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Appeal Statement

**122F Finchley Road
London
NW3 5HT**

Appeal under Ground (a)

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1.0 THE APPEAL

This statement is submitted in support of an appeal against the Enforcement Notice (ref: **EN22/0480**) for an alleged breach of planning control:

- *Without planning permission, the change of use of the mezzanine floor from beauty clinic (Use Class E) to 3x residential units (Use Class C3) and removal of part of the front facade to create recessed balconies*

The Enforcement Notice was issued on 15/12/22 based on the following reason(s) for refusal of the planning application:

1. The unauthorised residential units by reason of their size, outlook and access to daylight 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 part of the front facade 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.
3. The development, 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 the development) and **DM1** (Delivery and monitoring) of the Camden Local Plan, 2017
4. The development, in the absence of a legal agreement to secure a financial contribution towards affordable housing, 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, policies **H6** and **H7** of the London Plan 2021, and of the National Planning Policy Framework 2021

This forms the basis for the appeal under Ground (a).

2.0 SITE AND SURROUNDING AREA

The appeal property is a mixed commercial and residential use property, with a ground floor used as a retail unit and upper floors used as residential flats. The property is located in a mixed residential and commercial area opposite Finchley Road tube station and a large Waitrose. The property is not a listed building nor is it located in a conservation area.



Fig 1 - Front Elevation of No. 122 Finchley Road showing surrounding buildings and all storeys

3.0 POLICY CONTEXT

3.1 National Planning Policy Framework (NPPF)

The NPPF was adopted in March 2012 and sets out the Government's most up-to-date vision for future growth. At the heart of the document is a presumption in favour of sustainable development. In the opening paragraph the Minister for Planning identifies that: "The purpose of planning is to help achieve sustainable development." The Ministerial Foreword highlights that "sustainable development is about positive growth – making economic, environmental and social progress for this and future generations". The opening statement goes on to state that "Development that is sustainable should go ahead, without delay."

There are three aspects which comprise sustainable development; these are the economic role, the social role and the environmental role. In terms of the economic aspect land has to be made available where there is a demand to support growth. The environmental role involves the protection of the natural, built and historic environment. Finally, the social aspect is concerned with providing a high quality built environment, the housing that is required, vibrant healthy communities with access to local services.

The NPPF sets out 12 Core Planning Principles at paragraph 17. The third core principle states that planning should "proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs".

3.2 The London Plan (2021)

The London Plan provides an updated Spatial Development Strategy for Greater London. The relevant policies are:

Policy D3 - Optimising site capacity through the design-led approach

'All development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site...'

3.3 LB Camden Local Plan (adopted 2017)

Policy D1 - Design

The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions

Policy H1 - Maximising Housing Supply

The Council will aim to secure a sufficient supply of homes to meet the needs of existing and future households by maximising the supply of housing and exceeding a target of 16,800 additional homes from 2016/17 - 2030/31, including 11,130 additional self-contained homes.

Policy H4 - Maximising the Supply of Affordable Housing

The Council will aim to maximise the supply of affordable housing and exceed a borough wide strategic target of 5,300 additional affordable homes from 2016/17 - 2030/31, and aim for an appropriate mix of affordable housing types to meet the needs of households unable to access market housing.

Policy H7 - Large and Small Homes

The Council will aim to secure a range of homes of different sizes that will contribute to creation of mixed, inclusive and sustainable communities and reduce mismatches between housing needs and existing supply

Policy T1 and T2

T1 - Prioritising walking, cycling and public transport

T2 - Parking and car-free development

3.4 Camden Planning Guidance Housing 2021

4.0 APPEAL ASSESSMENT

4.1 Summary

The introduction of three new self-contained flats: two new one-bedroom self-contained flats and a studio flat, results in a clear benefit to the local area, increasing the supply for residential accommodation which is in high demand in this area of London and LB Camden in particular. The pre-existing storage space associated with the ground floor retail unit was no longer necessary - **the ground floor retail unit continues to function as it did prior to the first floor flat conversion, with some improvements being made to the shopfront.** While there are many ways to increase housing supply in Camden, this development offers distinct advantages:

- The proposal supports the Council's efforts to *increase the housing supply* as set out in **Policy H1 - Maximising Housing Supply** and in line with the requirements in the National Planning Policy Framework (**NPPF**)
- No larger residential units were lost, since the existing site was an underused storage area for the ground floor retail unit below
- Located opposite Finchley Road tube station and near Finchley Road & Frognal Overground, and Swiss Cottage tube stations, many different bus routes and a key National Express stop, the new units would have excellent transport connectivity. The site has a PTAL rating of **6b: the best possible PTAL score**
- The proposed design makes the amenity of occupants a top priority, with the creation of separate balcony areas for the two front-facing flats and quick external access for the rear-facing flat
- The flats were built to a clear **high quality standard** - photos have been submitted with the application to convey the quality of the accommodation, and the Inspector is strongly encouraged to visit the site. It is considered that all three flats **benefit from plenty of natural light**
- Residential units featuring balconies are a common feature in this stretch of Finchley Road, with prominent examples shown in Fig 2. It is considered the proposal would be, in principle, design and execution, **in character with the surrounding area and respectful of the local context**

- There is a **large variety of retail and shopping units** in close proximity to the proposed residential units, including the O2 Centre and a large Waitrose. These are both approximately a minute's walk away from the property - just opposite Finchley Road. The property is considered to be one of the most conveniently located in terms of retail amenity and transport options



Fig 2. Nearby residential units. Left: The Quarters, 120 Finchley Road NW3 5HT. Right: Saint John's Court, Finchley Road

- The London Plan encourages an increase in the housing supply in London due to high prices and increasing demand. It has a target of 49,000 new residential units in London and a target for LB Camden of 889 new homes per year. However, as stated in the Camden Local Plan:

*Boroughs are advised that they should **seek to achieve and exceed the minimum target**, and set higher Local Plan targets to close the gap between London's housing need and capacity in line with the NPPF*

Camden's target of 1120 new homes per year goes beyond the Local Plan which then states:

*To meet Camden's housing needs as far as possible **the Council will therefore seek to ensure that all available sites deliver as much additional housing as possible.***

- 3.16, page 46 - Camden Local Plan - Meeting Housing Needs

- The development presents a valuable opportunity to increase the housing supply with three new high-quality residential units, of a size (one-bed and studio) that is in high demand amongst the young professional and student population in the surrounding area. For example, the nearby ESCP Business School (527 Finchley Road, NW3 7BG) is a driver of demand for accommodation. The excellent transport links make provision of parking unnecessary, and the retail offerings surrounding the property are ideal for any future occupants

4.2 Addressing the Reasons for Refusal

1. The 1st reason for refusal claims that the residential units are substandard in quality, size and access to natural light. We refer the Inspector to the photos submitted with this appeal and note that all the flats meet the London size requirements and conform with Building Regs. It is argued the development is demonstrably not contrary to **Policy H7** of the Camden Local Plan (2017) or the **Camden Planning Guidance** Housing 2021

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) ²			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	
4b	5p	90	97	103	3.0
	6p	99	106	112	
	7p	108	115	121	
	8p	117	124	130	
5b	6p	103	110	116	3.5
	7p	112	119	125	
	8p	121	128	134	
6b	7p	116	123	129	4.0
	8p	125	132	138	

Fig 3 - London flat size guidance - the appeal development meets this recommended standard

Specifically in response to the claim that the flats have substandard access to daylight, photos have been included below showing how the property benefits from large windows along the flank wall and rear of the property. We hold further internal and external photos on file that are considered to demonstrate that the property does not lack for natural light and these can be provided if the Inspector requests additional photos



Fig 4. Showing windows and doors at the rear of the property



Fig 5. Showing the large windows on the side elevation

2. The 2nd reason for refusal claims that the external changes to the shop front results in an “incongruous feature which negatively impacts on the host property and the wider streetscene”. It is argued that the changes to the shopfront as a result of the development have enhanced the property and street scene, improving the look and impact of the front elevation on the area. To appreciate the change we have included some pre-existing photos below:



Fig 6. The application property 122 Finchley Road. Front elevation



Fig 7. Front elevation detail - damaged and peeling paint around fascia

Compared to Fig. 1 above it is considered that the changes represent a clear improvement. Although the balconies are slightly lower than normal, it is noted that the properties in this area are highly heterogeneous with many different designs in the residential/commercial mix that defines this part of Finchley Road. It is maintained that the property is therefore not out of character nor is it contrary to **Policy D1** of the Camden Local Plan 2017.

It is important to note the previous signage (blue sign) was covering the mezzanine opening which has existed since 1970. Planning permission was obtained in the 1970's for the sign and opening as the space was previously occupied by a pub/restaurant. Planning permission application reference number: **CA/165/A** was granted for

“ at 122a Finchley Road, Camden. 1) An internally illuminated fascia sign, length 28'4" (8.3m), height 3'0" (0.91m), with white lettering 12" and 10" (0.30m and 0.25m) high, to read "the kings", surmounted by a yellow crown 12" (0.30m) high, all on a black background, overall height above ground being approximately 14'0" (4.30m). 2) an internally illuminated double sided projecting box sign 3'6" (1.07m) long and 2'0" (0.61m) high, with white lettering 6" and 5" (0.15m and 0.13m) high, to read " the kings", surmounted by a yellow crown 5" (0.13m) high and white letters 3" (0.08m) high to read "RESTAURANT", all on a black ground. Overall projection 3'6" (1.07m), overall height 10'6" (3.20m)."

The previous blue-colour sign (shown in figure 6 above) was oversize and erected without permission, illuminated from the top and overall poor design and construction. The present sign (turquoise colour) has been **reverted back to the original size and specification** with the main difference being the business name and colours. The size has remained the same together with its position on the shop front and being internally illuminated with white lettering. The balcony was previously used by the restaurant as a smoking room with pendant lights hanging at the front. It is important to note that this building was not built at the same time as building occupied by Natwest bank next door. It was a later addition. The current sign is now period correct and in line with the planning permission dated 03/02/1970

Documents relating to the planning approval **CA/165/A** have been submitted with this appeal for the Inspector's convenience

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3. The 3rd reason for refusal states concerns over “parking stress and congestion in the surrounding area” and notes the lack of a legal agreement securing car-free housing. As mentioned in the summary above, according to TfL’s own PTAL rating the appeal property could not be better connected to the public transport network. The flats are located in one of the least necessary areas for cars in London. However if the Inspector agrees with the LPA on the importance of a legal agreement around this point, **the Applicant would be willing to enter into a S106 legal agreement or Unilateral Undertaking** to confirm that no parking spaces will be associated with these flats

 4. The 4th reason for refusal notes the lack of an affordable housing component in the appeal development. There are three points to make regarding this issue:
 - a. The property sits in a prime location with no residential units being lost to make space for it. The Applicant is providing three additional high quality residential units to the housing supply, units of a type which are in strong demand due to the convenience of the area and, e.g. the nearby business school

 - b. The Applicant, who is Freeholder of the building, has to take into account the residents of the upper floor flats and their quality of life. There is concern that they would be opposed to the provision of affordable housing within the building

 - c. The development should be considered by its own net benefits. It is a conversion of unused retail storage to useful, high quality, residential accommodation in an area where providing residential units is unlikely to result in intensification of use of the highways. This is a net gain as the Applicant is providing something in demand while the local area does not lose anything material. Furthermore, It should be noted the units are marketed at the lower end of the rental market price of the expensive London rental market. LB Camden holds copies of the tenancy agreements which confirm this position

The Applicant is willing to enter into a legal agreement to make a financial contribution towards affordable housing as a condition of approval

5.0 CONCLUSION

In summary the pre-existing space, an underused storage area associated with the ground floor retail unit, is better served as the existing self-contained flats. The residential units provide a clear benefit to the local area and help LB Camden meet its policy objectives regarding housing supply. The Inspector is respectfully requested to allow the appeal and dismiss the Enforcement Notice