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# Appeal Decision

Site visit made on 8 November 2011

**by Joanna Reid BA(Hons) BArch(Hons) RIBA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 November 2011**

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**Appeal Ref: APP/X5210/A/11/2154886**  
**Unit 3, 44 St Paul's Crescent, London NW1 9TN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Christo & Co against the decision of the Council of the London Borough of Camden.
  - The application Ref 2010/6922/P, dated 17 December 2010, was refused by notice dated 7 March 2011.
  - The development proposed is "change of use of ground floor B1 commercial unit to incorporate unit into the first floor residential accommodation forming a 4-bed 3-storey unit".
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## Decision

1. The appeal is allowed and planning permission is granted for "change of use of ground floor B1 commercial unit to incorporate unit into the first floor residential accommodation forming a 4-bed 3-storey unit" at Unit 3, 44 St Paul's Crescent, London NW1 9TN, in accordance with the terms of the application, Ref 2010/6922/P, dated 17 December 2010, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 178-A1-100, 178-A1-101, 178-A1-102, and 178-A1-103.

## Application for costs

2. An application for costs was made by Christo & Co against the Council of the London Borough of Camden. This application is the subject of a separate Decision.

## Procedural matters

3. In their representations the Council and the appellant clarified that Unit 3 is a live/work unit, with the work element at ground floor level and living accommodation on the upper floors. As I do not consider that anyone's interests would be prejudiced, I shall deal with the appeal on that basis.
4. There is an existing agreement, made in accordance with section 106 of the *Town and Country Planning Act 1990* as amended, which relates to the live/work use of the development. However, it is not a matter that is before me in this appeal.

5. The appellant's and the Council's descriptions refer to 4 bedrooms, but the application drawings show 3 bedrooms and a study. As there is no dispute between the parties that the proposed 3-storey dwelling would have 4 bedrooms, and I do not consider that anyone's interests would be prejudiced, I shall deal with the appeal on that basis.

### **Main issue**

6. The main issue is the effect that the proposed development would have on the supply of business premises in the borough.

### **Reasons**

7. The appeal building is within the Camden Square Conservation Area. The Council has raised no Conservation Area concerns. I agree.
8. The appeal building, Unit 3, is one of 4 terraced units which were purpose-built as live/work units. They are part of a larger backland development which has been in commercial and mixed uses for many years. Units 1 to 4 are fairly close to the dwellings in St Paul's Crescent, and the whole development is situated in a mainly residential area. Planning permission was granted for the "change of use of live work unit (Sui Generis) at ground and first floor to 1 x 3 bedroom maisonette flat (Class C3) including enclosure of external staircase and first floor landing and the installation of new door at ground level" at Unit 4, which adjoins Unit 3, on 29 November 2010, ref 2010/5382/P.
9. As I saw at my visit, the ground floor work element of the live/work unit has a limited floor to ceiling height, it is an irregular shape and it has a comparatively small floor area. It is unlikely that it could be extended, if required, at some future date, because of the limited space at the site. The first and second floors of the unit are arranged as a one bedroom maisonette.
10. Policy CS8 of *Camden's Core Strategy 2010* (CS) sets out the overall strategy to promote a successful and inclusive economy in Camden, but this strategic policy is not the most relevant in this appeal. Policy DP13 of *Camden's Development Policies 2010* (DP) is more relevant to this relatively small development. DP Policy DP13 seeks, amongst other things, to retain buildings that are suitable for continued business use, unless it can be demonstrated that the building is no longer suitable for its existing business use; and the possibility of redeveloping the building for a similar or alternative business use has been fully explored over an appropriate period of time. It also says that when it has been demonstrated that a site is not suitable for any business use other than B1(a) offices, the Council may allow a change to residential use. DP paragraph 13.9 recognises that combined live/work units can provide a valuable contribution to the range of business premises.
11. Unit 3 was marketed by an established local estate agent as a live/work unit between August 2006 and August 2007 without success. Between August 2007 and 2009, the ground floor alone was marketed as office space, again without success. Although planning permission would be required for the separate use of the ground floor of the building as office space and the upper floors as a separate dwelling, DP Policy DP13 seeks the consideration of similar or alternative business uses. The scheme for the ground floor to become office space, which could provide for small or new businesses, and for the upper floors to become a separate dwelling, reflects the guidance in DP paragraph

- 13.6, because it would maintain the employment floorspace, and housing, which is another priority use.
12. DP Paragraph 13.5 explains that where a change of use to a non-business use is proposed, the applicant must demonstrate that there is no realistic prospect of demand to use the building for an employment use, and should submit evidence of a thorough marketing exercise, sustained over at least 2 years. The evidence shows that the unit has been actively marketed for over 3 years.
13. The site is about a 20 minute walk from the underground station at Camden Town, and a bus ride away from the railway and underground stations at Kings Cross. Nearby bus services operate in York Way and Agar Grove, but there are few high street facilities, such as banks, restaurants and shops, and few commercial amenities, within a short walk of the development. In addition, there is little nearby parking to accommodate the comings and goings of employees of and visitors to the business. The location might not be as disadvantageous for some live/work users, such as artists and sculptors, but they would be likely to seek cheaper, less specialised, lower quality premises. Whilst this location is clearly acceptable for residential occupiers, I agree with the appellant's view, that it would not be likely to attract a business use. By contrast with Unit 3, a number of other better located similar scale commercial premises, without parking, have been let within 2 years.
14. The marketing strategy included regular postal, web-based and email advertising, direct canvassing, and viewings, over a sustained period. It concludes that, apart from the physical limitations of the building, the location of the unit is its key disadvantage. From the evidence, it would seem that there is no reasonable prospect of demand for an employment use at Unit 3.
15. The proposed change of use would result in the loss of the live/work unit. However, DP Policy DP2 aims to make full use of Camden's capacity for housing. DP paragraph 2.8 states that housing is the priority land-use, and that the Council will make housing its top priority when considering the future of unused and underused buildings. The Council has not raised concerns about space or design standards, and the appellant has shown that, as far as it is reasonably practicable, the dwelling would meet Lifetime Homes standards. As the Council say that Units 1 and 2 are currently occupied as live/work units, their circumstances plainly differ from the proposal in this appeal.
16. I consider that the proposed development would not cause unacceptable harm to the supply of business premises in the borough. Whilst the proposal would be contrary to the strategic aim of CS Policy CS8, this would be outweighed by its compliance with DP Policy DP13.
17. In the light of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*, a condition identifying the application drawings is necessary for the avoidance of doubt and in the interests of proper planning.
18. For the reasons given above and having regard to all other matters raised, the appeal succeeds.

*Joanna Reid*

INSPECTOR