

# LONDON BOROUGH OF ENFIELD

## PLANNING COMMITTEE

**Date:** 26th November 2019

**Report of**  
Head of Planning

**Contact Officer:**  
Andy Higham  
David Gittens  
James Clark

**Ward:**  
Town

**Ref:** 19/03612/PRJ

**Category:** Prior Notification Schedule 2  
Part 3, Class O of the Town and Country  
Planning (General Permitted Development  
Order) (England) 2015 (As amended)

**LOCATION:** Refuge House, 9-10 River Front, Enfield, EN1 3SZ

**PROPOSAL:** Change of use of part ground, first to fifth floors from offices (Class B1a) to 76 self-contained flats (Class C3).

**Applicant Name & Address:**  
Magic Living Limited  
C/O Agent

**Agent Name & Address:**  
H Planning Limited  
70 Cowcross Street  
London  
EC1M 6EJ  
matt@hplanning.london

**RECOMMENDATION:** That the Head of Development Management / Planning Decisions Manager be authorised to GRANT Prior Approval for transport/highways subject to a Unilateral Undertaking/legal agreement and planning conditions.

## **1.0 Note for Members**

- 1.1 Although an application of this type would normally be determined under delegated authority, the application is reported to Planning Committee at the request of Councilor Rawlings (Ward Councilor) given the level of local interest and the issue raised
- 1.2 It is to be noted that this type of planning application must be determined within 56 days. If no decision is made by 9<sup>th</sup> December, the application will be determined by default and prior approval will have been granted.

## **2.0 Recommendation:**

- 2.1 That the Head of Development Management / Planning Decisions Manager be authorised to GRANT Prior Approval for transportation/highways and granted subject to a Unilateral Undertaking and Conditions
1. Time Limit
  2. Development under Class O is permitted subject to the condition that it must be completed within period of 3 years starting with the prior approval date
  3. Accordance with plans
  4. Electric charging points
  5. Refuse Collection

## **3.0 Executive Summary:**

- 3.1 The Prior Approval application is not an application for planning permission but is a notification assessed against criteria set out in the Town and Country Planning (General Permitted Development Order) (England) 2015 (As amended ("GPDO") Schedule 2, Part 3, Class O.
- 3.2 The principle reasons for raising no objection are:
- i) The building is considered to be a lawful B1a office use prior to May 2013 and continues to remain as a B1a lawful use.
  - ii) The proposed constitutes residential under Class C3.

- iii) The proposed change of use can only be assessed against the conditions set out at parts O2 (1) a), b), c) and d) of Class O: namely:
    - (a) transport and highways impact of the development,
    - (b) contamination risks on the site,
    - (c) flooding risks on the site, and
    - (d) impacts of noise from commercial premises on the intended occupiers of the development,
- 3.3 As government guidance states: 'A local planning authority cannot consider any other matters when determining a prior approval application'

#### **4.0 Site and Surroundings:**

- 4.1 The site comprises a five-storey office building with an additional basement level. The site operates as a B1(a) use on the first to fifth floors and at ground floor a self-contained B1/D1 use is located at ground floor alongside ancillary parking and access. The site fronts both River Front and Fyfield Road with entrances on both elevations. The site has two vehicular and pedestrian access points from both River Front and Fyfield Road. The site has a PTAL Level of 5 and currently has 35 on-site parking spaces located at basement and ground floor levels.
- 4.2 The site is not located in a Conservation Area and is not a Listed Building.

#### **5.0 Proposal:**

- 5.1 This application is a notification as to whether the local planning authority require prior approval to the change of use of first to fifth floors (inclusive of first, second, third, fourth and fifth floors) from office B1(a) to 76 self-contained residential studio units (C3).
- 5.2 The portion of the ground floor area serving the self-contained B1a planning unit would not contain any residential dwelling units but would continue to provide access to the upper floors and provide on-site parking. Changes at ground floor would be associated with new vehicle parking layout, cycle parking and refuse storage. No external alterations to the building are proposed or stated on the planning application.

## **6.0 Relevant Planning History:**

- 6.1 Reference - 19/01707/PRJ  
Description of development -Change of use of part ground floor and first to fifth floors from offices (Use Class B1A) to 52 residential studio units (Use Class C3).  
Decision level – Delegated  
Decision Date – Granted Prior approval subject to a Unilateral Undertaking legal agreement, Dated 28/06/2019
- 6.2 Reference - 19/01708/PRJ  
Description of development - Change of use of part ground floor and first to fifth floors from offices (Use Class B1A) to 31 residential units (Use Class C3).  
Decision Level – Delegated  
Decision Date – Granted Prior approval subject to a Unilateral Undertaking legal agreement 27/06/2019
- 6.3 Reference - 19/00506/PRJ  
Development Description – Change of use of first to fifth floors and part change of ground floor from offices (Use Class B1(a) to 52 residential studio units (Use Class C3).  
Decision level – Delegated  
Decision Date – Prior approval required and Refused 28/03/2019
- 6.4 Reference - 19/00768/PRJ  
Development Description – Change of use of first to fifth floors and part change of ground floor from offices (Use Class B1(a) to 31 residential units (Use Class C3).  
Decision level – Delegated  
Decision Date – Prior approval required and Refused 28/03/2019
- 6.5 Reference – 14/02979/FUL  
Development description - Change of use of ground floor office (B1) to mixed use office B1 and Education facility (D1) together with a total of 6 Art Exhibitions a year.  
Decision level – Delegated  
Decision Date – Grant subject to planning conditions 23/10/2014

## **7.0 Consultation:**

### Public

7.1 Consultation letters were sent to 202 neighbouring properties (21 days expired 28th November 2019). In addition, two site notices were also posted outside the site. Fourteen (14) objections were received raising all or some of the following points:

- Close to adjoining properties
- General dislike of proposal
- Inadequate access
- Inadequate parking provision
- Inadequate public transport provisions
- Increase in traffic
- Increase of pollution
- Loss of parking
- More open space needed on development
- Noise nuisance
- Out of keeping with character of area
- Over development
- Strain on existing community facilities
- Mental Health and people warehousing
- Demand for properties
- Waste collection constraints
- Water pressure

### Statutory and Non-Statutory Consultees:

#### 7.2 Internal Consultations:

7.2.1 Transportation & Transport – no objection raised. The proposed change of use and the uplift in the number of units from the previously approved scheme will not cause significant transport or highways impact to warrant an objection being raised.

7.2.2 Environmental Health – No objection raised as there is unlikely to be a negative environmental impact. In particular there are no concerns regarding air quality, noise or contaminated land.

#### 7.4 Officer comments

- 7.4.1 The fourteen (14) objections from neighbouring residents include objections to the material planning aspects pertinent to the legislation under the GPDO schedule 2, Part 3 Class O, including parking, waste collection and wider highway concerns that shall be discussed in greater depth in the transport section of the report.
- 7.4.2 The neighbouring objections also raise matters which are outside the scope of consideration defined by the criteria set out in the GPDO and cannot be taken into account. These include issues relating to open space, the character of area, over development, impact on community facilities, residential quality, housing mix, and water pressure

#### 8.0 **Analysis**

##### Background to site and development:

- 8.1 There have been four previous prior notification planning applications relating to this premises; two of which, (references 19/00506/PRJ and 19/00768/PRJ) were objected to on transport / highway grounds (decision date 28/03/19). However, the two more recent applications were not objected to and prior approval was granted because a unilateral undertaking was submitted preventing parking permits for future occupiers of the site and conditions were imposed securing the provision of on-site cycle parking and waste storage (refs: 19/01707/PRJ and 19/01708/PRJ). The two most recent approvals on site were for 52 and 31 units respectively (decision date 28/06/2019).
- 8.2 The previous decisions on the most recent applications have therefore accepted the principle of change of use from B1a to C3 . They also established that the proposals provided acceptable arrangements for on-site cycle parking, waste collection and subject to a Unilateral Undertakings, accorded with need to restrain parking in an area of parking stress.

##### Assessment against Class O Criteria :

- 8.3 Class O of Part 3, of Schedule 2 of the GPDO allows the submission of prior notification to the local planning authority for the change of use of a building on any land within its curtilage to a use falling within Class C3 (dwelling houses) from a Class B1a (office) use.

- 8.4 This proposal involves a change of use from office (B1a) to residential (C3) and seeks confirmation by virtue of the prior approval process, that it constitutes permitted development afforded by the provisions of Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 and that prior approval is not required and / or is granted.
- 8.5 To enable the office to residential conversion to take place, Class O states that the change of use is not permitted if:
- (a) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—
    - (i) on 29th May 2013, or
    - (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
  - (b) the site is, or forms part of, a safety hazard area;
  - (c) the site is, or forms part of, a military explosives storage area;
  - (d) the building is a listed building or is within the curtilage of a listed building; or
  - (e) the site is, or contains, a scheduled monument.
- 8.6 If the above criteria are met, Class O requires the developer to notify the Council to establish whether the prior approval of the authority will be required. It goes on to state that this application can only be assessed against the following criteria:
- (a) transport and highways impact of the development,
  - (b) contamination risks on the site,
  - (c) flooding risks on the site, and
  - (d) impacts of noise from commercial premises on the intended occupiers of the development,

Use of the Building:

- 8.7 Following a site visit, it was apparent the building is being operated and used for B1a office use and therefore the lawful use of the site is not in dispute. The applicant has provided additional evidence in form of business rates in support of the application further confirming the development has been B1a office / commercial use. In addition, one of the principle occupiers of the building has been REED recruitment which is consistent with a B1a use. It is noted that there is a portion of the ground floorspace use operates as a B1/D1 class use but this area does not fall within the scope of the prior notification planning application. It

is contended therefore that the building and planning unit in question have been in B1a use for over 10 years.

- 8.8 Neighbouring residents have questioned the principle use of the building as a B1a office use as opposed to a Sui Generis mixed use building. The principle point of contention is the definition of what a “building” is and whether the prior approval application under Class O relates to the entire building.

The definition of a building (planning portal reference) is as follows, “*The term building refers to the whole or any part of any structure or erection. It does not include plant or machinery comprised in a building*”.

- 8.9 Significant weight is given not only to the definition above but the assessment of what constitutes a “planning unit”. Planning units are considered as premises with independent access, functional uses and are to all intent and purposes, separate and independent operations, such as dwellings above shops on commercial high streets. This relationship is not considered as a sui-generis due to the unrelated uses and independent nature of access.
- 8.10 It is noted that objectors have looked into the individual operations of the building and it is accepted there are likely to be areas of the building within the whole where other uses may exist, and which may not be used as offices. However, such uses are considered ancillary to the primary office use of the building and do not constitute a material change of use or separate planning use. The B1a/D1 use at ground floor has separate independent access and is operated as a single independent planning unit and premise.
- 8.11 Residents have also questioned the C3 designation of the use given the submitted plans which they feel should be classed as C4 - Houses in Multiple Occupation.
- 8.12 Officers considers the proposed units to be C3 residential and not C4. This is because of the internal layout. The first floor plan has been provided below, and clearly illustrates the proposed units have internal separation walls and independent access via an access corridor. As a result, they represent C3 residential units. HMO units and developments have shared facilities and, in most cases, include communal rooms. Such facilities are absent in regard to the proposed floorplan layout. There is no evidence to illustrate the building will be used for any purpose beyond C3 use. If it was, this would form grounds for taking enforcement action.



- 8.13 It is recognised that proposed residential units do not meet elements of the Council's adopted planning policy in respect of residential mix, standard of accommodation or affordable housing however because such considerations are not mentioned as part of the four assessment criteria, adopted planning policy in respect of these elements set out in the Council's Core Strategy / Development Management Document is not a material consideration in the prior approval application and therefore cannot be used in the assessment of acceptability.



- 8.14 The Council therefore maintains that as first established in the previous prior approval application (ref 19/01707/PRJ and 19/01708/PRJ) the building is a B1a use and eligible for consideration under the prior approval application within Part 3, Class O of the GPDO. The use of the first, second, third, fourth and fifth floors is considered a lawful B1(a) office use and the ground floor parking and access area to be ancillary but directly in operational use to facilitate the B1a use of the building (defined above). The site therefore meets criteria (b) of Part 3, Class O of the GPDO (*the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—(i) on 29th May 2013*) and is not considered as a Lawful B1(a) use.

## Highways & Transport (Condition a of Class O of the GPDO)

### Vehicle Parking provision on site

- 8.15 NPPF Chapter 4 (Promoting Sustainable Transport) seeks to maximise sustainable transport solutions and reduce greenhouse emissions and travel congestion. Policy DMD 45 of the Development Management Document (2014) provides the councils policy context to parking provision, illustrated below,

#### *Parking Standards and Layout*

*Car parking proposals will be considered against the standards set out in the London Plan and:*

- a. The scale and nature of the development*
  - b. The public transport accessibility (PTAL) of the site;*
  - c. Existing parking pressures in the locality;*
  - d. Accessibility to local amenities, and the needs of the future occupants of the developments.*
- 8.16 Policy DMD 45 seeks to minimise car parking and to promote sustainable transport options. The Council recognises that a flexible and balanced approach needs to be adopted to prevent excessive car parking provision while at the same time recognising that low on-site provision sometimes increases pressure on existing streets.
- 8.17 The site has a Public Transport Accessibility Level (PTAL) of 5 (considered very good level) and is located within a Controlled Parking Zone. Twenty-one (21) on-site parking spaces are proposed, ten (10) at ground floor and eleven (11) at basement floor, including three (3) spaces at ground floor which are fully accessible and dimensioned. The parking provision would therefore provide 0.27 spaces per unit. Judged against the maximum parking standards in table 6.2 (see below - car parking standards) within the parking addendum of the London Plan (2016) and considering the very good PTAL 5 level, the retained 21 on-site parking spaces alongside the Unilateral Undertaking to restrict future occupiers' access to parking permits for the Enfield Town CPZ, it is considered the proposal would comply with the council's requirements for on-site parking.
- 8.18 In reaching this conclusion, it is noted that the overriding policy DMD 45 in the Development Management Document, outlined in para 7.1.1 states. *"The policy seeks to minimise car parking and to promote sustainable transport options. The Council recognises that a flexible and balanced approach needs to be adopted to*

prevent excessive car parking provision while at the same time recognising that low on-site provision sometimes increases pressure on existing streets”. Considering the assessment and site merits the impact on localised parking capacity is considered acceptable to the parking element of the transport and highways impacts (a) of Class O.

- 8.19 A Unilateral undertaking has been secured and submitted by the applicant to restrict the provision of new parking permits to future residents. The aim of the Unilateral undertaking is to retain parking capacity in the adjoining roads and prevent inaccurate and under provision of parking to local residents.
- 8.20 In summary it is concluded, “even in light of the uplift in the number of residential units compared to the previous approvals of 31 and 52 on site, the town centre location, high PTAL and the fact that it is within a CPZ means that car parking at a rate of 0.25 spaces per dwelling is entirely appropriate”.

*Extract from parking standards table 6.2 (London Plan)*

	PTAL 0 to 1		PTAL 2 to 4		PTAL 5 to 6	
Suburban	150-200 hr/ha	Parking provision	150-250 hr/ha	Parking provision	200-350 hr/ha	Parking provision
3.8-4.6 hr/unit	35-55 u/ha	Up to 2 spaces per unit	35-65 u/ha	Up to 1.5 spaces per unit	45-90 u/ha	Up to one space per unit
3.1-3.7 hr/unit	40-65 u/ha		40-80 u/ha		55-115 u/ha	
2.7-3.0 hr/unit	50-75 u/ha		50-95 u/ha		70-130 u/ha	

Cycle parking provision on site

- 8.21 The applicant has provided 79 on site cycle parking spaces in two locations at ground floor. Forty-two (42) spaces are provided on the frontage of the site (retained within the scope of the site) formed of 7 x cycle hoop bike hangers with a capacity of six (6) cycles per unit: thirty-six (36) cycle spaces are provided adjacent the ground floor parking with an additional larger space for larger cycle models primarily for disabled users. In addition to the aforementioned, two (2) Sheffield stands are provided for four (4) cycles for visitors. The number of cycles provided are considered to meet the requirements of adopted policy and it is considered the cycle provision is acceptable. The cumulative number of cycle spaces provided on site would provide at least one cycle space per residential

unit in accordance with policy 6.9 of the adopted London Plan 2016 and Policy DMD 45 of the Development Management Document (2014).

#### Electric charging points

- 8.22 Electric charging points are expected for new development and none appear to be provided. Adequate space and provision around the vehicles allow installation of electric charging units and their installation shall from a pre-occupation planning conditioned as stated below:

*Prior to commencement details including siting and design of plugs, of electric vehicular charging points to be provided in accordance with London Plan standards (minimum 20% of spaces to be provided with electric charging points and a further 20% passive provision for electric vehicles in the future) shall be provided to the Local Planning Authority for approval in writing. All electric charging points shall be installed in accordance with the approved details prior to first occupation of the development and permanently maintained and retained.*

*Reason: To ensure that the development complies with the sustainable development policy requirements of the London Plan.*

#### Trip generation and analysis

- 8.24 The submitted Transport note (Ref JNY10311-01a, Version A - Dated 16/10/2019) provides the breakdown of the expected trip generation and analysis on site in (para's 1.73 – 1.87) comparing the existing B1a office use and the proposed C3 use on site. The report summarises in para 1.95

*“the trip generation assessment has demonstrated there will be a significant net reduction in both person and vehicle trips associated with the proposed change of use from B1 office to C3 residential units. It is therefore considered that the proposed change of use would have a positive impact on the local highway network”.*

This information has been assessed against TRICS calculations and accepts the conclusions and notes that servicing for the residential units is proposed on street. Officers note that River Front is a cul – de – sac in front of the building and provides adequate space for short term drop off and turning (see swept paths in the transport note) in association with deliveries to the building.

### Refuse storage

- 8.25 The submitted plans provide an acceptable location for refuse storage and collection on the site with the refuse operatives able to access the site and service from the street. A planning condition shall be applied to the prior occupation requesting final details of the waste storage in accordance with the legislative framework for permitting pre-occupation conditions in relation to condition O2(1)(a) of Class O.

### Summary

- 8.26 Officers from the Traffic and Transportation team have reviewed the submitted plans and Transport note (Ref JNY10311-01a, Version A - Dated 16/10/2019) submitted in support of the application. It is considered the information pertaining to the provision of parking (car and cycle), refuse and traffic generation is acceptable and there are no grounds in this location within the CPZ for an objection to be raised.

No objection is therefore raised to the proposed development under condition O2(1) (a) of Class O of Part 3, of Schedule 2 of the GPDO. Prior approval is required and granted subject to unilateral undertaking and conditions.

### Contamination Risks on site (Condition b)

- 8.27 The applicant has submitted a Phase 1 Preliminary risk assessment prepared by RPS Group (Ref JER8316 Dated October 2019). The Council's Environmental Health officer has assessed the document and has no objections in relation to contaminated land impacts on site. There is therefore no objection to the development under Condition O.2 (b) of legislation in Class O of Part 3, of Schedule 2 of the GPDO. Therefore, no prior approval is required for this condition.

### Flood Risk (Condition c)

- 8.28 A flood risk report (Ref HLEF75171 Dated October 2019), prepared by RPS for has been submitted in support of the application. The site is not within a Flood zone or is within a critical drainage area. The flood risk report concludes,

*“Overall, on the basis of information reviewed by RPS, the residential units are not considered to be at a significant risk of flooding from any of the sources assessed”.*

*“The development is considered to be safe from a flood risk perspective and will not result in an increase in flood risk off-site”.*

No objection to the development is therefore raised under Condition O.2 (c) of legislation in Class O of Part 3, of Schedule 2 of the GPDO. Therefore, no prior approval is required for this condition.

#### Noise from commercial premises (Condition d)

- 8.29 The site lies adjacent to residential dwellings to the west and north. The site is flanked to the east by a large office building. The noise emitted from the office is conducive with future residential use of the site and the noise generated would generally be within working office hours and therefore unlikely to harm the future occupiers of the site. No objection is therefore raised to the development under Condition O.2 (d) of legislation in Class O of Part 3, of Schedule 2 of the GPDO. Therefore, no prior approval is required for this condition.

### **9.0 Conclusion**

- 9.1 The proposed change of use from B1 (Office) to C3 (Dwelling house) under Class O is considered acceptable meeting the conditions outlined within O.2(1) (a), (b), (c) and (d) of Class O subject to prior approval being required and granted for condition O2(1)(a) subject to conditions and unilateral undertaking noted above. Pre-occupation planning conditions relating to the details of the refuse and cycle storage on site shall be applied to the prior approval. Such conditions are permitted in cases which relate to the subject matter of the prior approval.

### **10.0 Planning Obligations**

- 10.1 The Prior Approval shall be subject to a unilateral undertaking/Legal agreement restricting parking permits to future occupiers of the site.

### **11.0 Community Infrastructure Levy (CIL)**

- 11.1 In most circumstances where no additional floorspace is provided a development is not liable for CIL. However, an exception to this policy (inclusive of prior notification application) is whereby a building has been vacant for many months in an area where CIL has been adopted, such as Enfield, CIL will be payable at

the rate specified in the local CIL charging schedule upon the commencement of the change in use. The building known as Refuge House however is not vacant and therefore the CIL contribution is not applicable.