

Delegated Report		Analysis sheet		Expiry Date:	28/01/2022
				Consultation Expiry Date:	17/12/2021
Officer			Application Number(s)		
Ewan Campbell			2021/5672/P		
Application Address			Drawing Numbers		
154 Royal College Street London NW1 0TA			Please refer to draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use from Commercial, Business and Service (Class E) to Dwellinghouses (Class C3), by combining the ground floor shop with the basement studio flat to create a one bedroom maisonette.					
Recommendation(s):		Prior Approval Required Prior Approval Refused			
Application Type:		GPDO Prior Approval Class MA change of use of Class E to Class C3			
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice			
Informatives:					
Consultations					
		No. of responses	00	No. of objections	00
Neighbour Consultation		A site notice was displayed on 8/12/21 and expired on 1/1/2022 No responses received from neighbouring occupiers			
Site Description					
<p>The site is located on Royal College Street south from Camden Road train station. The site is an end of terrace property located within an area that contains mixture of commercial and residential properties on the ground floor.</p> <p>The property is not listed but is within the Camden Broadway Conservation Area and is named within the CA Management Appraisal as a positive contributor and a historic shopfront. It contains a basement studio flat (deemed lawful in 2018- see history) and a ground floor shop, with residential above.</p>					

Relevant History

2018/0674/P – Certificate of Lawfulness Existing - Use of basement level as 1 studio flat (Class C3).
– granted Lawful Certificate (09/08/2018)

2018/5427/P - Demolition and rebuilding of the front facade at second floor level and replacement of two second floor windows. – Withdrawn (05/10/2019)

2021/2006/INVALID - Demolition and rebuilding of the front facade at second floor level and replacement of two second floor windows. – Withdrawn (23/11/2021)

Part 2A of the Environmental Protection Act 1990

Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012

National Planning Policy Framework 2021

Chapter 2: Achieving sustainable development

Chapter 4. Decision-making

Chapter 5. Delivering a sufficient supply of homes

Chapter 7. Ensuring the vitality of town centres

Chapter 8. Promoting healthy and safe communities

Chapter 9. Promoting sustainable transport

Chapter 14. Meeting the challenge of climate change, flooding and coastal change

Chapter 16. Conserving and enhancing the historic environment

The Town and Country Planning (General Permitted Development) Order 2015 (as amended)- Part 3, Class MA

Article 3 (9A) Schedule 2

Technical Housing Standards - Nationally Described Space Standards 2015

London Borough of Camden Local Plan 2017

Policy D1 Design

Policy D2 Heritage

Policy T1 Prioritise walking, cycling and public transport

Policy T2 Parking and car-free development

Policy A1 Managing the impact of development

Policy A4 Noise and vibration

Policy H1 Maximising housing supply

Policy H6 Housing choice and mix

Policy CC3 Water and flooding

Assessment

1. PROPOSAL

- 1.1. The applicant seeks Prior Approval permission under Schedule 2, Part 3, Class MA of the GPDO (2015 as amended) for the change of use of the basement and ground floors into a one bedroom self-contained residential dwelling (Class C3). This new Class MA was introduced into the GPDO legislation on 1st August 2021.
- 1.2. The application form indicates that the proposal would not include any external alterations.

2. Prior Approval Procedure

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

2.2. Developments that accord to sub-paragraph MA.1(a)-(g) are permitted by this Class, subject to a number of conditions listed within sub-paragraph MA.2 (a)-(h). Prior approval procedure requires the developer to apply to the LPA for a determination as to whether prior approval of the authority would be required as to,

- a) transport and highways impacts, particularly to ensure safe site access;
- b) contamination risks in relation to the building;
- c) flooding risks in relation to the building;
- d) impacts of noise from commercial premises on the intended occupiers of the development;
- e) where
 - I. the building is located in a conservation area and
 - II. the development involves a change of use of the whole or part of the ground floor the impact of that change of use on the character or sustainability of the conservation area;
- f) the provision of adequate natural light in all habitable rooms of the dwellinghouse;
- g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;
- h) where the development involves loss of services provided by
 - I. a registered nursery,
 - II. or a health centre maintained under section 2 or 3 of the National Health Service Act 2006 the impact on the local provision of the type of the service lost.
- i) Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

2.3. Paragraph W sets out the procedure for applications for prior approval under Part 3. 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

3. Assessment under Part 3, Class MA of the GPDO

Compliance with paragraph MA.1

3.1. Development is not permitted by Class MA

3.1.1. **(a) Unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;**

3.2. Proposal does not comply: No information has been submitted to demonstrate that the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application. Google Street View indicates it may have been vacant in June 2021; however there is no evidence to suggest this was for a continuous period of 3 or more months.

3.2.1. **(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;**

3.3. Proposal does not comply: More information is needed. Google Maps images (investigated by the Council) suggest that the building was occupied by a coffee shop from 2016 - 2020 but it is not possible to know the use since then. Based on the Council's Retail Survey information, the premises from 2015 – 2018 was listed as both A1 and A3 use. From then there is no information and therefore it is unclear, without any supporting evidence, what the use has been since 2018. In the absence of evidence to confirm that the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval, the application cannot be approved.

3.3.1. **(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;**

3.4. Proposal complies: The existing gross internal area (GIA) floorspace proposed for the change of use is 23.2sqm (and in total 47.6sqm).

3.4.1. **(d) if land covered by, or within the curtilage of, the building**

- (i) is or forms part of a site of special scientific interest;**
- (ii) is or forms part of a listed building or land within its curtilage;**
- (iii) is or forms part of a scheduled monument or land within its curtilage;**
- (iv) is or forms part of a safety hazard area; or**
- (v) is or forms part of a military explosives storage area;**

3.5. Proposal complies: The application site does not fall within any of the areas indicated at points (i) to (v);

3.5.1. **(e) if 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(1);**
- (iii) the Broads;**
- (iv) a National Park; or**
- (v) a World Heritage Site;**

3.6. Proposal complies: The application site does not fall within any of the areas indicated at points (i) to (v);

3.6.1. **(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or**

3.7. Proposal complies, the site is not occupied under an agricultural tenancy

3.7.1. (g) before 1 August 2022, if—

- (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
- (ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

3.8. Proposal complies: The proposed development does not fall within Class O of this Part.

3.9. In light of the above, the proposal would not accord with paragraph MA.1 (a) and (b). It will not fall within the remit of development permitted subject to prior approval under paragraph MA.2.

Nonetheless, the prior approval impacts have been considered below.

Compliance with Article 3 – Permitted Development of the GPDO – (9A) Schedule 2:

3.10. 'Article 3 (9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse: (a) where the gross internal floor area is less than 37 square metres in size; or (b) that does not comply with the Nationally Described Space Standard issued by the Department for Communities and Local Government on 27th March 2015(a)' This came into force on 6th April 2021.

3.11. Proposal does not comply: the flat has a GIA of 47.6sqm which significantly fails to pass the minimum requirement of 58sqm for a 1 bedroom 2 person two storey dwelling. Whilst no double bed is labelled, the bedroom exceeds the minimum for a double room therefore it is reasonable to suggest that a double bed would occupy the bedroom. The proposal would therefore not comply with Article 3 (9A) of the General Permitted Development Order above and forms an additional reason for refusal.

Compliance with paragraph MA.2

3.12. Where development proposal is in compliance with paragraph MA.1, development is permitted subject to the conditions that before beginning the development, the developer must apply to the local planning authority for a determination as to whether prior approval of the authority will be required. Each criteria will be discussed in turn as follows:

3.12.1. **(a) Transport and highways impacts of the development, particularly to ensure safe site access,**

3.13. The application site is located within an excellent level of accessibility by public transport, with a PTAL level 6b.

3.14. Given the modest level of building operations proposed, in this instance the operational development aspect of the proposed development would not be considered likely to result in detrimental impacts upon the highways network. However, in order to ensure that the development promotes sustainable modes of transport and mitigated against a potential worsening of local traffic, parking and air quality conditions. The development would be expected to be 'car-free' with rights to on-street parking permits removed and would be required to provide adequate storage for cycles.

3.15. The proposed unit would be required to be secured as a 'car-free' dwelling via a section 106 legal agreement. This would prevent new residents from accessing parking permits in order

to promote more sustainable modes of transport and prevent increases in poor air quality and congestion. The failure of the applicant to enter into a S106 agreement for car-free development constitutes a reason for refusal. Were the development otherwise considered acceptable this could have been overcome via a legal agreement.

- 3.16. No cycle parking spaces have been shown on the proposed plans and no reference to cycle parking has been made in the submitted documents. Given the constraints of the site, the internal layout and the scale of the unit, facilities for some level of internal storage to accommodate a bike may not be feasible. In such cases, a contribution would be sought towards the provision of secure and covered on-street parking spaces (bike hangers) for future occupants. However, the failure to enter into a S106 agreement for a contribution to on-street parking spaces does not constitute a reason for refusal.

3.16.1. **(b) Contamination risks in relation to the building**

- 3.17. The Council's records indicate that the site could be at risk of land contamination. The site is located within 25m of historic use capable of land contamination. In this case it is the coal and coke Merchants (Hatters) who historically occupied the area. This potential contaminated land covers a 25m buffer area including mainly 152 - 164 and 193 - 201 Royal College Street and College Street Bridge. No supporting information has been provided to demonstrate that there will be no impacts in relation to contaminated land. Therefore the Council cannot fully assess and require more information on this. Therefore this does constitute a reason for refusal.

3.17.1. **(c) Flooding risks in relation to the building,**

- 3.18. There has been no Flood Risk Assessment submitted with this proposal. The application site is located within Environment Agency's Flood Zone 1 (an area with a low probability of flooding) and, whilst a basement is included, no flood risk assessment is required for this size of plot in this location.

- 3.19. Therefore this change of use would not present an unreasonable risk to flooding of the area and the occupiers of the property.

3.19.1. **(d) Impacts of noise from commercial premises on the intended occupiers of the development**

- 3.20. The applicant has not provided an internal noise survey to assess different scenarios. However, the proposal would remove the commercial unit on the site altogether and therefore means that the impact to noise issues has also been removed. Therefore, whilst an assessment has not been supplied, it is not needed in this case and is therefore acceptable.

3.20.1. **(e) Where:**

- (i) **The building is located in a conservation area, and**
- (ii) **The development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;**

- 3.21. The application site lies within Camden Broadway Conservation Area. The conservation area is characterised by a mixture of uses, mainly of commercial use at ground floor with some residential use above. The commercial use at ground floor contributes to a sense of activity and liveliness throughout the conservation area. Royal College Street is identified as being in the 'busy, main traffic routes through the area'.

- 3.22. The site, as stated in the description, has been identified as a positive contributor building with a well-designed historic shopfront which positively contributes to the character of the area. Ground floor retail is highlighted in the Conservation Area Management Appraisal, both in the

overall conservation area and specifically within Royal College Street, as an important facet of the character of the area.

3.23. The loss of a commercial premises in this location would have a significant impact as it would both undermine the street as a commercial area but also weaken the character of commercial on ground floors and residential on upper floors above. Although the historic shopfront is being retained so the physical appearance of the property is maintained, the proposed change of use would result in the loss of ground floor commercial activity such as a retail shop or café with associated window displays and pedestrian activity, and this would harm the character and sustainability of both the streetscene and conservation area. Paragraph W(10) of Part 3 states that the LPA must have regard to the NPPF as if the application were a planning application. The 'less than substantial' harm to the Conservation Area must be given great weight (paragraphs 134, 197, 199, 201 and 202) against the very limited public benefits (1 small poor quality residential unit) which would not outweigh the harm. Therefore this would constitute a reason for refusal.

3.23.1. (f) The provision of adequate natural light in all habitable rooms of the dwellinghouse

3.24. No details have been submitted to demonstrate that the flat would receive adequate natural light. A supporting Daylight/Sunlight assessment is required with the relevant calculations and considerations of VSC values (for daylight) taking into account the size and number of windows serving each individual room, the overall size and orientation of the rooms. The Daylight/Sunlight assessment should provide overall percentage value in accordance with BRE guidance (BS 8206-2 Code of practice for daylighting recommends ADF values of 2% in kitchens, 1.5% in living rooms and 1% in bedrooms).

3.25. Half of the site is within a basement, with the proposed living room being at basement level solely lit by a small window overlooking the back yard and a pavement light in the front 'lightwell' under the pavement. It is noted that the basement currently has a studio flat with its sole living/sleeping room also lit by this pavement light at front and window at rear. It is likely that the daylight into this room will inevitably be very poor on account of this small window and pavement light and will not comply with BRE guidelines. However because the existing studio flat is lawful and the proposed arrangement with living space at basement level is staying the same, it would be unreasonable to refuse the application on this basis of poor light. Also the addition of the ground floor to the enlarged residential unit would increase the amount of daylight/sunlight overall due to the presence of a large shop front window. The proposal would therefore comply with MA.2. condition (f).

3.25.1. (g) The impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for generally heavy industry, waste management, storage and distribution, or a mix of such uses;

3.26. The area where the application site lies is not characterised by general heavy industry, waste management, storage and distribution, or a mix of such uses. Future occupants would not be impacted by such uses and therefore the proposal complies in this regard.

3.26.1. (h) Where the development involves loss of services provided by (i) A registered nursery, or (ii) A health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of the service lost.

3.27. The proposed development would not involve loss of a registered nursery or a health centre maintained under section 2 or 3 of the National Health Service Act 2006.

3.27.1. (i) Where the development meets the fire risk condition, the fire safety

impacts on the intended occupants of the building.

- 3.28. As the proposal only involves the creation of 1 new residential unit, the building is only 3 storeys and a maximum of 10.5m high, an assessment of the fire safety impacts is not required and therefore is acceptable in this regard .

4. Conclusion

- 4.1. The proposal does not comply with criteria in (a) and (b) of MA.1 of Schedule 2, Part 3, Class MA of the GPDO (2015 as amended) so it cannot be considered for a change of use from Class E to residential. It has not been demonstrated that the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application (criteria a) and it has not been demonstrated that the building was in use for a purpose specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application (criteria b).
- 4.2. The proposal does not comply with conditions (a) (Transport), (b) Contamination and (d) (Noise) and (e) Conservation Area of MA.2 of Schedule 2, Part 3, Class MA of the GPDO (2015 as amended), which means that Prior Approval is required, as noted in paras 2.2 and 2.3 above, and should be refused on account of the harm caused.
- 4.3. Finally the proposal does not comply with the requirements of Article 3 (9A) that the dwelling should have a minimum area of 58sqm in compliance with the Technical Housing Standards – Nationally Described Space Standards.
- 4.4. Prior Approval should therefore be refused for the following reasons:
1. (*Part MA.1 of Schedule 2, Part 3 of the GPDO*): It has not been demonstrated that the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application and it has not been demonstrated that the building was in use for a purpose specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application. The proposal would therefore not comply with criteria MA.1 (a) and (b) of Class MA, Schedule 2, Part 3 of the GPDO.
 2. (*Transport and highway impacts*): The proposed development, in the absence of a Section 106 legal agreement to secure the residential units as car-free, would contribute unacceptably to parking stress and traffic congestion in the surrounding area and would not promote the use of sustainable transport. It would therefore not comply with criteria M.2 (a) of Class MA, Schedule 2, Part 3 of the GPDO and be contrary to Chapter 9 of the National Planning Policy Framework 2021 and policy T2 (Parking and car-free development) of the LB Camden Local Plan 2017.
 3. (*Contamination*): In the absence of any contamination assessment for the site to demonstrate otherwise, it is likely that the future occupiers would be impacted by potential contamination nearby, to the detriment of their amenities. It would therefore not comply with criteria MA.2 (b) of Class MA, Schedule 2, Part 3 of the GPDO, and be contrary to Chapter 15 of the NPPF 2021 and policy A1 (Managing the impact of development) of the LB Camden Local Plan 2017.
 4. (*Conservation Area*): The proposed change of use, due to the loss of commercial character by reason of a loss of ground floor retail use, would have a detrimental impact on the character and sustainability of the Conservation Area. It would therefore not comply with criteria MA.2 (e) of Class MA, Schedule 2, Part 3 of the GPDO, and be contrary to Chapter 16 of the NPPF 2021 and policy D2 (Heritage) of the LB Camden Local Plan 2017.
 5. (*Space standards*): The proposal does not comply with the requirements of Article 3 (9A) of the Town and Country Planning (General Permitted Development) Order 2015 which

requires this 2 person dwelling on 2 floors to have a minimum size of at least 58sqm in area, in compliance with the Technical Housing Standards - Nationally Described Space Standards 2015.