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Your ref: APP/X5210/C/16/3149928  
Our ref: EN16/0216  
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**Dear Planning Inspectorate**

**Site at 122 Drummond Street London NW1 2HN**

**Appeal by Mrs Julia Pyper against the issue of an Enforcement Notice dated 31 March 2016. It instructs 1) Cease the use of the basement as a self-contained residential flat; and 2) Remove all fixtures and fittings relating to the residential use including bathroom and kitchen fittings; and 3) Make good any damage to the building as a result of the works.**

The Council's case for this appeal is largely set out in the officer's delegated report dated 3 March 2016 which was sent with the Questionnaire. The report recommends enforcement action within a period of 3 months to cease the use of the basement as a self-contained residential flat, remove all fixtures and fittings relating to the residential use including bathroom and kitchen fittings and make good any damage to the building as a result of the works. It sets out how the change of use is unacceptable on grounds of principle of change of use, residential amenity, design and transport. The report also details the site and surroundings, the site history and all consideration of the issues.

In addition to the information sent with the questionnaire I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

### **Summary**

The site refers to a four storey end of terrace property with basement level on the northern side of Drummond Street close to the junction with North Gower Street. The building comprises retail unit at ground floor level and a residential flats above (on first, second and third floor levels). The basement which used to be ancillary to the ground floor unit has been converted to a studio flat (Class C3). The surrounding area is comprised of mixed uses, including residential, retail, offices and leisure

uses. The site falls within Drummond Street neighbourhood centre in Central London Area. The site is not listed or within a conservation area.

Officers have investigated this site since it was raised as an issue in 2014. A previous application was refused in May 2013 (Ref: 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)*), and dismissed on appeal (Ref: APP/X5210/A/13/2200117). The grounds of refusal were due to the development being harmful to the living conditions of future occupiers with regards to living space and outlook. A further application was submitted in August 2014 (ref: 2014/5443/P- *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.*) The application was refused and warned of enforcement action to be taken. This decision was appealed and dismissed (ref: APP/X5210/W/15/3097731). The grounds of refusal were due to the basement by virtue of its inadequate outlook, layout and location provides substandard accommodation to the detriment of the amenity of current and future residential occupiers.

In May 2015, an Enforcement investigation (ref: EN14/1156- Use of the basement as a self-contained residential flat) was incorrectly closed following a site visit to the wrong property address. A new Enforcement investigation (ref: EN16/0216) was opened following the submission of a prior approval application (ref: 2016/0200/P)

Prior approval application submitted in 2016 (ref: 2016/0200/P) for the '*Proposed Change of Use of the basement level of a Shop (Class A1) to a Class C3 (Dwellinghouse)*' was refused, subsequently enforcement action was considered expedient and an Enforcement Notice was served as a result.

The appeal is made against the Enforcement Notice (ref: EN16/0216) under grounds (f) and ground (g) only.

### **Status of Policies and Guidance**

The London Borough of Camden Local Development Framework was formally adopted on the 8th November 2010. The policies of relevance to the appeal scheme as expressed in the reasons for refusal are:

- 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
- 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

The Council also refers to supporting guidance documents. The Camden Planning Guidance was recently updated and following public consultation was approved by the Council in September 2013.

*Supplementary Guidance:*

- CPG 1 Design - Chapter 2 provides guidance for design excellence
- CPG 2 Housing- Chapter 4 provides guidance for residential development standards
- CPG 4 Basements and lightwells - Chapter 2 provides guidance on habitable rooms
- CPG 6 Amenity - Chapter 6 provides guidance for daylight and sunlight and Chapter 7 provides guidance for overlooking, privacy and outlook
- CPG 7 Transport - Chapter 5 provides guidance for car free and capped development

With reference to the National Planning Policy Framework 2012, policies and guidance contained within Camden's LDF 2010 are up to date. There are no material differences between the Council's policies and the NPPF in relation to this appeal. The NPPF states that development should be refused if the proposed development conflicts with the local plan unless other material considerations indicate otherwise.

**Ground (f) Appeal:**

Section 174(2)(f) states that an appeal can be made under ground (f) if the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

### Appellant's Case

With regard to the ground (f) appeal, the Appellant states that 'it is not necessary to remove all the facilities identified in the EN' and suggest that only the removal of the built-in retractable bed is required.

Furthermore, the appellant suggests that 'the small size of the unit and its basement location means it will struggle to find a use as a separate retail unit' and retaining the existing bathroom and kitchen would maximise its chances.

### Council's Case

The Council considers that each step required by the notice is clear and necessary to ensure that the basement used as a self-contained residential accommodation ceases.

The first requirement is to cease the use of the basement as a self-contained residential flat. The second requirement is to completely remove all fixtures and fittings relating to the residential use including bathroom and kitchen fittings. The third and final requirement is to make good any damage to the building as a result of the works. These requirements are in place to remedy the breach of the change in use of the basement from retail storage (Class A1) to a self-contained studio flat, which is an unacceptable form of development and contrary to Planning Policy, as outlined in the Notice.

The bathroom and kitchen in the basement enable the property to be used as a self-contained residential unit and therefore it is necessary to seek the removal of such fittings. The removal of all fixtures and fittings relating to the residential use including bathroom and kitchen fittings ensures that the property cannot be used as a self-contained unit in the future. Should these facilities be kept, the appeal dismissed and the Council's enforcement notice upheld, the keeping of these features would facilitate the change of use back into a self-contained unit at a later date much more easily.

The Council maintain the steps required for compliance with the Enforcement Notice are clear and reasonable given the circumstance. Lesser steps could not be implemented to overcome the breach in planning control at the subject property.

### **Ground (g) Appeal:**

Section 174(2)(g) states that an appeal can be made under ground (g) if the time given to comply with the notice is too short.

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

### Appellant's Case

With regard to the ground (g) appeal, the Appellant states that the time frame of three months allowed by the Notice is inadequate *'in view of the shortage of builders in London at present'* and that a 12 month period would be more suitable to carry out the works.

### Council's Case

The Council believes a three month period gives adequate time to undertake the required works, and notes the Appellant has not specified reasons as to why the works would take longer than 3 months other than stating that there is a shortage of builders in London at present. In the absence of any additional documentation or description demonstrating the works will exceed 3 months, the LPA contends the original compliance period stated in the Notice is an appropriate length of time to bring the property into conformity with planning controls.

### **Conclusion:**

On the basis of information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal and uphold the issuing of the Council's Enforcement Notice without variation.

If any further clarification of the appeal submissions is required please do not hesitate to contact Cilpa Beehook on the above direct dial number or email address.

### **Conditions**

The works have already been carried out. Conditions cannot be attached which would control the development or mitigate the harm that has been caused.

If any further clarification of the appeal submissions is required please do not hesitate to contact me on the above direct dial number or email address.

Yours sincerely,

Cilpa Beehook  
Planning officer  
Appeals & Enforcement  
Supporting Communities Directorate