

Date: 10/10/2023
PINS ref APP/X5210/C/22/3305743
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The Planning Inspectorate
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Dear Vanessa Poncia,

Local Planning Authority's final comments on the appellant's reference to the Brent Appeal Decision (referenced: APP/T5150/C/06/2017354 or E/05/0783) dated 11th December 2006.

Appeal site: 306 Kilburn High Road, London, NW6 2DB

Appeal by: HONG LI LIMITED

Planning Application 2021/6303/P: Retrospective application to replace 22 x timber sash windows with new uPVC double glazed windows. [Refused on the 1st June 2022].

Enforcement Notice dated 9th August 2022

Linked Appeal: APP/X5210/W/22/3302064

I write in connection and expansion to points 5.1 and 5.2 of the LPA's Appeal Statement dated 16th December 2022, which has already been sent to the Insepctor.

The Council would be grateful if the Inspector would consider the contents of this letter which includes the final comments on the Appellant's citation of the above referenced Brent Appeal Decision (Brent Appeal), and that the Council respectfully requests be considered without prejudice before deciding the appeal.

Yours sincerely,



Joshua Cheung
Planning Enforcement Officer
Supporting Communities Directorate

1. Summary of this matter:

1.1 The sustainability section of the appellant's statement dated 29th June 2022 relies on this Brent Appeal. The Council's initial comments to this was the following:

"5.1 ...The statement also cites the enforcement appeal from the London Borough of Brent (APP/T5150/C/06/2017354) as an example of an appeal concerned with the installation of uPVC windows without planning permission. The appeal was apparently granted and the Inspector commented that the Council's outright ban on the use of uPVC is over-simplistic because it fails to take into account the benefits of using uPVC..."

"5.2 The Council has been unable to locate the appeal decision which the appellant refers to, and so we have no context on when the decision was made and the weight of environmental concerns at that time, or what the development plan policies were at that time for the local authority, or indeed the individual circumstances of that case."

1.2 On the 5th October 2023, the Council was notified and sent a copy of this Brent Appeal Decision (referenced: APP/T5150/C/06/2017354 or E/05/0783) dated 11th December 2006 for the final comment on this matter.

2. The Brent Appeal Decision (APP/T5150/C/06/2017354 or E/05/0783) dated 11th December 2006:

2.1 The Brent Appeal concerns the enforcement notice regarding the installation of uPVC windows at 6 Bouverie Gardens, Harrow, HA3 0RQ (Mount Stewart Conservation Area, Article 4 direction), without planning permission. The appeal was allowed and notice quashed.

2.2 The main reasons for this decision was because the Inspector considered that Brent's sustainability policy and guidance background did not justify the rejection of uPVC in this specific case - to which Brent Council provided a lack of detailed consideration to the design and setting merits of the case - and that this appeal decision would not allow for a future precedent to arise.

2.3 These reasons form the basis of why the appellant's use of the Brent Appeal should be provided little/no weight in the Inspector's decision for this Appeal.

3. LPA's comments - Differing and outdated policy and guidance framework:

<i>Policy and guidance framework pursuant to the Brent Appeal</i>	<i>Policy and guidance framework pursuant to this Appeal</i>
The London Plan 2004	National Planning Policy Framework (2021)
Mount Stewart Conservation Area Design Guide 1994	The London Plan 2021
Brent Unitary Development Plan (UPD) 2004 Policy BE2 (Townscape: Local Context and Character)	The Camden Local Plan 2017 Policy A1 (Managing the impact of development) Policy D1 (Design)

Policy BE7 (Public realm: Streetscape) Policy BE9 (Architectural quality) *Policy BE12 (Environmental Design Principles) Policy BE25 (Development in Conservation Areas) Policy BE26 (Alterations and Extensions in Conservation Areas) Brent Planning Guidance 2003 *SPG19	Policy D2 (Heritage) Policy CC1 (Climate change mitigation) Camden Planning Guidance 2021 *CPG Home Improvements *CPG Design CPG Amenity
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3.1 First and foremost, Camden’s planning policies and guidance are different to Brent’s. In this matter, Camden’s policies and guidance are also more up to date and comply with the NPPF than those found in Brent’s UDP (2004) and SPG19 (2003).

3.2 Local Plans do not specify what materials applicants should and should not be used. As such, supplementary planning documents are adopted to guide applicants through their proposals, and hold weight in planning and appeal decisions.

3.3 **Brent Appeal:** It is evident from the Inspector’s decision that the foundation of Brent’s case rested on UPD Policy BE12 which sought the use of more sustainable materials - expectedly, made no reference to uPVC or any other materials in this regard. And SPG19 which focused on the principles and practice of the design process that will produce a sustainable built environment, but made no direct reference to uPVC. Whilst it is irrelevant to this case what the current status of Brent’s sustainability framework is, it is likely the policies have evolved and strengthened, and new guidance adopted since 2003. Whereby, the Inspector may have judged the case differently with Brent’s current planning policies and guidance.

3.4 **This Appeal:** The Council has provided our full arguments, which are primarily dictated by the above up-to-date local plan policies, against the unauthorised uPVC windows in the officer’s report and the LPA’s statement. However, in light of this Brent Appeal, I would again bring to the attention of the Inspector Camden’s CPG Home Improvements (2021) and CPG Design (2021), which support our arguments through direct addressal of the use of uPVC. These documents state the Council “strongly discourages uPVC windows for both aesthetic and environmental reasons”, and that we will “resist the addition of new elements that would detract from the building’s appearance”, including ‘Non-Designated Heritage Assets’. These CPGs were sent with the questionnaire.

3.5 The policy and guidance considerations of the Brent Appeal and this appeal are therefore not comparable. This alone should invalidate the appellant’s use of the Brent Appeal, but we will further comment as follows.

4. LPA’s comments - Differing contexts (Design, location and setting):

Design:

4.1 **Brent Appeal:** The installed uPVC windows are side and top opening bay and casement windows which were considered to “replicate” the original bay and casement windows, “nor

do they incorporate incongruous air vents” - notable design considerations which likely led to the Inspector’s appeal allowance.

4.2 This Appeal: The uPVC windows in contention are all 1-over-1 bottom opening, all of which have incongruous air vents prominently in the middle of the windows, a shinier/synthetic finish, and are thicker in proportions compared to the replaced 1-over-1 timber sash windows (See Figure 1). Their appearances when they are opened are very different too. They cannot be considered to ‘replicate’ what was previously in-situ.



Figure 1 – [Left] New unauthorised uPVC window opened. [Right] Prior timber sash windows opened.

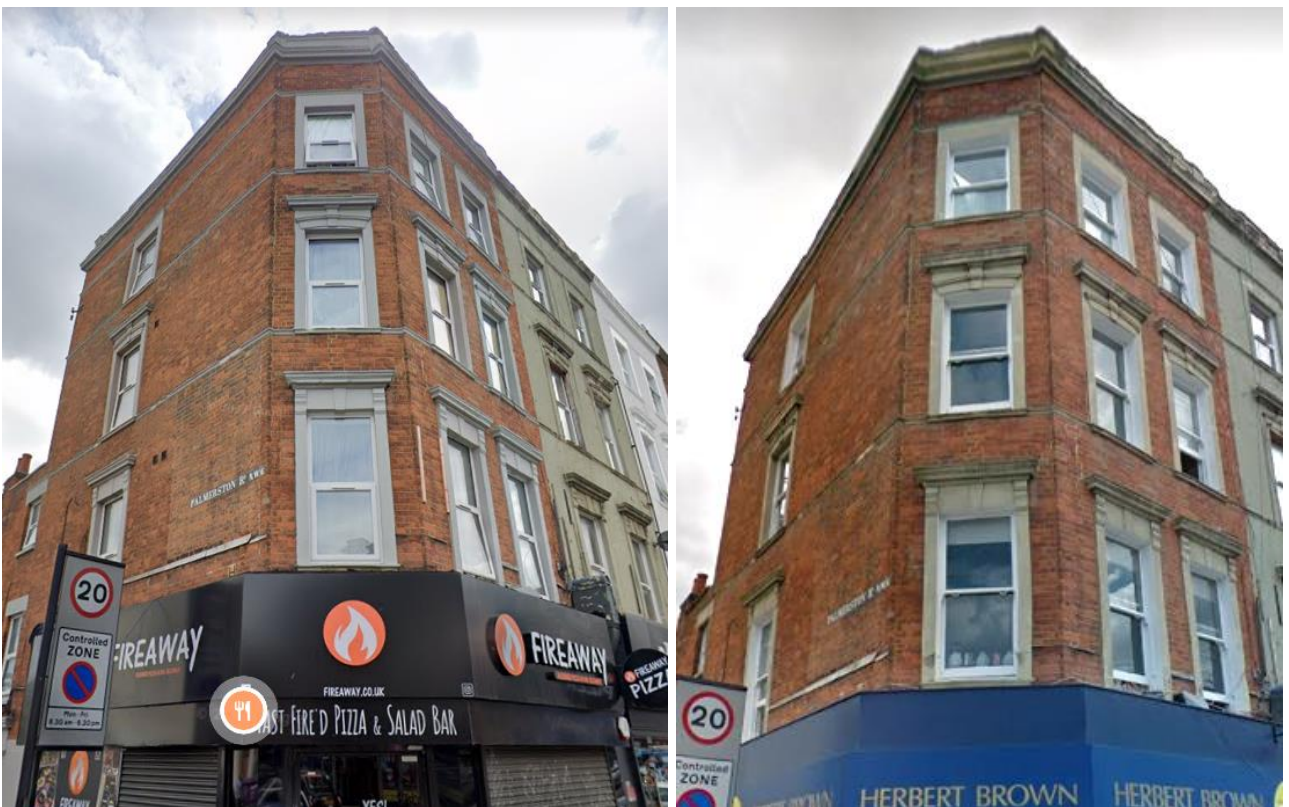


Figure 2 – Extent of the effect of the unauthorised uPVC windows. [Left] Before. [Right] After.

4.3 The design considerations are vastly different and are therefore not comparable.

Location and setting:

4.4 **Brent Appeal:** 6 Bouverie Gardens is a 2-storey Mock-Tudor property which sits in a quiet residential terrace.

4.5 **This Appeal:** 306 Kilburn High Road is a prominent 4-storey corner site that sits on a busy main road commercial high street.

4.6 The location and setting considerations are also vastly different and cannot be compared.

4.7 Whilst 6 Bouverie Gardens is under an Article 4 direction and lies within the Mount Stewart Conservation Area, I would note Camden's approaches to Conservation Areas are also different to that of Brent's. So, any simplistic argument of 6 Bouverie Garden lies within a Conservation Area and this appeal was allowed should not influence the design and conservation merits of this appeal case.

5. LPA's comments - Precedents:

5.1 **Brent Appeal:** The Inspector's comment on precedents:

"14. ...I do not consider that allowing the ground (a) appeal would set a precedent for the use of PVCu windows in this or any other Conservation Area as a matter of course, as each case should be considered on its merits and I intend to allow this appeal because of the good quality of the design, which is, in part a function of the relatively simple style of the original windows. The Council will retain its ability to judge submitted schemes on their merits and to take appropriate action if the installed windows do not match the approved plans.

"15. In the same way that this decision should not be regarded as setting a precedent for subsequent ones, so those made in the past in respect of other sites carry little weight in my deliberations..."

5.2 **This Appeal:** We trust the Inspector will continue to judge the unauthorised works at 306 Kilburn High Road on a case-by-case basis, thus provide little/no weight to this significantly different and outdated matter in Brent.

6. Conclusion:

6.1 The poor-quality materials and design of the windows are considered a harmful, unsympathetic and incongruous additions that detract from the host building, contrary to Camden Local Plan policies, Camden Planning Guidance 2021.

6.2 As the appellant's sustainability section rests on this irrelevant Brent Appeal Decision, I kindly invite the inspector to attribute little/no weight to their principle argument.

If you require any further information or clarification on any matter associated with this case please contact Joshua Cheung on the above email or direct dial number.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'JC', is located in the upper left quadrant of the page.

Joshua Cheung
Planning Enforcement Officer
Supporting Communities Directorate