

Enforcement Delegated Report

Receipt date:

Officer

Gary Bakall

Enforcement Case

EN21/1025

Breach Address

25A Mornington Crescent, London, NW1 7RE

Photos & Other material

See file

Authorised Officer Signature

28.04.22

Alleged Breach

The change of use of the ground floor unit from commercial use (Class E) to residential (Class C3).

Recommendation(s):

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 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

Site Description

The site comprises an end of terrace 4 storey (with basement) period building (25 Mornington Crescent) with a 4 storey closet wing on Mornington Place. No 25A is accessed from Mornington Place and occupies the ground floor and a small mezzanine of the closet wing plus the recently added single storey infill structure to the west. There are doors in the four storey and single storey part and there is a strip of paving on front. No. 25a was vacant and the last use was as an office, with a reception, small office and W.C on the ground floor and storage space in the mezzanine. There is a gate/path at the side (next to 1b Mornington Place) and a courtyard at the rear. 25 Mornington Crescent (including the application premises) is Grade II listed and the site is located within the Camden Town Conservation Area within the Residential Sub Area 2.

Investigation History

The case was reported in late October and due to Covid lockdown the internal inspection was carried out in late January where it was found the unit was being used as residential accommodation although the tenant was also seeing hairdressing clients at the property.

Relevant policies / GPDO Category**National Planning Policy Framework 2019**

The London Plan 2016, consolidated with alterations since 2011

Camden Local Plan 2017

Policy A1 Managing the impact of development

Policy D1 Design

Policy D2 Heritage

Policy E2 Employment premises and sites

Policy H1 Maximising housing supply

Policy H4 Maximising the supply of affordable housing

Policy H6 Housing choice and mix

T1 (Prioritising walking, cycling and public transport),

T2 (Parking and car-free development)

DM1 (Delivery and monitoring)

Camden Planning Guidance

Design (March 2019)

Amenity (March 2018)

Employment sites and business premises CPG (March 018)

Transport (March 2019)

Camden Town Conservation Area Statement (October 2007)

Assessment

Planning history:

25a Mornington Crescent - LEX0300002 – Demolition of existing timber and tin constructed rear/side extension and the erection of a single storey rear extension. - Listed building consent refused 16/04/2003 due to insufficient information. Unit 25A shown on plan as “shop/office”.

2020/2313/P & 2020/2842/L Refused 26/02/2021 for; Change of use from office (Class A2) to residential (Class C3) to create a one bedroom flat including erection of a single storey ground floor rear extension; creation of a first floor roof terrace including raising front and rear parapet walls and alterations to street frontage including erection of metal railings, provision of a refuse store and two cycle parking space within front garden; removal of the existing front canopy; replacement of front door and fanlight; replacement of secondary front door with a window and refurbishment of front elevation wall to match existing; replacement windows, installation of new opening and door to first floor side elevation to provide access to the roof terrace; installation of a timber gate to side access.

Issues:

The main issues are the substandard quality of the residential accommodation, the loss of commercial (Class E) floorspace, the lack of a car free legal agreement, cycle parking and design and heritage considerations. The property is a listed grade II listed building however no works requiring Listed Building Consent appear to have been carried out to allow residential use.

The premises are currently being used as a self-contained residential flat, the occupier described it as a live work unit because she cuts hair from the property but there is no dedicated work area in this small flat. There is no planning history for the use of the site but it appears to have an established use as an office and would be classed as commercial floorspace within Class E. There is no ‘in principle’ objection to the loss of this small area of business floorspace. The site is not located in a town centre where there are specific policies protecting commercial uses.

Policy E2 (Employment premises and sites) states that the Council will protect premises that are suitable for continued business use, in particular premises for small businesses and employment sites for local residents. The existing premises at the ground floor is subdivided into two small rooms measuring 7.5 sqm and 6sqm. They could only reasonably accommodate one person. The first floor room/mezzanine level provides a further 6 sqm but as it is accessed by a hatch, it is only practical for storage. The addition of a staircase would further restrict the functional area of the premises. The existing rooms would only be suitable for 1 worker at any time for any office use, with no flexibility to expand, and is considered to have limited value as a commercial office space and is not considered to conflict with policy E2.

Policy H6 states that the Council will expect all self-contained homes to meet the nationally described space standard of the London Plan, and encourage design of all housing to provide functional, adaptable and accessible spaces. The minimum gross internal floor area for the smallest 1 bedroom 1 person dwelling is 39 sqm. This 1 bedroom unit measures approximately 14 sqm on the ground floor with 6sqm within the small upper mezzanine level. The unit is therefore significantly below the minimum area required. The unit also falls short of the minimum of 1 sqm of built-in storage required. The nationally described space standards advise that a single bedroom should have a minimum floor area of 7.5 sqm and that it should be at least 2.75m in width. The proposal includes a 6 sqm single bedroom and sitting room/kitchen 7.5 sqm. It creates an inadequate living environment for current and future occupiers. Therefore the proposed unit is seriously substandard in its floorspace and habitability.

Policy T2 of the Camden Local Plan states that the Council will limit the availability of parking and require all new developments in the borough to be car-free. The Council will not issue on-street parking permits in connection with new development and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits. Lack of a car free legal agreement for this change of use to residential is contrary to policy T2.

Policy T1 of the new Camden Local Plan requires developments to provide cycle parking facilities in accordance with the minimum requirements of the London Plan and the design requirements outlined in CPG7. No new cycle parking spaces at the front of the site means the change of use does not meet this requirement.

No external alterations have been carried out and internally the only alterations appears to be the installation of a small kitchen area in the ground floor living area. The small mezzanine level appears to have been in existence for some time

The creation of a self-contained residential flat development fails to meet the London Plan and nationally described housing standards and it therefore considered to provide an unacceptable standard of accommodation in terms of size and layout to the detriment of the amenity of occupiers, this development is therefore contrary to policy H6-housing choice and mix. Furthermore, in the absence of a legal agreement preventing future occupiers from obtaining car parking permits and the absence of cycle parking the development is contrary to the Council's and London Plan policies for sustainable transport and does not comply with policies T1 - Prioritising walking, cycling and public transport and policy T2 – parking and car-free development.

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 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 breaches of planning control:

The change of use of the ground floor unit from commercial use (Class E) to residential (Class C3).

WHAT ARE YOU REQUIRED TO DO:

The use as residential accommodation shall permanently cease.

PERIOD OF COMPLIANCE: 6 months

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

The residential unit provides sub-standard accommodation in terms of size and layout to the detriment of occupiers contrary to policy H6 (Housing Choice and Mix) of Camden's Local Plan 2017.

In the absence of a S106 Legal agreement for car-free housing, is likely to promote the use of non-sustainable modes of transport and contribute to air pollution and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017;