

TOWN AND COUNTRY PLANNING ACT 1990

(AS AMENDED)

SECTION 78

LAND AT

74 FORTUNE GREEN ROAD

LONDON NW6 1DS

APPEAL BY

Ms ORLY WEINBERGER

**in respect of a Section 78 Appeal against
the Refusal of Camden Council to grant Planning Permission
For the Change of Use of basement and part of ground floor from retail
(Class A1) to residential (Class C3) comprising one 2 bed self-
contained flat.**

APPELLANT'S STATEMENT

**Planning Inspectorate ref: TBA
Local Planning Authority ref: 2020/2121/P**

Prepared by

PPMS

Planning & Project Management Services

32 Sneath Avenue
London NW11 9AH
Tel 020 8458 4973
Web: www.ppms.co
email: info@ppms.co

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

SECTION 78 APPEAL

1.0 APPELLANT

1.1 Ms Orly Weinberger

74 Fortune Green Road Ltd

Buckingham House, Second floor

45 Vivian Ave

London NW4 3XA

2.0 THE APPEAL SITE AND SURROUNDING AREA

2.1 The Appeal Site is on Ground Floor and Basement, 74 Fortune Green Road, NW6 1DS. Fortune Green Road (B510) runs on a North to South East Axis from the A41 in the North to its junction with West End Lane in the South East a distance of some 785m, which then continues on to the A5.

2.2 The application site is a three-storey terrace property located on the east side of Fortune Green Road just north of the junction with Achilles/Ajax Road.

2.3 The property includes a mix of uses consisting of a retail unit on the ground floor, the upper floors comprise of 3 No self-contained flats, consisting of 2 x 1 bed and 1 x studio flats. The basement does not form part of the Ground Floor shop.

2.4 The surrounding area is urban in character, forming part of the designated Neighbourhood Centre (Fortune Green and West Hampstead), set around Fortune Green itself, directly opposite the appeal site. There is a marked variety in architectural detailing. The majority commercial parade have had the upper parts sub-divided to form flats.

2.5 The appeal site is neither listed nor located within a Conservation Area.

2.6 The appeal site has Public Transport Access Level of 4 which is Good.

3.0 PLANNING APPLICATION

3.1 The application is “For the Change of Use of basement and part of ground floor from retail (Class A1) to residential (Class C3) comprising one 2 bed self-contained flat”.

3.2 The application was refused for the following two reasons:

- 1 The proposed residential unit, by reason of inadequate daylight, poor quality outlook and sense of enclosure would result in substandard living accommodation to the detriment of future occupiers, contrary to policies A1 (Managing the impact of development) and H6 (Housing choice and mix) of the Camden Local Plan 2017.

- 2 The proposed development, in the absence of a legal agreement securing the development as 'car-free', would be likely to contribute unacceptably to parking congestion in the surrounding area and promote the use of non-sustainable modes of transport, contrary to policies T1 (Prioritising walking, cycling and public transport, T2 (Parking and Car Parking) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017

- 3.3 Reason No2 is not understandable as the ground floor part of the proposed development is part of an existing s106 Agreement dated 11 January 2019 in respect of planning consent 2018/4600/P Appendix 06.

4.0 PLANNING HISTORY

- 4.1 2020/0087/P – GDPO Prior Approval (Class M) - Change of use of part of the rear ground floor retail unit (Class A1) to residential (Class C3) comprising of 1 x studio flat. Prior approval **granted** 01/05/2020.

- 4.2 2019/3748/P - GDPO Prior Approval (Class M) Change of use of ground floor retail unit (Class A1) to residential (Class C3) comprising a 1 bedroom self-contained flat. Prior approval **refused** 02/10/2019.

Reason for refusal:

The proposed change of use of the ground floor from retail (A1) to residential (C3) would have a detrimental impact on the adequate

provision of services in the area and the sustainability of a key shopping area, ie. The Fortune Green Neighbourhood Centre. This would be contrary to policy TC2 (Camden's centres and other shopping areas) of the London Borough of Camden Local Plan 2017 and policy 15 (Fortune Green Road Neighbourhood Centre) of the Fortune Green and West Hampstead Neighbourhood Plan 2015. The loss of the retail unit and its impact on a town centre would also be contrary to chapter 7 of the National Planning Policy Framework 2019.

- 4.3 2018/2812/P – Planning permission for erection of a mansard roof extension with front and rear dormers to provide ancillary residential floor space (Class C3). **Granted** on 17/09/2018. This permission has been implemented.
- 4.4 2018/4600/P – Planning permission for the excavation of the existing cellar for a new basement extension under the footprint of the building, installation of new shopfront and alterations to the rear fenestration. **Granted** subject to s106 legal agreement on 11/04/2019.
- 4.5 2018/4601/P – Planning permission for Infill of existing void at first and second floor level associated with sub-division of existing maisonette to form 3 x self-contained flats consisting of 2 x 1 bed and 1 x studio flats. **Granted** 22/01/2019.

5.0 PLANNING POLICIES

GOVERNMENT ADVICE

Section 38(6) of the Planning and Compulsory Purchase Act 2004 gives a presumption in favour of the Development Plan of the Local Planning Authority. Where there is no dispute with the Policies of the Plan, or material considerations indicate that it should not be followed the Local Planning Authority should grant consent to the applicant. The Local Planning Authority Unitary Development Plan adopted 2006 and the Local Plan 2013 are the relevant plans for the purposes of Section 54A.

National Planning Framework (2019)

LDF Core Strategy and Development Policies

The London Plan (2016)

Camden Local Plan (2017)

G1 Delivery and location of growth

H1 Maximising housing supply

H2 Maximising the supply of self-contained housing from mixed-use schemes

H6 Housing choice and mix

H7 Large and small homes

C5 Safety and security

E2 Employment premises and sites

A1 Managing the impact of development

CC3 Water and flooding

CC5 Waste

TC2 Camden's centres and other shopping areas

T1 Prioritising walking, cycling and public transport

T2 Parking and car-free development

Fortune Green and West Hampstead Neighbourhood Plan 2015

Policy 15- Fortune Green Road Neighbourhood Centre

Camden Planning Guidance

CPG- Design (March 2019)

CPG- Employment sites and Business Premises (March 2018)

CPG- Amenity (March 2018)

CPG- Basements (March 2018)

CPG- Transport (March 2019)

CPG- Interim Housing (March 2019)

CPG- CPG2 Housing (March 2019)

CPG- Biodiversity (March 2018)

CPG- Developer contributions (March 2019)

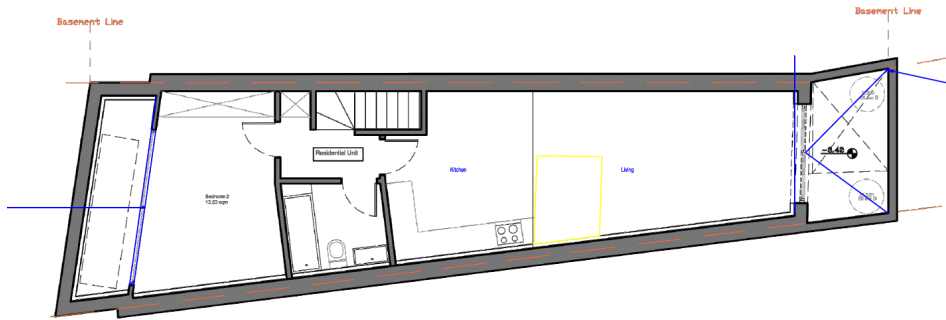
7.0 PLANNING CONSIDERATIONS

7.1 Background

The Ground floor shop, now a lawful Use Class E unit, has been taken by an accountancy practice, with no need of the basement. The basement having been constructed following consent 2018/4600/P. The basement with lightwells at both front and back improves the quality of accommodation of the approved ground floor studio (20 M² 2018/4601/P) by enlarging it into a two bed self-contained flat.

Appraisal

- 7.2 It is submitted that having regard to the reasons for refusal the main issue is whether the proposal would provide satisfactory living conditions for future occupiers by reason of inadequate daylight and poor quality outlook.
- 7.3 The Inspector is referred to the Daylight and Sunlight Report by Mr Terence A Rook Bsc C.Eng., MIMechE, FCIBSE of Stinton Jones Consulting Engineers LLP at Appendix 04 and the conclusion contained therein:
- 6. Conclusion**
- 6.1 Daylight and Sunlight to Nearby Buildings
This development has no affect upon the daylight and sunlight to nearby buildings.
- 6.2 Sunlight to Nearby Gardens and Amenity Areas
The development has no affect on sunlight to nearby gardens or amenity areas.
- 6.3 Daylight and Sunlight to Rooms within Development.
The BRE Guide recommends that residential accommodation should have sunlight for some rooms. In this flat the sunlight for the whole year and for winter is better than the recommended minimum.
The Guide recommends that the average daylight factor and room depth criteria are satisfied. As shown in Appendix 2 all rooms have adequate daylight factors as recommended in the BRE Guide, Camden Planning Guidance and the London Plan. (Emphasis added).
- 7.4 As to outlook it is submitted that the ground floor view approved under 2018/4601/P is acceptable. The Inspector is referred to Appendix 03 the floor plans and will note that there is a lightwell both front and rear, the rear also lightwell affords outside amenity space.



In addition, the appellant submits that Fortune Green Outside Amenity Space is directly opposite the appeal site.

- 7.4 Accordingly it is submitted that having regard to Policy DP26 the application the subject of the appeal accords with Policy.

Policy DP26 - Managing the impact of development on occupiers and neighbours

The Council will protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity.

The factors we will consider include:

- 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.

We will also require developments to provide:

- 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;
- j) facilities for bicycle storage; and
- k) outdoor space for private or communal amenity space, wherever practical

- 7.5 In support of this appeal the Inspector is referred to Appendix 08 Appeal Decision 3219827 8 Mountfield Road, London N3 3NB paragraph 3 and para 9.

- 7.6 The Inspector is referred Appendix 09 to appeal ref 315097 36 Gleneagle

- 7.7 Finally the appellant submits that the second reason is somewhat spurious since the studio flat part of the instant appeal is included in an already extant s106 Agreement Appendix 06.

8.0 CONCLUSION

- 8.1 It is submitted that the reconfigured ground floor and basement provides substantially improved residential accommodation without the loss of the original shop unit.
- 8.2 The proposed unit provides adequate daylight and sunlight which is above the BRE minimum standard.
- 8.3 In addition the appeal property has easy access to Fortune Green directly opposite.
- 8.4 The Inspector is referred to the s106 at Appendix 06.

Accordingly having regard to the above the Inspector is respectfully requested to allow this appeal.

Alvin Ormonde
PLANNING AND PROJECT MANAGEMENT SERVICES

APPENDICES

- 01 Location Plan
- 02 Aerial View
- 03 Floor Plans
- 04 Daylight and Sunlight Analysis
- 05 PTAL Summary
- 06 s106 Agreement dated 11 January 2019 2018/4600/P
- 07 Officer's Delegated Report
- 08 Appeal Decision 8 Mountfield Road, London N3 3NB
- 09 Appeal Decision 36 Gleneagle Road London SW16 6AF