.6.06 (ref 2006/0562/P), plus various external alterations. Granted subject to Section 106 Legal Agreement 22/09/2009.

2010/0355/P - Non-material amendments to planning permission granted 10/02/2009 ref:2008/3555/P (for Demolition of basement and ground floor office rear wing, erection of basement and 4 storey high rear extension to provide 6 new selfcontained flats and new lift; creation of new lightwells facing Eversholt Street and Drummond Crescent; rearrangements of commercial units to provide 2 x B1 units on front basement floor and 2 x A2 units on front ground floor; erection of mansard roof extension to provide 2 selfcontained flats, plus various external alterations), including omission of one lightwell to B1 unit and reduction in size to one lightwell to Drummond Crescent, relocation of ground floor bicycle storage, omission of lift enclosure and reduction of bulk at rear at 4th floor and 5th mansard floor levels, and fenestration alterations to rear extension, rear elevation and mansard. Granted 12/03/2010.

2015/1650/P (ground and basement levels) - Change of use from Office B1(c) to Residential (C3). Prior Approval Refused 19/05/2015.

2017/2995/P - Change of use of part of ground floor and basement from office (B1a) to residential use (C3) to provide 3 x residential flats (GPDO Prior Approval Application). Withdrawn by Applicant 04/08/2017.

Planning enforcement history:

EN14/1102 – HintHunt is a leisure and training business and should be operating under D1 or D2 use.

Relevant policies

National Planning Policy Framework 2019

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

The Use Classes Order 1987 (as amended)

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

London Plan 2021

Camden Local Plan 2017

- A1 Managing the impact of development
- T1 Prioritising walking, cycling and public transport
- T2 Parking and car-free development

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015: Part 3, Class N.

Assessment

1.0 Proposal

- 1.1 Prior approval is sought for the change of use from Office (Class E, previous Class B1a) to residential units (Class C3).
- 1.2 Two 1xBed units are proposed at ground floor level.
- 1.3 There are no external alterations proposed subject to the proposed change of use.

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 N allows for the change of use of a building from a specified sui generis use as an Amusement Arcade/ Centre or Casino, to a use falling within Class C3 (Residential use) of that Schedule, subject to compliance with the provisions of paragraph N.1 and N.2.

2.2 Paragraph N.1 states Development is not permitted by Class N if—

(a) the building was not used solely for one of the uses specified in Class N(a)—

(i) on 19th March 2014, or (ii) 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; (does not comply, see detailed assessment below)

(b) the cumulative floor space of the existing building changing use under Class N exceeds 150 square metres;

(c) the development (together with any previous development under Class N) would result in more than 150 square metres of floor space in the building having changed use under Class N;

(d) the development under Class N(b) would consist of building operations other than—

(i) the installation or replacement of—

(aa) windows, doors, roofs, or exterior walls, or

(bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph (d)(i);

(e) the building is within—

(i) an area of outstanding natural beauty;

(ii)an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;

(iii)the Broads;

(iv)a National Park; or

(v)a World Heritage Site;

(f)the site is, or forms part of—

(i)a site of special scientific interest;

(ii)a safety hazard area;

(iii)a military explosives storage area;

(g)the building is a listed building or is within the curtilage of a listed building; or

(h)the site is, or contains, a scheduled monument.

2.3 Paragraph N.2 states (1) Where the development proposed is development under Class N(a) together with development under Class N(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)the design or external appearance of the building, and

(e)the provision of adequate natural light in all habitable rooms of the dwellinghouses,

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Where the development proposed is development under Class N(a) only, 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 the items referred to in sub-paragraphs (1)(a) to (c) and (e) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Development under Class N is permitted subject to the condition that development under Class N(a), and under Class N(b), if any, must be completed within a period of 3 years starting with the prior approval date.

3.0 Assessment:

Class N – the existing or last use

3.1 The description of Class N covers a change of use of an amusement arcade or centre, or a casino, to C3 dwellings. This Class is meant for uses where people play on electronic gaming machines or amusement machines / arcade games, or a casino.

3.2 The applicant has confirmed that the last use of the ground floor was as “escape rooms”. An escape room is a game in which players solve puzzles and use clues to escape from a

room in a limited amount of time. It does not involve use of gaming or arcade machines, or a casino. The use as an escape room does not fall within the description of Class N and so is not development permitted by the Class. Therefore the application should be refused under paragraph W(3) of Part 3 of Schedule 2 to the Order.

Class N – lawfulness of the existing or last use

- 3.3 Furthermore, that use as escape rooms has now ceased, and it appears that the use as escape rooms was not a lawful one. There is no record of planning permission having been granted for the use. The planning enforcement history (see section above) indicates the basement and ground floor were in use as an escape room (sui generis) with the use commencing without planning permission in around 2014 when the enforcement investigation commenced. This matches up with Google reviews of the use, the oldest of which is 7 years ago. The hinhunt.co.uk website confirms the use has now ceased and the last Google review was from 9 months ago.
- 3.4 The applicant has been advised of the planning enforcement history in relation to this site prior to the determination of this application.
- 3.5 An extension of time has been agreed for the final decision. The applicant has provided additional statements such as a Licence Agreement and a Statutory Declaration, in an attempt to demonstrate that all criteria to obtain prior approval have been satisfied. However this information only confirms that use occurred, and does not demonstrate lawfulness. Under Article 3(5)(b) a permission granted in connection with an existing use does not apply if that use is unlawful. It appears the use commenced at some point around 2014 and has since ceased. There was no continuous use for a period of 10 years so it did not accrue lawfulness. It is therefore not development permitted by Class N, and even if the use were considered to be within the description of Class N, the application should be refused under paragraph W(3) of Part 3 of Schedule 2 to the Order.
- 3.6 The applicant has requested this application to be amended and determined under Prior Approval Class M. This would require a new submission and therefore cannot be assessed under the current application. Furthermore, this would not be considered appropriate given that Class M is for a use within Class A1 (shops), Class A2 (financial and professional services), A5 (hot food takeaway), or a use as a betting office, pay day loan shop or launderette, to a use within Class C3 (dwellinghouse). As per the assessment above the Council evidence is such that a Prior Approval Class M would also be refused.

Paragraph N.2 Requirements

- 3.7 Paragraph N.2 requires and application for prior approval to be assessed in relation to transport and highways of the development; the contamination risks; the flooding risks, impact on the design and appearance of the building, and the provision of adequate natural light in all habitable rooms of the dwellinghouses.
- 3.8 Paragraph W sets out the specific provisions which apply where a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.

3.9 In accordance with Paragraph W (3) The local planning authority may refuse an application where, in the opinion of the authority the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.

Transport and highways impacts of the development

3.10 As per comments provided by the Council Transport Officer, if approved; the proposed units would be Car-Free in accordance with Policy T2, which includes limiting the availability of both off-street and on-street parking. This would be secured by a legal agreement if planning permission is granted, and would prevent future occupiers from obtaining on-street parking permits. In the current circumstance failure to secure the development as car free development would constitute a reason for refusal.

3.11 Secure, accessible (step-free), and covered cycle parking should be provided in accordance with Policy T1, cycle facilities section of CPG Transport, and the London Plan. As such, 2 long-stay cycle spaces would be required for the ground floor units. There has been some provision indicated on the plans internally, however these would not comply with policy requirements nor guidance and therefore cycle provision would constitute a reason for refusal – however, this matter could be addressed by an appropriate condition required details to be provided.

3.12 As seen in the Transport Assessment photo 2.1 and on Google Street View (July 2019, March 2018, May 2017, June 2016, June 2015, October 2009), the forecourt on Drummond Crescent suffers from illegal parking. The applicant must ensure that there is no parking on site and therefore landscape features on the hardstanding forecourt to block off motor vehicles should be part of development – this matter could be addressed by an appropriate condition required details to be provided.

Contamination risks on the site

3.13 The NPPF notes that the planning system should contribute to and enhance the local environment by remediating contaminated land, and that the responsibility for ensuring a safe development rests with the developer.

3.14 A Contamination Land Assessment has been provided which demonstrates that based on the sources of risk and the receptors in place, the risk of contamination impacting on the site area is low, if soil within the site would not be exposed. In the event that soil would be exposed as part of the development, further soil assessments are recommended in line with the current guidance.

3.15 Based on the site area and size of the site (approximately 400sqm) the report recommends that the site should be subjected to a greater sampling density of between 15-20 meter grid pattern or moderate risk pollutants.

3.16 Given the risk is low and no excavation is proposed to expose soil, it is not considered necessary or proportionate to refuse the application on this basis. A condition requiring a

further report and remediation strategy in the event that excavation works are to occur could address the issue.

Flooding risks on the site

3.17 The NPPF states that developments should reduce the causes and impacts of flooding and ensure that development is protected from flood risk and does not increase flood risk elsewhere.

3.18 Based on Environment Agency (EA) Flood Map for Planning, the site falls within Flood Zone 1. The site is also located in the Group 3_003 Critical Drainage Area (CDA) as defined by Local Borough of Camden, and therefore a flood risk assessment has been submitted. Under Flood Risks and Coastal Change Planning Practice Guidance and the National Planning Policy Framework (NPPF), the proposal is considered 'More Vulnerable'

3.19 In accordance with the NPPF the development should not place additional strain on adjoining sites or the existing drainage infrastructure. It also requires that the development is designed to cope with being flooded.

3.20 Therefore had the prior approval application been otherwise acceptable a planning condition would have been applied requiring details of water efficient features and equipment for the capturing, retaining and re-using of 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 including by sustainable urban drainage methods and reducing the pressure placed on the combined storm water and sewer network from foul water and surface water run-off.

Adequate natural light in all habitable rooms

3.21 The daylight and sunlight report notes that the ground floor units are well lit with habitable rooms all far exceeding 2% ADF values apart from one bedroom at 0.97% which is only marginally short of the 1% target. There is very good daylight distribution for the shallow room plans of more than 80%. The light is therefore considered acceptable.

4.0 Recommendation

4.1 Refuse Prior Approval.