

RPS

Enforcement Notice Appeal under Ground (a)

Why Planning Permission should be granted

Appellant's Statement

In respect of

Change of Use of the first and second floors from ancillary accommodation for Public House (Class A4) to three self-contained flats (Class C3)

LPA Ref. EN16/1037

LPA: London Borough of Camden

105 King's Cross Road
London WC1X 9LR

On behalf of

Mendoza Limited

RPS Ref: CH/22199

January 2018

Secure & Stable
ADDING VALUE

QUALITY MANAGEMENT

Prepared by:	Chris Hicks
Authorised by:	Chris Hicks
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1 INTRODUCTION

- 1.1 105 King's Cross Road formerly operated as The Carpenters Arms Public House with ancillary, but little used, upper floor accommodation. The appellant purchased the freehold of the property in early 2016. In late 2016, the pub lease expired and the pub closed. In early 2017, the upper floors were converted to provide self-contained flats with a separate entrance off King's Cross Road. In mid-2017, the ground and basement were altered to facilitate a new pub offer (under a new 25 year lease), trading as The Racketeer.
- 1.2 Prior to these works, the appellant had sought planning permission for the above described works. Permission was refused and was subject to an appeal. That appeal (APP/X5210/W/16/3153219) was dismissed, but following a High Court challenge, the appeal has been returned to the Planning Inspectorate for redetermination. That is on the grounds that the Inspector failed to take into account the lease for The Racketeer. A date of the hearing is yet to be arranged. In the meanwhile, the appellant has submitted a planning application (ref: PP-06623385v1), which seeks retrospective permission for the works that have been carried out. A decision is awaited.
- 1.3 It is anticipated that this Enforcement Notice appeal will be conjoined with the current appeal for determination.
- 1.4 The Notice requires that the upper floors cease being used as self-contained flats and that the original shopfront be reinstated, thereby preventing access to the upper floors. The effect of this is that the upper floors would be inaccessible and would thereby become vacant.
- 1.5 The present tenant has confirmed that they have no desire to occupy the upper floors for A4 use.

2 BACKGROUND

- 2.1 By way of background the Inspector should be aware that this part of King's Cross is very much an area of change. From being a relatively poor area with small cheap hotels, bed and breakfast establishments, hostels and house in multiple occupation, and a known red light area; it is changing to become a more affluent residential area with large hotels and quality restaurants. This is in part due to the major regeneration that has occurred in the King's Cross Station area and prospective regeneration of Mount Pleasant.
- 2.2 Public houses like the subject premises are changing to reflect this new affluence. The Carpenter's Arms with its extensive ancillary upper floors, large areas of which were unused, represented a mix which no longer reflects today's needs. On the contrary, many public houses and similar outlets function successfully on the ground and basement only with a small kitchen; with the upper floors converted to provide much needed independent residential accommodation. That is what has occurred at 105 King's Cross Road.
- 2.3 This Statement should be read in conjunction with the following documents (some of which were prepared for the original Appeal):
- Viability report prepared by Lambert Smith Hampton, national advisors to the Licenced Trade
 - Noise report by KP Acoustics (Rev. C) which noise transfer between ground and first floors and noise from patrons located externally
 - S106 Agreement dated 15th September 2016 between the appellant and the Council, which covers Construction Management Plan, Highways Contribution, Car Free development, and monitoring fees. This relates to the S78 appeal and will need to be revised to refer to the current situation.
 - Drawings which show existing floor plans
 - Lease dated 23rd December 2016 to Gin and Ignorance Ltd. The use is restricted to A3/A4 and thus the ground and basement floors will continue as before
 - Appeal decision dated 4th April 2017
 - High Court Consent Order dated 27th October 2017

3 PLANNING POLICY

3.1 The reason for issuing the enforcement notice is stated to be:

“The change of use to self-contained residential flats and the associated works that have been carried out have resulted in loss of operational space, including ancillary accommodation, which prejudices the quality and long-term retention of the existing public house at the site, which is an important local community facility. The works are therefore contrary to policy C4 (Public Houses) of Camden’s adopted Local Plan.”

3.2 Policy C4 states:

“The Council will seek to protect public houses which are of community, heritage or townscape value.

The Council will not grant planning permission for proposals for the change of use, redevelopment and/or demolition of a public house unless it is demonstrated to the Council’s satisfaction that:

- a. the proposal would not result in the loss of pubs which are valued by the community (including protected groups) unless there are equivalent premises available capable of meeting the community’s needs served by the public house; or*
- b. there is no interest in the continued use of the property or site as a public house and no reasonable prospect of a public house being able to trade from the premises over the medium term;*

Where a public house is converted to an alternative use, the Council will seek the retention of significant features of historic or character value.

Applications involving the loss of pub floorspace, including facilities ancillary to the operation of the public house, will be resisted where this will adversely affect the operation of the public house...”

3.3 The conversion of the upper floors to independent residential use has not resulted in the loss of the pub; neither has it adversely affected the operation of the public house. A new operator has taken occupation on a long term (25 years) basis and has invested heavily in a completely new fit out.

3.4 Unlike the Carpenters Arms, which provided drinks only, The Racketeers provides food and has extended the licensed premises to the rear to provide a pleasant quiet garden area, and increased the ground floor bar area by moving the toilets to the basement. In the appellant’s view, the quality of the public house has improved. See www.theracketeer.co.uk.

3.5 The long term viability of ground and basement only pubs is discussed in the report by LSH. They make reference to:

- The large number of pubs that function solely on the ground and basement with no upper floor ancillary, specifically residential, accommodation (known as lock up pubs).
- This is an increasing trend with operators unwilling or unable to afford the cost of providing ancillary residential accommodation

- The small size of the ground floor bar area at the appeal premises. From a viability point of view it would be difficult to justify anything more than a limited food offer at lunchtime and hence a large kitchen is not required; that is likely to be the main reason why the current kitchen is not generally used, including staff costs. Diners take up more space than vertical drinkers; the latter will be the key source of revenue for such a small bar area. The two groups do not work together well.

- 3.6 Formerly, there was a function room on the first floor, but that had not been used since 1996 based on the oral evidence of the previous landlord as given out in the appeal hearing. It was never part of the area licensed for the consumption of alcohol, because it could not be easily accessed (did not comply with modern Fire Regulations). It was being used as the landlord's dining room at the time of the hearing.
- 3.7 Formerly, there was a commercial kitchen on the first floor, but again that had not been used for general pub customers since 2001, because of non-viability (landlord's oral evidence at the hearing). At the hearing, it was shown that a much smaller kitchen could be provided at ground floor basement level to adequately serve what is a relatively small public area. That is exactly what has happened – see Existing Ground Floor Plan (PL834/201) – BOH Prep Area.
- 3.8 In their assessment of the merits of serving this enforcement notice, it is our view that the Council have not properly taken into account the presumption in favour of sustainable (National Planning Policy Framework (NPPF) 2012) and the strong emphasis to provide new dwellings. Paragraph 47 of the NPPF requires local planning authorities to...*boost significantly the supply of housing*.
- 3.9 The London Plan (2016) states that there is a pressing need for homes in London. Policy 3.3 *Increasing Housing Supply* emphasises the need for more homes in London which should be met through the provision of at least an average of 42,000 net additional homes across London which will help to improve housing choice and affordability and provide better quality accommodation for Londoners. The policy further goes on to state that Boroughs should seek to exceed the relevant minimum borough annual average housing target (for which Camden's is 889 for the period 2015-2025, with a minimum 10 year target of 8,892).
- 3.10 The Draft New London Plan, published in November 2017 as a draft, champions the provision of new housing. Camden's annual average has increased from 889 to 1,086 homes, with a ten year housing target of 10,860. Draft Policy H1 *Increasing Housing Supply* identifies that the Local Planning Authority should plan for the above housing targets and promotes the development of small sites, which play a much greater role in housing delivery. This is outlined in draft Policy H2. This policy further goes on to state that to deliver small sites (0.25ha or less), there should be a presumption in favour of the redevelopment or upward extension of non – residential buildings to provide additional housing. Paragraph 4.2.2 states that increasing output of this scale can help in turn to meet a number of related housing and planning policy such as the diversification of location and type of housing supply.
- 3.11 The Local Planning Authority (and appeal inspector) have confirmed that, subject to adequate insulation between the ground and first floor, the residential amenity of residents is acceptable both internally and from patrons congregating outside. That confirmation can be found at paragraphs 34 and 35 of the appeal decision.

4 CONCLUSIONS

- 4.1 In our view, the works undertaken have not adversely affected the operation of the public house, and therefore accord with Policy C4 of the Local Plan. The quality has improved and the long term retention of the public house is recognised in the 25 year lease agreement.
- 4.2 Upholding of the enforcement notice will not alter the functioning of The Racketeer. It will simply mean that the upper floor flats will become vacant and inaccessible, denying the current residents (students) a home.

