

Delegated Report		Analysis sheet		Expiry Date:		13/11/2014	
		N/A / attached		Consultation Expiry Date:		29/10/2014	
Officer				Application Number(s)			
Nanayaa Ampoma				2014/5443/P			
Application Address				Drawing Numbers			
122 Drummond Street London NW1 2HN				See Decision Notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Part retrospective planning permission for the change of use of basement from A1(shop) to 1x one bed self-contained flat (C3) and proposed alterations to the external pavement vault form a bedroom.							
Recommendation(s):		Refuse Planning Permission and issue Warning of Enforcement Action					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:	No. notified	06	No. of responses	02	No. of objections	00	
			No. electronic	00			

Summary of consultation responses:	<p>Adjoining neighbours were notified. Two supporting comments have been received from neighbouring properties. Specifically:</p> <ul style="list-style-type: none"> Top Flat 122 Drummond Street, London Unit Poyle, 14 Newlands drive, Berkshire SL3 0DX/ Ground floor 122 Drummond Street
	<p>These comments can be summarised as follows:</p> <ul style="list-style-type: none"> Accommodation in the area is expensive this would be more affordable Development would make no change to street scene Would bring into use vacant unit There is a shortage of these forms of rental properties in the area Development would have no impact on shop unit at ground floor Proposal adds vibrancy to the area and is an efficient and effective use of the space.

CAAC/Local groups***comments:**

*Please Specify

The application site is not within a CA.

Site Description

The application site relates to a mixed use four storey building with a residential accommodation above and retail use at ground floor and basement.

The application site has been designed as falling within the Neighbourhood Centre and Euston Growth Area under the Camden Council proposals Map

The application site has been the subject of an enforcement investigation and an Enforcement Notice issued under Section 172 of the Town & Country Planning Act 1990 as amended, requiring the cessation of the basement unit for C3 purposes. At the time of the site visit for the current application (14th October 2014) it did not appear that the property was currently occupied.

The application site is not within a conservation area and is not listed.

Relevant History

2013/1039/P: Conversion of basement level ancillary to ground floor shop (Class A1) to self-contained studio flat (Class C3), including the re-opening of front lightwell with the addition of an external staircase (retrospective). - **Refused by the Council and Warning of Enforcement Action to be Taken 17-05-2013.**

Application appealed (see PINs reference: APP/X5210/A/13/2200117) decided on 7th October 2013. Appeal dismissed.

Relevant policies

National Planning Policy Framework (2012)

London Plan (2011)

Local Development Framework

Core Strategy (2011)

CS5 Managing the impact of growth and development

CS6 Providing quality homes

CS7 Promoting Camden's centres and shops

CS8 Promoting a successful and inclusive Camden economy

CS10 Supporting community facilities and services

CS11 Promoting sustainable and efficient travel

CS14 Promoting high quality places and conserving our heritage

CS19 Delivering and monitoring the Core Strategy

Development Policies (2011)

DP2 Making full use of Camden's capacity for housing

DP3 Contributions to the supply of affordable housing

DP6 Lifetime homes and wheelchair homes

DP16 The transport implications of development

DP17 Walking, cycling and public transport

DP18 Parking standards and limiting the availability of car parking

DP19 Managing the impact of parking

DP22 Promoting sustainable design and construction

DP24 Securing high quality design

DP26 Managing the impact of development on occupiers and neighbours

DP27 Basements and lightwells

DP28 Noise and vibration

Supplementary Guidance

CPG 1 Design

CPG 2 Housing

CPG 3 Sustainability

CPG 4 Basements and lightwells

CPG 6 Amenity

CPG 7 Transport

CPG 8 Planning obligations

Revised Central London Guidance (2007)

Assessment

Proposal

The application seeks retrospective planning permission for the change of use of the current vacant A1(shop) use at basement to a 1x one bedroom flat with some alterations and minor basement works to the current external cellar. The application is retrospective as much of the works have already been implemented. The property has already been converted with the proposed lightwell and what remains is the works to the cellar which will be converted into a bedroom.

Discussion

The main areas of consideration are:

- Principle of Change of Use
- Design and space standards
- Amenity
- Transport
- Waste Storage

Principle of Change of Use

The application follows a previously refused scheme under reference (2013/1039/P) for the same works. This earlier proposal was refused for two reasons:

1. *The basement residential unit, by reason of its inadequate outlook, layout and size, provides substandard habitable accommodation and an unacceptable level of residential amenity for future occupiers contrary to policies CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.*
2. *Failure to sign a legal agreement for car free housing*

The application was later dismissed at appeal (APP/X5210/A/13/2200117). The officer's report for the earlier application established that the principle of use was acceptable. This was not contradicted by the Appeal Inspector.

The Inspector noted that the space provided falls below the minimum space standards and that it would provide a "*single aspect outlook towards the walls of the proposed storage area*". However whilst a better outlook would have been preferred, the single aspect outlook alone was not reason enough to refuse the application but did add weight to the decision to refuse. The inspector agreed to dismiss the appeal on the grounds that the development would be "*...harmful to the living conditions of future occupiers with regards to living space and outlook*" contrary to Camden Council policy.

The provision of further housing is in keeping with policy CS6 of the Core Strategy. Rented accommodation falls within the Governments definition of affordable housing which is currently a priority talking point.

The main areas of consideration for the current application relates to the previous reasons for refusal, the appeal decision and whether the current application has answered these concerns.

Design and Space Standards

Policy CS14 requires that all alterations respect and enhance the character of the area and location. The Council will only give permission to those developments that preserve or enhance the character and appearance of the area. This is further supported by policies CS5 of the Core Strategy and DP24 of the Development Policies which state that the Council will require all developments including alterations and extensions to existing buildings, to be of the highest design standard in terms of the character, sitting, context, provision of light, standards of accommodation form and scale to the existing building and the general area. Also, of a good light standard, space standard and general amenity.

In line with policies CS5, CS6, CS14 of the Core Strategy and DP6 and DP26 of the Development Policies, supplementary guidance CPG 2 (section 4) provides details on the required residential development standards as highlighted in the London Plan for all new residential units. The Council has established its own requirements, which includes the following: all rooms in basements must have a height level of at least 2.1-2.3 metres; all one bed flats should have a minimum space of at least 32sq metres; all first and double rooms must be 11sq metres or more. Plans submitted with the application show that the development is more than compliant with the above criteria.

In addition, policy DP6 requires all new housing developments comply with Lifetime Homes requirements as far as is reasonable. Given the site constraints it would be unreasonable to expect compliance of all 16 lifetime homes criteria. However details have been submitted which shows that the development will aim to meet some of the criteria. Therefore it is considered that reasonable consideration has been given to the Lifetime Homes criteria in accordance with policy DP6.

CPG 4 on (Basements and Lightwells) states that the Council will only permit basement developments that do not cause harm to the built and natural environment and local amenity; result in flooding; or lead to ground instability. The proposal includes basement excavations to lower the ground floor of the existing cellar by 0.3 metres. This area is below street level and does not in actually relate to the building itself. Therefore the works are relatively minor. However a BIA was submitted in support of the application and is considered acceptable.

The proposed lightwell was previously assessed under the previous application and considered acceptable as there are other front lightwells in the area on the same side as the site. This element of the proposal would therefore be in keeping with the location. It is also necessary if adequate light is to be provided to the flat.

Amenity

The standard of accommodation in terms of inadequate outlook represented one of the main previous reasons for refusal. The previous application proposed a single aspect outlook and while the current application proposes another window opposite the existing, the level of light captured nor the amount of outlook or level of amenity provided has not significantly improved.

When assessing applications of this kind policy DP26 (Managing the impact of development on occupiers and neighbours) requires the consideration of the following:

- a) visual privacy and overlooking;
- b) overshadowing and outlook;
- c) sunlight, daylight and artificial light levels;
- d) noise and vibration levels;
- e) odour, fumes and dust;
- f) microclimate;
- g) the inclusion of appropriate attenuation measures.
- h) an acceptable standard of accommodation in terms of internal arrangements, dwelling and room sizes and amenity space;
- i) facilities for the storage, recycling and disposal of waste (see Waste section);
- j) facilities for bicycle storage (see Highways section); and
- k) outdoor space for private or communal amenity space, wherever practical.

The position of the proposed bedroom especially, being within an existing external vault and under the street level fails to create the standard of living space expected by the Council especially given its proposed use as a bedroom. It is also likely that given its proximity to the shopping area it would experience inappropriate levels of disturbance from those using the high street.

The space for the proposed unit although meets Camden's space standards, feels enclosed because there is only one exit to and from the property. Due to the constraints of the site there is no outdoor amenity which in itself would not be considered adequate to refuse the application. However together with the lack of outlook officers consider that the proposed standard of accommodation is below what

is considered acceptable in terms of amenity.

Therefore it is considered that the development has failed to fully respond to the previous reasons for refusal in terms of outlook and standard of accommodation and fails to comply with policy DP26

Under section 7 of supplementary planning guidance CPG 6 (Amenity), all developments are required to have regard for the amenity of existing and future occupants. Policies CS5 (Core Strategy) and DP26 (Development Policies) state that the council will protect the quality of life for existing and future occupiers, as well as neighbours by only granting permission for those developments that would not have a harmful effect on amenity. Such issues include visual privacy, overlooking, overshadowing, outlook, sunlight, daylight and artificial light levels.

No light assessment was submitted as part of the current application; however a light assessment was submitted with the previous application. The assessment dated April 2013, was completed by Daniel Armstrong Associates and concluded that the previous proposed design “satisfies all of the requirements” set out within the *BRE Digest 209: “Site Layout Planning for Daylight and Sunlight”* document in terms of levels of light to the unit.

Daylight to the basement flat was further assessed under the previous application and considered to be acceptable as the below report extract demonstrates:

“[The basement]...would be served by approximately 0.48sq allowable window area which is not blocked by walls within 30°. This window area is above the threshold of 10% of the floor area in accordance with the Council’s standards shown on Figure 10 of CPG2. According to section 6 of CPG6 a minimum for dwellings the ADF (average daylight factors) figures should be 2% for kitchens, 1.5% for living rooms and 1 to confirm that the basement flat receives adequate daylight in accordance with the BRE guidelines which the Council’s daylight standards based on. The basement flat achieves ADF value of 2.26 and therefore it is considered... [that the basement would]... receive adequate daylight in accordance with the Council’s standards.”

The current application would create an additional window and entrance area that is likely to bring more light to the property. However as no Daylight Assessment has been submitted as part of this application it is unclear what the level of light to the newly propose bedroom would be. The proposed unit would have a height of 2.3 metres whilst this meets policy it is not generous. Additionally, it would not be possible to view the sky in any part of the property which would lead to poor outlook and a sense of enclosure. Although the Appeal Inspector recognised that the design of the unit was innovative it has no special characteristics, such as a garden area, patio or balcony or a generous outlook, to offset the layout and enclosed nature of the unit. Therefore the design still results in a poor standard of accommodation.

Two neighbour responses, both in support of the development, have been received. The unit is located below street level and the proposed use is unlikely to lead to any loss of amenity to those shop units at ground floor or other nearby residential units. Therefore it is acceptable on neighbour amenity grounds however lacking in amenity for future occupiers as discussed above.

Transport

The second reason for refusal under the previous application related to the signing of a Section 106 with a Car free head of terms.

The Council as a Highways Authority has recognised that there are significant pressures on the current parking facilities throughout the borough, especially in dense residential areas close to Town Centres. In the interest of sustainable transport practices, the Council has established highways policies that strongly discourage the use of private motor vehicles and aim to control any future unnecessary increase in off street parking (CS11 – Core Strategy, also DP16, DP17, DP18, DP19, DP22 – Development Policies).

The application is supported by the Highway Officer subject to a S106 agreement for car free

development.

Car free: The site is within the Somers Town Parking Zone (CA-G). All CPZ's are identified as suffering from a high level of parking stress with more than 100 permits issued for every 100 parking bays and overnight demand exceeding 90%.

Policy DP18 states that the Council expects new developments in areas of high on-street parking stress to be either car free or car-capped. The reasons for this are to facilitate sustainability and to help promote alternative, more sustainable methods of transport and stop the development from creating additional parking stress and congestion. This is also in accordance with policies CS11, CS19, DP18 and DP19.

The application site has a Public Transport Accessibility Level (PTAL) of 6b (excellent). In light of the above, a car free development should be secured by the means of a Section 106 legal agreement as a planning obligation is considered the most appropriate mechanism for securing the development. This is because it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car free. The level of control is considered to go beyond the remit of a planning condition. This obligation is worded to comply with S106 of the Town and Country Planning Act.

As such, it is the Council's position that securing car free accommodation is policy compliant and accords with the requirements of Section 106 as it is necessary to make the development acceptable and is directly related to the development. It is also felt that the powers required to deal with this matter are too significant to be dealt with under a condition. This is in accordance with Circular 11/95, where it states at Appendix B as an example of an unacceptable condition, is one requiring loading and unloading and the parking of vehicles not to take place on the highway, as it purports to exercise control in respect of a public highway which is not under the control of the applicant.

The applicant has confirmed that they are happy to comply with the highways requirements however has not completed the agreement.

In line with policies DP17 and DP18, the Council will require the provision of one cycle space. The applicant has yet to demonstrate where this will be and how this can be complied with.

Waste Storage

As the proposed vaults would be used as a bedroom, it is unclear where the storage of waste would be. This has not been identified under the plans and is required. However this can be dealt with by way of condition.

Conclusion:

Although the applicant has addressed some of the reasons for the refusal of the previous application they have failed to adequately respond to issues of outlook and standard of accommodation. Therefore the application is recommended for refusal as it fails to comply with policies CS5 of the Core Strategy and DP26 of the Development Plan.

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 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 breach of planning control:

Use of the basement as a self-contained residential flat.

Period of compliance:

The Notice shall require that within a period of **6 months** of the Notice taking effect the following works are undertaken:

Use of the basement as a self-contained residential flat shall cease and all fixtures and fittings relating to the residential use including bathroom and kitchen fittings to be removed permanently from site.

The Notice shall specify the reason why the Council considers it expedient to issue the notice:

The basement by virtue of its inadequate outlook, layout and position provides substandard accommodation to the detriment of the amenity of current and future residential occupiers, contrary to policies CS5 (Managing the impact of growth and development), CS6 (Providing quality homes) and CS14 (Promoting high quality places and conserving) of the London Borough of Camden Core Strategy Development Plan Document and policy DP26 (Managing the impact of developers on occupiers and neighbours) of the London Borough of Camden Development Framework Development Policies

The enforcement reference number is EN14/1156.