

Enforcement Delegated Report

Receipt date:

October 2022

Officer

Katrina Lamont

Enforcement Case

EN22/0760

Breach Address

48 Rosslyn Hill
London
NW3 1NH

Photos & Other material

See report

Authorised Officer Signature



15/12/2022

Alleged Breach

Without planning permission, the replacement of a shopfront, installation of a retractable glazed roof to the rear of the premises and heat lamps attached to the front of the premises

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 requiring the removal of the unauthorised shopfront and reinstatement of the pre-existing shopfront in material, design, and proportions, removal of the rear retractable roof and reinstatement of the pre-existing roof in material, design and proportions and removal of heat lamps to the front of the premises and to pursue any legal action necessary to secure compliance 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 a three storey end of terrace property located along the northern side of Rosslyn Hill adjacent to Pilgrims Place. It lies within a group of buildings with commercial uses located on the ground floors with residential/office uses located on the upper floors. The site is not listed (although it is adjacent to the grade II* listed church Unitarian Chapel) but lies within the Hampstead Conservation Area and is identified as making a positive contribution to the conservation area.

Investigation History

October 2022

Enforcement case was opened following a site inspection by Officers dealing with planning application 2021/5658/P. Officers found that the shopfront and rear roof covering had been replaced without first having the requisite permissions in place and that heat lamps had been installed to the front of the premises.

December 2022

Planning application 2021/5658/P is refused. It is considered expedient to take formal enforcement action given the harm to the heritage assets.

Relevant policies / GPDO Category

National Planning Policy Framework 2021

London Plan 2021

Camden Local Plan 2017

A1 Managing the impact of development

D1 Design

D2 Heritage

D3 Shopfronts

Camden Supplementary Planning Guidance

CPG Design 2021 Chapters 1 (Introduction), 2 (Design Excellence), 3 (Heritage), 6 (Shopfronts)

CPG Amenity

Hampstead Neighbourhood Plan

DH1 Design

DH2 Conservation areas and listed buildings

Hampstead Conservation Area Appraisal and Management Strategy October 2001

Assessment

Relevant Planning History:

2021/5658/P - Replacement of existing ground floor shopfront doors and windows

Refused 14/12/22

Reason for refusal:

The replacement shopfront, by reason of its layout, proportions, detailed design and materials, disrupts the historical elevational composition of a building which contributes positively to the Hampstead Conservation Area, causing harm to the character and appearance of the Conservation Area contrary to policies D1, D2 and D3 of the London Borough of Camden Local Plan 2017, DH1 and DH2 of the Hampstead Neighbourhood Plan.

2021/5657/P - Replacement of existing rear glazed lantern with an openable roof system.

Withdrawn 22/04/2022

2013/2756/C - Demolition of existing single storey additions at rear ground floor level.

Withdrawn 31/05/2013

2013/1673/A - Display of awning, externally illuminated fascia sign and 2x internally illuminated menu boards to existing shopfront.

Granted 18/06/2013.

2013/1672/P - Demolition of existing single storey additions at rear ground floor level and covering over of rear garden and associated roof works including the installation of 2x air conditioning units and roof lights on new roof and flue pipe to rear elevation. Erection of timber screen to side elevation. Refurbishment of shop front including installation of new awning, new halogen heaters and up lighters.-

Granted 04/07/2013.

2012/4337/A - Display of externally illuminated fascia sign, two internally illuminated menu box signs, and non-illuminated branded awning.

Refused 28/11/2012.

2012/4328/P - Demolition of single storey toilet block and conservatory at rear ground floor level and replacement with a single storey extension, opening up of an existing rear wall, installation of 2x air conditioning units at ground and first floor levels, a chiller unit at rear first floor level, replacement of existing ductwork and alterations to shopfront in connection with existing use as a public house (Class A4).

Refused 28/11/2012.

PWX0103177 - New vent grille above ground floor of rear elevation.

Granted 03/07/2001.

8905463 - External alterations to the rear at ground floor level to create a bar area with rooflight conservatory overhead.

Granted 19/10/1989.

1. Assessment

1.0 The main planning considerations in the assessment of the unauthorised shopfront, retractable glazed roof and heat lamps is:

- Design (the impact that the shopfront, retractable roof and heat lamps has on the character and appearance of the host property and Conservation Area);
- Amenity (the impact that the shopfront, retractable roof and heat lamps has on the residential amenity of neighbouring occupiers).

2.0 Design

Shopfront

2.1 Policy D1 aims to ensure the highest design standards for developments. Policy D1 paragraph states that the Council will require all developments to be of the highest standard of design and to respect the character, setting, form and scale of neighbouring buildings, and the character and proportions of the existing building.

2.2 Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings.

2.3 Policy D3 (Shopfronts) of the Camden Local Plan 2017 states that the Council will expect a high standard of design in new and altered shopfronts. With regards protecting existing shopfronts or in this case pre-existing shopfronts the guidance states that shopfronts form an essential part of the character and attractiveness of many areas in Camden, in particular its centres, and contribute to the creation of vibrant streets and public spaces. Policy D3 will therefore seek to protect existing shopfronts that make a significant contribution to the appearance and character of an area, for example through their architectural and historic merit.

2.4 Supplementary CPG Design 2019 provides guidance on the design of shopfronts and advises that insensitive shopfront design can cause harm to the appearance and character of buildings and shopping areas. Historic, locally distinctive or characteristic shopfronts which contribute to the townscape should be retained. In some cases the reinstatement of missing features will be encouraged.

2.5 The Hampstead Conservation Area refers to shopfronts stating, *'There are historic shopfronts*

dating from the late 18th and 19th century and a number of well designed modern shopfronts. Proposals for new shopfronts will be expected to preserve or enhance the visual character and appearance of the shopping streets, through respect for the proportions, rhythm and form of the original frontages. Any shopfront of historic interest or architectural quality should be retained and if necessary repaired and the loss of those shopfronts identified under Shopfronts of Merit and any other historic/original shopfront will be strongly resisted. Shopfronts that are considered to be out of character with the building or the area generally should be replaced with new shopfronts that take note of the above and enhance the appearance of the Conservation Area.'



Figure 1: Existing shopfront at 48 Rosslyn Hill



Figure 2: Pre-existing shopfront (Google Streetview July 2019)

- 2.6 The building was built as the Rosslyn Arms public house in 1869 in a Ruskinian gothic manner. The Council has a statutory duty to preserve or enhance the character and appearance of the Hampstead Conservation Area. The contribution to the area made by 48 Rosslyn Hill is largely its nineteenth century character as a public house, inclusive of its architectural design and materials, fenestration, shopfront and general form and appearance.
- 2.7 There have been changes to the doors of the building over time, but these have largely reflected its nineteenth century character: in the early C20th there were diagonally boarded doors with leaded lights (the central window had been unsympathetically altered at this time).



Figure 3: Historic photo

- 2.8 In more recent years the doors were changed to a different design with raised panels, although they remained C19th in character, if not age. The central window has been replaced with a C19th style 1/1 timber sash:



Figure 4: Pre-existing shopfront

2.9 The application originally sought permission to change the shopfront glazing to a metal “Crittal” arrangement and to alter the central window into doors as detailed below (see figure 5). A site inspection carried out in September 2022 revealed that the alterations most similar to this original submission have been implemented (see figure 6) . There are some difference such as the first bay on the proposed drawings containing a window whereas what is implemented on site contains a door. Heat lamps have also been installed.



Figure 5: Initial proposal as part of application 2021/5658/P



Figure 6: As built shopfront with heat lamps

2.10 During the course of planning application 2021/5658/P the proposal was revised and new proposed drawings submitted to the Council in July 2022 which proposed timber doors and retaining the central window as shown below:



Figure 7: Revised drawings submitted in July 2022 as part of planning application 2021/5658/P

- 2.11 While this amendment is considered less harmful than the initial proposal it still represents an alteration which opens up the façade of the building (by reason of the dropping of the central window and introduction of a stall riser) which is still considered to harmfully affect the character and appearance of the conservation area. This building was designed as a public house, with public bar and saloon access on either side of a central window, and that remains its prevailing appearance. The proposed alterations erode this character and therefore fail to preserve or enhance the contribution which the building makes to the character and appearance of the conservation area.
- 2.12 The works are deemed to represent a fairly substantive remodelling of the character and appearance of the shopfront, and are also considered to neither reinstate any known historic precedent or preserve the existing form and materials of the shopfront. In fact, the character of the frontage as a Victorian public house would be eroded, due to the design and materials of the proposed replacement doors and the loss of the original door-window-door arrangement.
- 2.13 The key messages on shopfronts in the Camden Planning Guidance (Design 2021) are:
- *Shopfronts should be designed to a high standard and should consider the character and design of the building and its context*
 - *Shopfront alterations to existing buildings should respect the detailed design, materials, colour and architectural features of the shopfront and building itself*
- 2.14 Policy 6.1 states that “*Shopfronts make a significant contribution to the character and richness of experience of Camden’s centres and streets.*”
- 2.15 Policy 6.2 also states that “*It is important that new shopfronts and alterations to existing shopfronts are sensitively designed and do not detract from the character of the host building or the surrounding area. Insensitive alterations to existing shopfronts and poorly designed shopfronts in new buildings can erode the character of existing frontages and the local area.*”
- 2.16 The unauthorised alterations are considered to erode the character of the host building, alter the architectural design and materials of the pub frontage and have replaced a relatively sympathetic arrangement with something less sympathetic causing harm to the character and appearance of the conservation area contrary to policies D1 (Design) , D2 (Heritage) and D3 (shopfronts) and Camden Planning Guidance – Design.

Rear glazed retractable roof

- 2.17 Withdrawn planning application 2021/5657/P sought permission to replace the rear glazed lantern with an openable roof system covering the rear yard. Officers advised this application was likely to be refused and it was subsequently withdrawn by the agent.
- 2.18 The rear of the premises appears to have been an open yard, typical of nineteenth century pubs which was later enclosed by a glass canopy in 2013. The site is not listed (although it is adjacent to the grade II* listed church Unitarian Chapel). The 2013 permission referred to the fact that “The proposed roof over the existing yard area is to be asphalt flat roof system with code 4 lead flashings. Given that this element of the proposal would not be visible from the wider public realm it is considered that this element of the proposal would not cause undue harm to the character and appearance of the conservation area or the setting of the grade II* listed church located adjacent to the application site.” It is unclear if the reason for acceptability focused on the invisibility of the flat part of the roof or the pitched part, but in any case the existing arrangement is in fact visible from the wider public realm and certainly had not enhanced the character and appearance of the conservation area or the setting of the GII* listed church:

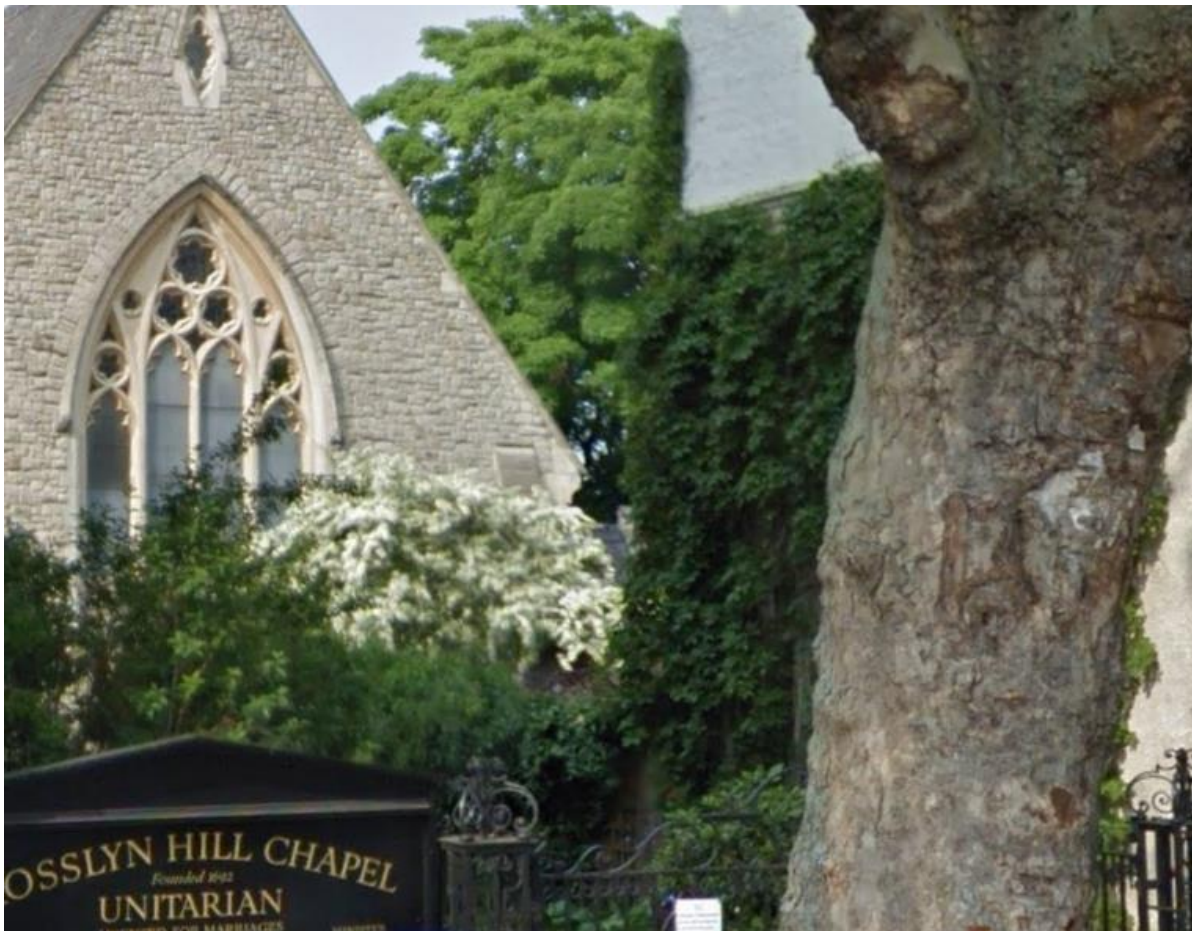


Figure 8: Pre-roof. View towards church yard and rear of premises of 48 Rosslyn Hill



Figure 9: Pre-existing roof



Figure 10: As built view from church yard



Figure 11: As built view from inside the premises

- 2.19 The as built roof does not appear to match the drawings submitted as part of planning application 2021/5657/P. The roof is visible from the public realm and approach to the Grade II listed church. It has a much more bulky appearance than the pre-existing roof
- 2.20 The retractable roof results in an uncharacteristic form and appearance in terms of both the positive contribution of the nineteenth-century pub and the setting of the Grade II nineteenth-century church. The unauthorised retractable roof is considered to erode the townscape contribution made by the host building and replaces a relatively tolerable arrangement with something less sympathetic to historic character, i.e. would fail to preserve or enhance.
- 2.21 The replacement of the existing roof, and its replacement with a retractable roof, by reason of its detailed design, materials, and appearance, causes harm to the character and appearance of the Hampstead Conservation Area contrary to policy D1 and D2 of the London Borough of Camden Local Plan 2017, DH1 and DH2 of the Hampstead Neighbourhood Plan, the London Plan 2021, and the National Planning Policy Framework 2021.

Heat Lamps

- 2.22 The submitted drawings for planning application 2021/5658/P did not show heat lamps to the front of the premises. Figure 12 below shows there to be 2 heat lamps installed. These are considered to add unnecessary clutter and further erode the character and appearance of the shopfront.



Figure 12: Shopfront with 2 x heat lamps

3.0 Neighbouring Amenity

- 3.1 Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. Policy A1 seeks to ensure that development protects the quality of life of occupiers and neighbours by stating that the Council will only grant permission for development that would not harm the amenity of neighbouring residents. This includes privacy, noise, overlooking, outlook and implications on daylight and sunlight.
- 3.2 Given the nature of the shopfront and position of heat lamps, it is not considered to impact upon the amenity of neighbouring occupiers with regards to privacy, noise, overlooking, outlook and implications on daylight and sunlight.
- 3.3 The adjoining property is also commercial at ground floor, the retractable roof is not considered to result in loss of daylight, sunlight, privacy and outlook. With regards noise disturbance when the roof is open, it is considered that noise spillage to residential occupiers on the upper floors will cause disturbance. While this is only likely to occur in the warmer months, this is not considered enough to mitigate the harm.

5.0 Conclusion

- 5.1 The unauthorised shopfront, by reason of its layout, proportions, detailed design and materials, disrupts the historical elevational composition of a building which contributes positively to the Hampstead Conservation Area, causing harm to the character and appearance of the Conservation Area contrary to policies D1, D2 and D3 of the London Borough of Camden Local Plan 2017, DH1 and DH2 of the Hampstead Neighbourhood Plan
- 5.2 The unauthorised retractable glazed roof, by reason of its detailed design, materials, and appearance, causes harm to the character and appearance of the Hampstead Conservation Area contrary to policy D1 and D2 of the London Borough of Camden Local Plan 2017, DH1 and DH2 of the Hampstead Neighbourhood Plan, the London Plan 2021, and the National Planning Policy Framework 2021.

- 5.3 The unauthorised retractable glazed roof, by reason of its detailed design and ability to open, may cause noise disturbance to neighbouring residential occupiers contrary to policy A1 of the London Borough of Camden Local Plan 2017, Camden Planning Guidance on Amenity, London Plan 2021, and the National Planning Policy Framework 2021.

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 requiring the removal of the unauthorised shopfront and reinstatement of the pre-existing shopfront in material, design, and proportions, removal of the rear retractable roof and reinstatement of the pre-existing roof in material, design and proportions and removal of heat lamps to the front of the premises and to pursue any legal action necessary to secure compliance 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:

Without planning permission, the replacement of a shopfront, installation of a retractable glazed roof to the rear of the premises and heat lamps attached to the front of the premises

WHAT ARE YOU REQUIRED TO DO:

- 1) Remove the unauthorised shopfront and heat lamps
- 2) Reinststate a shopfront to replicate the material, design, proportions and openings of the pre-existing shopfront
- 3) Remove the unauthorised retractable rear roof to the rear of the premises
- 4) Reinststate the rear roof to replicate the material, design and proportions of the pre-existing rear roof
- 5) Remove all associated debris from site and make good on any damage caused

PERIOD OF COMPLIANCE: 3 months

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

1. It appears that the breach of planning control has occurred within the last 4 years.
2. The unauthorised shopfront , by reason of its layout, proportions, detailed design and materials, disrupts the historical elevational composition of a building which contributes positively to the Hampstead Conservation Area, causing harm to the character and appearance of the Conservation Area contrary to policies D1, D2 and D3 of the London Borough of Camden Local Plan 2017, DH1 and DH2 of the Hampstead Neighbourhood Plan.
3. The unauthorised retractable glazed roof, by reason of its detailed design, materials, and appearance, causes harm to the character and appearance of the Hampstead Conservation Area contrary to policy D1 and D2 of the London Borough of Camden Local Plan 2017, DH1 and DH2 of the Hampstead Neighbourhood Plan, the London Plan 2021, and the National Planning Policy Framework 2021.
4. The unauthorised retractable glazed roof, by reason of its detailed design and ability to open,

may cause noise disturbance to neighbouring residential occupiers contrary to policy A1 of the London Borough of Camden Local Plan 2017, Camden Planning Guidance on Amenity, London Plan 2021, and the National Planning Policy Framework 2021.