

# Enforcement Delegated Report

Receipt date:

January 2023

## Officer

Katrina Lamont

## Enforcement Case

EN23/0007

## Breach Address

19 Lancaster Grove  
London  
NW3 4EX

## Photos & Other material

On file.

## Authorised Officer Signature

13/07/2023

## Alleged Breach

**Without planning permission:** the subdivision of a rear ground floor studio flat (Flat 12) to create two studio flats with mezzanine floors (Flats 13a and 13b).

## Recommendation(s):

That the Head of Legal Services be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring the use of unauthorised flats 13a and 13b to cease and one residential unit to be reinstated as it had been prior to the works being carried out and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

## Site Description

The site features a 4 storey semi-detached property on the northern side of Lancaster Grove. It is sited within the Belsize Park Conservation Area. The site is not statutorily or locally listed.

## Investigation History

An enforcement investigation was opened in January 2023 following an enquiry that new flats had been created in the building.

A joint site inspection with Environmental Health Officers on 3<sup>rd</sup> May 2023 confirmed that a rear ground floor unit has been recently subdivided to create two studio flats with mezzanine levels.

## Relevant policies / GPDO Category

National Planning Policy Framework 2021

London Plan 2021

Camden Local Plan 2017

A1 Managing the impact of development  
A4 Noise and vibration  
D1 Design  
D2 Heritage  
H1 Maximising Housing Supply  
H2 Maximising the supply of self-contained housing from mixed-use schemes  
H3 Protecting existing homes  
H4 Maximising the supply of affordable housing  
H5 Protecting and improving affordable housing  
H6 Housing choice and mix  
H7 Large and small homes  
H8 Housing of older people, homeless people and vulnerable people  
T1 Prioritising walking, cycling and public transport  
T2 Parking and car-free development

### **Camden Supplementary Planning Guidance**

CPG Design 2021 Chapters 1 (Introduction), 2 (Design Excellence), 3 (Heritage), CPG Amenity and CPG Transport

Belsize Park Conservation Area Statement 2003

## **Assessment**

### **Relevant Planning History:**

**2015/0268/P** - Established use of the site as 20 self-contained residential units – **Certificate granted, 13/03/2015**

### **1.0 Assessment**

The material considerations in assessing the unauthorised development is:

- Unit Mix
- Quality of Accommodation
- Transport Considerations
- Neighbouring Amenity

### **2.0 Background**

- 2.1 The site, the subject of this notice, is a semi-detached dwelling that has been subdivided into flats. As noted above, a Certificate of Lawful Development was granted in 2015 (reference: 2015/0268/P) for the use of the building as 20 self-contained flats. No planning permission was previously sought for the flats and they became lawful by the passage of time.
- 2.2 The breach relates to a ground floor rear flat previously known as '12' which has been subdivided into two smaller studio flats by the erection of a wall which runs down the middle of the room terminating in the centre of the bay window (see Figure 1 for floor plan). Each flat features a mezzanine level which accommodates the kitchen. The bed and bathroom is under the mezzanine. The flats are now known 13a and 13b.
- 2.3 While the property has a House in Multiple Occupation licence (HMO), this for the common parts of the building and includes the flats because they are under the same ownership. In planning terms the building is not a large HMO as contended by the offender but contains 21 self-contained units each having their own separate facilities behind their own locked door.

- 2.4 During the course of the investigation, the offender has suggested that two smaller units within the building could be amalgamated to create a larger unit in lieu of ceasing the use of the unauthorised flats 13a and 13b and returning it to one unit as it has been previously. The offender has been advised that while the Council would welcome amalgamating units to improve the quality of accommodation within the building this would not alleviate serious concerns regarding the substandard quality of accommodation created by the subdivision of the rear ground floor studio flat into two very small and narrow units.

### 3.0 Unit Mix

- 3.1 Local Plan policy H7 (Large and Small Homes) is aimed at maintaining a range of dwelling types and sizes that will contribute to the creation of mixed, inclusive and sustainable communities.
- 3.2 This unauthorised development results in the creation of two studio flats which are a lower priority need for the Council.

**Table 1: Dwelling Size Priorities**

	1-bedroom (or studio)	2-bedroom	3-bedroom	4-bedroom (or more)
Social-affordable rented	lower	high	high	medium
Intermediate affordable	high	medium	lower	lower
Market	lower	high	high	lower

### 4.0 Quality of Accommodation

- 4.1 The nationally described technical housing standards sets out minimum gross internal floor areas as illustrated in the table below.

**Table 1. Minimum gross internal floor areas and storage (m<sup>2</sup>)**

Number of bedrooms (b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
1b	2p	50	58		1.5
2b	3p	61	70		2.0
2b	4p	70	79		2.0

- 4.2 The following table shows the GIA for each flat.

Flat	Unit size (GIA)	London Plan Minimum GIA	Dual Aspect (Y/N)
13a	<b>26sqm</b> approx (including	<b>39sqm</b>	N

	mezzanine floor)		
13b	<b>24.4sqm</b> approx (including mezzanine floor)	<b>39sqm</b>	N

Table 2. GIA of converted flats

- 4.3 According to the 2015 application (reference: 2015/0268/P) , the rear ground floor flat known as '12' had a GIA of approximately 36sqm.
- 4.4 The table above demonstrates that the unauthorised flats are grossly undersized at just 24.4sqm and 26sqm. The flats are served by a portion of a rear bay window with the wall dividing the flats terminating in the middle of the bay window as shown in photographs below. The site inspection found the flats to be long, narrow and cramped.
- 4.5 A mezzanine floor accommodates the kitchen. The ceiling height appears to be less than 2m from floor to ceiling on mezzanine floor and floor to ceiling from the floor below which further compounds the cramped conditions of the flats.

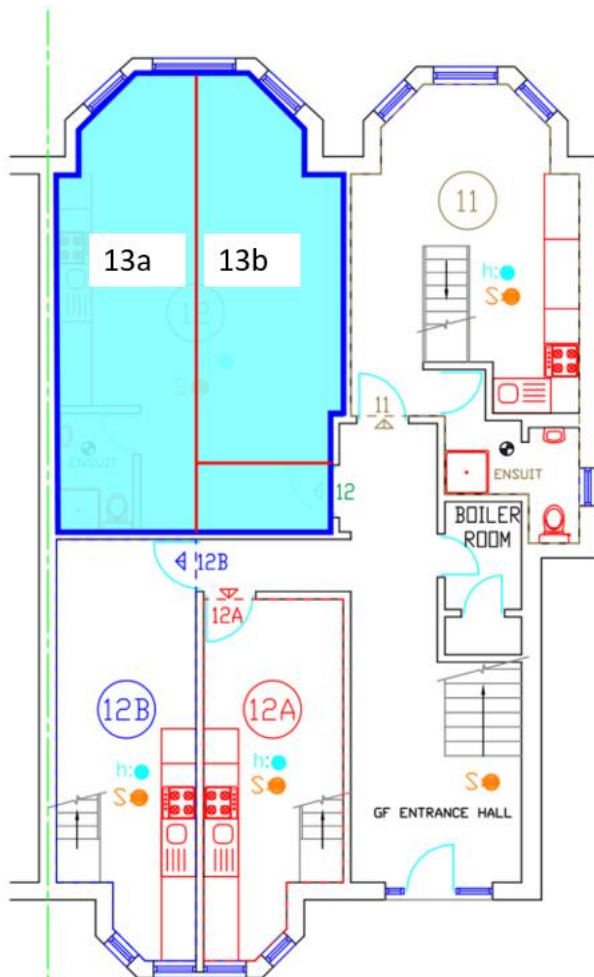


Figure1. Approximate floor plan showing location of flats 13a and 13b. (Mezzanine level not depicted)



Figure 2. Entrance to Flats 13a and 13b

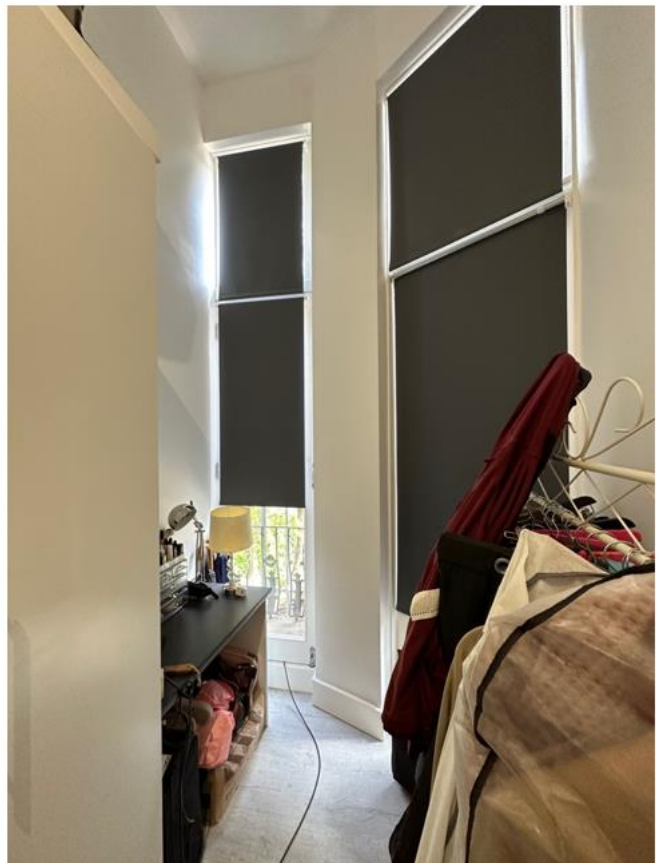
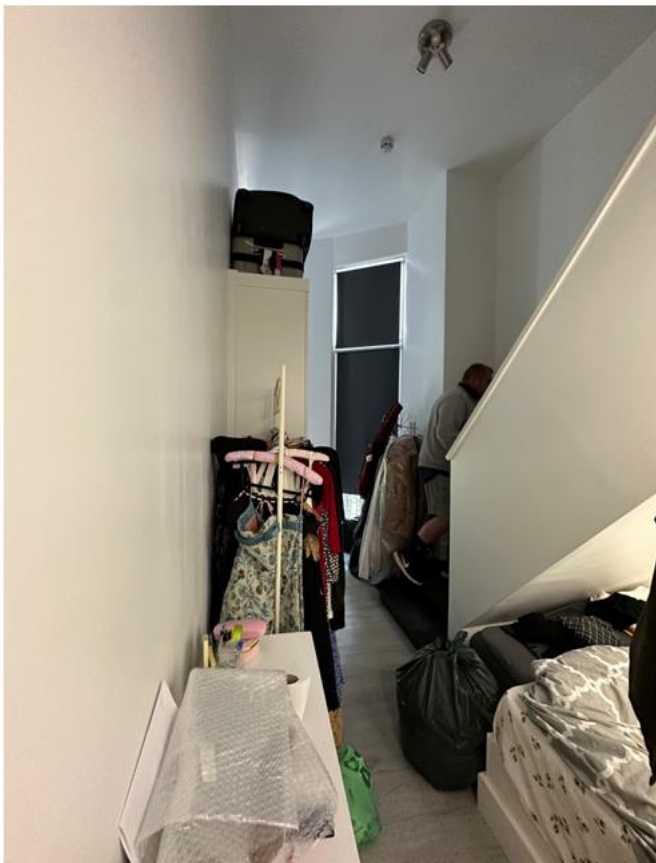


Figure 3. Photograph of interior of Flat 13b





Figure 4. Photograph of 13b kitchen on mezzanine floor

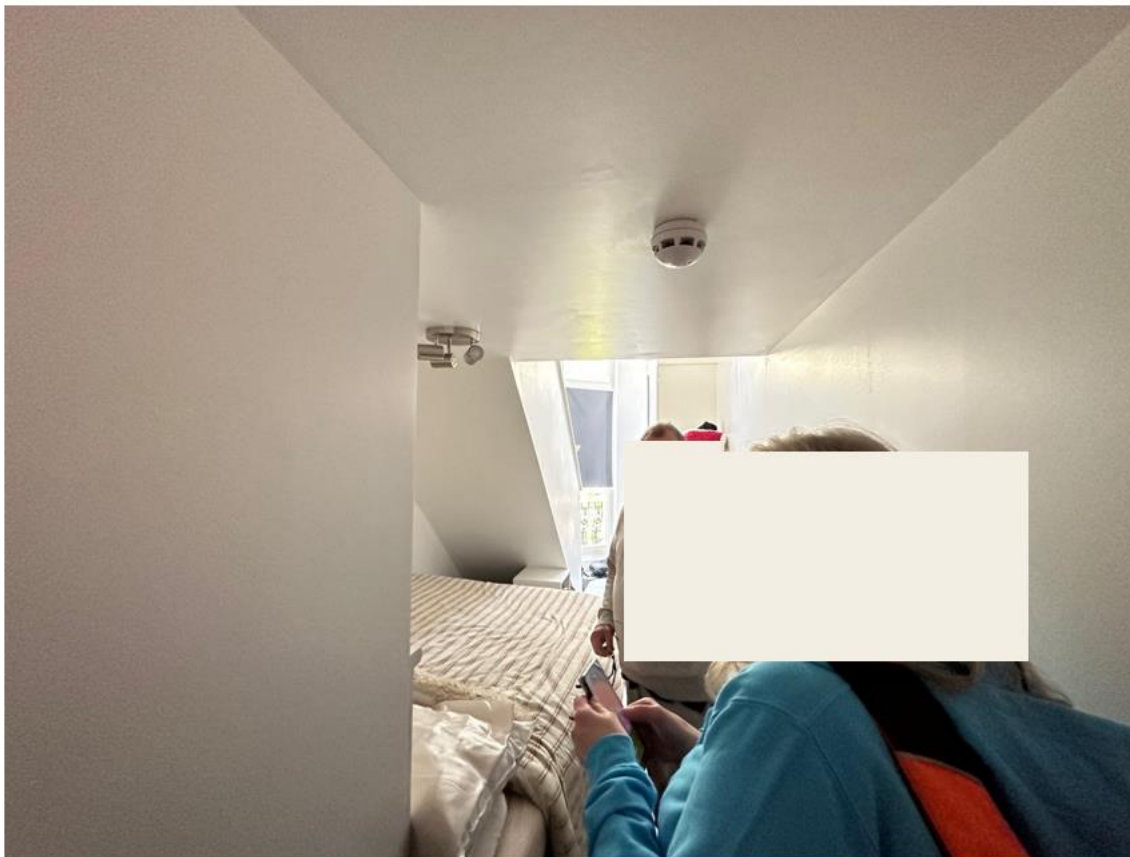


Figure 5. Photograph of interior of 13a showing the bed and headroom between floor to mezzanine level. For reference the Officer in blue is 165cm tall.



Figure 6. Photograph showing the section of bay window within flat 13a.



Figure 7. Photograph showing kitchen on mezzanine floor of flat 13a.



- 4.6 The unauthorised flats provide a substandard quality of accommodation by reason of their significantly small size, reduced head height above and below mezzanine level and cramped layouts to the detriment of residential amenity. The development is therefore contrary to policy H6 (Housing choice and mix) and H7 (Large and Small Homes) of the Camden Local Plan 2017.

## **5.0 Transport considerations**

- 5.1 Policy T1 of the Camden Local Plan requires development to provide cycle parking facilities in accordance with the minimum requirements of the London Plan and the design requirements outlined in the Transport CPG. The London Plan requires a minimum of 1 long stay space per 1 bedroom/studio unit. The development does not appear to provide any cycle parking/storage for occupiers.
- 5.2 Policy T2 of the Camden Local Plan states that the Council will limit the availability of parking and require all new developments in the borough to be car-free. This includes limiting the availability of both off-street and on-street parking. In absence of a S106 legal agreement to secure the development as car free, the development contributes 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), A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the Camden Local Plan (2017).

## **6.0 Neighbouring Amenity**

- 6.1 Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. Policy A1 seeks to ensure that development protects the quality of life of occupiers and neighbours by stating that the Council will only grant permission for development that would not harm the amenity of neighbouring residents. This includes privacy, noise, overlooking, outlook and implications on daylight and sunlight.
- 6.2 The internal nature of the alterations would not impact upon neighbouring amenity through loss of privacy, noise, overlooking, outlook or loss of daylight or sunlight. Therefore the proposal complies with policy A1 of the 2017 Camden Local Plan and the Amenity CPG.

## **7.0 Conclusion**

- 7.1 The unauthorised flats provide a substandard quality of accommodation by reason of their significantly small size, reduced head height on above and below mezzanine level and cramped layouts to the detriment of residential amenity. The development is therefore contrary to policy H7 (Large and Small Homes) of the Camden Local Plan 2017.
- 7.2 In absence of a S106 legal agreement to secure the development as car free, the development contributes 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), A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the Camden Local Plan (2017).

## **Recommendation:**

That the Head of Legal Services be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring the use of unauthorised flats 13a and 13b to cease and one residential unit to be reinstated as it had been prior to the works being carried out and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

**The notice shall allege the following breaches of planning control:**



**Without planning permission:** the subdivision of a rear ground floor studio flat (Flat 12) to create two studio flats with mezzanine floors (Flats 13a and 13b).

**WHAT ARE YOU REQUIRED TO DO:**

- 1. Cease the use of 13a and 13b as residential units;**
- 2. Remove the partition wall which facilitates the use as two residential units;**
- 3. Remove the mezzanine level;**
- 4. Remove one kitchen;**
- 5. Reinstate one residential unit as per the approved drawings for 2015/0268/P attached at appendix A**
- 6. Make good on any damage caused as a result of the works.**

**PERIOD OF COMPLIANCE: 6 months**

**REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:**

- a) The breaches outlined above have taken place within the last 4 years;
- b) The unauthorised flats provide a substandard quality of accommodation by reason of their significantly small size, reduced head height above and below mezzanine level and cramped layouts to the detriment of residential amenity. The development is therefore contrary to policy H6 (Housing choice and mix) and H7 (Large and Small Homes) of the Camden Local Plan 2017.
- c) In absence of a S106 legal agreement to secure the development as car free, the development contributes 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), A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the Camden Local Plan (2017).