



# Grounds of Appeal

31 Agar Grove, Camden, London

*“Change of the lower and upper ground floor from 1x3 bed flat to a self-contained 1x2 bed flat and 1 x studio flat”*

LPA Ref: 2021/5956/P

For and on behalf of Jim Kantarci

July 2022



# CONTENTS

1.0 Introduction and Summary

2.0 The Site

3.0 Proposal

4.0 Planning Policy Summary

5.0 Planning Assessment

6.0 Conclusion

7.0 Appendices



## 1.0 Introduction and Summary Grounds of Appeal

1.1 This appeal is submitted in response to the refusal of planning permission by Camden Council the for the following proposal:

*“Change of the lower and upper ground floor from 1x3 bed flat to a self-contained 1x2 bed flat and 1 x studio flat”*

1.2 The proposal was refused under officers delegated powers on the following grounds:

- 1. The development by reason of the loss of a larger three bedroom family sized home with access to private amenity space, would fail to retain existing flexible accommodation suited to the needs of families with children contrary to Policy H7 (Large and Small Homes) of the London Borough of Camden Local Plan 2017.*
- 2. In absence of a S106 legal agreement to secure the development as car free, the development contributes unacceptably to parking stress and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking), A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the Camden Local Plan (2017).*

1.3 The appellant contests the first reason for refusal on the grounds that the proposal meets a housing need and that no adopted policy has been breached. The building is already split into separate flats and the majority of similarly sized buildings in the area are also subdivided.

1.4 With regards to the second reason for refusal, there is common ground and it is expected that this can be addressed through the appeal process. The appellant considers the site to be car free and will agree to a S106 legal agreement to prevent the issuing of new parking permits to future residents.

1.5 This Appeal Statement sets out the Appellant’s case in full.



## 2.0 The Site

- 2.1 The appeal site is a four-storey semi-detached townhouse located in Camden in Central London. The site is within London Underground Zone 2 and is walking distance (600m) from Camden Road Overground Rail Station where there are local shops and services.
- 2.2 The area around the site is predominantly residential in character and made up of similar townhouses, the majority of which are subdivided into multiple flats as can be seen on site, on google earth or from reviewing the Council Tax register. The adjoining property at 29 Agar Grove is subdivided into four self-contained flats, with one on each floor, although there is no planning history associated.
- 2.3 The site is within the Camden Square Conservation Area, which is described as a primarily nineteenth century inner London suburb. 31 Agar Grove is a period property in a good state of repair and is considered to contribute positively to the area. Immediately to the east of the appeal site there is a 20<sup>th</sup> Century Local Authority block of affordable housing which is considered to be a negative feature.
- 2.4 The site is in a sustainable location and has a PTAL of 3 which indicates good public transport accessibility. The site is in Flood Zone 1 (Low Risk).

### Planning History

- 2.5 The planning history of the property is listed below, with a short commentary following. In this instance the planning history is highly material to the consideration of the appeal and the commentary provides an important context:
- 2021/3573/P - Conversion from one 3 bedroom flat and 4 bedsits to one 2 bedroom flat and three 1 bedroom flats (Refused on 15/11/2021)



- 2013/5196/P - Change of use from 4 x Housing in Multiple Occupation (HMO) (Use Class C4) at lower ground and ground floor levels to 1 x 3 bed maisonette (Use Class C3), including erection of a single storey rear plus side extensions at lower ground floor level; retention of 4 x HMO units at first and second floor levels (Use Class C4) including replacement windows on front, side and rear elevations. (Granted 06/11/2013)
- 2012/0101/P An application for the entire property to change HMO use to C3 was submitted in 2012 then withdrawn. At that time the submitted plans showed that the property contained 8 bedsits.

- 2.6 The appeal proposal is reworking of the 2021 proposal (2021/3573/P) which sought to subdivide the upper and lower ground floor flats as well as converting the HMO on the upper floors to C3 use. This proposal was refused due to the “*loss of supply of lower cost housing in the Borough*” (i.e. the HMO) contrary to Policy H10; and the “*loss of a larger three bedroom family home*” contrary to Policy H7.
- 2.7 The revised proposals subject to this appeal retained the HMO element of the building in order to eliminate the first reason for refusal, and then amended the layouts to include a two bedroom unit in order to address Policy H7, improve the housing mix and meet a specified demand. Whilst it did not directly address the written reason for refusal, it addressed the policy upon which the refusal was based. This will be explored further in Section 4.
- 2.8 The 2013 application (2013/5196/P) created the duplex unit subject to this planning appeal, removing HMO units as a result. As illustrated in the 2012 application summary (2012/0101/P) the building had formerly contained up to 8 bedsits. The 2013 application sought to convert four of these to the duplex 3-bed unit on the lower ground and upper ground floors, whilst retaining four flats in HMO use on the first and second floors. Although this was submitted during a previous Local Plan cycle, the policies regarding the retention of HMO units was much the same and the justification



was that the quality of unit would be substantially improved. The officers report at **Appendix 1** includes a commentary from the Council’s Environmental Health Service which declared the existing HMO accommodation as substandard and the revised proposals for the HMO as being appropriate. In assessing the duplex unit, this was assessed under Policy DP2, DP5 and DP6 of the previous Local Plan. Policy DP2 supported the proposal as it sought simply to maximise the number of homes in the Borough. Policy DP5 was satisfied as three bedroom flats met a “high” priority set out in the “Dwelling Size Priorities Table”. Whilst DP6 agreed that as a conversion not all of the Lifetime Homes criteria could be met.

- 2.9 What is of most interest about this decision, is that the dwelling priorities table at this point in time placed a greater emphasis on two bedroom flats than three bedroom flats (**Appendix 2**). In fact for market housing the requirement for two bedroom homes was “very high” whilst the requirement for three bedroom homes was “medium” and not high as stated in the report. The conclusion that can be reached here is that the appeal proposal would have been preferred, if it had been put forward at this point in time. It would not only have better met Policy DP2 by providing 2 units instead of 1, but it would also have better met housing requirements.
- 2.10 It is noted that such requirements change over time, but as explained later on, the updated “Dwelling Size Priorities Table” in the 2020 Local Plan, placed equal emphasis on two bedroom and three bedroom flats, whilst the text actually acknowledges that such projections are fraught with difficulties and should not be solely relied upon.
- 2.11 It should be noted that the 2013 proposal also included the lower ground floor extension which increased the floor area and allowed for the three bedroom flat, or indeed a two bedroom unit that meets standards.
- 2.12 Overall, the planning history illustrates that, similarly to its neighbours, the building has not been a family home for much of its post 1947 history.



### 3.0 Appeal Proposal

- 3.1 The proposal seeks permission for the conversion from 1x three-bedroom duplex flat with garden access, to two self-contained flats including 1x two bed flat with garden access and 1x studio flat.
- 3.2 The proposal does not include any external alterations or require any extension to the building. Internal changes will be minor but will make better and more efficient use of the available space.
- 3.3 The proposed units meet minimum space standards and provide good quality internal accommodation. They would both be dual aspect and have good internal daylight levels, with the lower ground floor unit living area opening out into the garden space.
- 3.4 It is the intention of the appellant for the scheme to be car free, which will be secured by S106. Details of secure cycle parking for all of the units will also be provided via condition.
- 3.5 The appeal has been made retrospectively as the works took place as part of a refurbishment prior to the decision being issued on the application. The Council has begun enforcement proceedings on this basis, which will be requested to be put on hold pending the outcome of the appeal.



## 4.0 Planning Policy Summary

4.1 The development plan for the area consists of the London Plan (2021) and the Camden Local Plan (2017) and policies map.

4.2 The appellant is in agreement with the list of relevant Local Plan policies set out in the Council's Delegated Report, as follows:

- Policy D1 Design
- Policy D2 Heritage
- Policy H7 Large and Small Homes
- Policy H10 Housing with Shared Facilities
- Policy T1 Prioritise walking, cycling and public Transport
- Policy T2 Parking and Car Parking
- Policy A1 Management the impact of development
- Policy DM1 Delivery and Monitoring

4.3 The Council has also highlighted the following documents as material considerations:

- Camden Planning Guidance (CPG)
- CPG Housing (January 2021)
- Camden Square Conservation Area Appraisal and Management Strategy 2011
- National Planning Policy Framework 2021
- London Plan

4.4 With respect to the above, the appellant would also like to highlight policies H1 of the London Plan and H1 and H4 of the Camden Local Plan which seek to maximise the provision of housing on brownfield land, particularly within PTAL zones 3-6. The policies expect the Council to both meet and exceed the current annual target of 1,038 homes for Camden, of which 328 should be from small sites.





4.5 The London Plan 2021 states at paragraph 4.2.4 that:

*“Incremental intensification of existing residential areas within PTALs 3-6 or within 800m distance of a station or town centre boundary is expected to play an important role in contributing towards the housing targets for small sites set out in Table 4.2. This can take a number of forms, such as: new build, infill development, residential conversions, redevelopment or extension of existing buildings, including non-residential buildings and residential garages, where this results in net additional housing provision. These developments should generally be supported where they provide well-designed additional housing to meet London’s needs.”*

4.6 The Presumption in favour of sustainable development set out in the NPPF also seeks to provide for objectively assessed housing need “*as a minimum*”.

4.7 The Council has cited Camden Local Plan policies H7; T1, T2, A1 and DM1 in the reason for refusal.

4.8 Policy H7 (Large and Small Homes) states that the Council will aim to secure a range of homes of different sizes and reduce the mismatch between housing needs and existing supply. This includes contributing towards meeting the dwelling size priority table 1, and including a mix of large and small homes. The policy claims to take a flexible approach to assessment having regard to evidence of local need and the character of the development and area. Other considerations listed in the policy would relate to larger sites and major developments. This policy will be explored in more detail in the next section.

4.9 **Policy T1** (Prioritising walking, cycling and public transport) requires the provision of accessible secure cycle parking in accordance with the London Plan standards and CPG on Transport.



- 4.10 **Policy T2** (Parking and Car Parking) whereby the Council will limit the availability of parking and require all new developments in the borough to be car-free. This includes not issuing any parking permits in connection with new developments, secured by legal agreement.
- 4.11 **Policy A1** (Managing the Impacts of Development) which generally seeks to protect neighbouring amenity, and in the context of the reason for refusal, seeks to manage transport impacts and parking stress.
- 4.12 **Policy DM1** (Deliver and Monitoring) which seeks to deliver the vision, objectives and policies of the Local Plan, but which has little specific reference to the proposal.



## 5.0 Planning Assessment

5.1 The main planning considerations set out in the officer's report (**Appendix 3**) are as follows:

- Unit Mix
- Quality of Accommodation
- Amenity
- Transport Considerations

5.2 The proposals meet minimum space standards and provide dual aspect living accommodation with good levels of daylight, positive outlook and no privacy or amenity concerns. As the changes are minimal and there are no extensions or external alterations, there were no concerns raised regarding neighbouring amenity. As such, the main considerations of this appeal are the unit mix and transport. These are considered in turn below.

### Unit Mix

5.3 The Council considers the loss of a three bedroom unit as unacceptable based on the Policy H7 of the Local Plan. The policy refers to the Strategic Housing Market Assessment (SHMA) which indicates the greatest need in the Borough to be for two and three bedroom houses, followed by one bedroom and studio housing. However, the Policy also acknowledges that there is a need for all types of housing (Para 3.190). It goes on to state that projections around dwelling size requirements are fraught with difficulties and to explain that consequently, any more detailed percentage aims for specific dwelling sizes will be provided in the supplementary planning document Camden Planning Guidance on housing, where they can be rapidly reviewed to reflect changing circumstances.

5.4 The Council has highlighted a single comment in Paragraph 3.196 as providing justification for the refusal. Here it is stated that "*Where a development is for the*



*conversion of existing homes... the Council will seek to minimise the loss of market homes with 3 bedrooms, particularly where the 3-bedroom homes have access to outside space".* Given that this policy is considered to be fluid, it is notable that the requirement to protect three-bedroom accommodation is not repeated within the 2021 CPG on Housing.

- 5.5 Policy H7 is careful not to be overly prescriptive, going as far as to say in the main policy text that it should be applied flexibly and with regard to the context. Paragraph 3.196 makes a general comment about resisting the loss of family homes with access to a garden, without providing any context to explain the circumstances where this might be most pressing. Many authorities in London allocate geographical areas where family homes should be retained or identify areas of conversion stress, which would provide a specific reason for the refusal of an application of this type. In this instance the property is not within an area of predominantly family housing and there would be no additional stress on the area caused by the conversion. Furthermore, the proposal includes a two bedroom flat (with garden access) which meets an equally high priority for the Council.
- 5.6 The Camden Strategic Housing Market Assessment Report (2016) found that a “large majority” of privately renting households that are one family unit, occupy one and two bedroom properties (81%) with just 9.9% occupying three or four bedroom properties. This is understandable when considering the average house prices in London are 74% higher than the rest of England and that Camden has the third highest average house prices in London (behind Westminster and Kensington and Chelsea). Furthermore, census data from 2011 indicated an average household size of 2.18 persons per household in Camden (2021 Census data not yet available). Taking this data into account there is arguably a greater requirement for a two bedroom unit with garden access than a three bedroom unit.
- 5.7 When weighing up the merits of a two-bed versus a three bed unit to meet housing needs, the fact that the proposal delivers an additional studio unit is a material



consideration that should weigh heavily in favour of the proposal. Policy H1 and H4 seek to maximise residential development across the borough and Policy H7 acknowledges that “*there is a need and/or demand for dwellings of every size shown in Table 1.*” (Paragraph 3.190)

**Table 1: Dwelling Size Priorities**

	<b>1-bedroom (or studio)</b>	<b>2-bedroom</b>	<b>3-bedroom</b>	<b>4-bedroom (or more)</b>
<b>Social-affordable rented</b>	lower	high	high	medium
<b>Intermediate affordable</b>	high	medium	lower	lower
<b>Market</b>	lower	high	high	lower

- 5.8 The latest available census data (2011) found that 41% of Camden households were comprised of one person living alone (the 4<sup>th</sup> highest proportion in London and in England and Wales). As such the need for studio units should not be in any doubt.
- 5.9 The view of a local agent has been sought on the proposal by way of further evidence. The letter at **Appendix 3** supports the view that the property is more marketable and would generate more interest as a studio and two bed than as a three bed duplex. As supported by borough wide data, at a more localised level the demand is not for large family units. The majority of the neighbouring properties have already been subdivided, with most having one unit per floor or being in use as a HMO. The Council has previously sought to resist the loss of the HMO on the upper floors on the basis of it providing low cost housing, whilst also seeking to retain a large three bed unit at the expense of a studio and two bed unit which would be available at lower cost. This is an entirely inconsistent and ill-thought out approach.
- 5.10 As described in paragraph’s 2.8 to 2.12 the site has not been in use as a single dwelling in its post war history and the most recent application to convert the lower floors from a substandard HMO to a three bedroom duplex (2013) was the first time such a unit has been in existence at the site. Had the application at the time been for a studio



and two bed unit, it is fair to say, based on the planning issues assessed in the officer's report, it would have been approved. There is no compelling evidence to support the claim that since 2013 the demand for three bedroom units has increased in comparison to the demand to two bed units.

- 5.11 On one final note, the Conservation Area appraisal notes that the demand for residential development has led to an increase in proposals for infill buildings and extensions. It goes on to state that the capacity for further intensification without causing harm to the area is limited. This proposal provides an additional unit without the need to extend and without any visible change to the area at all. It is therefore, in some small part, helping to reduce the pressure for development and preserve the Conservation Area. The Conservation Area Appraisal identifies 31 Agar Grove as having a positive contribution to the area, yet also notes that the condition of many of the properties is poor and in need of investment. The proposals provide that investment and thereby will enhance the conservation area.

### Transport Considerations

- 5.12 The second reason for refusal relates to the absence of a S106 agreement to secure car free development. However, the Council does not provide a proforma for a Unilateral Undertaking which means the appellant would need to enter into negotiations to provide this agreement. The appellant is in agreement that the development should be car free and is willing to enter into a S106 to secure this as part of the appeal process. This can be done after the six week stage. The details of the appellants solicitor will be provided to the Council at the appropriate stage. The heads of terms of the S106 would ensure that:

- No residential unit created by the proposal would be eligible for a residents parking permit for the lifetime of the development.

- 5.13 The officers report also notes a lack of secure cycle parking provision as part of the application. There is plenty of room to provide this to the front of the property and



the appellant would be open to a condition requiring details of the type of provision and exact location to be submitted to the Council and approved in writing. This could be worded as follows:

- Details of the location and specification of cycle parking associated with the proposed units to be submitted to the Council within three months of the decision being issued. The details will be required to be signed off in writing and implemented within an agreed timeframe. The number of cycle parking spaces should accord with the London Plan.

5.14 In light of the above there is no reason why the second reason for refusal cannot be overcome.



## 6.0 Conclusion

- 6.1 The proposal seeks planning permission for internal changes to subdivide a three bedroom duplex unit into 1x 2-bed and 1x Studio unit, with no external additions or alterations required. The proposal will provide an uplift of one unit towards the Council's small sites target. The primary issue relates to the loss of the three bed duplex with garden access, which is resisted by virtue of a statement at Paragraph 3.196 of Policy H7 of the Local Plan. The appellant has pointed towards the main part of the policy which states that it should be applied flexibly according to the context, and towards other parts of the explanatory text which highlight the difficulty with being prescriptive about dwelling mix. The policy shows there to be an equal level of need for two bed units and more recent guidance does not seek to protect three bed units in particular. Furthermore, evidence has been presented that there is a greater need for Studio and Two bed units in the area than there is for a three bed unit of this type.
- 6.2 Overall, the proposal will provide new high quality units and there will be no impact on neighbouring amenity. The impact on the conservation area will be neutral or minor positive by virtue of investment into a building that is a positive feature.
- 6.3 The Council's concerns regarding the proposal being car free and providing sufficient cycle parking can be addressed via condition and S106 as part of the appeal process.
- 6.4 Taking into account the evidence presented, the proposal is acceptable in policy terms and the material consideration of providing an additional unit weighs heavily in favour of allowing the appeal.





## 7.0 Appendices

Appendix 1 – Officers Report for application 2013/5196/P

Appendix 2 – Development Priorities Table from previous Local Plan

Appendix 3 – Officers Report for appeal application 2021/5956/P

Appendix 4 – Letter from Hunters Estate Agent