

Date: 04/03/2022
Our ref: 2021/1896/P
Address: 2nd Floor, 31-33 High Holborn, London, WC1V 6AX
Appeal Ref: APP/X5210/W/21/3286282
Contact: Nora-Andreea Constantinescu
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Dear Dot Kujawa,

All the information in relation to appeal **APP/X5210/W/21/3286282** is within the below delegated report and includes appeal conditions, rebuttal of appeal statement, and justification of section 106 legal agreement required for this case in Appendix 1.

The Council's legal officers have engaged with the applicant in relation to the section 106 legal agreement and issued them with a draft agreement.

If there is anything else you would require, please do not hesitate to contact us.

Best Regards,

Nora Constantinescu
Senior Planning Officer

Delegated Report		Analysis sheet	Expiry Date:	09/08/2021
		N/A	Consultation Expiry Date:	25/07/2021
Officer		Application Number(s)		
Nora-Andreea Constantinescu		2021/1896/P		
Application Address		Drawing Numbers		
2nd Floor 31-33 High Holborn London WC1V 6AX		Site location plan; FLU.1427.02; FLU.1427.03; FLU.1427.04; FLU.1427.05; FLU.1427.06; FLU.1427.07; FLU.1427.08; FLU.1427.09; FLU.1427.10; FLU.1427.11; FLU.1427.12; FLU.1427.13; FLU.1427.14; FLU.1427.15; FLU.1427.16; FLU.1427.17 Rev A; FLU.1427.18; FLU.1427.19; FLU.1427.20; FLU.1427.21; FLU.1427.22; FLU.1427.23; FLU.1427.24; FLU.1427.25; Planning, Design, Heritage and Access Statement for Westcombe Homes by Brian Meadge Ltd; Report by Kinney Green dated 29/07/2021.		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Proposed conversion of 2nd floor from offices (Class E) to form five self-contained flats (Class C3).				
Recommendation(s):	Refuse planning permission			
Application Type:	Full Planning Permission			

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
			No. electronic	00		
Summary of consultation responses:	<p>Site notices were posted on 30/06/2021 and expired on 24/07/2021. Press notices were issued on 01/07/2021 and expired on 25/07/2021.</p> <p>No responses were received in relation to the proposed development from neighbouring occupiers.</p>					
CAAC or local groups	No responses were received from local groups.					

Site Description

The application site is located on the northern side of High Holborn. The site comprises a six-storey building with a basement, and commercial space at ground floor level. Formerly, the property was host to shops at ground floor level and offices on the upper levels. Planning permission has been granted to change the use of the upper floor (second to fifth) from office to nine residential flats.

The surrounding area is a mix of office and shops, with the boundary to City of London directly to the south of the application site.

The property is not listed but it lies within Bloomsbury Conservation Area.

Relevant History

Relevant planning records at the application site:

2009/4519/P - Revisions to planning permission 2008/2588/P, dated 25/03/2009, for change of use of upper floors from retail/office uses (Class A1 and B1) to residential use (Class C3) to provide 9 units, including extension and refurbishment of the upper floors, retention of ground and mezzanine floors as retail (Class A1), alterations to ground floor entrance, refuse storage and existing spiral stair/escape provision. Revisions comprise extension at fourth floor level and mansard roof extension above at fifth floor level and alterations at ground floor level, including a new staircase, lift and an enlarged cycle store. – **Granted s106 10/12/2009 (committee)**

2010/0445/P - Revisions to planning permission 2008/2588/P, dated 25/03/2009, for change of use of upper floors from retail/office uses (Class A1 and B1) to residential use (Class C3) to provide 9 units, including extension and refurbishment of the upper floors, retention of ground and mezzanine floors as retail (Class A1), alterations to ground floor entrance, refuse storage and existing spiral stair/escape provision. Revisions comprise an enlarged mansard roof extension at fifth floor level (on east side of High Holborn front elevation) and associated alterations for approved Flat 8 (compared with that granted by planning permission 2009/4519/P, dated 10/12/2009). – **Granted s106 18/03/2010**

2010/0460/P - Revisions to planning permission 2008/2588/P, dated 25/03/2009, for change of use of upper floors from retail/office uses (Class A1 and B1) to residential use (Class C3) to provide 9 units, including extension and refurbishment of the upper floors, retention of ground and mezzanine floors as retail (Class A1), alterations to ground floor entrance, refuse storage and existing spiral stair/escape provision. Revisions comprise erection of mansard roof extension at fifth floor level (on west side of High Holborn front elevation) to provide additional residential accommodation for approved Flat 8. – **Granted 18/03/2010**

2011/0846/P - Change of use from retail (Class A1) to financial and professional services (Class A2) at part ground and mezzanine floor level. – **Granted 13/04/2011**

Relevant policies

National Planning Policy Framework 2021

London Plan 2021

Camden Local Plan 2017

Policy G1 – Delivery and location of growth

Policy E1 – Promoting a successful and inclusive Camden economy

Policy E2 – Employment premises and sites

Policy A1 – Managing the impact of development
Policy T1 – Prioritising walking, cycling and public transport
Policy T4 – Promoting sustainable movement of goods and materials

Camden Supplementary Planning Guidance 2021

CPG - Amenity

CPG – Employment sites and business premises

CPG – Housing

Bloomsbury Conservation Area Appraisal 2011

Assessment

1. Proposal

- 1.1 The applicant seeks planning consent to convert the 2nd floor from offices (Class use E) to create five self-contained flats (Class use C3).
- 1.2 The proposed flats would be 2x 2bedroom 3person; 2 x studio 1person; 1 x 1bedroom 2 person. The flats would include Air Source Heat Pumps (ASHP) externally at second floor level. Cycle parking is provided at ground floor level.

2. Assessment

2.1 The main material planning considerations are as follows:

- Land use principles
- Housing Mix and Standard of accommodation
- Impact on neighbouring amenity
- Transport
- Affordable housing and Community Infrastructure Levy

2.2 The proposed drawings do not show the mansard extension as built and granted consent under planning application 2009/4519/P dated 10/12/2009. Accurate drawings are required to the purposes of proper planning and failing to accommodate that would constitute a reason for refusal.

3. Land use principles

- 3.1 Policy E2 of the Local Plan states the Council will protect premises or sites that are suitable for continued business use, in particular premises for small businesses, businesses and services that provide employment for Camden residents and those that support the functioning of the Central Activities Zone (CAZ) or the local economy.
- 3.2 Furthermore, policy E2 of the Camden Local Plan states that the Council will: “resist development of business premises and sites for non-business use unless it is demonstrated to the Council’s satisfaction that: a). the site or building is no longer suitable for its existing business use; and b). that the possibility of retaining, reusing or redeveloping the site or building for similar or alternative type and size of business use has been fully explored over an appropriate period of time.”
- 3.3 Policy E1 supports small business and start-ups as part of the Council’s strategy to support enterprise by providing a range of unit type and sizes. The existing second floor has three

meeting rooms and the main part of it is open plan. Given its existing layout this can be divided to accommodate different layouts to respond to the need for small businesses.

- 3.4 The premises are currently vacant. The planning statement by Brian Madge Ltd indicates that the premises have been marketed since January 2020 and the report by KinneyGreen states that marketing has been initiated since October 2019. Both mention that marketing received no offers due to lack of DDA compliant lift, lack of bike rack for cyclists, low energy efficiency credentials, significant competition with the area of better fitted sites. It is also mentioned that due to COVID pandemic there has been less demand for office space and there is fundamental shift evolving in the way office space is occupied.
- 3.5 It is accepted that the marketing of office premises during 2020-2021 has been significantly affected by the COVID pandemic as general interest for office space decreased. However, there has been no formal legislation at local nor national level to establish that such circumstances should be demonstrating the overall need for office space currently and in years to come. Currently all restrictions in relation to the COVID pandemic have been lifted and a number of businesses are trading from office spaces.
- 3.6 Employment space remains a priority land use within Camden and particularly within the CAZ area, in accordance with the aforementioned policies. The benefit of the formation of the proposed residential unit is considered not to outweigh the harm caused as a result of the loss of this business floorspace. Overall, given the marketing has been undertaken during a period of time of national lock-down due to COVID pandemic, the information submitted is not considered sufficient to demonstrate that the premises currently are not required for their business use. This would constitute a reason for refusal.

4. Housing mix and standard of accommodation

- 4.1 In line with policy H7 the Council aims to secure a range of homes of different sizes that will contribute to creation of mixed, inclusive and sustainable communities. The dwelling size prioritises for market rent in Camden are for 2-bedroom and 3-bedroom homes, and of lower priority are 1-bedroom and 4-bedroom homes. The policy seeks to ensure that development includes a mix of small (2 bed and smaller) and large (3 bed +) homes. The proposed housing mix includes two flats of high priority (2-bedroom) and 3 flats of lower priority (studios and 1-bedroom), with no large homes. As such, the proposed housing mix would not respond to the current housing demand in Camden and therefore not supported. This would constitute a reason for refusal.

Standard of accommodation

- 4.2 In relation to the standard of accommodation, the two studio flats would have over 37sqm which matches the national minimum requirement, the 1bedroom flat would have 53sqm which exceeds the 50sqm minimum requirement, one 2-bedroom flat would have 71sqm and the other 62sqm which exceed the 61sqm national minimum requirement. One of the studio flats would be single aspect but south facing and the others would have dual aspect, with north and south facing.
- 4.3 Due to the building's layout, several instances of internal overlooking are identified. The windows serving the bedroom area of the studio flat adjacent to the core would be overlooked by the windows of the kitchen and sitting area of the 1bedroom flat (both named Flat 4 on the plans). Furthermore, the plans show an external staircase from the 1bedroom flat (Flat 4) which sits at a distance of 4m from the bedroom window of the studio flat (Flat 4), resulting in direct overlooking. The bedroom of the 1bedroom flat (Flat 4) would be overlooked by the bedroom on the 2bedroom flat (Flat 3). The bedroom of the 2-bedroom flat (Flat 1) would be overlooked by the window serving the bedroom into the studio flat (Flat1). Whilst the overlooking to windows would occur diagonally, the windows in question are at distances of less than 1m apart which due to their proximity would result in harmful

overlooking and a perceived sense of being overlooked and a lack of privacy for occupiers. This would constitute a reason for refusal.

4.4 Only the 1 bedroom flat would benefit from some amenity space. It is generally expected that new residential development should provide some level of amenity space. Given the site constraints and area where this is located it is accepted that there are practical limitations to the provision of amenity space.

5. Impact of plant on neighbouring amenity and design

5.1 The proposal does not include any external alterations, except for five Air Source Heat Pumps (ASHP) to be located on the existing terrace at second floor. Policy D1 states that plant should be carefully integrated within the building. There is no information provided that demonstrates the visual impact of the plant (or any potential future mitigation or enclosure). No information has been provided in support of the ASHP in terms of Product Specification details or Noise and Vibration Assessment. Given that the background noise level has not been identified and the noise to be resulting from the ASHP not provided, it is likely that harmful impact in terms of noise would be caused to the existing and future occupiers and wider neighbouring amenity. The details cannot be secured by condition because the level of mitigation will depend on current background noise levels. If significant acoustic mitigation is needed, for example, in the form of an acoustic enclosure, the location of the plant means that it could have other significant impacts such as detrimental appearance and outlook. For this reason, the noise assessment, and the assessment of the mitigation, is needed prior to determination. Therefore, this would constitute a reason for refusal.

6. Transport

6.1 Policy T2 of Camden Local Plan states that the Council will limit the availability of parking and require all new development in the borough to be car-free. The Council will not issue on-street parking permits in connection with new development and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits.

6.2 No on-site parking is proposed as part of the current proposal and the proposed unit would not be eligible for an on-street parking permit. The car-free requirement should be secured by a legal agreement if the scheme is considered acceptable. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

6.3 Policy T1 requires developments to provide cycle parking facilities in accordance with the minimum requirements of the London Plan and the design requirements outlined in the CPG Transport. Based on the residential mix proposed, a provision of 8 long-stay cycle parking spaces and 2 short-stay cycle parking spaces shall be provided. The documentation submitted indicates that cycle parking would be provided at ground floor level. The proposed ground floor plan submitted shows 7 vertical cycle racks.

6.4 7 vertical racks and 1 Sheffield stand (2009/0926/P - conditions) were secured for the 9 residential flats on the third to fifth floor in 2009. The cycle storage was provided at ground floor, in the same area where the current development is proposing to have the cycle storage. There were alterations to the ground floor (2010/3671/P) in 2010, including the cycle storage, where 4 two tier racks for 8 cycles were approved. It is unclear whether the cycle parking facilities have been implemented in line with the previous permissions. It is therefore considered that the proposed cycle parking is insufficient to respond to the London Plan requirements and CPG Transport. As such, this would constitute a reason for refusal.

7. Affordable housing

7.1 Policy H4 states that the Council will expect a contribution for affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more. The scheme would provide an uplift of 311sqm GIA (gross internal area) of residential floors space, which is subject to affordable housing contribution.

7.2 The affordable housing target as detailed in policy H4 and its supporting text is based on a sliding scale with the target starting at 2% for an additional home (at 100sqm) and is increased by 2% for each home added to the capacity. The residential floorspace proposed is c.311 sqm GIA with the resulting target being 6% for this scheme. Payments in lieu are taken from a figure based on the GIA of the application residential floorspace multiplied by the sliding scale and the rate of payment in lieu of £5,000 per sqm GIA. As such, the total payment in lieu required by the development would be £93,300. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

Appeal Statement on behalf of Westcombe Homes by Brian Madge Ltd.

Whilst significant weight has been given to the provision of five new homes, this does not outweigh the planning objections and harm identified. The appeal statement does not raise any new issues in relation to the proposed scheme, and therefore officers consider the above report would constitute the full response. The inspector is respectfully requested to dismiss the appeal.

Reasons for refusal:

1. The submitted drawings do not accurately represent the current building on site in the existing or proposed drawings, and therefore the drawings could not be implemented without other significant works of demolition and repair which have not formed part of the application.
2. The proposed development, in the absence of sufficient justification demonstrating that the premises is no longer suitable for continued business use would fail to support economic activity in Camden and result in the loss of employment opportunities within the Borough contrary to policies E1 (Economic development) and E2 (Employment premises and sites) of the Camden Local Plan (2017).
3. The proposed development, in the absence of sufficient information demonstrating the noise impact and noise mitigation from the proposed plant, there is likely to be harm to the amenity of neighbouring occupiers, contrary to policy A1 (Managing the impact of development) and A4 (Noise and vibration) as well as to the appearance of the building contrary to policy D1 (Design) of the Camden Local Plan (2017).
4. The proposed residential accommodation would not prioritise the Council's dwelling size priority for market homes (2 and 3 bed properties), with large homes (3 bed or larger) contrary to policy H7 (Large and small homes) of the Camden Local Plan (2017).
5. The proposed residential flats, in the absence of adequate outlook, would result in overlooking and substandard accommodation, contrary to policy A1 (Managing the impact of development), H1 (Maximising housing supply), H6 (Housing choice and mix), H7 (Large and small homes) of the Camden Local Plan (2017).
6. The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking) and A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017.

7. The proposed development, in the absence of a legal agreement securing a contribution to affordable housing, would fail to meet the needs of households unable to access market housing, contrary to Policies H4 (Maximising the supply of affordable Housing) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

Conditions to be added in the event of the application is being approved:

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos: Site location plan; FLU.1427.02; FLU.1427.03; FLU.1427.04; FLU.1427.05; FLU.1427.06; FLU.1427.07; FLU.1427.08; FLU.1427.09; FLU.1427.10; FLU.1427.11; FLU.1427.12; FLU.1427.13; FLU.1427.14; FLU.1427.15; FLU.1427.16; FLU.1427.17 Rev A; FLU.1427.18; FLU.1427.19; FLU.1427.20; FLU.1427.21; FLU.1427.22; FLU.1427.23; FLU.1427.24; FLU.1427.25; Planning, Design, Heritage and Access Statement for Westcombe Homes by Brian Meadge Ltd; Report by Kinney Green dated 29/07/2021.

Reason: For the avoidance of doubt and in the interest of proper planning.

3. Noise levels at a point 1 metre external to sensitive facades shall be at least 10dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 15dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

4. Before the development commences, details of secure and covered cycle storage area for 8 long-stay cycle parking spaces and 2 short-stay cycle parking spaces shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T1 of the London Borough of Camden Local Plan 2017.

5. The development hereby approved shall achieve a maximum internal water use of 110litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with Policies CC1, CC2, CC3 of the London Borough of Camden Local Plan 2017

Appendix 1: Section 106 legal agreement

Car Free Housing

Policy T2 requires all new developments in the borough to be car-free. Car-free development means that no car parking spaces are provided within the site and current and future occupiers are not issued with on-street parking permits.

A planning obligation is considered the most appropriate mechanism for securing the development as car capped as it relates to controls that are outside of the development site and the level of control is considered to go beyond the remit of a planning condition. Furthermore, the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as “car free”. The Council’s control over parking does not allow it to unilaterally withhold on-street parking permits from residents simply because they occupy a particular property. The Council’s control is derived from Traffic Management Orders (“TMO”), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The council could not practically pursue an amendment to the TMO in connection with every application where the additional dwelling (or dwellings) ought properly to be designated as car free. Even if it could, such a mechanism would lead to a series of disputes between the council and incoming residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a “Car Free” Section 106 Obligation. The TMO sets out that it is the Council’s policy not to give parking permits to people who live in premises designated as “Car Free”, and the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as “Car Free”.

Further, use of a Section 106 Agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential future purchasers of the property that it is designated as car free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.

Compliance with CIL reg 122

The proposed restriction on the development being secured as “car-free” meets the requirements of the CIL Regulations in being: (i) necessary to make the development acceptable in planning terms as identified by the relevant development plan policies; (ii) is directly related to the occupation of the residential units being part of the development; and (iii) is fairly and reasonably related in scale and kind to the residential units. This supports key principle 9 of the National Planning Policy Framework: Promoting sustainable transport.

Affordable Housing contribution

Policy H4 requires a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more.

Given the scale of affordable housing need in the borough, the Council's aspiration is that as many residential developments as possible should provide affordable housing. The Camden Local Plan Viability Study shows that there is no direct correlation between scheme size and viability, and there is no viability basis for an affordable housing threshold or a lower target for smaller schemes. Through the Local Plan process, the Council has made provision for the Local Plan to seek affordable housing from smaller schemes as an exception to the national threshold.

The affordable housing target as detailed in policy H4 and its supporting text is based on a sliding scale with the target starting at 2% for an additional home (at 100sqm) and is increased by 2% for each home added to the capacity. The residential floorspace proposed is c.311 sqm GIA with the resulting target being 6% for this scheme. Payments in lieu are taken from a figure based on the GIA of the application residential floorspace multiplied by the sliding scale and the rate of payment in lieu of £5,000 per sqm GIA. As such, the total payment in lieu required by the development would be £93,300 ((6% x 311) x 5000).

A planning obligation is considered the most appropriate mechanism for securing the affordable housing contribution as it relates to a payment in lieu. No payment of money can be secured by condition.

Compliance with CIL reg 122

The requirement for an affordable housing contribution meets the requirements of the CIL Regulations in being: (i) necessary to make the development acceptable in planning terms as identified by the relevant development plan policies; (ii) is directly related to the creation of residential floorspace which is part of the development; and (iii) is fairly and reasonably related in scale and kind to the residential units.