



Date: 12th June 2023

MEK Town Planning and Design
Consultants Ltd

**Town and Country Planning Act 1990 (as amended)
Section 174**

WRITTEN REPRESENTATIONS APPEAL

Planning Enforcement Notice issued in respect of the following unauthorized development:

- A. Without planning permission: Installation of retractable awning, erection of a timber enclosure and planters to forecourt and introduction of a ramped access to the front entrance.

At

Land at: 94 Camden Road, London, NW1 9EA

On Behalf of:

Mr T & S Sestili & Cuppari
C/O Map & Co. Architects Ltd
17 Coachman's Terrace,
80-86 Clapham Road
London SW9 0JR

Prepared by

Mr. Moses Ekole MA (Urban and Regional Planning)
Planning Consultant
MEK Town Planning and Design Consultants Ltd
14 Clive House, Haddo Street, London, SE10 9RH

Date: 12th June 2023

CONTENTS

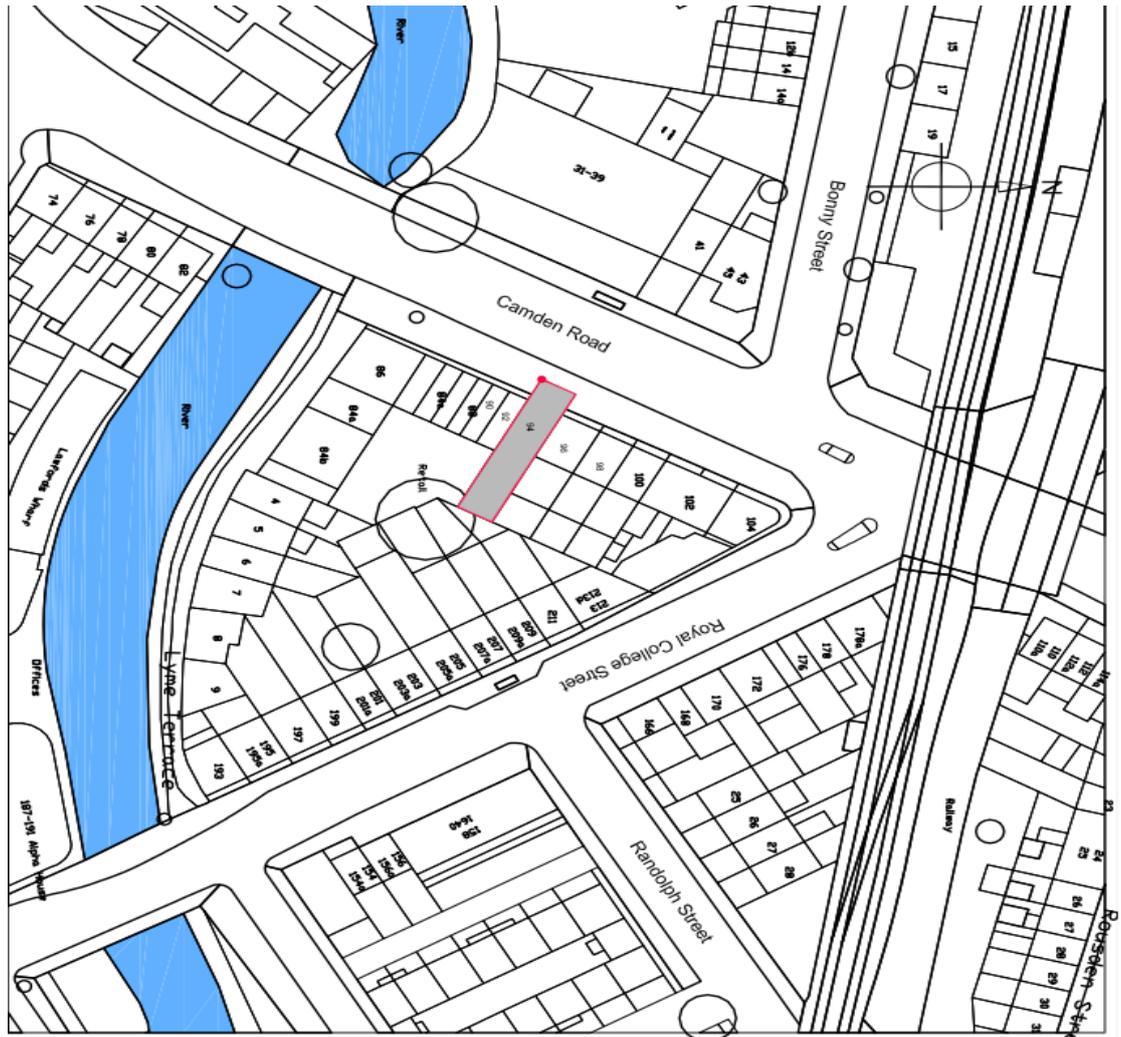
1 INTRODUCTION.....	3
2 LOCATION AND DESCRIPTION OF APPEAL SITE AND SURROUNDINGS	3
3 PLANNING HISTORY.....	4
4 THE ENFORCEMENT NOTICE THE SUBJECT OF THIS APPEAL.....	4
5 CASE FOR THE APPELLANT	6
6 CONCLUSION.....	7



PHOTO 1: THE APPEAL SITE AND THE EXISTING DEVELOPMENT.

1 INTRODUCTION

- 1.1. This Appeal Statement has been prepared by Mr. Moses Ekole the Planning Consultant from MEK Town Planning and Design Consultants in respect of a written representation appeal made by Mr T & S Sestili & Cuppar. The appeal is made under Section 174 of the Town and Country Planning Act 1990 (as amended) against the Enforcement Notice issued by the London Borough of Camden, alleging unauthorised development at 94 Camden Road, London, NW1 9EA; ("the Land") shown outlined in red on the attached plan.



2.0. LOCATION AND DESCRIPTION OF APPEAL SITE AND SURROUNDINGS

- 2.1. The site relates to the ground floor restaurant which is located on the eastern side of Camden Road. There are 3 bench seats and 3-fold up chairs to one set of tables, and additional 3-bench seats to the other set of tables. These are placed on the pavement to the front of the restaurant.

2.2. The table and chairs area are enclosed by a modest timber enclosure and some planters. There is a tree on the pavement adjacent the outdoor enclosed sitting area but this tree and the sitting area do not restrict pedestrian movement.

2.3. The site lies within the Camden Broadway Conservation Area and the building is not listed.

3.0. RELEVANT PLANNING HISTORY

3.1. The application was received as valid by the Council on 10/06/2022 and it was given a reference number 2022/1770/P. Unfortunately, this application was refused planning permission on 24/11/2022 under delegated powers.

4.0. THE ENFORCEMENT NOTICE SUBJECT OF THIS APPEAL

4.1. The Camden Council issued an Enforcement Notice on 12th May 2023, a copy of which is submitted with this appeal.

4.2. The Notice alleges at section 3:

- *Without planning permission: Installation of retractable awning, erection of a timber enclosure and planters to forecourt and introduction of a ramped access to the front entrance.*

4.3. Section 4 of the Notice provides the Council's reasons for issuing the Notice which are cited as:

- a). That development has occurred within the last 4 years.*
- b). The canopy, enclosure and planters, by virtue of their siting, size, and design, appears as bulky, incongruous and unsympathetic additions that harm the character and appearance of the lost property, street scene and conservation area, contrary to policies D1 (design) and D2 (heritage) of the London Borough of Camden Local Plan 2017; and*
- c). The timber enclosure, by virtue of its siting and size, reduces the amount of useable, unobstructed footway, which is detrimental to the quality of the public realm, cause harm to highway safety and hinder pedestrian movement and have a detrimental impact on the promotion of walking as an alternative to motorised transport, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.*

4.4. Section 5 of the Notice sets out what steps are required to remedy the breach of planning control which are stated to be:

- a). *Completely remove the retractable awning and make good any damage as a result of this operation; and*
- b). *Completely remove the timber enclosure and planters located on the forecourt, remove all resultant materials and make good any damage as a result of these operations.*

4.5. The Notice comes into effect on 24th June 2023 unless an appeal is lodged beforehand. The time for compliance with the notice is detailed at Section 6.

5.0. CASE FOR THE APPELLANT

5.1 The Appellant has lodged an appeal under the Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002 Statutory Instrument 2002/2683.

5.2. The Enforcement Notice alleges two elements of unauthorised development: These are set out in section 4.0 of this document.

5.3. The appeal is made on the following basis:

Ground A – That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

Ground B - That, the breach has not occurred.

Ground C – That, the matters set out in the Notice do not constitute a breach.

Ground F – That, the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control.

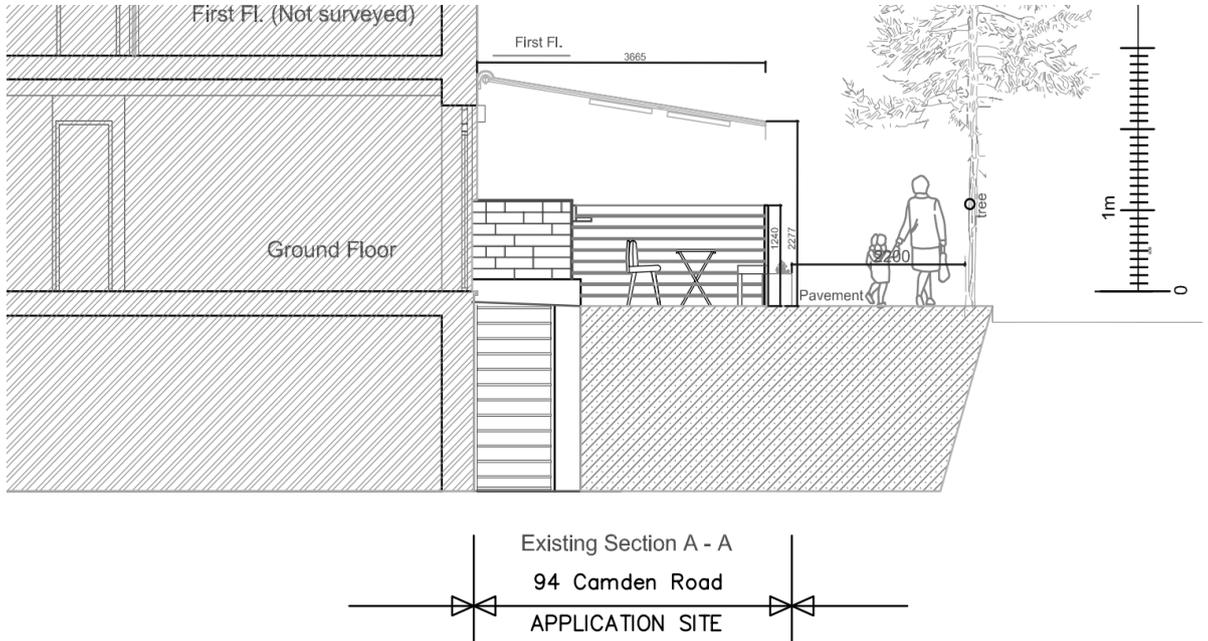
GROUND A - APPEAL.

5.4.1. In respect of Ground A: The development, the subject to this appeal, has already been implemented and it is existing at the appeal site. The existing development is described on the notice as the: *Installation of retractable awning, erection of a timber enclosure and planters to forecourt and introduction of a ramped access to the front entrance.*

5.4.2. The design and layout of the existing development is set out below:

- Existing retractable awning is 3.66m deep and it has clearance height of 2.27m above the pavement. The colour of the awing is maroon.

- The seat out area is enclosure by timber materials – measuring 1.24m in height, the width is 4.4m and 2.0m deep.
- The planters measure about 0.4m in height, and 0.3m deep.
- There is a street tree adjacent the pavement which maintains a separation distance of 2.2m from the development to allow for pedestrian movement.

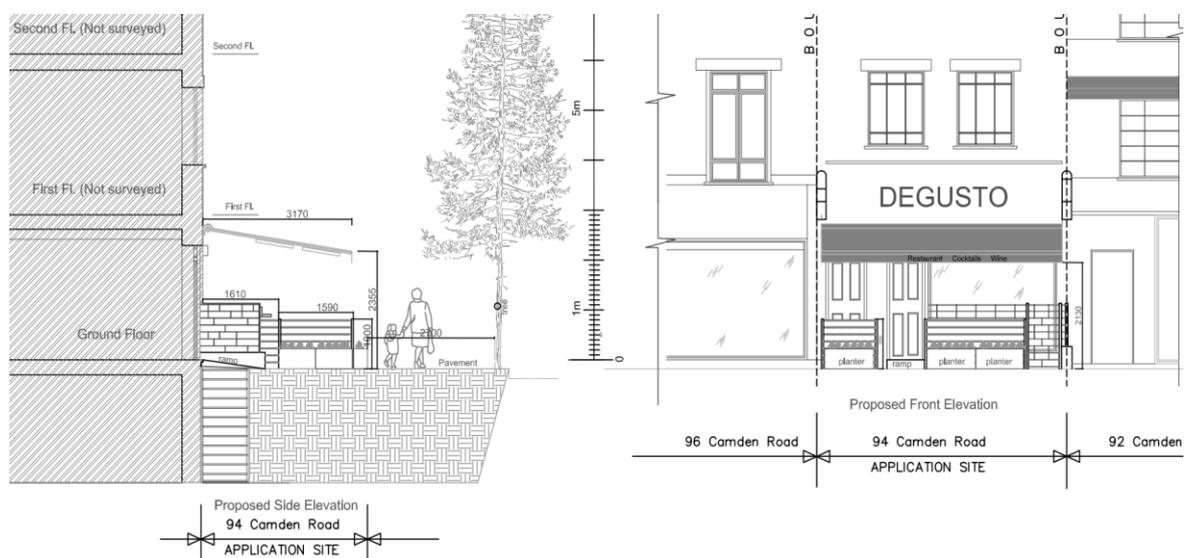


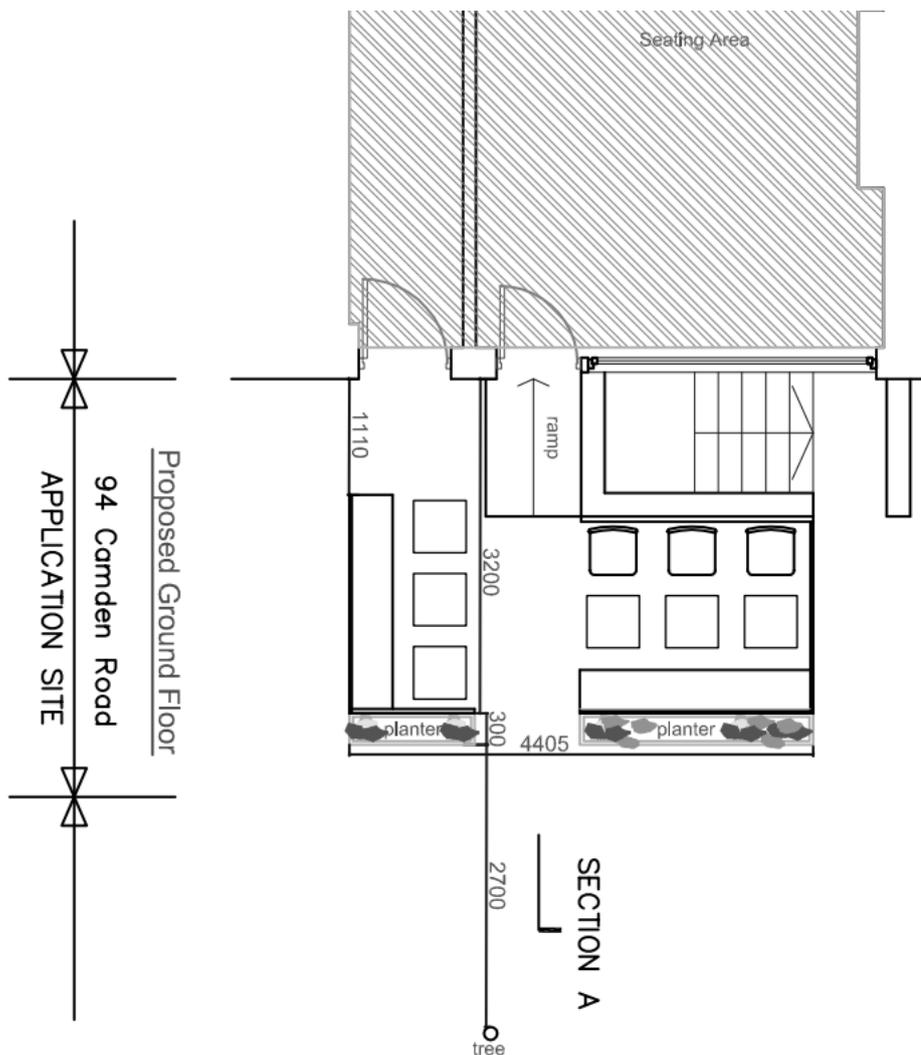
EXISTING DEVELOPMENT TO THE FORECOURT OF THE APPEAL SITE, ALSO SHOWING THE STREET TREE.

5.4.3. The appellants notes that the enforcement notice relates to the existing development, however, the appellant would like to bring to your attention that, the proposal was revised and planning permission reference 2022/1770/P was sought for that revised proposal which was described on the application form as: “alterations to existing shopfront to include installation of retractable awning, placing of tables and chairs within a 1m high timber enclosure and introduction of a ramped access to the front entrance”. Unfortunately, this application was refused planning permission on 24/11/2022 under delegated powers. There is currently an ongoing appeal reference APP/X5210/W/22/3312493 against the Councils decision to refused planning permission for revised proposal.

5.4.3.2. The design of the revised layout and scale of the development which was refused planning permission, is set out below:

- Revised retractable awning would be 3.17m deep and would have a clearance height of 2.35m above the pavement. The colour would remain maroon.
- The seat out area is enclosure would remain of timber materials and the revised would be 1m, depth 1.59m and the width would remain 4.4m.
- The height of the planters would remain about 0.4m and the depth would be 0.3m. The planters would provide soft screening as well as contribute towards urban greening.
- The separation distance between the adjacent street tree and the revised development would now be increased 2.2m to 2.7m. This is to ensure a clear pathway that would allow for pedestrian movement without any obstructions.
- Ramped access would be introduced to the front entrance to the shop. This is to enable inclusive access for all patrons which include among others, disables, mothers with trams, the elderly and the blind etc.





5.5. The appellant argues that the existing development is generally modest in scale and size. In addition, it is formed of sympathetic construction materials being timber - which visually makes a positive contribution to the streetscape, and conservation area. The existing planters are not only adding the desired visual interest here, but they are providing a softening appearance to the enclosure in views from the surrounding street scenes and from views within the conservation area. There are also plenty of customer outdoor seat out areas on the pavement to the front of the shopping parade and the existing development at the appeal property follows that pattern of development in this locality. In light of this, the existing development preserves the character and appearance of the host building, street scene, shopping parade, and this part of the Camden Broadway Conservation Area. As such, it merits approval in planning decisions and planning permission should be granted by the appeal Inspector on those grounds.

5.5.1. Turning on to the relationship of the development with pedestrian footway: The existing development maintains substantial separation distance from the adjacent street which provides sufficient clear pedestrian environment free of any obstruction. Contrary to the view of the Council, the existing development is not an impediment to the highway safety; and it

does not hinder pedestrian movement, nor negatively impact upon the promotion of walking as an alternative to motorised transport. The development would therefore not conflict with Policies G1, A1, C6, and T1 of the London Borough of Camden Local Plan 2017 as alleged by the Council.

5.5.2. Other Considerations: The appellant would also like to bring to the attention of the Inspector that, the property has always had outdoor seat out enclosures to the forecourt and these has always been part of the streetscape for several years and recorded on the google street time-lines. The images are given below for your consideration.



Photo: Showing similar enclosure in place in Jan 2021. The appellant replaced this!





5.5.3. Having regard to those previous similar developments there as demonstrated on the photographs above, the existing development follows on from that, and the visual impact upon the street scene and conservation area is not materially different from what has always been to the forecourt of the host building.

5.6. Turning on to the revised proposal, whilst this is currently the subject of a separate appeal application reference APP/X5210/W/22/3312493, that revised scheme has reduced the overall scale and size of the development even further. The siting arrangement rains within the forecourt of the host building, and materials would remain timber which are considered sympathetic. The introduction of a ramped access to the front of the shop would not only be integrated in a discrete manner, but it was informed by the need to address the mobility challenges of the disable; mothers with prams; the elderly, children, and pregnant mothers.

Such a step free access would therefore provide opportunity for inclusive access which would also be policy compliant. The appellant would like to bring to your attention that, the visual impact of the revised proposed scheme and its impact upon the surrounding street scenes, shopping parade, street scape and this part of the conservation area would not materially be different from the existing situation.

5.7. GROUND F APPEAL

5.5. As demonstrated in Ground A above, the development is acceptable in planning terms and to that end, the appellant's case in respect of Ground F is that the excessive requirements of the Enforcement Notice in Section 5 were unnecessary, irrelevant and a complete waste of time as well as waste of financial resources to the appellant.

6.0. CONCLUSION

6.1. From the foregoing assessment, the appellant considers that the matters set out in the Enforcement Notice do not constitute the breach of planning control because the development follows on from the prevailing pattern of development as demonstrated on the submitted google images. The visual impact of the development is acceptable to the surrounding street scenes and in views from within the conservation area. The development therefore merits approval for its retention existing.

6.2. The revised scheme was considered by the appellant and appropriate planning permission was sought, unfortunately, this was refused. Whilst a separate appeal against that is currently ongoing reference APP/X5210/W/22/3312493, the revised proposal is also acceptable in planning terms. Nevertheless, that decision is being expected from the appeal Inspector appointed to deal with that ongoing appeal.

6.3. In conclusion, the development is acceptable in the context of the site and Development Plan Polies of the London Borough of Camden. It is the view of the appellant from the foregoing that no breach has occurred and that the matters set out in the Notice do not constitute a breach as alleged by the Council under grounds (b) and (c). The Inspector is therefore respectively requested to dismiss the Enforcement Notice and retrospectively grant planning permission under Ground A for the retention of the development as built.