

<b>Delegated Report</b> <b>(Members Briefing)</b>		Analysis sheet		Expiry Date:	13/01/2023
		N/A / attached		Consultation Expiry Date:	09/02/2022
Officer				Application Number(s)	
Brendan Versluys				2022/5408/P	
Application Address				Drawing Numbers	
15 York Way London N7 9QG				See draft decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use of ground floor commercial unit from hot food takeaway (sui generis) to residential use (Class C3), reconfiguring an existing first floor two bedroom flat and combining with the ground floor to create a 3 bedroom maisonette over the ground and first floors, demolition of existing rear extension and erection of replacement single-storey rear extension and rear garden.					
Recommendation:		Grant conditional planning permission			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				
Consultations				
Summary of consultation:	A site notice was displayed near to the site on the 23/12/2022 (consultation end date 16/01/2023).			
Adjoining Occupiers:	No. of responses	-	No. of objections	-
Summary of consultation responses:	<u>Petition:</u>  A petition headed 'We the undersigned ask Camden Council to save the Yorkway Fish Bar which is a valuable service business to the local community' and signed by 714 persons, was received from the owner of the Yorkway Fish Bar.			
	<u>Objections:</u>  46 objections have been received. Multiple objections were received from four objectors. It is understood the majority of objections are from local residents. The majority of the objections specifically object to the loss of the takeaway shop.  A summary of the responses are as follows:  <u>Benefits of the existing and consequences of the loss of fish and chip takeaway shop:</u> <ul style="list-style-type: none"><li>• Granting planning permission will force the closure of a valuable local amenity and business.</li><li>• The takeaway is very popular and is an important amenity and community facility, serving as a space for interaction, conversations and friends to meet.</li><li>• There is a shortage of fast-food shops, particularly affordable fish and chip shops, within walking distance of local residences.</li><li>• The takeaway provides employment and loss of the shop will remove the livelihoods of the tenants/shop workers.</li><li>• Commercial units should not be granted a change to accommodation if it means evicting an existing business that works hard to provide a good service.</li><li>• The Fish Bar and its presence activates the road frontage and makes the street feel safer after dark.</li></ul> <u>Inappropriateness for converting shop to residential use:</u> <ul style="list-style-type: none"><li>• The proposal would create further issues associated with over-intensive residential use in the local area, including more waste and pressure on scarce local services.</li><li>• There are other more suitable vacant commercial premises for changing to housing use</li></ul>			

- The proposed change of use of the ground floor to residential will create an unacceptable precedent for both Camden and Islington Councils.
- The removal of the takeaway store will contribute to the further collapse of the high street
- The building is designated as a commercial unit and is viable as such.
- The local community needs this small, family run chippy a lot more than it needs a residential flat on a busy main road.
- Allowing the Fish Bar to close down would be an unforgivable act of cultural vandalism and profoundly harm the community. It would cause residents to lose confidence in the council's commitment to, and understanding of, the area and its needs.

#### External design / streetscape concerns

- The proposed design of the street front elevation is not appropriate in terms of streetscape outcomes and are not in keeping with the historic building.

#### External amenity concerns

- The proposed flat roof (rear extension), if used as a patio, would encourage more noise which is already a major problem for neighbouring residents.
- The proposed rooflight (at the rear extension) would cause light pollution.
- The bins will not be static and without a fixed housing will present an access issue to the 3 existing entrances (St Paul's Mews, 15 York Way and 17 York Way) on top of the proposed additional 3 entranceways.
- Concern that the proposed residential unit could be used as AirBnB accommodation and that guests will cause noise and nuisance.

#### Internal amenity concerns

- The design of the proposed residential unit does not provide appropriate internal amenity for residents and is unsuitable for residential unit, in particular noting the noise and fumes from the adjacent residential road.

#### Inconsistency with Camden Planning Guidance:

- The planning application is contrary to Camden Planning Guidance on Community uses, leisure facilities and pubs (January 2021) document

#### Lack of information provided with the application:

- There is no clarity on the proposed development's commitment to SUDs.
- The application plans contain inaccuracies and do not contain sufficient detail. The submitted Planning Statement contains errors,

incorrect information and opinions unsupported by any evidence.

Officer's response:

*The loss of the takeaway store and conversion for residential use (including permitted use as short term / holiday lets for up to 90 nights per calendar year), internal amenity, transportation, energy and sustainability, water and drainage are assessed under sections 3, 4, 5, 6, 7, 8 and 9 respectively.*

*The assessment of the planning application has been made against the relevant planning policies, as outlined under the 'Relevant policies' section below.*

## Site Description

The application site is located on the western side of York Way, near to the intersection of York Way, Agar Grove and Brewery Road to the north of the site.

The site comprises a three storey, brick clad building, with residential flats located on the upper floors and a fish and chip shop on the ground floor, and a basement. The ground floor has a rear extension which occupies all of the site's rear area. A covered side passage adjoins the shop to the north and forms part of the application site. The side passage also serves as a secondary entrance to the rear of the site.

The main area of the ground floor is occupied by the fish and chip shop's shop floor, with kitchen and service areas being located in the rear extension. The upper floor flats are accessed from an internal staircase, which in turn is accessed from the side passage. The basement is used for storage and is accessed from the staircase serving the flats.

The existing first floor accommodates a two bedroom self-contained residential flat, which extends over the side passage.

Fascia signage and a protecting sign advertise the fish and chip shop at the shopfront. A roller shutter door is also located at the shopfront.

The site lies within the Camden Square Conservation Area (CA) and is not identified in the Camden Square Conservation Area Appraisal and Management Strategy as either a listed building, positive building, or a negative building.

## Relevant History

The planning history for the application site can be summarised as follows:

### **2022/2236/P**

Change of use of ground floor commercial unit from hot food takeaway (sui generis) to 1 bedroom residential apartment (Class C3), demolition of existing rear extension and erection of replacement single-storey rear extension, and associated works.

**Refused 14/11/2022** – The decision notice cites the reasons for refusal being due to unacceptable residential living standards being provided (due to poor internal layouts, outlook, and inadequate amenity space); and the proposal likely contributing to unacceptable parking stress and congestion in the surrounding area, and failing to promote more sustainable and efficient forms of transport and active lifestyles, due to the absence of a legal agreement securing car-free housing.

### **34171**

Continued use of the ground floor as a takeaway fish and chip shop.

### **Granted 17/06/1982**

Relevant planning records at neighbouring sites are as follows:

#### 11 York Way

**PE9900866** – Change of use and works of conversion from office (B1a) use to a self-contained one bedroom flat at first floor level, as shown on drawing numbers: 11YW/99/01 as revised by 11YW/99/01 Rev. A – **Granted 11/01/2000**

**PEX0300146** – Change of use of existing shop (vacant Use Class A1) to cafe (Use Class A3). – **Granted 03/07/2003**

#### 13 York Way

**19478(R)** - Change of use to two self-contained maisonettes, including works of conversion, and the use

of the basement for communal storage. **Granted 02/04/1975**

## **Relevant policies**

### **National Planning Policy Framework (2021)**

### **The London Plan (2021)**

### **Camden Local Plan (2017)**

- Policy A1 – Managing the impact of development
- Policy D1 – Design
- Policy D2 - Heritage
- Policy DM1 – Delivery and monitoring
- Policy CC1- Climate change mitigation
- Policy CC2 – Adapting to climate change
- Policy H1 - Maximising housing supply
- Policy H6 - Housing choice and mix
- Policy H7 - Large and small homes
- Policy C6 - Access for all
- Policy CC3 - Water and flooding
- Policy CC4 - Air quality
- Policy CC5 - Waste
- Policy T1 - Prioritising walking, cycling and public transport
- Policy T2 - Parking and car-free development
- Policy T4 - Sustainable movement of goods and materials

### **Camden Planning Guidance:**

- CGP - Design
- CPG – Home Improvements
- CPG - Amenity
- CPG – Energy efficiency and adaptation
- CPG - Housing
- CPG - Transport (2019)
- CPG - Water and flooding (2019)
- CPG - Developer contributions (2019)
- CPG - Energy efficiency and adaptation

### **Camden Square Conservation Area Appraisal and Management Strategy (2011)**

## **Assessment**

## **1. The proposal**

The application seeks to convert the ground floor fish and chip takeaway shop to residential use, reconfigure the existing two-bedroom first floor flat, and combine these floors two floors to create a new three self-contained maisonette. The applicant also seeks to demolish the existing ground floor rear extension as part of the existing shop, and replace with a new extension, which will be for residential use.

The existing basement will be for the exclusive use of the residential unit. Access to the basement will remain via the existing communal staircase external to the flats. Basement access internal to the residential unit will not be provided.

The ground floor would accommodate a kitchen and dining area at the front section of the unit, with a corridor connecting to a living area located in the rear extension, which in turn adjoins a new outdoor patio. A bathroom would be located off the corridor, as well as a new staircase with access to the first floor. The first floor would accommodate three bedrooms and a shower room. The existing staircase and entry (used as the entrance to the first floor flat) would be retained a secondary entrance/fire escape route. The basement would continue to be used for storage.

The rear extension will have a similar height as the existing extension but will have a smaller depth. The extension will also have a rooflight (over the ground floor living room) and a green roof.

The existing fascia and projecting signage, and roller shutter door will be removed. The front elevation at ground level will also be amended to have a new frontage with obscured glass for privacy. Openable windows with clear glass will be installed atop the main window. A new dummy door with fanlight will also be installed. The remainder of the existing wall will be redecorated with white stucco.

Bins for the unit are proposed to be stored in the side passage, against the building.

The subject application is different to the previous application 2022/2236/P (refused planning permission). The main similarities with both applications is that they both propose to convert the existing ground floor shop to residential use, with living areas being provided at the front of the ground floor adjacent to the street, and both applications providing a rear extension.

However, the previous application differs in that it sought to provide a double bedroom in addition to the living area, with no changes being made at the building's first floor level. The new application does not provide bedrooms at ground floor, with bedrooms being provided in the reconfigured first floor space. The rear extension as part of the previous application also matched the same footprint as the existing extension, with a small courtyard provided off the entry to the residence at the side elevation of the rear extension. In contrast, the new application provides a smaller rear extension, and a larger, private courtyard accessed from the extension's rear elevation.

## **2. Assessment**

2.1. The principal considerations material to the determination of this application are as follows:

- Land use
- Housing
- Design and heritage
- Amenity
- Transportation
- Energy and sustainability
- Water and drainage

### **3. Land use**

- 3.1 Since the Camden Local Plan was last updated in 2017, the government has subsequently introduced changes to the Use Classes Order with the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. The legislation came into effect on 1st September 2020 (subject to certain transitional provisions) and introduces changes by way of a reclassification of the planning “use classes” of property. Of relevance to the subject application, hot food takeaway use previously classed as A5 until 31 August 2020, is classed as sui generis since 1 September 2020.
- 3.2 While the shop is no longer formally designated as ‘Class A5’, as the Camden Local Plan policies are yet to be updated to reflect the Use Classes Order with the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, the shop will be interpreted as Class A5 as assessed against any associated policies in the Local Plan.
- 3.3 Policies TC2 (Camden’s centres and other shopping areas) and TC3 (Shops outside of centres) aim to protect shops within Camden’s Town Centres and shops outside of centres. It is acknowledged many members of the community object to the loss of the takeaway store.
- 3.4 Policy TC2 relates to shops within centres. Policy TC3 of the Camden Local Plan seeks to protect shops outside of centres. The site is located outside of a centre. However, excerpt 9.26 of the Local Plan clarifies that scope for considering ‘shops’ is limited to ‘Use Class A1’. Use Class A1 included shops, retail warehouses, post offices, ticket and travel agencies, sale of cold food for consumption off premises, hairdressers, funeral directors, hire shops, dry cleaners, internet cafes. Use Class A5 included hot food takeaways. Therefore, Policy TC3 is not relevant to the assessment of the application.
- 3.5 There are no other policies under the Local Plan which seek to protect hot food takeaway stores, outside of town centres. Therefore, the loss of the hot food takeaway would not constitute a reason for refusal given there is no specific protection for this use at the site.
- 3.6 Policy H1 (maximising housing supply) outlines that housing is regarded as the priority land use, and the Council makes housing it’s top priority when considering the future of unused land and buildings. Given the existing residential use of the host building and neighbouring buildings, the application site is considered an appropriate location for additional homes, in accordance with Policy H1.

### **4. Housing**

- 4.1. Policy H7 seeks to provide a range of unit sizes to meet demand across the Borough. For market units, table 1 of the policy considers 1 bedroom/studios to have a lower priority, 2 and 3 bedroom units to be of high priority and 4 bedroom or more to be of lower priority. The proposals would convert the existing two bedroom flat on the first floor into a three bedroom maisonette, with bedrooms provided over the first floor, living areas on the ground floor, and the basement remaining as storage use.
- 4.2. The maisonette’s floor area of 91m<sup>2</sup> would be less than the minimum 102m<sup>2</sup> for a two storey, three bedroom residence, as prescribed in the Nationally Described Space Standards. Despite the shortfall in the floor area, the bedrooms and living areas provided are considered to be spacious, functional, and of an acceptable quality for a three bedroom unit. The living areas and bedrooms have an adequate dimension such they can accommodate furniture such as table and chairs, and beds, while leaving adequate circulation space. The basement, while not being separate to and directly accessible from the maisonette, will be conveniently accessible and suitable for storing larger items which occupants may only require access to infrequently. Storage space is also provided within the unit at ground level under the staircase.
- 4.3. In terms of outlook, the outlook provided at from the ground floor kitchen and dining area is more



limited due to the street frontage glazing be obscured/frosted to a height of 1.5m from the finished floor level. Such treatments are not uncommon for ground floor living rooms directly adjacent to streets, where residents seek to have a level of visual privacy while maintaining sufficient outlook. However, the upper parts of the shopfront glazing will remain clear, as will the openable windows above which reach up to ceiling level. The glazing provided over the ground floor street elevation is relatively large, which goes some way in mitigating the compromised outlook from this space. As the glazing relates to a kitchen and dining area, residents are more likely to be engaged in activities where the desire for outlook is not as pertinent compared to the living area, more generally used as a 'passive space'. The living area, located in the new rear extension and conveniently accessible from the kitchen and dining area, has a generous, private outlook, provided from the large bifold doors over the proposed rear garden. On balance, it is considered sufficient outlook is provided for residents from the living areas. The bedrooms at the first-floor level will have unobstructed outlook over either the street or the roof of the rear extension and ground floor garden.

4.4. All bedrooms and living areas have adequate access to sunlight and daylight.

4.5. For these reasons above, the proposed unit is considered to provide an acceptable standard of accommodation for future occupants and would be in accordance with policies A1 and D1.

4.6. Policy H4 expects a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to the residential floorspace of 100sqm GIA or more. This is based on an assessment where 100sqm of floorspace is considered to be capacity for one home. In developments that provide less than 10 units, affordable housing contributions can take the form of a payment in lieu. In this case, the proposal provides an addition of residential floor space less than 100sqm (being approximately 41m<sup>2</sup>) and as such, a contribution towards affordable housing would not be required.

## **5. Design and Heritage**

5.1. Policy D1 (Design) of the Camden Local Plan states that the Council will require all developments, including alterations and extensions to existing buildings, to be of the highest standard of design and will expect developments to respect local context and character. The Council will require development to be of sustainable and durable construction and comprise details and materials that are of high quality and complement the local character. The insensitive replacement of windows and doors can spoil the appearance of buildings and can be particularly damaging if the building forms part of a uniform group.

5.2. Policy D2 (Heritage) reaffirms the importance of preserving or enhancing architectural and historic merit and features on existing buildings and states that features which are sympathetic to the host building and wider area should be retained wherever possible, as their loss can harm the appearance of a building by eroding its detailing. The durability and visual attractiveness of materials should be carefully considered along with their texture, colour, tone and compatibility with existing materials.

5.3. Policy D3 Shopfronts resists the removal of shop windows without a suitable replacement, and seeks to ensure that where shop, service, food, drink and entertainment uses are lost, a shop window and visual display is maintained. Where an original shopfront of architectural or historic value survives, in whole or in substantial part, there will be a presumption in favour of its retention. Where a new shopfront forms part of a group where original shop fronts survive, its design should complement their quality and character

5.4. In terms of the demolition of the existing rear extension and replacement with a smaller rear extension, this is considered acceptable in terms of detailed design, siting and scale. The extension would occupy a smaller footprint than the existing extension, leaving a small area of open space as a garden, commensurate with the character of ground floor residential use, and having a lesser impact on the main building compared to the existing rear extension. The

extension's north elevation will also be constructed with stucco, matching the existing situation, with the existing brick western and southern wall elevations being refurbished. The green roof will also soften the appearance of the roof and the overall extension, and will comfortably integrate within the conservation setting.

- 5.5. The applicant has sought to design the proposed ground floor street elevation, to retain some semblance to the existing shopfront, with large shopfront windows. The design has since been amended to reflect a more traditional shopfront, with the original proposed single, large shopfront window being removed from the scheme, and replaced with new triple glazed timber frame windows with timber panelling, and two openable windows above. A Dummy door (with fanlight) has also been introduced to give appearance of shop front door, without adversely affecting the utilisation of the internal space. Cornices would also be restored.
- 5.6. While the ground floor is proposed to be used for residential purposes, the retention of the shopfront reflects the character of the unit's long-standing use as a shop. The design ensures the new residential use will retain a degree of connection with the unit's long-standing retail use, and sees that the street elevation appears in keeping with the other shopfronts present on nearby properties fronting onto York Way, and provides a level of interactivity with the street. Specifically, the traditional shopfront design will be in keeping with the conservation character of the area, including traditional architectural features in keeping with traditional shopfronts in conservation areas, and utilising traditional materials sympathetic to the existing building and conservation area.
- 5.7. The works also involve the removal of built elements unsympathetic to the conservation area, including the modern, oversized fascia sign, projecting sign, and roller shutter doors on the street elevation, and ducting units on the building's side and rear elevations. Overall, removal of unsympathetic built elements and restoration of the cornices and incorporation of the traditional shopfront design, will improve the ground floor street elevation's visual appearance with the overall building and its relationship with the street.
- 5.8. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act [ERR] 2013.

## **6. Amenity**

- 6.1. Policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of residents. This includes factors such as privacy, outlook, implications to natural light, artificial light spill, as well as impacts caused from the construction phase of development.

The proposals are not considered to cause harm to the adjoining neighbouring properties nor the residential occupiers on the upper floors of the application building in terms of loss of light, privacy, overlooking or noise disturbance. Given the proposed extension would be similar in height and massing to the existing extension and the proposed windows at the shopfront will retain the traditional shopfront, there are no concerns in terms of neighbouring amenity. The proposed rooflight is of an acceptable size and location such that it would not cause unacceptable light pollution effects to neighbouring residents.

- 6.2. The existing first floor flat does not have a designated storage area for the household waste and it is understood no bins are currently provided for the flat. Household waste is understood to be disposed of in bin bags. The applicant proposes for the new residential unit's household waste to be disposed of in storage bins, positioned within the side passage, against the north elevation of the building. Noting the spatial constraints at the property to provide bin storage in a more suitable area outside of the side passage area, and noting the household waste would be contained within

storage bins, compared to waste bags, which are more unsightly and less secure; the proposal for household storage bins stored in the side elevation adjacent to the building's north elevation, is considered an improvement to the existing situation in terms of streetscape amenity.

- 6.3. Overall, the conversion of the two bedroom flat and ground floor retail unit into a three bedroom maisonette, and replacement of an existing rear extension with a new rear extension, will have minimal and indiscernible external amenity effects compared to the existing situation.

## **7. Transport**

- 7.1. Policy T1 requires cycle parking facilities to be provided in accordance with the London Plan.
- 7.2. The existing residence is not provided with any on-site bicycle parking. The applicant has demonstrated there is space in the rear garden for a bicycle to be stored, and that the bicycle park could be conveniently accessed from the new pedestrian door adjoining onto the side passage. While no dedicated cover/shelter is proposed for the indicative bicycle storage area, should the new residents own a bike, they may provide shelter to the bicycle using a waterproof bike cover. This is considered an acceptable arrangement, due to the proposal only involves works to extend an existing residence, and no additional residence being created.
- 7.3. Policy A1 on Amenity states in para 6.12 that 'Disturbance from development can occur during the construction phase. Measures required to reduce the impact of demolition, excavation and construction works must be outlined in a Construction Management Plan.' In the light of the location and constraints of this site, a minor development only extending an existing residential unit involving generally minor external works, it is considered that in this case a Construction Management Plan (CMP) would not be required. The Council's transport officer assessed the previous planning application 2022/2236/P and considered it to be a minor development which would not require highways contribution.

## **8. Energy and sustainability**

- 8.1. In line with policies CC1 and CC2, the Council will require development to incorporate sustainable design and construction measures. As the proposal is only for converting existing floor space (less than 100m<sup>2</sup>) as part of an extension to an existing residential unit, the requirement for a Sustainability Statement or Energy Statement is not necessary.
- 8.2. Notwithstanding the above, the development does not propose any boilers or air source heat pumps, and thus the development is considered uncontroversial in sustainability terms. The provision of a green roof over the rear extension will also assist in achieving sustainable outcomes. The proposed development is therefore considered policy compliant in this respect.

## **9. Water and drainage**

- 9.1. The existing building offers little in the way of drainage; nonetheless, the development is an opportunity to improve upon this and reduce flood risk in the area. All developments are expected to manage drainage and surface water on-site or as close to the site as possible, using Sustainable Drainage Systems (SUDS) and the hierarchy set out in the Water and Flooding CPG.
- 9.2. A green roof is proposed above the proposed rear extension at ground floor level, which is an improvement on the existing situation. Full details of the green roof would be conditioned if planning permission was to be granted.
- 9.3. Camden Local Plan policy CC4 seeks to ensure the impact of development on air quality is mitigated and ensures that exposure to poor air quality is reduced in the Borough. The development proposes to extend an existing residential, within an area of poor air quality. The Council's sustainability officers have assessed the Air Quality Assessment, submitted as part of the previous planning application 2022/2236/P and remaining relevant to the new application, and

raise no objections.

## **10. Recommendation**

10.1. Grant conditional Planning Permission.

***The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 13<sup>th</sup> February 2023, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to [www.camden.gov.uk](http://www.camden.gov.uk) and search for 'Members Briefing'.***