

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		07/06/2021	
		N/A		<b>Consultation Expiry Date:</b>		22/05/2021	
<b>Officer</b>				<b>Application Number(s)</b>			
Matthew Dempsey				2021/1699/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
Basement Units 1 & 2, 72 - 76 Eversholt Street London NW1 1BY				Please 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>							
Change of use from Class Use E (offices, previous Class B1) to Class Use C3 (residential, 1 x 1 bed & 1 x 2 bed units) at basement level.							
<b>Recommendation(s):</b>		Refuse Prior Approval					
<b>Application Type:</b>		GPDO Prior Approval Class O Change of use B1 to C3					
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>		No. notified	n/a	No. of responses	00	No. of objections	00
<b>Summary of consultation responses:</b>		Site notices were displayed from 28/04/2021, which expired 22/05/2021. No responses were received during public consultation.					
<b>CAAC/Local groups* comments:</b> *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 are a mixture of commercial and residential uses throughout the building.

## Relevant History

### Planning application history at the application site:

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 - 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

## Assessment

### 1.0 Proposal

- 1.1 Prior approval is sought for the change of use from Office (Class E, previous Class B1) to residential units (Class C3).
- 1.2 One 2xBed unit and one 1xBed unit are proposed at basement 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 O allows for the change of use of a building from a use falling within Class B1(a) (Office use) of the Schedule to the Use Classes Order, to a use falling within Class C3 (Residential use) of that Schedule, subject to compliance with the provisions of paragraph O.1 and O.2. Offices are now in use class E, but transitional provisions mean that this class of permitted development continues to apply to office uses until 31 July 2021.

2.2 [Paragraph O.1] Development is not permitted by Class O if—

*(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order— on 29th May 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;*

*(d) the site is, or forms part of, a safety hazard area;*

*(e) the site is, or forms part of, a military explosives storage area;*

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

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

2.3 [Paragraph O.2] Development under Class O 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 on the site;*

*(c) flooding risks on the site,*

*(d) impacts of noise from commercial premises on the intended occupiers of the*

*development, and*

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

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

### **3.0 Assessment:**

#### **Paragraph O.1 Requirements**

- 3.1 Compliance with part (b) of paragraph O.1 is in dispute. The planning enforcement history (see section above) in relation to this site indicates that rather than B1 Office use, the premises (basement and ground floor) have been in use 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. This is not an office use, and although there may have been some back-office provision, this would have been ancillary to the primary use as an escape room.
- 3.2 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](http://hinhunt.co.uk) website confirms the use has now ceased and the last Google review was from 9 months ago. As per part (b) or paragraph O.1, this inconsistency means that development is not permitted by Class O.
- 3.3 The applicant has been advised of the planning enforcement history in relation to this site prior to the determination of this application.
- 3.4 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 has been satisfied. The statutory declaration states that the basement was used as an office since 2001, but give no details of the occupier. A letter from the applicant (who is also the freeholder) claims that the basement was used as an office for the freehold company, and also that the property was let as offices, but again, no evidence has been provided as to who the occupiers were. Two licence agreements submitted show that office A and D were let to the operator of the escape rooms. There are no plans attached to the agreements to show where these units were in the property, but there are four units shown on the existing plans submitted with the application. These are labelled as units 1 and 2 on the basement floor, and units 3 and 4 on the ground floor. It can be inferred therefore that unit A was in the basement (presumably now referred to as unit 1) and unit D was on the ground floor (presumably now referred to as unit 4).
- 3.5 Prior approval ref no 2015/1650/P was refused in May 2015 as insufficient information was submitted to demonstrate that the units were in use as offices (Class use B1a) on 29 May 2013. Furthermore, the Council enforcement records from 2014 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, as explained above at para 3.2... The use of the basement as offices is

therefore not clear and some evidence appears to be contradictory. As such, the applicant had provided insufficient information to demonstrate on the balance of probabilities that the proposed change of use complies with paragraph O.1 (b) of and permission should be refused under Paragraph W (3) (a) of the Town and Country Planning (General Permitted Development Order) 2015 (as amended)..

### **Paragraph O.2 Requirements**

- 3.6 Paragraph O.2 requires an application for prior approval for the assessment of the transport and highways impacts of the development; the contamination risks on the site; the flooding risks on the site and the impacts of noise from commercial premises on the intended occupiers of the development.
- 3.7 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. 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**

- 3.8 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.
- 3.9 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, 3 long-stay cycle spaces would be required for the basement floor units. Given the current site constraints it is considered that there is insufficient space within the premises to accommodate cycling facilities in line with policy and Guidance. There has been some provision indicated on the plans internally, and these are considered acceptable on balance – any further detail required could be secured by condition.
- 3.10 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 such, 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**

- 3.11 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.
- 3.12 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.
- 3.13 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. 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**

- 3.14 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.
- 3.15 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'
- 3.16 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.
- 3.17 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.

#### **Impacts of noise from commercial premises on intended occupiers**

- 3.18 The applicant submitted a noise report which has been assessed by a noise officer. In relation to the requirements of Building Regulations Document E 2003, the submitted documentation includes adequate examples of specification details which would meet these requirements. Compliance with the recommendations of the report and construction details within it could be secured by a condition.

#### **Adequate natural light in all habitable rooms**

3.19 The daylight and sunlight report notes that the basement units are generally well-lit with the living/kitchen/diners having ADFs of 1.98% and 3.43% which are around or above the 2% ADF values normally expected of a living/kitchen/diner. The bedrooms all exceed 1% ADF apart from R4 which falls short at 0.79%. This is an awkward L-shape bedroom and bedrooms have less dependence on light, and the room also has daylight distribution of 48%. Balanced against the other rooms in this unit which exceed ADF targets and have daylight distribution of more than 50%, the light is considered acceptable on balance.

#### **4.0 Recommendation**

4.1 Refuse Prior Approval.