

Delegated Report (Refusal)		Analysis sheet		Expiry Date:	13/10/2021
		N/A / attached		Consultation Expiry Date:	24/09/2022
Officer				Application Number(s)	
Jaspreet Chana				2021/0195/P	
Application Address				Drawing Numbers	
122 A Finchley Road London NW3 5HT				See draft decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Retrospective conversion of first floor from retail storage unit to three self-contained flats and associated works					
Recommendation:		Refuse and Warning of Enforcement Action to be taken			
Application Type:		Full planning permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				
Consultations				
Summary of consultation:	Two site notice(s) were displayed near to the site on the 31/08/2022 (consultation end date 24/09/2022).			
Adjoining Occupiers:	No. of responses	04	No. of objections	03
Summary of consultation responses:	<p>The following objection comments were raised by neighbouring residents:</p> <ul style="list-style-type: none">• Access to dustbin enclosure – 122a is obliged to restore access to the dustbin enclosure for use by 122b (According to leave of 122b)• Part Wall notice – Tenants at 122b Finchley Road have repeatedly requested the freeholder to serve Party Wall notice and request has been ignored.• Safety of access – The unauthorised side door adds significant foot traffic to this narrow alley, and more people would be endangered by the traffic in this alley.• Invalid residential land use – The application suggests the property already has both A1 and C3 usage rights, this is not correct. It has no rights to residential dwelling (these are for the properties in 122b) as it currently is in a commercial property and has been used to provide A3 services (i.e. beauty salon).• Noise, air quality and unsafe environment – the roof of the rear extension, intended for ancillary retail storage, is being used by unauthorised residents as outdoor space. A previous application to convert a terrace has been refused. The amenity of existing occupiers has been severely impacted by the noise disruption and also smell, as it's commonly use it as a smoking area.• Fire hazard – there is at least one kitchen built within, which is not authorised and checked by the fire department. Further, some existing tenants have used the make shift floor extension (roof of ground floor) for BBQs, which further adds to the fire hazard.• Pollution from second hand smoking from balcony.• Lowering the floor in order to facilitate the conversion has created a flood risk, removal of about a foot of red brick from the gable wall at shop level.• The design and access statement is incorrect, the door to the mezzanine from the driveway, it was a window with a window ledge.• The creation of these flats are against the Camden Council local plan policies.• The minimal ceiling height of the proposed new flats joint with the sub-standard sized rooms would provide poor quality accommodation.• The proposal would create negative impact on the character and appearance of the building and surrounding area. <p><u>Officers response:</u></p> <ul style="list-style-type: none">• Please find response to the above points below in sections 2, 3, 4 and 5 below.• It should be noted that this application is for retrospective and that the three new units and external changes are already in place.• From conducting a site visit recently it appeared that not all units were occupied.			

Site Description

The application site is occupied by a 4 storey semi-detached building on the eastern side of Finchley Road. The host building and its neighbour to the south have undergone a number of significant alterations and additions over time. The building has commercial unit on the ground floor (beauty salon) and a bank next to that. There are unauthorised residential units above the salon on a mezzanine level for which this application seeks retrospective permission. Before the residential units there was storage space on the mezzanine level, associated with the salon.

The area is characterised by commercial uses at ground floor with residential above. The site is not in a conservation area or listed, but 124 Finchley Road to the north is in the Fitzjohns/Netherhall conservation area.

Relevant History

The planning history for the application site can be summarised as follows:

2018/3274/P: New side door to access the first floor, new side windows and alterations to shopfront, Pending withdrawal.

2016/4959/P: Erection of a single storey extension to the rear at ground floor for ancillary retail floorspace (Class A1) (retrospective), Granted on 03/04/2018.

2014/3012/P: Erection of two storey ground floor rear extension to provide additional space for restaurant (Use Class A3), Granted on 29/10/2014.

2013/5420/P: Erection of a 2 storey rear extension, including an alteration to the existing extraction flue to restaurant (Class A3), Refused on 19/12/2013.

2010/5329/P: Change of use from restaurant (use class A3) to dual use takeaway (use class A5) and restaurant, with associated alterations to single storey rear extension and installation of plant equipment in rear garden structure, Refused on 08/04/2011.

Relevant policies

National Planning Policy Framework (2021)

The London Plan (2021)

Camden Local Plan (2017)

- A1 – Managing the impact of development
- A4 – Noise and vibration
- D1 – Design
- DM1 – Delivery and monitoring
- G1 – Delivery and location of growth
- H1 – Maximising housing supply
- H6 – Housing choice and mix
- H7 – Large and small homes
- T1 – Prioritising walking, cycling and public transport
- T2 – Car-free development and limiting the availability of parking.

Camden Planning Guidance:

- CPG Amenity
- CPG Design
- CPG Housing
- CPG Planning Obligations
- CPG Transport

Assessment

1. The proposal

- 1.1. Retrospective planning permission is sought for conversion of a mezzanine floor from a salon storage area to three self-contained flats and alterations to shopfront to create recessed balconies above fascia level and alterations to the side elevation of the building include opening of side window to create a new door entrance and addition of two new windows within the side alley way.

2. Assessment

- 2.1. The principal considerations material to the determination of this application are as follows:

- Land use
- Standard of residential accommodation
- Design
- Neighbouring amenity
- Transport considerations

3. Land Use

- 3.1. The proposals involve the creation of three new residential units. Self-contained housing is the priority land-use of the Local Plan. In particular, policy H1 aims to secure a sufficient supply of homes to meet the needs of existing and future households by maximising the supply of housing. The principle of the creating three new units adding to the Councils housing stock is welcomed subject to the following criteria.

- 3.2. The council requires development to contribute to the creation of mixed and inclusive communities by containing a mix of small and large homes. Where possible, a mix of large and small homes should be provided for all tenures. Two and three bedroom homes are the highest priority for market housing in Camden. The development would provide two x 1 bedroom flats and one x studio flat. Although this is a lower priority dwelling size, given the size and location of the subject site, one bedroom units are considered to be acceptable and in compliance with the aims of Policy H7.

Change of use of storage to three residential units

- 3.3. Before the unauthorised change of use the mezzanine floor space was in use as storage for the ground floor beauty salon which is Use Class E. It is not considered employment space under the local plan because it was storage associated with a high-street use. Given that this storage area is ancillary to the ground floor beauty salon its loss would still allow the beauty salon to function on its own. Therefore the change of use of the storage area to the residential would not be impacted and the commercial unit would still function.

Land use conclusion

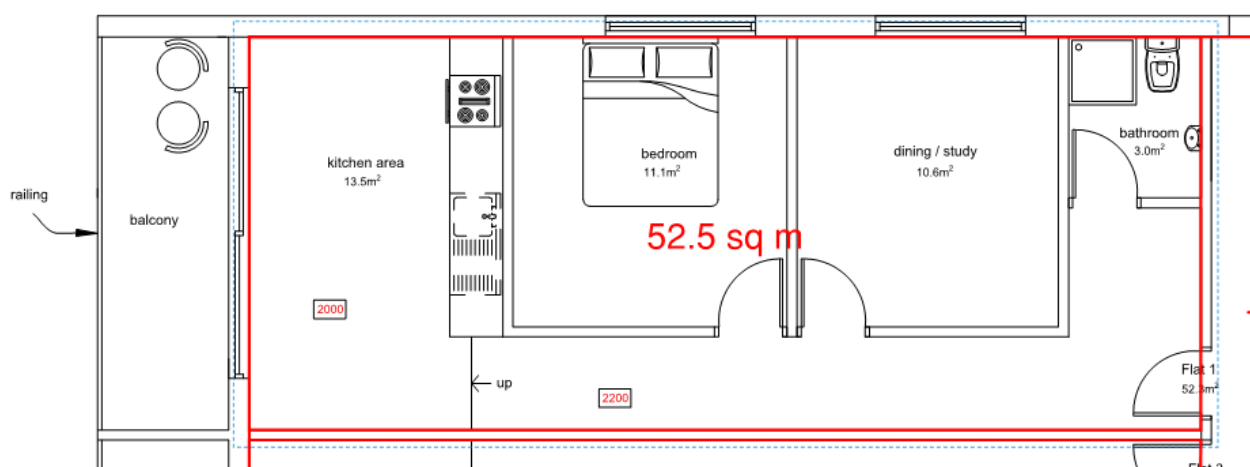
- 3.4. Policy H4 expects a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to the residential floor space of 100sqm or more. This is based on the assessment where 100sqm of floor space is considered to be capacity for one home. In developments that provide less than 10 units, affordable housing contributions can take the form of a payment in lieu (PIL).
- 3.5. Given that the proposed new units would create more than 100sqm (175sqm) of residential floor space a contribution towards affordable housing would be required.

Standard of residential accommodation/retrospective internal changes

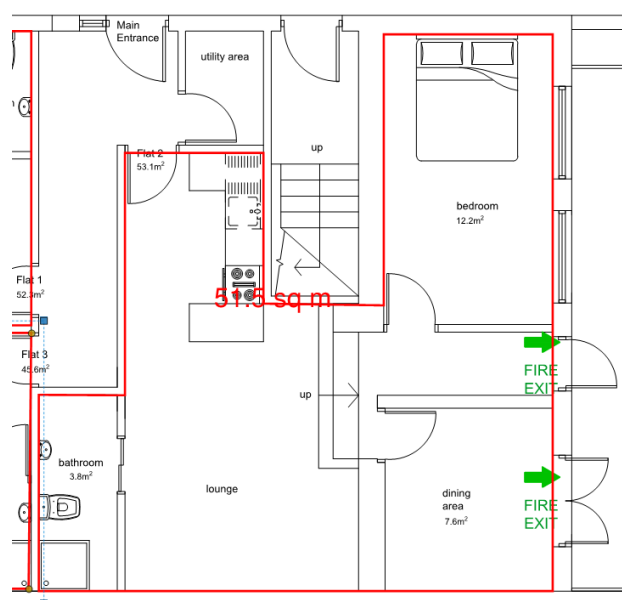
- 3.6. The proposal involves created of three new units. One x studio flat and two x 1 bedroom flats.

Dwelling	Bedroom/Persons	Floor space	London Plan Standard
1 (Studio)	1-bed/2person	45.6sqm	39/37sqm
2 (Flat 1)	2-bed/3person/ 2-bed/4person	52.5sqm	61/70sqm
3 (Flat 2)	2-bed/3person/ 2-bed/4person	51.5sqm	61/70sqm

3.7. Although the submitted plans and design and access statement states that the proposal is for two one bed units, the site visit confirmed that Flat 1 could use the identified dining/study as a second bedroom and Flat 2 could also use their stated dining room as a bedroom. (Please see below).



Flat 1



Flat 2

3.8. Flats 1 and 2 are considered to have the ability to be used as 2-bed/3person/ 2-bed/4person units. A site inspection carried out in August 2022 by the Councils Environmental Health Officers found Flat 1 to be in use as two bedrooms. Flat 2 is also highly likely to be used as a 2 bed unit. Therefore the units would be undersized and not in accordance with the London Plan National Space Standards. Furthermore both flats 2 and 3 (studio) would be single aspect with flat 2 with only front balcony being the only source of ventilation and similar to flat 3 only has rear windows/doors opening out onto the rear garden bringing in ventilation and light. The recessed balconies created would be enclosed with the front wall, although some ventilation would be had, receiving sunlight and daylight would be limited to the new units and would therefore create poor living standard.

3.9. It is considered these flats would suffer from poor levels of daylight and sunlight. A daylight and sunlight report has not been submitted to demonstrate that this is not the case. All three flats also have lack of adequate storage facilities.

3.10. Given the single aspect nature and being undersized units, it is considered current and future occupiers would suffer from poor levels of outlook and ventilation and the units would be substandard and should be refused on this basis.

3.11. As such, the proposed dwellings are considered to provide substandard residential accommodation which is contrary to Policy D1, and this forms a reason for refusal.

4. Design and Conservation

- 4.1. The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policy D1 are relevant to the application: development should respect local context and character; comprise details and materials that are of high quality and complement the local character; and respond to natural features.

Retrospective external changes

- 4.2. These involve re-inserting two side windows within the side alleyway and adding a new entrance door between 122a and 124 Finchley Road. This alleyway slopes upward with the ground level change, the two new windows would be serving bedrooms on the first floor (mezzanine level) and the entrance door would serve all three new units. Given that these external openings would be opening up bricked closures where openings once were, it is not considered that these new openings would be harmful to the subject site or the surrounding area.
- 4.3. The front elevation of the ground floor beauty salon has been altered, by removing the signage fascia board and front wall and created a recessed double balcony to serve two of the retrospective flats. A new fascia sign has been erected and set lower on the frontage to accommodate the opening for the new recessed balconies. Officers consider removal of an entire section of the front wall to create recessed balconies as inappropriate development. The design, size, form and scale of the external change is considered to create an incongruous feature which negatively impacts on the host property and wider streetscene and would therefore be unacceptable and contrary to Policy D1 of the Camden Local Plan 2017.

5. Residential Amenity

- 5.1. Policies A1 and A4 of the Local Plan seek to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and would not harm the amenity of neighbouring residents. This includes privacy, outlook, noise, daylight and sunlight.
- 5.2. The two new windows added to the alleyway side elevation where the original windows were blocked up would serve bedrooms and the outlook to these windows would be towards the brick wall of 124 Finchley Road. Although not ideal it is not considered the residential use would cause unacceptable impacts on the amenity of existing residential neighbours in terms of loss of light, overbearing, overlooking or privacy impacts.

6. Cycle parking

- 6.1. Policy T1 of the Camden Local Plan requires development to provide cycle parking facilities in accordance with the minimum requirements of the London Plan and the design requirements outlined in the Transport CPG. The London Plan requires a minimum of 1 long stay space per 1 bedroom/studio unit.
- 6.2. The plans do not show any cycle parking; however, a condition could secure details and the retention of a cycle parking space if the proposals were considered acceptable in all other regards.

Parking

- 6.3. 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. This includes limiting the availability of both off-street and on-street parking.
- 6.4. If the proposals were acceptable in all other regards, the Council would require the development to be secured as car free via S106 legal agreement to ensure that future occupants are aware that they are not entitled to on-street parking permits. In the absence of this, this forms a reason for refusal.

7. Conclusion

- 7.1. It is recommended that the application is refused due to the following reasons:

1. The unauthorised residential units by reason of their size, outlook and access to natural light, results in substandard quality of accommodation, contrary to policies H7 of the Camden Local Plan 2017 and Camden Planning Guidance Housing 2021.
2. The removal of a section of shopfront to create a recessed double balcony, by reason of its siting, design, size, form and scale of the external change its considered to create an incongruous feature which negatively impacts on the host property and the wider streetscene and would therefore be unacceptable and contrary to Policy D1 of the Camden Local Plan 2017.
3. The proposal development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to Policies T1, T2 and T3 of the Camden Local Plan, 2017.
4. The proposed development, without the provision of an affordable housing contribution, would fail to maximise the contribution to the supply of affordable housing in the borough, contrary to policy H4 (Maximising the supply of affordable housing) of the London Borough of Camden Local Plan 2017.

8. Recommendation

Recommendation 1: Refuse planning permission

Recommendation 2: 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 require the use as 3 residential units to cease, the removal of the recessed balconies and to reinstate the shopfront to match the material, design and proportion of the pre-existing shopfront and officers be authorised in the event of non-compliance, to commence legal proceedings 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:

Without planning permission, the change of use of the mezzanine floor from beauty clinic (Use Class E) to 1 x studio flat and 2 x 1 bedroom flats (Use Class C3) and removal of part of the front façade to create recessed balconies

WHAT YOU ARE REQUIRED TO DO:

1. Cease the use of the mezzanine floor as 3 residential units (Use Class C3);
2. Remove all kitchens, bathrooms and return the mezzanine floor to its former layout
3. Completely remove the recessed balconies by reinstating the front elevation to match the position, materials, design and proportions of the pre-existing façade.

PERIOD OF COMPLIANCE: 3 months

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

4. The development has occurred within the last 4 years
5. The unauthorised residential units by reason of their size, outlook and access to natural light, results in substandard quality of accommodation, contrary to policies H7 of the Camden Local Plan 2017 and Camden Planning Guidance Housing 2021.
6. The removal of part of the front façade and a section of shopfront to create a recessed double balcony, by reason of its siting, design, size, form and scale of the external change its considered to create an incongruous feature which negatively impacts on the host property and the wider streetscene and would therefore be unacceptable and contrary to Policy D1 of the Camden Local Plan 2017.
7. The proposal development, in the absence of a S106 legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to Policies T1, T2 and T3 of the Camden Local Plan, 2017.

The proposed development, in the absence of a S106 Legal Agreement to secure a contribution to affordable housing contribution, would fail to maximise the contribution to the supply of affordable housing in the borough, contrary to policy H4 (Maximising the supply of affordable housing) of the London Borough of Camden Local Plan 2017.