

Enforcement Delegated Report

Receipt date:

14/06/2024

Officer

Angela Ryan

Enforcement Case

EN24/0648

Breach Address

17 Fordwych Road
London
NW2 3TN

Photos & Other material

On file

Authorised Officer Signature



05/02/25

Alleged Breach

Change of use from a mixed- used 7-bedroom house in multiple occupation (HMO) and a 1 x 3 bedroom flat to 8 x self-contained residential units comprising 7 x studio units and 1 x 3 bed flat at ground, first and second floor levels

Recommendation(s):

The Head of Legal Services be instructed to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 as amended, to secure the cessation of the ground, first and second floors of the property as eight self- contained residential units and restore its previous use as a 7-bedroom HMO and a 1 x 3 bed flat at ground, first and second floor levels and to authorise in the event of non-compliance, to prosecute under Section 179 or other appropriate power and/or take direct action under section 178 in order to secure the cessation of the breach of planning control.

Site Description

The site comprises a three-storey plus attic storey semi-detached building located on the east side of Fordwych Road. It lies within a group of similar type properties where the predominant land use is for residential purposes.

The site is not listed, neither does it lie within a designated conservation area.

Investigation History

13/09/24- Letter sent to Owner highlighting the alleged breach and informing that the use would be against current Council Policy given that the units are undersized and provides sub-standard accommodation. That the property needs to be reinstated to its previous condition with the communal space, kitchen and bathrooms reinstated. The letter requested that I should be contacted within 7 days from the date of the letter with a view to informing me of their intention.

25/09/2024- Received an e-mail from the Owner confirming that there had been no change of use.

26/09/2024- E-mailed the Owner confirming that a verification site visit was required prior to the enforcement case being closed.

30/09/24- E-mail sent to Owner advising that if I did not hear from them within the next 7 days from the date of the e-mail regarding arranging a site visit that a Notice of Intended Entry will be issued to gain access into the site.

14/10/24- Site visit undertaken, it was verified that the communal space and bathroom at ground floor level and the communal kitchen and bathrooms at first floor level had been removed. Shower rooms and kitchenettes had been installed in the units accessed enabling them to be used independently of the rest of the house. I was unable to access rooms 6 and 7. The Owner's representative confirmed that there was a communal space in the attic storey, however, site visit verified that the space was primarily used for storage, with a cot, blankets and cushions, paintings, a mattress, 3 x washing machines and a fridge in place and that in all probability the space was not being used as communal space by the existing occupiers.

02/12/2024- E-mailed Owner highlighting my concerns regarding the lack of usable shared communal space at the site and the change of use of the property to self-contained studio units. I also confirmed that it was my intention to issue an enforcement notice or alternatively that the property should be reverted to its previous HMO use.

08/12/2024- E-mail received from the Owner confirming that they remain unconvinced that a change of use had occurred and therefore no remedial action is necessary.

Relevant policies / GPDO Category

NPPF 2024: Paragraph 60- Enforcement

London Plan 2021 – Policy D6 (Housing quality and standards)

Camden Local Plan 2017:

Policies

H1 (Maximising Housing Supply)

H6 (Housing choice and mix)

H7 (Large and small homes)

H10 (Housing with Shared Facilities)

T1 (Prioritising walking, cycling and public transport)

T2 (Parking and car-free development)

Camden Planning Guidance 2021:

Housing- Jan 2021- chapter 5

Transport- Jan 2021-chapter 5

Draft Camden Local Plan

The Council has published a new [Draft Camden Local Plan](#) (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account in the determination of planning applications but has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).

Assessment

Planning history:

27/09/2019- Permission **granted** for installation of dormer window to rear roofslope, rooflights to side and front roofslope and erection of single storey rear extension to add additional residential floorspace to existing HMO. (Ref: 2019/1027/P)

21/01/2022- Permission **granted** for roof terrace upon the existing single storey rear extension with new fenestration details including replacement of rear first floor window with new rear door, obscure glass screen and painted metal handrail (Ref: 2021/4400/P)

Enforcement History:

14/06/2024- Complaint received regarding the change of use of a 7-bedroom HMO to 7 self-contained studio units (Ref: EN24/0468). The case forms the basis of this enforcement action.

Background:

Planning records indicate that historically there was a 7-bedroom HMO and 1 x 3 bed flat over the ground, first, and second floors. A site visit verified that the 7x HMO bedrooms had been altered to include shower rooms and kitchenettes, with the communal spaces, communal kitchen and communal bathrooms located at ground and first floor levels having been removed. A communal space was proposed at third floor level, however, the site visit verified that this space was primarily used for storage and that in all probability was not used by any of the current occupiers as communal/shared living space.

Self-contained flat:

The rear ground floor unit has historically been a 1x 3 bed self-contained residential unit, accessed through the same entrance as the seven studio units (formerly a seven-bedroom HMO). With a total area of 60m², the flat falls short of the minimum space standard of 86m². However, since it has been in continuous use for over four years, the shortfall is deemed acceptable in this instance.

7 x Studio units:

This property was previously used as a 7-bedroom HMO over partial ground, first and second floors. The 7 bedrooms have been created into 7 x self-contained studio flat by virtue of the addition of shower rooms and kitchenettes rendering each room be able to be used independently of the rest of the house. There is what is supposed to be a communal space located in the attic storey (third floor) however, a site visit verified that the space was primarily used for storage and in all probability was not used as communal living space by the current occupiers:

The 7 studio units comprise:

Ground floor:

Room 1 (front)- 22m²

Room 2- (middle)-16.2m²

First Floor:

Room 4 (front)- 30.4m²

Room 5- (middle)-17m²

Room 6- (rear)-20m²

Second Floor:

Room 7-(front)-30m²

Room 8-(rear)-17m²

The conversion of this 7-bedroom HMO to 7 self-contained studio units results in the provision of sub-standard accommodation given all seven units are undersized.

As well as studio units all being undersized, room 2 located at ground floor level is considered to be of poor quality due to its internal layout and a single small window located on the flank elevation of the property providing poor outlook facing the blank brick side façade of the adjacent property at no. 15 Fordwych Road.

Policy D6 in the London Plan 2021 advocates for housing to provide adequately sized rooms and has therefore adopted minimum space standards. There should also be at least one built in storage area in each unit, as shown in table 3.1 in the local plan. The Mayor's minimum space standards are shown in the table below:

Table 3.1 - Minimum internal space standards for new dwellings[^]

Type of dwelling		Minimum gross internal floor areas* and storage (square metres)			
Number of bedrooms (b)	Number of bed spaces (persons(p))	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *	N/A	N/A	1
	2p	50	58	N/A	1.5
2b	3p	61	70	N/A	2
	4p	70	79	N/A	2
3b	4p	74	84	90	2.5
	5p	86	93	99	2.5
	6p	95	102	108	2.5
4b	5p	90	97	103	3
	6p	99	106	112	3
	7p	108	115	121	3
	8p	117	124	130	3
5b	6p	103	110	116	3.5
	7p	112	119	125	3.5
	8p	121	128	134	3.5
6b	7p	116	123	129	4
	8p	125	132	138	4

Paragraph 3.6.4 in the London Plan advocates for dual aspect dwellings with opening windows on at least two sides for their inherent benefits, e.g., better daylight, a greater chance of direct sunlight for longer periods, natural cross-ventilation, a greater capacity to address overheating, pollution mitigation, a choice of views, access to a quiet side of the building, greater flexibility in the use of rooms, and more potential for future adaptability by altering the use of rooms. Paragraph 3.6.5 further goes on to say that single aspect rooms are more difficult to ventilate naturally and are more likely to overheat, and therefore should normally be avoided.

The 7 x studio units are all single aspect, and all do not comply with the minimum space standards as outlined in the London Plan 2021, which requires studio units (1 person units) to be a minimum of 37m². The largest unit (Room 4) is 30.4m² with the smallest (room 2) being 16.2m².

Policy H1 of Camden's Local Plan 2017 aims to secure a sufficient supply of homes that meet the needs of existing and future household. Although, the policy aims to maximise the supply of housing in the borough this should not be at the expense of good quality housing that is of good designs and layouts, which should provide a satisfactory level of residential amenity. As the units are undersized, are all single aspect and provides poor outlook in some circumstances it is considered that an adequate level of residential amenity has not been achieved.

Policy H6 aims to secure mixed, inclusive and sustainable communities by seeking high quality homes, accessible homes and a variety of housing suitable for Camden's existing and future households. Commentary in the policy advises that high quality homes should be designed to ensure that sufficient space is available for furniture, activity and movement. The residential space standards should be applied to all new dwellings, including conversions. The 7 x studio units are small, and some present cramped spaces providing minimal space for activity and movement in the more smaller units.

Policy H7 seeks to secure a range of homes of different sizes that will contribute to the creation of mixed, inclusive and sustainable communities and reduce mismatches between housing needs and existing housing supply. To achieve this, the Council expects residential development to contribute to meeting the priorities as set out in the dwelling size priorities table. (table 1) as shown in policy H7 of Camden's Local Plan 2017. The table shows that 2-bedroom units are a high priority for the Borough. In this respect, the dwelling mix does not comply as all units comprise 1 person studio units and are considered to be unacceptable given the resultant sub-standard accommodation that has been provided.

Policy H10 states that the Council will resist development that involves the net loss of housing with shared facilities (houses in multiple occupation) or the self-containment of any part of such a housing unless either:

g) it can be demonstrated that the accommodation is incapable of meeting the relevant standards for houses in multiple occupation, or otherwise genuinely incapable of use as housing with shared facilities; or

h. adequate replacement housing with shared facilities will be provided that satisfies criteria (a) to (f) above; or

i. the development provides self-contained social-affordable rented homes.

None of the above criteria has been demonstrated/provided and therefore the conversion fails to meet the requirements of policy H10 of Camden's Local Plan 2017.

Transport:

The Council will expect all new residential development to be car-free, including redevelopments (and changes of use) with new occupiers. The car-free policy applies across the whole borough, regardless of public transport accessibility level (PTAL) ratings. Where dwellings are created as part of an amalgamation, sub-division or an extension of an existing development these will be expected to be car free.

Given that 7x self-contained studio units have been created, the Council would have expected all 8 units (with no evidence of returning occupiers) to be car-free development in order to comply with current guidance contained in the transport CPG (Jan 2021) and policies T1 and T2 of Camden's Local Plan 2017, which aim to encourage sustainable travel and discourage the use of the private car. As such, the proposal is contrary to current Council policy and in the absence of a S106 legal agreement to secure car-free housing in respect to the 8 x self-contained units that has been created

the proposal is considered to be unacceptable in transport terms.

Recommendation:

The Head of Legal Services be instructed to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 as amended, to secure the cessation of the use of the ground floor, first and second floors of the property as seven self-contained studio units and 1 x 3 bedroom flat and restore its previous use as a 7-bedroom HMO and 1 x 3 bedroom flat at ground, first and second floor levels and to authorise in the event of non-compliance, to prosecute under Section 179 or other appropriate power and/or take direct action under section 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: Change of use from a 7-bedroom house in multiple occupation (HMO) to 7 x self-contained studio units at partial ground and first and second floor levels.

WHAT ARE YOU REQUIRED TO DO:

- 1) Cease the use of the property from a mixed-use 7 bedroom house in multiple occupation (HMO) and a 1 x 3 bedroom flat to 8x self-contained studio units and a 1x 3 bedroom flat at ground, first and second floor levels;
- 2) Completely remove the kitchenettes in the 7x studio units,
- 3) Reinstate the shared kitchen that was previously located at first floor level;
- 4) Completely remove the shower rooms in the 7x studio units;
- 5) Reinstate the bathrooms previously located at ground and first floor levels;
- 6) Make good any damage caused as a result of the above works

PERIOD OF COMPLIANCE: within 12 months of this notice taking effect.

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

- a) It appears to the Council that the above breach of planning control has occurred within the last 10 years.
- b) The development results in the loss of housing with shared facilities and creates 7 poor quality studio units which provide substandard accommodation to the detriment of the residential amenity of current and future occupiers and fails to provide a variety of housing suitable for Camden's existing and future households. The development is thereby contrary to policies H1 (Maximising Housing Supply), H6 (Housing Choice and Mix), H7 (Large and Small Homes) and policy H10 (Housing with Shared Facilities) of the London Borough of Camden Local Plan 2017
- c) In the absence of a S106 agreement to designate the seven self-contained studio units as car-free development the residential units would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and is thereby contrary to policies T1 (Prioritising walking, cycling and public transport), and T2 (Parking and car-free development) of the London Borough of Camden Local Plan 2017