

Delegated Report	Analysis sheet	Expiry Date:	11/05/2021
	N/A	Consultation Expiry Date:	24/04/2021
		Application Number(s)	
Jaspreet Chana		2020/1155/P	
Application Address		Drawing Numbers	
106 Hampstead Road London NW1 2LS		<i>Refer to decision notice</i>	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature
Proposal(s)			
Erection of two additional storeys to provide 2 x 1 bedroom residential units above a mixed use building			
Recommendation(s):	Grant Prior Approval subject to s106		
Application Type:	GPDO Prior Approval Part 20, Class A		

Conditions or Reasons for Refusal:	Refer to 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 31/03/21 to 24/04/21.					
	No comments were received					

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

2020/5999/P - Erection of two additional storeys to provide 2 x 1 bedroom residential units above a mixed use building – Refused on 23/02/2021 for:

- This application is for prior approval under Class AB of Part 20. However, the host building is not considered to be a 'terrace' building but a 'detached' building and therefore 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.*
- Notwithstanding the above reasons for refusal, 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 surrounding area. The proposal would therefore be contrary to unacceptable under condition AB.2 (1) (e) and contrary to policies D1(Design) and D2(Heritage) of Camden Council's Local Plan 2017 and Design CPG and to the National Planning Policy Framework 2019, the Publication London Plan 2020, and section 12 (Achieving well-designed places) of the National Planning Policy Framework 2019. Prior approval is therefore refused due to the detrimental impact under Paragraph AB.2. (1)(e) of Part 20 (external appearance) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended 2020).*

Relevant policies

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

**Camden Local Plan 2017
NPPF 2019
London Plan 2021**

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 A to Part 20 of Schedule 2 '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 detached buildings.
- 1.3. 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

- 1.4. Given the above photographs it is evident that No.106 is a detached building and therefore would come under description of Class A under Schedule 2, Part 20 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended 2020) and therefore overcomes the previous 1st reason for refusal on application 2020/5999/P.

- 1.5. The proposal does qualify for a prior approval under class A part 20 and would therefore need to comply with a number of conditions listed within sub-paragraph A.2 [(a)-(h)] 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
 - 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; and
 - h) 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.

2. Assessment

2.1. Assessment against Part 20, Class A Conditions:

Class A: New dwellinghouses on detached blocks of flats		
If yes to any of the questions below the proposal is not permitted development:		Yes/No
A.1(a)	Permission to use any building as a dwellinghouse has been granted by virtue of Class M, N, O, P, PA or Q of Part 3 of this schedule;	No
A.1(b)	Above ground level, the building is less than 3 storeys in height;	No
A.1(c)	The building was constructed before 1st July 1948, or after 5th March 2018;	No
A.1(d)	The additional storeys are constructed other than on the principal part of the building;	No
A.1(e)	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;	No – (floor to ceiling height of 2.5m)
A.1 (f)	The new dwellinghouses are not flats;	No
A.1 (g)	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 by more than 7 metres (not including plant, in each case);	No

A.1(h)	The height of the highest part of the roof of the extended building (not including plant) would be greater than 30 metres;	No
A.1 (i)	Development under Class A.(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;	No
A.1 (j)	Development under Class A.(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 install or replace water, drainage, electricity, gas or other services;	No
A.1 (k)	In the case of A.(b) development (works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses) there is no existing plant on this building;	No
A.1 (l)	In the case of Class A.(b) development (<i>works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses</i>) the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the existing building;	No
A.1(m)	Development under Class A.(c) [works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases] would extend beyond the curtilage of the existing building;	No
A.1 (n)	Development under Class A.(d) [works for the construction of storage, waste or other ancillary facilities reasonable necessary to support the new dwelling houses] would – (i) 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;	No
A.1 (o)	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 provision for cycle parking. Given site constraints transport officers have suggested to secure a financial contribution for 2 bike hangar spaces.
- 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 applicants now agree to enter into a car-free legal agreement.
- 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, a legal agreement is to be secured for the following obligations:

Summary of Section 106 Planning Obligations

- Car-free development
- Financial contribution of £1,383.67 for 2 Bike Hangar spaces
- Construction Management Plan and associated Implementation Support Contribution of £3,920
- Construction Impact Bond of £7,500
- Scaffolding licensing and bond scheme – to be assessed by TfL

Air traffic and defence asset impacts

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

Contamination risks in relation to the building

- 3.7. 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.

Flooding risks in relation to the building

- 3.8. 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.

4. The external appearance of the building

- 4.1. 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 that lies adjacent. Originally the same proposed extension was refused (under application 2020/5999/P), 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.
- 4.2. The agents have made the council aware of a recent appeal decision at Eastbourne Council for a similar proposed application (APP/T1410/W/20/3263486 – 91 Victoria Drive, Eastbourne Drive). The inspector states: *'For the purposes of assessing whether prior approval should be granted, I consider the assessment of the matter in dispute is limited to the external appearance of the building rather than its effect on the wider area. The framework is only relevant so far as it relates to the subject matter of the prior approval, in this case the external appearance of the building.'*
- 4.3. *Even if the a wider interpretation of the matter to be considered under prior approval is taken, the principle of upward extension of up to 2 storeys is established by the permitted development right in Part 20, Class A of 2015 Order, and the matters requiring prior approval need to be interpreted in the context of that principle. The framework and indeed development plan policies should not be applied so as to frustrate the purpose of the grant of permitted development rights through the 2015 Order in the first place...the permitted development right is expressly intended to allow a building to be extended up two storeys. While this may result in a somewhat divergent relationship between buildings that is an inevitable consequence of the permitted development right. Acceptance of such divergence is implicit in the introduction of the permitted development right, which supports the Governments objective of significantly boosting the supply of homes. A difference of up to 2 storeys from the prevailing height and form of neighbouring properties has therefore to be interpreted as not inconsistent with the overall street scene for the purposes of this prior approval'.*
- 4.4. Therefore given the above it is concluded that the external appearance of the proposed building would be acceptable when viewed by itself, and for the purposes of Part 20, Class A of the 2015 Order the increase in height and bulk would not be inconsistent with the overall street scene having regard to the support for additional homes and increased densities in the Framework. Within the context of that permitted development right, the external appearance of the building would also accord with 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.

5. The provision of adequate natural light in all habitable rooms of the new dwellinghouses

- 5.1. 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.

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

- 6.1. 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.
- 6.2. 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

- 6.3. 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

- 6.4. 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.
- 6.5. Overall, the proposed development would not adversely impact neighbouring amenity in regards to loss of light, sunlight, daylight, overlooking and privacy impacts.

7. Impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;

- 7.1. 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.

8. 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;

- 8.1. 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.

9. 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.

- 9.1. 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.

10.Recommendation: Grant prior approval subject to s106 legal agreement

11. Summary of Section 106 Planning Obligations

- Car-free development
- Financial contribution of £1,383.67 for 2 Bike Hangar spaces
- Construction Management Plan and associated Implementation Support Contribution of £3,920
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