


Enforcement Delegated Report

Receipt date:

19/05/2021

Officer			Enforcement Case
Angela Ryan			EN21/0386
Breach Address			Photos & Other material
88A Savernake Road			On file
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature
			 24/02/2022

Alleged Breach

Without planning permission: Conversion of the ground floor from 1 x self-contained unit to 2 x self-contained flats.

Recommendation(s):

That the Borough Solicitor be instructed to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 as amended, to secure the cessation of the use of the ground floor of the property as two self-contained units and to restore to its previous use as 1x 3 self-contained residential unit and to authorise in the event of non-compliance, to prosecute under Section 179 or other appropriate power and/or take direct action under section 178 in order to secure the cessation of the breach of planning control.

Site Description

The site forms part of a three storey, plus loft storey, semi-detached building located on the north side of Savernake Road. It lies within a terrace of similar type properties where the predominant land use is for residential purposes.

The site has been sub-divided into 2x self-contained flats comprising 1 x unit at rear ground floor, and 1 x unit at front ground floor without the benefit of planning permission.

The property is not listed but lies within the designated Mansfield Conservation Area and it is identified as making a positive contribution to the character and appearance of the conservation area.

Investigation History

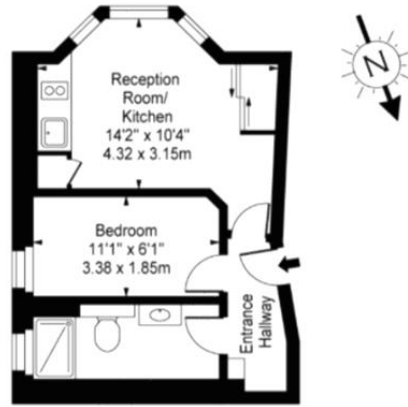
30/07/2021- Letter sent to the Owner advising of the breach and requested that I am contacted within 7 days from the date of the letter to inform me how it is intended to resolve the breach

06/08/2021- I received an e-mail from the Owner confirming that she had always had two exits to the flat and that she is sharing the flat, originally with her daughter, and that she pays all of the bills, and that for health and religious reasons the unit has been separated by a wardrobe. It was also confirmed that all works were signed off by Building Control

06/08/2021- I e-mailed the Owner enquiring why it appears that the relevant flat is being advertised for letting as an individual unit by Amberden Estate Agents.

30/07/2021- Information gleaned from Estate Agent's website (Amberden Estates)
<https://www.amberden.co.uk/lettings/properties-to-let/savernake-road-hampstead-heath-nw3/>

Savernake Road, NW3

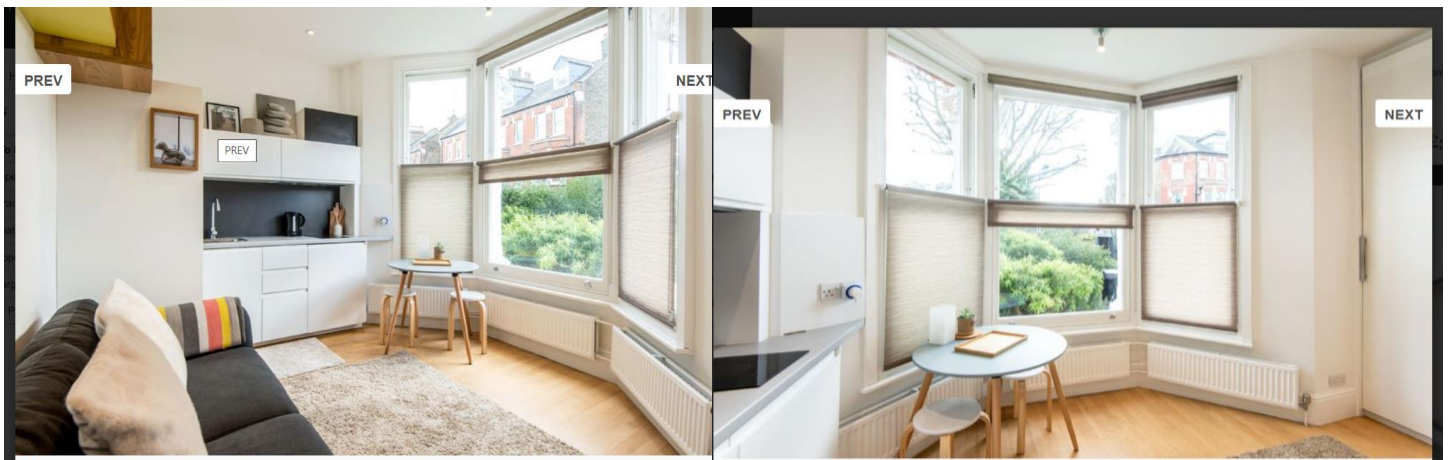


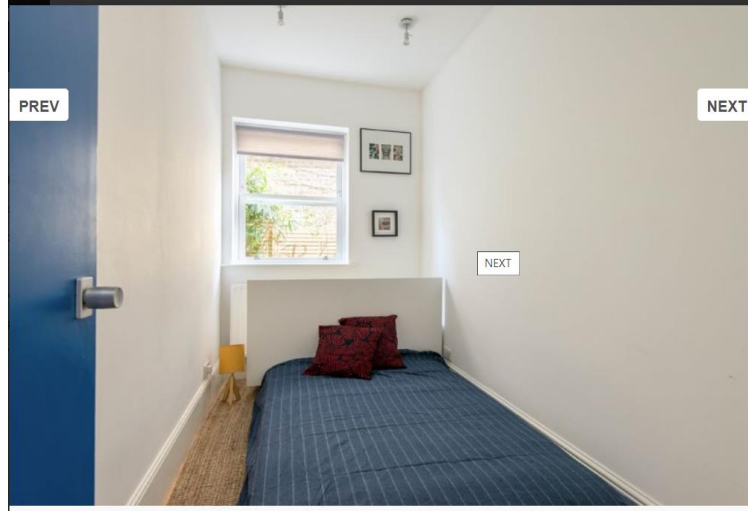
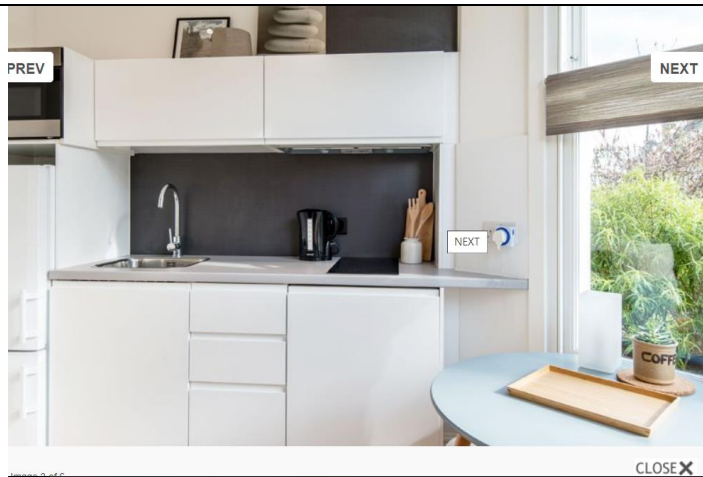
Ground Floor

Approx Gross Internal Area 292 Sq Ft - 27.13 Sq M

For Illustration Purposes Only - Not To Scale Floor Plan by www.nogaphotostudio.com Ref: No.40369

This floor plan should be used as a general outline for guidance only. Any intending purchaser or lessee should satisfy themselves by inspection, searches, enquiries and full survey as to the correctness of each statement. Any areas, measurements or distances quoted are approximate and should not be used to value a property or be the basis of any sale or let.





09/08/2021- I received an e-mail from the Owner advising that the estate agent had a job and how they advertise in not legally binding. That the division is temporary and artificial and that it didn't bother anyone until she started earning money from it. I sent an e-mail to the Owner on the same day enquiring what job it was that the estate agent had and that from her e-mail it appears that the unit is being rented out/let independently. I also confirmed that in order to rectify the breach, the kitchen that has been added to the front of the site is required to be removed within the next 14 days, and if the request is not complied with I will be in no other position but to serve a formal enforcement notice to see the current breach resolved.

10/08/2021- email received by the owner advising that the internal layout has been an established arrangement for the past 11 years. That the kitchen is very basic and that the microwave and sink were always there and there is no change of use, and that she cannot share her kitchen for religious reasons. That the place is used by her and her daughter as an office so the space is never exclusively let t anyone. I replied via an e-mail on the same day and enquired that if the internal layout was established for 11 years why this was not reflected in an application submitted for an extension under application ref: 2017/5272/P. The existing ground floor plan submitted showed an existing bedroom in the front and not a reception/kitchen as is the current arrangement, and the kitchenette appears to be a recent addition. I also enquired that if the space is being used by the owner and her daughter why the unit was being advertised as a separate unit by the Estate Agent. That if she shares the space with a lodger then they should be sharing the common parts and should not be able to use the front of the house independently of the rest. I requested that the kitchenette is removed and the property is reverted to a single residential unit and put her on notice that it is my intention to serve a formal enforcement notice to see the matter resolved. The Owner replied via e-mail on the same date confirming that the property was never used as two separate units and is separated by a wardrobe that offers some privacy. There were always two bedrooms in the front and the front bedroom is used as a study and spare bedroom once the extension was built, During the pandemic many people ad to rent their bedrooms and that she never considered sharing the space before, and that there had always been a sink in her bedroom in the front for religious reasons.

11/08/2021- I e-mailed the owner advising that in the 2017 application that was submitted the existing layout indicated a 3x bedroom flat and that the property is now 2 x non self-contained units that constitutes a change of use. The Owner e-mailed me on the same date confirming that she never indicated that her flat was ever two separate units and that the separation by a wardrobe was there for 11 years, and that her children are living with her and they can state that it was always one flat, and that she is not sure why the wardrobe would amount to a change of use.

12/08/2021- I e-mailed the Owner to confirm that a site inspection should be undertaken prior to deciding what the next course of action should be.

13/08/2021- I received an e-mail from the Owner to confirm that she would not proceed without legal representation and that she would let me know when she manages to fund a solicitor.

10/12/2021- I received an e-mail from Camden Inspector confirming site visit was undertaken on 09/12/2021 and confirmed that the Owner has split the property into two separate units and that the ground floor front was tenanted, with the ground floor rear occupied by the Owner.

Relevant policies / GPDO Category

NPPF 2021: Paragraph 59

London Plan 2021 – Policies D6, T5, T6, & T6.1

Camden Local Plan 2017:

H1 (Maximising Housing Supply)

H6 (Housing choice and mix)

H7 (Large and small homes)

T1 (Prioritising walking, cycling and public transport)

T2 (Parking and car-free development)

DM1 (Delivery and monitoring)

Camden Planning Guidance 2021

Housing- January 2021- chapter 9

Transport- January 2021-chapter 5

Mansfield Camden Town Conservation Area Appraisal and Management Strategy 2008

Assessment

Relevant Planning history:

09/05/1980- Permission granted for the change of use to from two 2-bedroom flats and one 3-bedroom maisonette, including works of conversion and the formation of front and rear roof dormers. (Ref: 30092)

04/12/2017- Permission **granted** for the erection of single storey side/ rear extension to ground floor flat (Ref: 2017/5272/P)

It would appear that the extension was planned in order to facilitate the use of the property for 2 x self-contained unit and to provide additional residential floor space for the unit that has been created at rear ground floor level.

31/05/2019- Permission **granted** for the variation of condition 3 (approved drawings) and removal of condition 4 (green roof), 2017/5272/P (dated 04/04/2017) for Erection of single storey side/ rear extension to ground floor flat (C3), namely to replace green roof with a gravel roof (Ref: 2019/1786/P)

Issues:

The ground floor has been subdivided to create an additional self-contained residential unit in the front section of the ground floor unit. . Records indicate that there was previously a 1 x 3 bedroom unit at ground floor level and the the additional unit was created at some point in 2021, subsequent to a single-storey rear extension being constructed providing additional residential floorspace.

The subdivision of the ground floor t has resulted in the provision of sub-standard accommodation. Commentary in paragraph 3.144 of policy H1 in Camden's local plan confirms that:

"The Mayor's Housing SPG advises that the nationally described space standard should be applied to all new dwellings, whether they are created through new-building, conversions or changes of use".

The unit created at the front of the property which is a 2 person 1 bed unit is undersized at approximately 27.8m² and the 2 x bed at the rear of the site is slightly undersized at approximately 68m². Both properties are dual aspect, however, whilst the two bed unit may be considered acceptable in terms of residential amenity, the smaller 1 bed unit does not comply with the residential space standards outlined in the London Plan 2011, which requires 1 person 1 bed flat to be a minimum of 39m² and a 2 person 1 bed flat a minimum of 50m². A 4 person, 2 bed flat should be a minimum of 70m²

Policy H1 of Camden's Local Plan 2017 aims to secure a sufficient supply of homes that meet the needs of existing and future household. Although, the policy aims to maximise the supply of housing in the borough this should not be at the expense of good quality housing that are of good designs and layouts, which should provide a satisfactory level of residential amenity.

Policy H6 aims to secure mixed, inclusive and sustainable communities by seeking high quality homes, accessible homes and a variety of housing suitable for Camden's existing and future households. Commentary in the policy advises that high quality homes should be designed to ensure that sufficient space is available for furniture, activity and movement. The government has produced a 'nationally described space standard' which local plans can adopt to ensure that homes are designed with sufficient internal space. These standards should be applied to all new dwellings, including conversions. The conversion of the ground floor residential unit into two separate units has led to the creation of an undersized residential unit with a sub-standard cramped internal layout and does not meet the criteria set out in the national space standards as set out in table 3.1 in the London Plan 2021. The proposal has also resulted in the loss of a family unit. Commentary in paragraph 3.188 of Camden's Local Plan says that the Camden Strategic Market Assessment (SMA) calculates that likely requirement for homes of difference sizes in the market and affordable sectors on the basis of the projected household composition over the plan period and indicated that the greatest requirement in the market sector is likely to be two and three bedroom homes and the dwelling size priorities table. Paragraph 3.196 in Camden's Local Plan confirms that the Council would seek to minimise the loss of market homes with 3 bedrooms, particularly where the 3-bedroom homes have access to outside space. The proposal resulting in the loss of a 3 bedroom unit undermined this criteria.

Policy H7 seeks to secure a range of homes of different sizes that will contribute to the creation of mixed, inclusive and sustainable communities and reduce mismatches between housing needs and existing housing supply. In order to achieve this, the Council expects residential development to contribute to meeting the priorities as set out in the dwelling size priorities table. (Table 1) as shown in policy H7 of Camden's Local Plan 2017. The table shows that 3-bedroom units are a high priority for the Borough. The sub-division of the ground floor residential unit has created 1 x1 bed unit and 1 x 2 bed unit. Whilst 2 bed units are a high priority for the borough the 1 bed unit does not comply with

policy H7 as 1 x bed units are not considered to be a priority use for the borough, and had resulted in the loss of a 3 bed unit which is a high priority for the borough. The development is thereby contrary to policy H7 of Camden's Local Plan. Paragraph 4.10.3 of policy H10 in the London Plan 2021 stipulates that *"well-designed one- and two- bedroom units in suitable locations can attract those wanting to downsize from their existing homes, and this ability to free up existing family stock should be considered when assessing the unit mix of a new build development"*.

Car free housing

Policy T1 in Camden's Local Plan 2017 encourages sustainable Transport by prioritising walking, cycling and public transport in the borough. In order to promote sustainable transport choices commentary in paragraph 10.8 of the Local Plan stipulates that development should prioritise the needs of pedestrians and cyclist and ensure that sustainable transport will be the primary means of travel to and from the site. In order to facilitate sustainable modes of transport, the Council would have required 3 x cycle spaces to be provided in respect to the new units that have been created in accordance with Policy T1. The site has a PTAL (Public Transport Accessibility Rating) rating of 3, which indicates that the site has moderate links to the public transport network. The site also lies on a very busy main road with no capacity for parking. Therefore, it is envisaged that any additional parking will add to parking stress in the surrounding streets.

Notwithstanding the above, if the development was considered to be acceptable in all other respects, then in accordance with policy T2 of Camden's Local Plan 2017, the Council would have required car-free housing in respect to the additional flat that has been created at the site. Policy T2 is wide ranging and is not merely about addressing parking stress or traffic congestion. It is more specifically aimed at improving health and wellbeing, encouraging and promoting active lifestyles, encouraging and promoting trips by sustainable modes of transport (walking, cycling and public transport), and addressing problems associated with poor air quality in the borough. Thus car-free developments are required in the borough, regardless of any parking stress that may or may not locally exist. Camden controls on- street parking through agreements entered into pursuant to Section 106 of the Town and Country Planning Act 1990 and Section 16 of the Greater London Council (General Powers) Act 1974). Any properties affected by such agreements will not have the right to acquire parking permits.

In the absence of a S106 legal agreement to secure car-free housing in respect to the unauthorised conversion that has been undertaken at ground floor level at the site the development is considered to be unacceptable in transport terms and is contrary to policies T1 and T2 of Camden's Local Plan 2017.

Recommendation:

That the Borough Solicitor be instructed to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 as amended, to secure the cessation of the use of the ground floor of the property as two self- contained units and to restore to its previous use as 1x 3 self- contained residential unit and to authorise in the event of non-compliance, to prosecute under Section 179 or other appropriate power and/or take direct action under section 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breaches of planning control:

Conversion from 1 x self-contained flat at ground floor level to 2 x self-contained flats

WHAT ARE YOU REQUIRED TO DO:

1. Cease the use of the ground floor of the property as 2 x self-contained flats; and reinstate the previous layout of the ground floor as one 3 bed self-contained flat;

2. Completely remove one kitchen and WC from either the ground floor level;
3. Make good any damage caused as a result of the above works

PERIOD OF COMPLIANCE: 6 Months

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

1. The conversion of the ground floor flat into 2 x self-contained units has resulted in the loss of a family sized unit and created a sub-standard 1 x bed unit which by virtue of its floorspace resulting in sub-standard living accommodation to the detriment of the residential amenity of existing and potential occupiers and is thereby contrary to policies H6 (Housing choice and mix) and policy H7 (Large and small homes) of Camden's Local Plan 2017
2. In the absence of a S106 agreement to designate the development as car-free development the residential units would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and is thereby contrary to policies T1 (Prioritising walking, cycling and public transport), and T2 (Parking and car-free development) of the London Borough of Camden Local Plan 2017