

MRS JULIA PYPER

122 DRUMMOND STREET LONDON

APPELLANT'S STATEMENT OF CASE

OCTOBER 2016

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1.0 INTRODUCTION

1. This is the appellant's statement in respect of an appeal against the Council's refusal of application 2016/3964/P to *change the use of the appeal premises at basement level only from retail (Class A1) to short let accommodation (Class C1)*.

2. It was refused for two reasons:

1. The proposed change of use, would result in the loss of a retail unit (Class A1) and the ratio of retail uses within this shopping parade continuing to fall below the recommended minimum of 50%, which is considered to undermine the provision of shopping services and therefore erode the retail function of the Drummond St Neighbourhood Centre and thereby cause harm to the character, function, vitality and viability of the retail centre.

2. The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area,

2.0 LOCATION

3. Drummond Street is west of Euston Station. The area around the appeal site is a street of late-Georgian terraces with shops and restaurants on the ground floor. Some have basements.

4. The Camden Proposals Map shows some of Drummond Street is a neighbourhood centre (blue lines) and is within the Euston Growth Area (yellow lines). It is not in a conservation area.



3.0 THE DRUMMOND STREET NEIGHBOURHOOD CENTRE

5. In view of the first reason for refusal, it is worth describing this briefly. **Core Strategy para 7.1** says:

*Camden benefits from a wide variety of town and neighbourhood centres with different characters and roles, from Camden Town and its famous markets to upmarket Hampstead, from the furniture and electronics shops of Tottenham Court Road to the ethnic restaurants on Drummond Street. **Core Strategy para 7.25** says: Camden has a number of areas which provide specialist shopping, drawing people from beyond Camden and often from beyond London. These include ... Drummond Street for ethnic Asian shops and restaurants.*

6. Even though Drummond Street is a centre with intermittent commercial units, it is busy with an energetic pavement life that extends well into the evening. This is because its special character is principally defined by ethnic restaurants. There are three restaurants and five shops in this section of the centre. In other sections there is a higher proportion of restaurants.
7. Because of this it is a unique centre in the Borough, a fact the Delegated Report (**Annexe 1** is the relevant part of this with paragraphs numbered for reference) insufficiently recognises. It is full of vitality.
8. There are no vacancies in the 46 units that make up the whole centre. The lack of vacancies and the investment that is taking place (there are two building sites in the centre) shows that it is also viable. As ancillary retail storage use of the appeal basement ceased in 2010, it is evident that this has not inhibited its present vitality and viability in any way.
9. Some commentators expect the number of shops in the country to fall by about 20% over the next ten years or so as a result of retail activity transferring to the internet. Centres like Drummond Street that have a large number of specialist restaurants and shops are very well placed to resist this trend. Specialist ethnic food and ambience is impossible to duplicate on the internet, in contrast to High Street shopping for day to day items that is relatively easy to replicate more cheaply on the internet and so is vulnerable.
10. The centre is robust and will remain so.

4.0 THE SITE

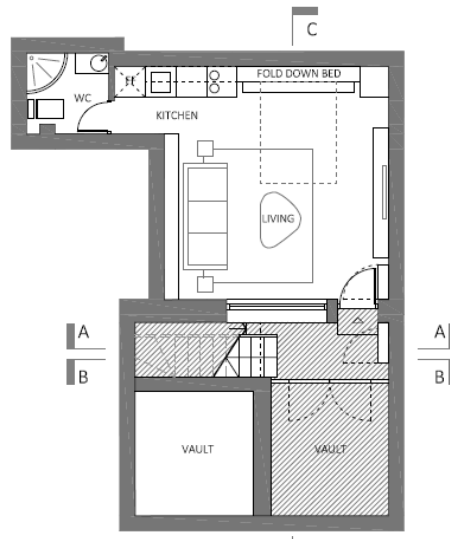
11. 122 Drummond Street is a 4-storey plus basement building with three storeys of residential on the upper floors. It is not listed. The appeal site is the whole basement, which was once the basement of the shop above. It has been vacant since 2010.
12. The only access to the basement is an external staircase behind the ground floor railings seen in the photo below. This was permitted by the Council in April 2013 under application reference 2013/1040/P. The internal staircase was removed as a consequence of this consent, which obviously severs the basement from the unit above.



13. There is now a Yamoto courier agency on the ground floor. The Delegated Report describes the building as *The property is a mixed-use four storey building with residential accommodation to the upper floors and a designated retail use at ground floor and basement. The ground floor is currently occupied by a retail unit.*



14. In 2012 the basement was refurbished as a residential studio unit, but it has never actually been used residentially. Its layout is shown on the plan below.



15. The basement is about 23sqm. The plan shows that, at the rear of the unit, there is a small bathroom with a shower and a cooking area with a sink, a mini 2-plate hob and oven.
16. Steep metal steps access the basement from the 1.3m by 2m light well. This is fenced off from the pavement by iron railings about 1.1m above pavement level. There are two timber sash windows lighting the basement and a solid door.
17. It is immediately apparent that this would be a very poor retail unit. It is peripheral to the eastern part of the divided shopping area, very small in size, has no shop front or presence on the ground floor and is accessed down steep stairs. Its limited visibility is interrupted by the area railings and stairs. There are no other retail units in basements in the centre and it has not been in retail use (as ancillary storage to the unit above) since 2010.

5.0 PLANNING HISTORY

18. There have been two retrospective planning applications for residential use.
19. In 2013/14 application **2013/1039/P** sought consent for *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)*. This was refused by the Council and on appeal because it was below the appropriate floorspace standard (**Annexe 2**).
20. In 2014/15 application **2014/5443/P** for *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* was refused despite pre-application support and recommendation for a basement impact assessment. It sought to use the vaults shown on the plan above to increase the floorspace of the unit. Draft approval was issued by the Council, but it was subsequently refused and dismissed on appeal (**Annexe 3**).

21. In 2016 prior approval application **2016/0200/P** to certify a Change of Use of the basement level of a Shop (Class A1) to a Class C3 (Dwellinghouse) was lawful under Class M of the GPDO was refused by the Council because the flat was substantially complete at the relevant date.
22. Following this refusal, the Council served an Enforcement Notice requiring the use to cease and the internal features supporting residential use to be removed. This was appealed on ground f on the basis that the requirement to remove all internal works was over-enforcement unnecessary to secure cessation of the use. The appeal is not yet decided.
23. In view of the first reason for refusal, it is worth noting that the previous case officers expressed the view that loss of the appeal basement would be of no significance to the health of the neighbourhood centre. Consistent with this, the Council did not identify this as a reason for refusal in either application to change its use from retail to residential.
24. The Delegated Report on **2013/1039/P (Annexe 2)** says *The loss of basement level for alternative use is not considered to significantly affect the retail function and viability of the small retail unit on the ground floor level and the rest of the neighbourhood centre. The retained ground floor A1 unit has a floor area of approximately 20sqm and could still be attractive and viable to small business in the area.*
25. This was before Yamoto opened in late 2013, which showed the Case Officer's forecast was accurate. Plainly the appeal basement is not essential to the operation of the ground floor unit.
26. The Delegated Report on **2014/5443/P (Annexe 3)** does not even mention the effect of the loss of the basement on the centre as an issue to be considered.
27. As the Council did not identify loss of retail use as a reason for refusal in either case, the matter was not considered by the appeal Inspectors. There has been no change in policy or the character of the centre since that would justify the diametrically different view expressed in the first reason for refusal.

6.0 THE PROPOSAL

The Pre-app

28. Following refusal of the second appeal, the appellant wrote a pre-app letter to the Council on 11 April 2016 (enclosing a cheque for £960) requesting advice on *proposed change of use of the basement level of a Shop (Class A1) to either short stay accommodation, medical consulting room or office.*
29. The Council's response dated 7 June (**Annexe 4**) started by saying:

The current use of the site is retail and under previous Council judgements, 2016/0200/P and 2014/5443/P, the conversion of the unit into residential accommodation has been resisted given the standard of accommodation proposed. However, although concerns were raised about the loss of retail floorspace given the basement unit's siting and the

remaining active A1 use at ground floor level, it was not considered that the loss of retail floorspace could be resisted. It is also my officer's opinion that the loss of a retail use of this basement unit would not have an adverse impact on the retail function and viability of the surrounding neighbourhood. Hence a change of use from retail is possible given an appropriate alternative use is provided.

30. Thus the Council's view three months before the refusal was that loss of retail use in the basement to C1 use would not adversely affect the centre (completely consistent with the fact its vacancy since 2010 had not done so). Nothing occurred in the subsequent three months that would justify a different view. The Council's refusal is paradoxical and inconsistent.
31. It then turned to the three proposed uses. As far as short let accommodation is concerned it said: **Development Policy DP14** states that:

"All tourism development and visitor accommodation must:

d) be easily reached by public transport;

e) Provide any necessary off-highway pickup and set down points for taxis and coaches;

f) not harm the balance and mix of uses in the area, local character, residential amenity, services for the local community, the environment or transport systems"

The proposed short term accommodation for 90 days or less would be easily reached by public transport. Given the size of the unit it is unlikely that a high demand of taxis and coaches will be created. It would need to be demonstrated that the proposed short term accommodation use would not be out of character with the mix of uses in the area having an adverse effect on surrounding uses in the area.

32. As the pre-app had already concluded the *loss of a retail use of this basement unit would not have an adverse impact on the retail function and viability of the surrounding neighbourhood*, the adverse effect that has to be considered must be something other than an adverse effect on the neighbourhood centre.
33. All three proposed uses were stated to be equally acceptable in principle as long as tourist use would not affect local amenity; the level of intensity of medical use would not be excessive and demonstrating a proposed office layout was acceptable. The appellant submitted the appeal application entirely on the basis of this clear advice.

The Appeal Proposal

34. This involves use of the premises for short holiday lets for one or two people on a commercial fee-paying basis at a nightly rate with no deposit against damage. It will let to visitors to London for periods of up to 2 weeks.
35. Other than cleaning and linen, no services will be provided to guests. Its location on the edge of a centre with plentiful eating facilities of many types makes it unnecessary to provide in-house food. It is plainly a C1 use that will support the centre.
36. Its location on the edge of the CAZ, close to the main line railway stations and Eurostar and Euston and Warren Street underground stations, its exceptionally high PTAL rating of 6b and the many Santander bike-sharing facilities in close proximity makes it ideal for this use.

37. The Delegated Report on the application identifies many positive features that the appellant agrees with:
- a. *The site is well located and is easily accessible by public transport.... Given the scale of the development it is not considered that the highway would be detrimentally impacted as there would unlikely be a requirement for additional provision to allow for any significant increase of taxi drop-offs (para 3).*
 - b. *Whilst the proposal would comply with relevant tourism policies in promoting visitors to the Borough...Refusal of planning permission for short term letting at this site, accommodating 2 persons as a maximum would not cause harm to the overall tourism development objectives for the Borough (para 13);*
 - c. *The site would receive acceptable levels of daylight (para 14);*
 - d. *The (previous) proposal did not comply with standards of accommodation prescribed by CPG2 and the London Plan. However, the proposal for short-term accommodation would not be assessed against the housing standards for framework as these policies are not applicable for Use Class C1 (para16);*
 - e. *The proposal has been accompanied by supporting Noise Impact Assessment documentation which has been reviewed by the Council's Environmental Health officer who has deemed the proposal acceptable subject to a standard noise condition (para 17);*
 - f. *Sufficient daylight standards are complied with for use as short-term accommodation, given the temporary nature of the proposal, and the agent has submitted a report demonstrating this, also reviewed by the Environmental Health officer (para 18);*
 - g. *The unit is located below street level and the residential use is unlikely to affect the amenities of the neighbouring occupiers/residents in terms of loss of outlook, privacy and daylight to those shop units at ground floor level or other nearby residential units. Therefore, it is acceptable on neighbour amenity grounds (para 19);*
 - h. *The site is located within a PTAL rating of 6b which indicates a very good level of public transport accessibility (para 21).*
 - i. *(The site is) within the Somers Town Controlled Parking Zone and as such would require car-free development to be secured via a Section 106 as per advice from the Council's transport officers. This could be secured via a condition with any grant of permission should this proposal be recommended for approval (para 21);*
 - j. *It is considered that cycle storage is not required given the existing size constraints of the site and lack of structural change (para 22).*
38. It should be particularly noted that:
- item b says the proposal conforms to the Council's tourism policy;
 - item d says there are no space standards for short-let tourist accommodation;

- Item g addresses the pre-app case officer's requirement *It would need to be demonstrated that the proposed short term accommodation use would not be out of character with the mix of uses in the area having an adverse effect on surrounding uses in the area and considers this to be acceptable*; and
- Item l says reason for refusal 2 can be addressed by condition.

7.0 POLICY

39. The car free requirement in the second reason for refusal is misdirected as C3 use is not proposed and the Council accepts it can be addressed by condition in any event.
40. Thus the only policies that need to be considered are those identified in the first reason for refusal that says: *The proposed change of use...would be contrary to **Policy CS7 of the...Core Strategy and Policies DP12 and DP14 of the ... Development Policies.***
41. The Core Strategy and Development Policies were both adopted in November 2010. The Delegated Report also refers to **Camden Planning Guidance Town Centres, Retail & Employment CPG 5 (adopted 2011)** but this is not referred to in the reasons for refusal and adds little to the development plan objections.
42. The relevant parts of **Policy CS7 Promoting Camden's centres and shops** read:

The Council will promote the following distribution of retail growth across the borough...b) in the range of 20-30,000 square metres additional retail at Euston and Camden Town, with the majority expected to take place at Euston...appropriate retail provision in Camden's Specialist Shopping Areas:.. Drummond Street..

The Council will promote successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors by: e) seeking to protect and enhance the role and unique character of each of Camden's centres, ensuring that new development is of an appropriate scale and character for the centre in which it is located; f) providing for, and maintaining, a range of shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice. g) protecting and promoting small and independent shops, and resisting the loss of shops where this would cause harm to the character and function of a centre; h) making sure that food, drink and entertainment uses do not have a harmful impact on residents and the local area, and focusing such uses in Camden's Central London Frontages, Town Centres and the King's Cross Opportunity Area; i) supporting and protecting Camden's local shops, markets and areas of specialist shopping. j) pursuing the individual planning objectives for each centre, as set out below, including through the delivery of environmental, design, transport and public safety measures.

43. **CS para 7.7** says *There is also the opportunity to deliver a significant amount of additional retail floorspace as part of the redevelopment of Euston Station. This is expected to meet demand from people travelling through the station, as well as serving a local catchment, but should not cause harm to the vitality or viability of other nearby centres, including Drummond Street.* Obviously 20-30,000sqm of new shopping mainly in the Euston area will fundamentally improve the availability of services there. The trivial effect of loss of a vacant basement unit must be measured against the step change up in the quality of local facilities proposed. The huge improvement in the amount of retail floorspace in the immediate vicinity is an important material consideration that the Delegated Report completely ignores.

44. The appeal basement has never contributed to the retail function of the centre because it was only ancillary storage and the ground floor unit is functioning without it.
45. The Council seems confident that the centre's special character will resist the effect of the very large quantity of new retail floor space proposed in the area and the Delegated Report manifestly fails to address how loss of this peripheral basement will have the slightest effect in this context.
46. The **CS's Centre Specific Planning Objectives** (after **para 7.29**) says in respect of neighbourhood centres that: *...We will take into account the individual character of the centre when assessing development proposals but, as a guide, we will resist schemes that would result in less than half of ground floor premises in a neighbourhood centre being in retail use or in more than three consecutive premises being in non-retail use. We will also take into account any history of vacancy in shop units and the prospect of achieving an alternative occupier for vacant premises*
47. It is clear that this policy does not control the use of basements and so its relevance to the appeal proposal is obscure. It also requires the Council to take into account the special character of the centre that the Delegated Report has failed to do.
48. **Policy DP12 - Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses** reads: *The Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. We will consider: a) the effect of non-retail development on shopping provision and the character of the centre in which it is located; b) the cumulative impact of food, drink and entertainment uses taking into account the number and distribution of existing uses and non-implemented planning permissions, and any record of harm caused by such uses; c) the impact of the development on nearby residential uses and amenity, and any prejudice to future residential development; d) parking, stopping and servicing and the effect of the development on ease of movement on the footpath; e) noise and vibration generated either inside or outside of the site; f) fumes likely to be generated and the potential for effective and unobtrusive ventilation; g) the potential for crime and anti-social behaviour, including littering.*
49. Plainly matters b), c), d), e), f) and g) are not relevant to this application. We consider matter a) in the context of the Council's consistent (up to this decision) view in the next section.
50. **Policy DP14 - Tourism development and visitor accommodation** reads: *The Council will support tourism development and visitor accommodation by: a) expecting new, large-scale tourism development and accommodation to be located in Central London, particularly the growth areas of King's Cross, Euston, Tottenham Court Road and Holborn; b) allowing smaller scale visitor accommodation in the town centres of Camden Town, Kilburn, West Hampstead, Kentish Town and Finchley Road/Swiss Cottage; c) considering tourism development outside of the areas listed above that has a local or specialist focus and that would attract limited numbers of visitors from outside the borough. All tourism development and visitor accommodation must: d) be easily reached by public transport; e) provide any necessary off-highway pickup and set down points for taxis and coaches; f) not harm the balance and mix of uses in the area, local character, residential amenity, services for the local community, the*

environment or transport systems. The Council will protect existing visitor accommodation in appropriate locations.

51. The Delegated Report accepts that *The site is well located and is easily accessible by public transport...Given the scale of the development it is not considered that the highway would be detrimentally impacted as there would unlikely be a requirement for additional provision to allow for any significant increase of taxi drop-offs (para 3).*
52. **Para 19** says: *the unit is located below street level and the residential use is unlikely to affect the amenities of the neighbouring occupiers/residents in terms of loss of outlook, privacy and daylight to those shop units at ground floor level or other nearby residential units. Therefore, it is acceptable on neighbour amenity grounds*
53. **Para 23** sets out the height of the Council's **Policy DP14** objection: - *It is considered the proposal does not comply with Policy DP14 as it would significantly harm the balance and mix of uses in the area, and the local character – essentially the same point as its **CS7 and DP 12** objections.*

8.0 PLANNING ISSUES

Reason 1: Policy and Impact

54. First, **Delegated Report para 5** says that the proposal is inconsistent with a policy CS7 requirement: *Core Strategy Policy CS7...requires that schemes that would result in less than half of ground floor premises in a neighbourhood centre from being in retail use or in more than three consecutive premises being in non-retail use will be resisted. Given the presence of restaurant uses at ground floors of neighbouring properties 120 and 118 Drummond St, the further loss of retail at No. 122 would not comply with Policy CS7.*
55. This is simply untrue for two reasons: the policy applies to ground floor units only and the appeal site is obviously in the basement and so not part of the centre's retail frontage; and the policy actually says (after **CS para 7.29**) that: *...We will take into account the individual character of the centre when assessing development proposals but, as a guide, we will resist schemes that would result in less than half of ground floor premises in a neighbourhood centre being in retail use or in more than three consecutive premises being in non-retail use.* This wording is repeated in **CPG5 para 3.60**. The words 'take into account' and 'as a guide' clearly do not amount to a 'requirement'.
56. It follows the Delegated Report is wholly misdirected about the appropriate policy test. The reality is that there is no adopted policy that precludes non-retail use of basements in this centre.
57. Second, the Delegated Report points out that *The Council will also take into account any history of vacancy in shop units and the prospect of achieving an alternative occupier... (para 7).*
58. The Case Officer has manifestly failed to take into account the fact that the basement has not been in retail use since 2010 (without affecting the vitality and viability of the centre) and the

remote prospect of achieving a retail user for the reasons set out in para 16 above. These are key material considerations that the Case Officer did not take into account in reaching her conclusion.

59. Third, the Delegated Report says *CPG5...specifies that the Drummond Street precinct has a specialist concentration of ethnic Asian (particularly South Indian) shops and restaurants with less than a third of premises in retail (para 8)*. These words simply do not appear in the public version of CPG5 on the Council’s website and appear to have been invented by the Case Officer. But even if they did, they refer to ground floor and not basement premises.
60. Fourth, the Delegated Report says that less than 50% of the Nos 92-122 frontage of the centre is in use as retail units. This is not true. Our survey shows the following units in the stretch of the fragmented centre that contains the appeal site (from the Euston end):

North Side (Starcross Street to North Gower Street)

1-Optix	optician	A1
Lavender and Rosemary Clinic	beauty salon	sui generis
Gupta	confectioners	A1
Africa Gallery and Kitchen	restaurant/gallery	A3
Ambala	confectionary	A1
Drummond Villa	restaurant	A3
Café Nora	restaurant	A3
Yamoto	Appeal site in basement courier service	A1
Niks Hairdresser	hairdresser	A1
Drummond Money Transfer and Travel Service	professional services	A2
(Total 10, A1 5)		

61. Fifth, the Delegated Report says that *the loss of the basement unit would result in potential necessary retail ancillary operations or storage space so as to deter any future occupiers of the ground floor level (para 10)*. Obviously this flies in the face of the reality that there is a retail occupier of the ground floor now and there is no evidence either that the occupant is intending to leave, or that any replacement will be put off by the lack of a basement. This is just unfounded speculation by the Case Officer, a wholly unsound basis for a decision on a planning application.
62. Sixth, also in **para 10** the Case Officer relies on the Council’s emerging Local Plan to support her contention that proposed C1 uses are only acceptable on upper floors in a neighbourhood centre. The emerging LP was submitted to the SoS in June 2016 and the Local Plan inquiry may take place in October. As things stand, it is a document of little weight in this appeal decision.
63. Even so, the emerging Local Plan paragraphs that the Delegated Report refers to add nothing to the policies referred to above and read as follows:
9.20 Commercial and community uses are considered acceptable uses of upper floors provided they do not cause harm to the amenity of existing residents or introduce activity that would prejudice future residential use on other levels or in neighbouring properties. 9.21 The Council will seek to retain a strong element of convenience shopping for local residents in Camden’s neighbourhood centres and ensure that any development in them does not harm the function, character or success of that centre. We will take into account the individual

character of the centre when assessing development proposals but, as a guide, we will resist schemes that would result in less than half of ground floor premises in a neighbourhood centre from being in retail use or in more than three consecutive premises being in non-retail use. We will also take into account any history of vacancy in shop units and the prospect of achieving an alternative occupier for vacant premises. Applications for food, drink and entertainment uses will be carefully assessed to minimise the impact on local residents and the local area.

64. It is obviously a distortion to say that the emerging paragraphs only permit C1 on upper floors in neighbourhood centres – they say nothing about the acceptable use of basements, which is obviously intended to be decided on its individual merits.
65. Seventh, in **para 11** the Delegated Report acknowledges that the previous application was not refused because of loss of A1 use and says this was because it proposed C3 accommodation which is the key priority land use in the Borough. This fails to explain why the formal pre-app response on the three proposed non-C3 uses indicated (on the basis of exactly the same policies as the Delegated Report refers to) that loss of the unit would not harm the centre. It reads as a desperate post hoc justification for the Council's U-turn.

Reason 2 Car Free

66. The Delegated Report is confused about the proposed use. It says that *permission is sought for the unit to be let on a short-term basis (less than 90 consecutive nights not exceeding 90 nights in the same calendar year)*. This is simply not true.
67. The 90-day limitation comes out of the Greater London Council (General Powers) Act 1973. This provides that the use of C3 residential premises for temporary sleeping accommodation for less than 90 consecutive nights in London is a change of use for which planning permission is required.
68. The application seeks consent for a C1 use, which the superseded but still relevant ODPM Circular 03/2005 says *'includes not only hotels, but also motels, bed and breakfast premises, boarding and guest houses. These are premises which provide a room as temporary accommodation on a commercial, fee-paying basis, where meals can be provided but where residential care is not provided. In addition, short-term (i.e. purchased at a nightly rate with no deposit against damage being required) self-contained accommodation, sometimes called Apart-Hotels, will also fall into this class'*.
69. As indicated above, the proposal is similar to an Apart-Hotel. The Council has just fought two appeals to prevent the appeal basement being used C3 residentially and it is ironic that it should now be treating the application as though it was a residential property as the basis for this reason for refusal.
70. This mistake nullifies this reason for refusal, which says that the development should be car-free housing. Plainly the application is not for C3 housing but C1 hotels etc. There is no pd right to change from C1 to C3 and so no chance that the use could become residential away from the Council's control. As the proposed use is not residential, the short term occupants would obviously never be entitled to a residents' parking permit. The Council has misdirected itself in this respect as well.

9.0 CONCLUSIONS

71. This is a thoroughly bad decision that is inconsistent with the Council's previous decisions and pre-app advice on the use of this site, even though there is no new policy or change in circumstances.
72. The Delegated Report misrepresents policy, get things wrong and fails to take into account many material considerations. There is a strong sense that the Case Officer did not approach the decision in an appropriately inquiring and objective frame of mind. It will be interesting to see how the Council's appeal statement responds to the serious criticisms made in this statement.
73. The Inspector is asked to have particular regard to the unique service nature of the neighbourhood centre, the long period during which the appeal basement has not been in retail use, the severance of the basement from the ground floor unit facilitated by the Council's consent for the external stairs, the subsequent separate A1 use of the ground floor, and the Council's consistent view (the last three months ago) that the basement is irrelevant to the vitality and viability of the centre.
74. The Inspector is respectfully requested to allow the appeal for the proposed use which is entirely appropriate and makes the best use of a difficult unit.

Annexe 1

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Delegated Report		Analysis sheet		Expiry Date:		12/09/2016	
		N/A / attached		Consultation Expiry Date:			
Officer				Application Number(s)			
Amy Grace Douglas				2016/3964/P			
Application Address				Drawing Numbers			
Basement Flat 122 Drummond Street London NW1 2HN				Refer decision notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use at basement level only from retail (Class A1) to short let accommodation (Class C1)(Retrospective)							
Recommendation(s):		Refused and 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	05	No. of responses	02	No. of objections	00
				No. electronic	02		
Summary of consultation responses:		5 neighbours were consulted as part of the proposal. No objections were received. 2 letters of support received.					
CAAC/Local groups* comments: *Please Specify		The site is not within a Conservation Area.					

Site Description

The subject site is located at 122 Drummond St, and relates to the basement level of the property, which is accessible from the street via a staircase situated at the front. The property is a mixed-use four storey building with residential accommodation to the upper floors and a designated retail use at ground floor and basement. The ground floor is currently occupied by a retail unit.

The site is within the Central London Area, in a Neighbourhood Centre, as designated within the Camden Council proposals Map. It is also within the Euston Growth Area.

It is not within a conservation area and is not listed.

Relevant History

SUBJECT SITE

2016/0200/P – GPDO Prior Approval Class M Change of Use from a shop (A1) to residential (C3) – **Refused**

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 – **Refused and Warning of Enforcement Action – 8/1/2015**
Appeal Dismissed 13/11/2015

2013/1040/P – Alterations to shopfront and the addition of new front railings (Class A1) (retrospective) – **Granted 17/5/2013**

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 and Warning of Enforcement Action – 17/5/2013**
Appeal Dismissed 27/11/2013

2010/5852/P - Alterations and extensions including erection of mansard roof extension with front and rear dormer windows to 1st and 2nd floor residential accommodation ancillary to retail and erection of basement and ground floor side/rear extension to retail unit (Class A1) – **Granted 23/12/2010**

ENFORCEMENT

EN16/0216 - The change of use of the basement level of a shop (Class A1) to a self-contained studio flat (Class C3) – **APPEAL LODGED** (Enforcement Notice dated 31 March 2016).

NEARBY SITES

2003/3561/P – 120 Drummond St - Change of use of ground and basement floors from retail (Class A1) to restaurant (Class A3) together with the erection of a rear extension at basement and ground floor levels. – **Refused 11/02/2004**

Relevant policies

LDF Core Strategy and Development Policies

CS1 (Distribution of Growth)

CS5 (Managing the impact of growth and development)

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).

DP10 (Helping promote small and independent shops)

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)

DP14 (Tourism development and visitor accommodation)

DP15 (Community and leisure uses)

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)

DP28 (Noise and Vibration)

Camden Planning Guidance (2015)

CPG1 (Design)

CPG2 (Housing)

CPG3 (Sustainability)

CPG5 (Town Centres, Retail and Employment)

CPG6 (Amenity)

CPG (Transport)

Assessment

Proposal and History

Planning permission is sought for the change of use from retail (A1) to short-term letting (C1) for a basement level unit at 122 Drummond St. The area of the unit is 24sqm and comprises a bedroom/living area and a separate bathroom/WC with internal configurations having been undertaken sometime during 2013.

Permission is sought for the unit to be let on a short-term basis (less than 90 consecutive nights not exceeding 90 nights in the same calendar year). The short stay will use a hotel-style booking system similar to renting an apartment other than having no fixed-term contract.

The unit is accessible from street level via the front lightwell and an external staircase. Council records suggest that the ground floor and basement unit has always been in A1 retail use for the known past until the unauthorised conversion of the basement level to residential accommodation.

The cover letter submitted with the proposal expresses that from 1982 to 2010 the basement was used for the storage of meat and food items for the ancillary butcher and grocery shop at ground floor ('London Oriental Foods'). Since that time the basement unit has been converted to use as a residential unit (C3) and enforcement action undertaken.

The owner/agent submitted for pre-application advice from the Council (under reference: 2016/2070/PRE) requesting further advice for the site to undertake a change of use from retail (A1) to either short-stay accommodation, medical consulting room, or office. In the Council's response dated 7/6/2016 the agent/owner was advised that 'conversion to short term accommodation would need to show that this proposed use is appropriate in the immediate surroundings and that this use would not have an adverse impact on neighbouring uses'.

Overall, the main considerations of this proposal are:

- Principle of the proposed change of use (whether the use is appropriate in the immediate surroundings);
- Design and Amenity;

- Impact (on the surrounding character of the area and the surrounding uses)

Principle of the Change of Use from Retail (A1) to Short-term Accommodation (C1)

Policy DP2 states that proposals for new short-term and temporary accommodation will be considered taking into account policies that seek to protect existing uses.

Where a proposal involves accommodation for short-term visits to Camden, the Council will take into account Policy DP14 relating to tourism development visitor accommodation. Further to this DP12 notes that the Council will ensure development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre.

The proposal has been assessed against the policies that exist to protect certain uses, relevant to the siting of the proposal, as well as policy DP14 which requires all visitor accommodation to be easily reached by public transport, provide any necessary off-highway pickup and set down points for taxis and coaches, and not harm the balance and mix of uses in the area, local character, residential amenity, services for the local community, the environment or transport systems. The site is well located and is easily accessible by public transport (as further discussed in the report). Given the scale of the development it is not considered that the highway would be detrimentally impacted as there would unlikely be a requirement for additional provision to allow for any significant increase of taxi drop-offs.

However, Paragraph 12.7 of Policy DP12 specifies that the Council will use Camden Planning Guidance supplementary planning documents to give more detailed guidance on how we will treat planning applications for shops in particular centres, taking into account their specific circumstances. The site is within the Drummond St Neighbourhood Centre, in the Central London area which has been identified as a key shopping area.

Core Strategy Policy CS7 furthermore requires that schemes that would result in less than half of ground floor premises in a neighbourhood centre from being in retail use or in more than three consecutive premises being in non-retail use will be resisted. Given the presence of restaurant uses at ground floors of neighbouring properties 120 and 118 Drummond St, the further loss of retail at No. 122 would not comply with Policy CS7.

Camden's planning guidance CPG5 paragraph 3.60 and 3.61 states the Council will resist schemes that result in less than 50% of ground floor premises being in retail use, and the Council will take into account any history of vacancy in the centre and the viability of retail use at that location. CPG5 explains further when the reductions in the proportion of premises in retail use would be likely to cause harm to the character, function, vitality and viability of a centre.

The Council will also take into account any history of vacancy in shop units and the prospect of achieving an alternative occupier for vacant premises when considering proposals that involve the loss of retail premises.

CPG5 further provides 'Guidance for Neighbourhood Centres in Central London' which specifies that the Drummond Street precinct has a specialist concentration of ethnic Asian (particularly South Indian) shops and restaurants, with less than a third of premises in retail. As such the guidance specifies that no loss of A1 retail uses allowed (as already below 50%).

The Drummond St Neighbourhood Centre frontage relating to this site, has the following properties located within it: 92-122 Drummond St. A site visit has confirmed that less than 50% of this frontage is in use as retail units. In fact, a refusal for the neighbouring property No. 120 Drummond St in 2003 for a change of use from retail at ground and basement level to restaurant was refused on the basis that the loss of retail at this location would result in the further erosion of the retail function of this neighbourhood shopping parade and the over-concentration of catering establishments (class A3 uses) detrimental to the character, vitality and viability of the centre.

No evidence has been submitted with the proposal to demonstrate the market viability of the unit. As such it is considered that the proposed change of use, resulting in a loss of retail (A1) within the Drummond St Neighbourhood Centre, would significantly harm the viability and vitality of the area and therefore does not comply with CS7, DP12, , and CPG5. The loss of the basement unit would result in potential necessary ancillary retail operations or storage space so as to deter any future occupiers of the ground floor level. Furthermore, the Council's emerging Local Plan, in draft form, paragraph 9.20 and 9.21 make a distinction between what's acceptable at ground and upper floors. The proposal does not comply as it specifies that any proposed C1 uses are only acceptable at upper floors in a Neighbourhood Centre.

It is acknowledged that the previous application was not refused on grounds of loss of the A1 use, however the previous application proposed C3 accommodation which is a key priority land use within the Borough. Within the application the subject of this report, the unit would become C1 and operate as a short term let, and it is considered the retention of the retail use over the provision of the C1 use would be of greater benefit to the vitality and viability of the neighbourhood centre as the retail use is in particular need within this Neighbourhood Centre, as expressed within CPG5, which supports Policies CS7 and DP12.

Whilst the proposal would comply with relevant tourism policies in promoting visitors to the Borough, the Council is currently on target to meet the quota for hotel rooms (Class C1) as set by the London Plan, therefore hotel accommodation is not a key priority land use.

Refusal of planning permission for short term letting at this site, accommodating 2 persons as a maximum would not cause harm to the overall tourism development objectives for the Borough. However, the loss of retail to this particular site would detrimentally impact the overall vitality and viability of the Drummond St Neighbourhood Centre, which has been identified as an area where retail uses must be preserved.

Design and Amenity

The proposed unit can accommodate up to two guests and has a floor area of 24sqm, consisting of a single room to be used as a bedroom/living area, and a separate WC/bathroom. Space exists under the vaults however the headroom is not sufficient to be used in any way for occupiers. The site would receive acceptable levels of daylight.

It was previously determined that the site provided inadequate standards of accommodation for any proposed permanent residential use, by way of size, outlook, and noise from the surrounding late-night uses in the central location, which would detrimentally affect any permanent occupiers. The proposal did not comply with standards of accommodation prescribed by CPG2 and the London Plan.

However, the proposal for short-term accommodation would not be assessed against the housing standards for framework as these policies are not applicable for Use Class C1.

The proposal has been accompanied by supporting Noise Impact Assessment documentation which has been reviewed by the Council's Environmental Health officer who has deemed the proposal acceptable subject to a standard noise condition.

Sufficient daylight standards are complied with for use as short-term accommodation, given the temporary nature of the proposal, and the agent has submitted a report demonstrating this, also reviewed by the Environmental Health officer.

The unit is located below street level and the residential use is unlikely to affect the amenities of the neighbouring occupiers/residents in terms of loss of outlook, privacy and daylight to those shop units at ground floor level or other nearby residential units. Therefore it is acceptable on neighbour amenity grounds.

Transport and Accessibility

No proposed on-site parking or cycle storage has been identified with the submitted plans.

The site is located within a PTAL rating of 6b which indicates a very good level of public transport accessibility. It is also within the Somers Town Controlled Parking Zone and as such would require car-free development to be secured via a Section 106 as per advice from the Council's transport officers. This could be secured via a condition with any grant of permission should this proposal be recommended for approval.

It is considered that cycle storage is not required given the existing size constraints of the site and lack of structural change.

Conclusion:

Whilst DP14 encourages the provision of visitor accommodation in accordance with the London Plan and the Council recognises the importance of the visitor economy as per Policy CS8, and the suitability of the site given its location within Central London and good transport links, it is considered the benefits would not outweigh the negative loss of retail at the site due to the scale of the proposal. It is considered the proposal does not comply with Policy DP14 as it would significantly harm the balance and mix of uses in the area, and the local character.

The proposed change of use would result in the loss of a retail unit (Class A1) and the ratio of retail uses within this shopping parade continuing to fall below the recommended minimum of 50%, which is considered to undermine the provision of shopping services and therefore erode the retail function of the Drummond St Neighbourhood Centre and thereby cause harm to the character, function, vitality and viability of the retail centre. Therefore the proposal should be refused.

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 short term let (Use Class C1).

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 short term let shall cease and all fixtures and fittings relating to the C1 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 proposed change of use, would result in the loss of a retail unit (Class A1) and the ratio of retail uses within this shopping parade continuing to fall below the recommended minimum of 50%, which is considered to undermine the provision of shopping services and therefore erode the retail function of the Drummond St Neighbourhood Centre and thereby cause harm to the character, function, vitality and viability of the retail centre. This would be contrary to Policy CS7 of the London Borough of Camden Local Development Framework Core Strategy and Policies DP12 and DP14 of London Borough of Camden Local Development Framework Development Policies.

Annexe 2

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Appeal Decision

Site visit made on 17 October 2013

by N McGurk BSc (Hons) MCD MBA MRTPI

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

Decision date: 27 November 2013

Appeal Ref: APP/X5210/A/13/2200117
122 Drummond Street, London, NW1 2HN

- 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 Mrs Julia Pyper against the decision of the Council of the London Borough of Camden.
 - The application Ref 2013/1039/P, dated 22 February 2013, was refused by notice dated 17 May 2013.
 - The development proposed is retrospective conversion of basement to a studio apartment, including creation of a new external steel staircase from street level.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council did not attend the site visit as arranged. With the appellant's agreement, I carried out an unaccompanied site visit.
3. The development the subject of this appeal has already taken place.
4. One of the Council's reasons for refusal related to making the development car free. The Council comments that the completion of a Section 106 Agreement in this regard would overcome this reason for refusal. I note that a Section 106 Agreement has been completed and consequently, I find that this reason for refusal no longer applies.

Main Issue

5. The main issue in this case is whether the living conditions of future occupiers would be acceptable with regards to living space and outlook.

Reasons

6. No 122 Drummond Street is a four storey end of terrace property. The property has a commercial use at ground floor level and flats above. The surrounding area is mixed use, including residential, retail, offices and leisure uses.
 7. The appeal site comprises a basement, which as noted above, has been converted into the studio apartment the subject of this appeal.
-

8. The Council's Planning Guidance CPG2¹ sets a minimum unit size for one person occupancy of 32 square metres. This minimum size threshold is considerably below the requirement of 37 square metres, set out in the London Plan 2011, for a one person studio/flat. In this regard, I am mindful that the Council's CPG2 is providing for significant flexibility, by allowing for a much smaller minimum size threshold than would generally be the case in London.
9. The Council states that the floor area of the studio apartment the subject of this appeal is 24 square metres. The appellant states that the studio provides a total floor area of 31.49 square metres, inclusive of an external storage area providing 6.9 square metres of floorspace. The appellant does not dispute that the head height of this storage area is below that required for living accommodation, but considers that it increases the amount of useable space available for an occupier. In this regard, the appellant, in support of her case, suggests that two cases, elsewhere, recognise a need to be flexible in the application of minimum floor standards.
10. I have considered these two cases. The first relates to an application for a larger studio flat than the development the subject of this appeal, where the Council considered that it would benefit from the provision of an external terrace. This studio provided more living accommodation than the development before me and I find there to be little similarity between an external terrace and an internal storage area with restricted head height. Consequently, this does not provide a relevant comparison.
11. The second of the cases relates to an appeal decision² where the Inspector considered that no harm would arise from the layout of a specific studio. I find that that decision was specific to that development and note that, in that case, the Inspector did not identify the dimensions of the development in any detail.
12. With regards the above, I find that whilst the development may provide for some additional storage space, this would be so restrictive as to fail to provide any living accommodation. The living accommodation provided, at 24 square metres, is so substantially below the minimum threshold of 32 square metres as to provide an unacceptably small living area. During my site visit, whilst the development was highly innovative, I still found the studio to be small and noted that there would be relatively little circulation space once the bed was lowered into place.
13. Whilst the appellant, in support of her case, considers that there should be flexibility in the consideration of size thresholds, I note above that the minimum threshold for the Borough already takes into account the need for some flexibility. I am also particularly mindful that the threshold is a *minimum* and that as such, developments should normally be in excess of 32 square metres.
14. During my site visit, I noted that the only outlook from the studio was a single aspect outlook towards the walls of the proposed storage area – which at the time of my visit, was empty. I consider that this relatively poor outlook, whilst not so harmful as to warrant dismissal of the appeal on its own, adds weight to my decision below.

¹ Camden Planning Guidance 2011. CPG2 (Housing).

² Ref APP/X5210/A/12/2180548.

15. Taking all of the above into account, I find the development to be harmful to the living conditions of future occupiers with regards to living space and outlook. This is contrary to the Framework, the London Plan 2011, the Council's CPG2, Core Strategy³ policy CS5 and Development Policies⁴ policy DP26, which together amongst other things seek to protect residential amenity.

Other Matters

16. I note that the development provides for acceptable levels of daylight and is located in an accessible area with plentiful available services, but these are not factors which outweigh the harm identified.

17. I also note that local letting agents could let a very small unit in an area of high demand and that there are small units with poor outlooks available for rent and sale in the area, but again, these are not factors which outweigh the harm identified.

Conclusion

18. For the reasons given above, the appeal does not succeed.

N McGurk

INSPECTOR

³ Camden Core Strategy 2010-2025 Local Development Framework (2010).

⁴ Camden Local Development Framework Development Policies (2010).

DPDS Consulting Group
Old Bank House
5 Devizes Road
Old Town
Swindon
Wiltshire
SN1 4BJ UKApplication Ref: **2013/1039/P**
Please ask for: **Aysegul Olcar-Chamberlin**
Telephone: 020 7974 **6374**

17 May 2013

Dear Sir/Madam

DECISIONTown and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure) Order 2010
Town and Country Planning (Applications) Regulations 1988**Full Planning Permission Refused and Warning of Enforcement Action to be Taken**Address:
122 Drummond Street
London
NW1 2HNProposal:
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).

Drawing Nos: (Prefix 4462/4) ; 21A; 24A; 25A; 32; 33A; Covering letter from DPDS Consulting dated 21st February 2013; Lifetime Homes Statement; and Daylight and Sunlight Assessment dated 24 April 2013 by Daniel Armstrong Associates.

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):

Reason(s) for Refusal

- 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 The proposed development, in the absence of a legal agreement to secure car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP18 (Parking standards and the availability of car parking) and DP19 (Managing the impact of parking) of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Without prejudice to any future application or appeal, the applicant is advised that reason 2 could be overcome by entering into a Section 106 Legal Agreement for car free housing.

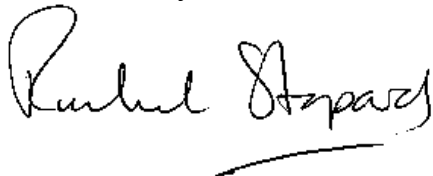
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

ENFORCEMENT ACTION TO BE TAKEN

The Council has authorised the Planning Department to instruct the Borough Solicitor to issue an Enforcement Notice alleging breach of planning control.

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully



Rachel Stopard
Director of Culture & Environment

It's easy to make, pay for, track and comment on planning applications on line. Just go to www.camden.gov.uk/planning.

It is important to us to find out what our customers think about the service we provide. To help us in this respect, we would be very grateful if you could take a few moments to complete our online survey at the following website address: www.camden.gov.uk/dmfeedback. We will use the information you give us to help improve our services.

Delegated Report		Analysis sheet	Expiry Date:	17/05/2013
		N/A	Consultation Expiry Date:	
Officer			Application Number	
Aysegul Olcar-Chamberlin			2013/1039/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				
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).				
Recommendation:		Refuse and warn against enforcement action		
Application Type:		Full Planning Permission		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice
Informatives:	

Consultations

Adjoining Occupiers:	No. notified	05	No. of responses	02	No. of objections	00
			No. electronic	02		
Summary of consultation responses:	Two neighbouring occupiers supported the proposed application.					
CAAC/Local groups comments:	No response has been received.					

Site Description

The application site is a four storey terrace property (including recently constructed mansard roof extension) with basement level on the northern side of Drummond Street close to the junction with North Gower Street. The building is the last at the western end of a terrace of properties and is constructed from brown brick with timber sash windows at the front.

The building comprises retail unit at ground floor level and a residential flat above (on first, second and third floor levels). The ground floor retail unit is currently vacant. The basement which used to be ancillary to the ground floor unit occupies a studio flat under Class C3. The basement flat is also currently vacant.

The ground and basement floors of the building have an authorised use of retail (Class A1). The upper floors of the building have an authorised ancillary residential accommodation to the retail unit.

The site falls within Drummond Street neighbourhood centre in Central London Area. The site is not in a Conservation Area.

Relevant History

2013/1040/P – Planning application was received on 22/03/2013 for the alterations to shopfront and the addition of new front railings (Class A1) (retrospective). No decision has been made yet.

Relevant policies

NPPF (2012)

London Plan (2011)

Core Strategy

CS1 (Distribution of growth)

CS3 (Other highly accessible areas)

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)
CS9 (Achieving a successful Central London)
CS11 (Promoting sustainable and efficient travel)
CS14 (Promoting high quality places and conserving our heritage)
CS18 (Dealing with our waste and encouraging recycling)
CS19 (Delivering and monitoring the Core Strategy)

Development Policies

DP2 (Making full use of Camden's capacity for housing)
DP6 (Lifetime homes and wheelchair housing)
DP10 (Helping and promoting small and independent shops)
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)
DP24 (Securing high quality design)
DP26 (Managing the impact of development on occupiers and neighbours)
DP27 (Basement and lightwells)
DP29 (improving access)

Camden Planning Guidance 2011

CPG1 (Design) – Sections 4 and 7
CPG2 (Housing) – Sections 4 and 5
CPG6 (Amenity) – Sections 6, 7 and 9
CPG7 (Transport) – Sections 5 and 9

Revised Planning Guidance for Central London –Food, Drink and Entertainment, Specialist and Retail Uses (2007) – pages 11-13, 64-67, and 79.

Assessment

Proposal

It is proposed to retain the existing basement flat with a floor area of 24 sqm and associated alterations to basement level involving reinstatement of front lightwell.

The existing front lightwell is approximately 1.3m by 2m and secured by 1.1m railings (above the pavement level). There is also an external staircase in the lightwell to enable access from the street to the basement level flat. Two new timber sash windows and a solid door have been provided on the front basement elevation to serve the basement flat.

Land Use

Policy CS7 promotes provision and maintenance of a range of shops, services, food, drink and entertainment and other suitable uses to serve the need of residents, workers and visitor.

The application property is in Drummond Street Neighbourhood Centre which is mainly characterised by concentration of ethnic Asian (particularly South Indian) shops and restaurants. The Revised Central London Guidance states that this centre has a relatively small supply of retail premises and of these over half contribute to the concentration of specialist use and planning permission will not be granted for the further loss of retail premises as this would be detrimental to the centre's specialist role and local shopping convenience function.

The loss of basement level for alternative use is not considered to significantly affect the retail function and viability of the small retail unit on the ground floor level and the rest of the neighbourhood centre. The retained ground floor A1 unit has a floor area of approximately 20sqm and could still be attractive and viable to small business in the area.

The loss of ancillary basement level for an alternative use is considered to be acceptable in principle. However consideration needs to be given to the suitability of residential use in this location. The suitability of a residential use in this location. Whilst policies CS1 and DP2 promote residential use policy CS6 promotes well-designed homes. Therefore the compliance of living standards of the basement unit with the Council's residential standards explored below.

Standard of accommodation and Lifetime Homes

Size:

The Council's minimum unit size for one person occupancy as set out on page 56 of CPG2 is 32sqm. The floor area of the basement flat is 8sqm below the Council's space standard. This shortfall is considered to be significant and the basement flat does not provide adequate living space for the future occupiers.

Daylight and outlook:

The proposed studio flat would be served by the existing front lightwell. The external staircase cuts across the windows of the basement flat. The basement flat by reason of its location below the ground level and the limited depth of the front lightwell does not benefit from a satisfactory outlook. In addition to that, the existing staircase further blocks that limited outlook.

In terms of daylight the basement flat 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 to receive adequate daylight in accordance with the Council's standards.

Although the basement flat receives acceptable levels of daylight it still provides poor standard of habitable accommodation by reason of its small size and lack of satisfactory outlook. It is considered that the proposal is contrary to the aims of policies CS6 and DP26.

Lifetime Homes and Access:

Policy DP6 requires all new housing developments to comply with Lifetime Homes criteria as far as reasonably possible. Given the site constrains it would be unreasonable to expect compliance of all 16 lifetime homes criteria. It is considered that reasonable consideration have been given to Lifetime Home criteria in accordance with policy DP6.

Design and Appearance

The aims of the new LDF policies concerning design and conservation areas do not contradict the NPPF. Policy DP24 states that the Council will require all developments, including alterations and extensions to be of the highest standard of design and respect character, setting, form and scale of the neighbouring properties and character and proportions of the existing building.

The reinstatement of the front lightwell is considered to be acceptable in principle as the front lightwells are not alien features to the street scene. There are other front lightwells secured by railings to some of the properties in this terrace (for example: Nos. 118 and 116). The proposed frontlight in terms of its size and detailing is similar to those at the neighbouring properties. The front basement elevation is secluded from the streetscenes. The form and detailing of the new windows and doors at the front basement elevation are considered to respect the style and age of the existing building.

Overall, the proposed external alterations are considered to be acceptable in design terms.

Impact on Neighbouring Amenities

Policy DP26 aims to protect the quality of life of neighbours that might be affected by developments. The proposal would not affect the amenities of the neighbouring residents in terms of loss of outlook, privacy and daylight.

Transport

The site has a very good access public transport (PTAL 6b) and it is suitable for car-free development. Given the parking stress and the highly accessible location of the site the basement flat should be made car-free through a Section 106 legal agreement.

DP18 requires development to sufficiently provide for the needs of cyclists, which are contained in Appendix 2 of the Development Policies document. Camden's Parking Standards for cycles states that one storage or parking space is required per residential unit. Given the basement location of the studio flat provision of secure cycle storage on the ground floor level is not feasible in this case. On this basis, the Council's requirement for cycle parking provision is waved in this case.

However, in the absence of S106 agreement the proposal is not be acceptable in transport terms.

Others

It appears that the basement level and the ground floor A1 unit have been vacant for more than six months. If permission were granted the scheme would have been liable for the Mayor's CIL charge for £1200.

According to Section 10 of CPG1 there is no requirement for flat developments of fewer than 6 to provide both internal and external storage spaces for refuse and recycles therefore there is no need details of refuse and recycles in this case.

Conclusion

The proposed external alterations are considered to be acceptable in design terms. However the

basement flat provides substandard accommodation by reason of its lack of outlook and inadequate floor area.

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 cease of basement flat and returning the basement level is authorised use of Class A1.

The Notice shall allege the following breach of planning control:

The unauthorised use of basement level as a self-contained studio flat.

WHAT YOU ARE REQUIRED TO DO:

- 1) Return the basement level its authorised use under Class A1;
- 2) Remove the kitchen and bathroom fixtures associated with the residents use.

PERIOD OF COMPLIANCE

The Notice shall require that the authoised use of basement under Class A1 within a period of six months of the Notice taking effect.

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE

1) The basement residential unit, by reason of it's 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.

Annexe 3

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Appeal Decision

Site visit made on 29 October 2015

by Les Greenwood MRTPI

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

Decision date: 13 November 2015

Appeal Ref: APP/X5210/W/15/3097737

122 Drummond Street, London NW1 2HN

- 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 Mrs Julia Pyper against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/5443/P, dated 22 August 2014, was refused by notice dated 8 January 2015.
 - The development proposed is the change of use of a basement to 1 self-contained flat with associated works.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are:
 - i) the adequacy of the living conditions which would be provided for future occupiers of the flats, in terms of outlook, noise and general disturbance; and
 - ii) the effect on the use of sustainable transport, traffic congestion and highway safety.

Procedural matter

3. As part of the appeal the appellant submitted revised floor plan 021/PP02/P1, re-organising the layout of the proposed flat in response to one of the Council's objections. This would be an internal change only. It should not prejudice any third party and the Council has had an opportunity to comment. I therefore take the amended plan into account as part of the appeal proposal.

Reasons

Living conditions of future occupiers

4. 122 Drummond Street is an end-terrace property with commercial use on the ground floor and flats over. The street is in mixed use, with commercial uses including a number of restaurants predominating at ground floor level in the immediate vicinity. At the front of the property, a gated external stair leads
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down to a basement and also to a small, arched vault situated underneath the public highway. The basement has already been converted to a studio flat, but planning permission for that use has been refused and dismissed in a previous appeal¹. I understand that the Council has served an enforcement notice against use of the basement as a flat, which was vacant at the time of my visit.

5. The previous Inspector's main concern was about the sub-standard size of the flat. The key difference in this new proposal is that the flat would be expanded into the vault, and into an adjoining, closed up vault as well. This would entail underpinning the walls, dropping the floor level and raising the ceiling in order to provide a kitchen and bathroom space (as shown on the amended floor plan).
6. The flat's windows would all look out onto the open stairway, very close to and below the public pavement and the entrance to the ground floor business. Part of the flat would be underneath the pavement and carriageway. Given the nature of nearby uses and the very central location, I would expect there to be considerable activity here, including late at night. As a result, future occupiers of the flat would almost inevitably be subject to excessive noise and disturbance. The amended floor layout would not satisfactorily address this situation, since the whole flat would be affected. I recognise that this issue was not raised by the Council in the previous case and therefore was not addressed in that appeal. However, the proposal has changed since then and I must consider all objections raised.
7. Additionally, the outlook from the windows would be restricted, with only very limited views of the sky. Like the previous Inspector, I do not find this outlook to be so poor as to be unacceptable, but it does reinforce my conclusion that the proposed flat would not provide adequate living conditions for future occupiers. The proposal therefore conflicts with the aims of Camden Core Strategy 2010-2025 (CS) Policies CS5 and CS6 and Camden Development Policies 2010-2025 (DP) Policy DP26, to protect the quality of life of occupiers. The Council has also cited CS Policy CS14 here, but I see no direct relevance.

Sustainable transport

8. No vehicle parking space would be provided. There is clearly a strong demand for parking space in the area, due to its central location and densely developed, mixed use nature. Hence there are parking restrictions on local streets. The site is very sustainably situated near to facilities and services, including public transport, so there would be little need for future residents to own a car. The Council agrees that the site is suitable for zero parking (car-free) development.
9. In order to ensure that no additional stress is put on local parking provision, the Council requires a legal agreement or unilateral undertaking under S106 of the 1990 Town and Country Planning Act, to ensure that future occupiers would be aware that they could not obtain resident's parking permits. I agree that this is necessary and that it cannot be dealt with by means of a planning condition.
10. The appellant accepts the need for a legal agreement or undertaking, and has submitted an agreement. Although this is said to be a completed version it has

¹ APP/X5210/A/13/2200117

not been signed by the Council. I therefore cannot take it into account. Given that the proposal is unacceptable on other grounds, I have not pursued this matter further.

11. In the absence of a completed agreement or unilateral undertaking, I conclude that the proposal would fail to promote the use of sustainable transport and would lead to additional traffic to the detriment of both congestion and highway safety. The proposal therefore conflicts with the shared aims of CS Policies CS11 and CS19 and DP Policies DP18 and DP19, to promote car-free housing in the interest of sustainability and the management of traffic impacts.

Other matters

12. I note that there is some local support and that the proposal would beneficially increase the supply of small housing units in a highly accessible location. I give this matter significant weight, but not enough to override my concerns in regard to the main issues. The appellant argues that the basement is not suitable for other uses, but I have seen no substantive evidence supporting this contention. The accessibility issue which has been raised would not necessarily rule out all other uses.

Conclusion

13. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR

DPDS Consulting Group
Old Bank House
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Swindon
Wiltshire
SN1 4BJ

Application Ref: **2014/5443/P**
Please ask for: **Nanayaa Ampoma**
Telephone: 020 7974 **2188**

8 January 2015

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Refused and Warning of Enforcement Action to be Taken

Address:
122 Drummond Street
London
NW1 2HN

Proposal:

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.

Drawing Nos: C11726.14.001, 4462/B1, 4462/21 B, 4462/30/A, 4462/B1, 4462/B2 A, 4462/B3, 4462/B4 A, Design and Access Statement, Lifetime Homes, Basement Impact Assessment (18/8/14), Site report colour maps 1 and 2, Historic Map - Segment A13, Historic Map - Slice A, Desk Study and Ground Investigation Report (May 2014), Desk Study and Ground Investigation Report Appendix, CIL form.

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):

Reason(s) for Refusal

- 1 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, 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

- 2 The proposed development, in the absence of a legal agreement to secure car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP18 (Parking standards and the availability of car parking) and DP19 (Managing the impact of parking) of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

1

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

ENFORCEMENT ACTION TO BE TAKEN

The Council has authorised the Planning Department to instruct the Borough Solicitor to issue an Enforcement Notice alleging breach of planning control.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Ed Watson
Director of Culture & Environment

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
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Application Type:	Full Planning Permission
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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 SI3 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.
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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 Government's 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 constrains 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 significant 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.

Annexe 4

michael burroughs associates

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**Development Management
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Date: 07/06/2016
Our ref: 2016/2070/PRE
Contact: Shane O'Donnell
Direct line: 020 7974 2944
Email: Shane.O'Donnell@camden.gov.uk

Email: Emma@mbaplanning.com

Dear Ms Emma McBurney

Town and Country Planning Act 1990 (as amended)

Re: 122 Drummond Street, London, NW1 2HN.

Thank you for your enquiry received on the 11th of April 2016, regarding:

Proposed change of use of the basement level of a Shop (Class A1) to either short stay accommodation, medical consulting room or office.

This letter represents the Council's initial view of your proposals based on the information available to us at this stage. It should not be interpreted as formal confirmation that your application will be acceptable nor can it be held to prejudice formal determination of any planning application we receive from you on this proposal.

Site Description

This pre-application advice relates to the basement unit of 122 Drummond Street. There is extensive planning history on this site, some of which is listed below. For the purposes of this advice, the existing use of this basement unit will be retail (A1). The application unit is a single room with bathroom located off it and the unit is connected to the street by a stairwell. The internal space of the unit is approximately 23 m² and there is single source of natural light provided by the front lightwell. The unit above at ground level is currently operating as a Travel Agent (A1). The surrounding area is a mix of commercial and residential elements. There are more active uses such as restaurants and retail units in the immediate vicinity as well as examples of office use at ground floor level.

Relevant History

2016/0200/P- GPDO Prior Approval- Proposed Change of Use of the basement level of a Shop (Class A1) to a Class C3 (Dwellinghouse).

Refused 18/03/2016.

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.

Refused 08/01/2015

Appeal Dismissed 13/11/2015

Policies

The most relevant local policies are listed below:

Camden Core Strategy 2010-2015:

- CS1 (Distribution of growth)
- CS5 (Managing the impact of growth and development)
- CS7 (Promoting Camden's Centres and shops)
- CS10 (Supporting community facilities and services)
- CS11 (Promoting sustainable and efficient travel)
- CS14 (Promoting high quality places and conserving our heritage)

Camden Development Policies (Adopted 2010):

- DP10 (Helping promote small and independent shops)
- DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)
- DP14 (Tourism development and visitor accommodation)
- DP15 (Community and leisure uses)
- 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)
- DP25 (Conserving Camden's heritage)
- DP26 (Managing the impact of development on occupiers and neighbours)
- DP28 (Noise and vibration)

Camden Planning Guidance

- CPG1 (Design)
- CPG2 (Housing)
- CPG3 (Sustainability)
- CPG5 (Town Centres, Retail and Employment)
- CPG6 (Amenity)
- CPG7 (Transport)

Proposal

The current use is retail (A1) and previous decisions by the Council have ruled out a conversion to residential. 3 Alternative options therefore wish to be explored:

Option 1 -Conversion of existing retail use to short term accommodation.

Option 2 -Conversion of the existing retail use into a medical consultation room.

Option 3 -Conversion of existing retail use into office use.

Principle of the Development

The current use of the site is retail and under previous Council judgements, 2016/0200/P and 2014/5443/P, the conversion of the unit into residential accommodation has been resisted given the standard of accommodation proposed. However, although concerns were raised about the loss of retail floorspace given the basement unit's siting and the remaining active A1 use at ground floor level, it was not considered that the loss of retail floorspace could be resisted. It is also my officer's opinion that the loss of a retail use of this basement unit would not have an adverse impact on the retail function and viability of the surrounding neighbourhood. Hence a change of use from retail is possible given an appropriate alternative use is provided.

Option 1

Option 1 -Conversion of existing retail use to short term accommodation.

Development Policy DP2 states that:

"Proposals for new short-term and temporary accommodation will be considered taking into account policies that seek to protect existing uses. Where a proposal involves accommodation for short-term visitors to Camden, the Council will take account policy DP14 relating to tourism development and visitor accommodation".

Development Policy DP14 states that:

"All tourism development and visitor accommodation must:

- d) be easily reached by public transport;*
- e) Provide any necessary off-highway pickup and set down points for taxis and coaches;*
- f) not harm the balance and mix of uses in the area, local character, residential amenity, services for the local community, the environment or transport systems"*

The proposed short term accommodation for 90 days or less would be easily reached by public transport. Given the size of the unit it is unlikely that a high demand of taxis and coaches will be created. It would need to be demonstrated that the proposed short term accommodation use would not be out of character with the mix of uses in the area having an adverse effect on surrounding uses in the area.

Option 2

The proposal is to convert the basement unit into a Medical Consultation Room

Core Strategy Policy CS16 states that *'The Council will support the provision of additional health care facilities and will work with NHS Camden and other service providers to make sure the borough has a necessary supply and distribution of premises to meet Camden's health care needs'*.

The surrounding uses in the area are mixed and the premises benefit from an independent access. Therefore there is no in principle objection to a D1 use in this location. However given the size of the premises, single access, and lack of parking, the intensity of use on site would need to be limited i.e. a limit placed on the volume of patients received and on staffing levels. The site is highly accessible by public transport with a PTAL score of 6b (excellent) hence the proposed facility would also need to be car free for both employees and patients. More information would thus need to be provided about the intensity of use on site both in terms of staffing, patients, and equipment.

Option 3

The proposal is to convert the existing retail use into an office use.

Development Management Policy DP13 states that *'An increase in the number and diversity of employment opportunities is fundamental to improving the competitiveness of Camden and of London'*.

Paragraph 13.6 of DP 13 states that *'the re-provision of employment floorspace should be able to accommodate a range of business types and sizes (e.g. new businesses, small and medium size enterprises (SMEs) and creative businesses). Applicants must demonstrate to the Council's satisfaction and the commercial element is appropriate to meet the likely needs of the end user. The provision of inappropriate business space (e.g. inappropriate floor to ceiling height or poor access arrangements) will not be acceptable as this often fails to attract an occupier, which can lead to vacancy'*

The relative small size of potential office space would discourage some users from occupying the unit. However, the unit may be suitable for SMEs and creative businesses. The office space would still have a limited floor to ceiling height and poor daylight but would benefit from independent access. The proposed office unit would also be car free given the high accessibility by public transport. It is considered that the proposed office use could be suitable in this location subject to more information being provided about the proposed layout on site.

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Conclusion

It is considered that the proposed (D1) medical use would be appropriate subject to more information being provided regarding the intensity of the use on site. The proposed office use (B1) may be suitable for SMEs and creative businesses subject to more information being provided by the reconfiguration of the layout and facilities available.

The conversion to short term accommodation would need to show that this proposed use is appropriate in the immediate surroundings and that this use would not have an adverse impact on neighbouring uses

How to submit your application

Please submit your application electronically via the national planning portal.

When submitting a planning application, the following information will be required:

- An appropriate fee
- Site location plan
- All existing elevations (including the front and the side), floor plans, roof plans and sections
- All proposed elevations (including the front and the side), floor plans, roof plans and sections
- Design and Access Statement

After you submit your application

It would be useful if you could let me know when you have submitted the application along with the planning portal reference number. I will then pick the application up as the case officer.

We are legally required to consult on the application with individuals who may be affected by the proposals. We will notify your neighbours by letter, put up a notice on or near the site and, advertise in a local newspaper. The Council must allow 21 days from the consultation start date for responses to be received.

All consultation responses will be available to view on the Council's website using the planning application search page. It is likely that an application of this size would be determined through delegated powers.

I trust the above provides a useful summary; however should you have any queries about the advice contained in this letter please contact Shane O'Donnell on **020 7974 2944**.

Please note that the information contained in this letter represents an officer's opinion and is without prejudice to further consideration of this matter by the Development Management section or to the Council's formal decision.

It is important to us to find out what our customers think about the service we provide. To help, we would be very grateful if you could take a few moments to complete our [pre application enquiry survey](#). We will use the information you give us to monitor and improve our services.

Thank you for using Camden's pre-application advice service.
Kind Regards,

Shane O'Donnell

Planning Officer

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