



Date: 21st November 2023
Your Refs: APP/X5210/F/3328412
Our Refs: EN23/0145
Contact: Angela Ryan
Direct Line: 020 7974 3236
Angela.Ryan@camden.gov.uk

Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Faiza Kanwal,

Site: Koko, 1A Camden High Street, London NW1 7JE

Enforcement Notice against unauthorised internal and external alterations to this listed building. The works include installation of a generator terminal and louvres on the Crowndale Road side elevation and external lighting and security cameras on the front and side elevations.

APPEAL BY: The Hope Lease Ltd

I write in connection with the above enforcement appeal. The following comprises the Council's appeal statement.

To avoid repetition and for ease of reading, this enforcement appeal statement cross refers to the planning appeal statement regarding the concurrent appeal against refusal of planning permission ref **APP/X5210/W/23/3328414** to retain the unauthorised works. It is suggested that the inspector considers the planning appeal statement first as it focuses on the planning merits and address appeal ground (e).

In addition to the planning appeal submission **3328414** and information sent with the questionnaire, I would be pleased if the Inspector could take into account the following comments before deciding the appeal.

1.0 Summary:

The site description, listing description, planning history of the site, policy frame work and merits of the proposal are set out in the planning appeal statement **3328414**.

1.1 Following refusal of planning permission and listed building consent on

25th April 2023, the enforcement notice was served on 13th July 2023.

1.2 The notice would have taken effect on 25th August 2023. The enforcement notice required that within 1 month of it taking effect the Appellant should:

1. Totally remove the louvres that have been installed on the wall at 2nd floor level on the Crowndale Road elevation;
2. Totally remove the internal louvres that have been installed behind the windows located on the far western side of the building at 2nd floor level on the Crowndale Road elevation;
3. Totally remove the generator terminal that has been installed at ground floor level on the Crowndale Road elevation;
4. Totally remove the internal light fixings installed and that are associated with the external lighting installed on the front and side elevations of the building;
5. Totally remove the CCTV camera on the Crowndale Road elevation;
6. Repair any damage caused in regards to methods used, and match the materials, colour, texture, and profile as a result of these works.

1.3 The appeal has been made on the following 5 grounds:

- **(e) - that planning permission should be granted.**
- **(g) - requirements of the notice exceeding what is necessary for restoring the building to its condition before the works were carried out.**
- **(h) - that the time to comply with the enforcement notice too short.**
- **(i) - the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose.**
- **(j) - the requirement to remove the CCTV security cameras on the Crowndale Road elevation exceeds what is necessary to alleviate the effects of the works to the building:**

2.0 Relevant planning history

Planning Application (2022/1123/P)

- 2.1 On 25/04/2023- Planning permission was **refused** for the installation of a generator terminal and louvres on the Crowndale Road side elevation and external lighting and security cameras on the front and side elevations on grounds of impact on the listed building and conservation area.

This planning refusal is the subject of the concurrent appeal (Ref: APP/X5210/W/23/3328414).

- 2.2 On 25/04/2023- Listed building consent was **part granted and part refused** for:

a) Listed building consent was **granted** for:
Signs 2, 3, 7 and 8 on Camden High Street, Bayham Street and Bayham Place

b) Listed building consent was **refused** for:

Installation of louvres to accommodate ventilation ducts on Crowndale Road and external lighting, CCTV and signs 1, 4, 5 and 6a on Camden High Street and Crowndale Road. The works were unacceptable on 4 grounds of detrimental impact on the listed building internally and externally, visual clutter and conservation area.

The listed building consent refusal was appealed, but was turned away by the Planning Inspectorate for being submitted too late (Ref: APP/X5210/Y/23/3328413).

- 2.3 On 25/04/2023- Advertisement consent (2022/1124/A) was **part granted and part refused** for the installation of advertisements on Camden High Street, Bayham Place, Bayham Street and Crowndale Road elevations.

Consent was **granted** for

(a) Signs 2, 3, 7 and 8 on Camden High Street, Bayham Street and Bayham Place

Consent was **refused** for:

(b) Signs 1, 4, 5 and 6a on Camden High Street and Crowndale Road

- 2.4 On 20/10/23, an appeal regarding the refused signage was allowed.

(Ref: APP/X5210/Z/23/3324417).

- 2.5** There are various other planning decisions set out in the Delegated report and are not repeated here.
- 2.6** In addition to the current enforcement notice, the council has been proactive in dealing with other complaints to protect this listed building regarding unauthorised works.

Enforcement History

- 2.7** The following sets out enforcement complaints regarding physical works to the building. This demonstrates that the council seeks to protect the fabric of this listed building, a landmark venue.

08/09/21- Complaint received relating to an advert hoarding installed on the front elevation ground to second floor levels (Ref: EN21/0844). The advert was removed and the case formally closed.

13/02/2012- Complaint received relating to poster panels on ground floor side wall to grade II listed building. (Ref: EN13/0158). The poster panels were removed and the enforcement case formally closed.

30/08/2011- Complaint received relating to various external work carried out on roof terrace, including a big advertising box, front canopy signs changed from black to red. Late night shows and associated anti-social behaviour around Mornington Crescent (Ref: EN11/0818). The breach was ceased and the enforcement case was formally closed.

27/09/2011- Complaint received relating to existing timber doors not being replaced following the installation of the new glazed doors to the balcony, application ref: 2010/6495/L. (Ref: EN11/0632). An enforcement notice was issued and subsequently complied with, and the enforcement case formally closed.

27/10/2006- Complaint received relating to installation of banners on the property. (Ref: EN06/0895). The enforcement case was formally closed as no breach was found.

4.0 Relevant planning policy:

- 4.1** In arriving at its current position the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The development subject to this appeal was considered in the light of the following policies. These are set out in the planning appeal statement **3328414** and summarised below.

4.2 National policy documents:-

National Planning Policy Framework (NPPF) Feb 2023 – paragraph 59. It should be noted that at the time that the enforcement notice was issued the 2021 version of the NPPF was applicable. The NPPF has been updated to the 2023 version, however, there has been no material change to paragraph 59 in the NPPF 2023, and it remains applicable. Therefore, the updated NPPF would not have resulted in altering the Council's decision to issue the enforcement notice.

4.3 The London Plan 2021.

- 4.4 Development Plan:-** adopted in June 2017
- A1- Managing the impact of development
 - D1- Design
 - D2- Heritage

4.5 Supplementary Planning Guidance:2021

1. Camden Planning Guidance 2021 (In particular CPG1- Design January 2021)- chapter 5, CPG6-Amenity (March 2021)

4.6 Camden Town Conservation Area Appraisal and Management Strategy 2007

- 4.7** The full text of each of the policies has been sent with the questionnaire documents

5.0 Comments on appellant's grounds of appeal:

Appeal on Ground (e) – that planning permission should be granted:

- 5.1** The appellant's case and Council's response is set out in the planning statement **APP/X5210/W/23/3328414** regarding the merits of the case and is not repeated here.

Ground (g)- requirements of the notice exceeding what is necessary for restoring the building to its condition before the works were carried out:

- 5.2** In 6.1.57 of the Appellant's statement it is argued that the removal of the louvres on the wall and internal louvres installed behind the windows located on the Crowndale Road elevation would be excessive given the fundamental importance of the louvres for the function and continued use of the building. Whilst the Appellant has sought to defend the design and location of the louvres in paragraphs 6.1.13 – 6.1.23 of their

statement, no justification has been given as to why the louvres are fundamentally important or why the function and continued use of the building is contingent on the louvres remaining in place.

- 5.3** As stated under ground (e), the Council's primary concern is that whilst not on the principal elevation, the louvres are located on a part of the building that has a high status, identifiable by the rendered walls and embellished and decorative windows. It is also located on a highly visible part of the building, being visible from the cross roads and those views from Mornington Crescent tube station. This side elevation is likely to be the first view of the building that visitors will see when leaving public transport, and therefore is an important elevation of high significance. The fenestration on this elevation has a clearly defined rhythm and form, creating a punctuation/hole and infilling it with louvres next to these windows compromises this rhythm and undermines the structure and formality of this elevation. This element of the works is therefore considered to be harmful to the historical significance of this grade II listed building.
- 5.4** In paragraphs 6.1.24- 6.1.28 the Appellant discusses the merits of the generator terminal and states that it is a fundamental component of the building to ensure the site's continued operation, but again has provided no justification for why the generator terminal in its location is contingent for the site's continued operation.
- 5.5** In paragraph 6.1.29, the Appellant states that the generator terminal is small in scale and discrete in its setting as well as being painted the same colour to match the elevation fronting Crowndale Road. Even though the generator terminal may be seen as minor in nature and is painted the same colour as the brickwork on the Crowndale Road elevation, the terminal still presents an incongruous feature on the building's façade and is clearly visible within the street. Their circular shape is an inappropriate feature when viewed against the linear brickwork on this significant elevation of the building and is considered to be unsympathetic and inappropriate for this grade II listed building as housing would not have historically been implemented in this way.
- 5.6** Paragraph 6.1.34 – of the Appellant's statement discussed the CCTV cameras that have been installed on the front and side elevations of the building. Whilst the cameras installed on the front elevation (Camden High Street) and side elevation (Bayham Street) are considered acceptable in principle, the one installed on the side elevation (Crowndale Road) is not and is considered to disrupt the architecture and detailing on this façade as well as resulting in unnecessary clutter. The Council disagrees with the Appellant's statement in 6.1.40 that the

camera located on the Crowndale Road elevation has minimal impact on the building's architecture and reduces clutter on that elevation.

5.7 Paragraphs 6.1.42 and 6.1.43 of the Appellant's statement alludes to the CCTV cameras assisting the police with two different cases using CCTV footage, however, appendix 11 submitted in support of the Appellant's statement only alludes to one case relating to a phone theft that occurred in May 2023. The Appellant has given no information as to why the two existing cameras that were installed at the site, could not carry out the same function. Paragraph 6.1.43 of the Appellant's statement further states that the police has specifically stated that the cameras are kept in place, and that they are a fundamental part of helping to prevent crime in the area. Whilst the principle of cameras on the Camden High Street and Bayham Street elevations is accepted, the camera installed on the Crowndale Road frontage is not. The Council acknowledges that the cameras can contribute to preventing crime in the locality, but is of the opinion that, there is a limit on how much crime a single camera located on the Crowndale Road elevation will prevent. The Council is of the opinion that the cameras that existed prior to the new ones being installed were sufficient in relation to crime prevention and also to facilitate the premises operating under their existing license. It appears that the concerns around crime prevention have only been raised as a result of the refused applications.

5.8 Sections 6.1.46- 6.1.62 considers the external lighting that has been installed, and claims in paragraph 6.1.49 that they are a historical feature of the site and the Appellant claims that the floodlights were proposed to be replaced on a 'like for like' basis. Whilst the lights may have been replaced in the same locations as the previous ones, the fixings were not installed on a 'like for like' basis and are considered to be unacceptable in principle. Paragraph 6.1.50 of the Appellant's statement argues that the fixings are not explicitly referred to in the reason for refusal and that the reason for refusal states that the internal alterations associated with the proposed lighting are considered to be incongruous interventions. The Council argues that the light fixings are an integral part of the lighting that has been installed and cannot be viewed as a separate entity. Therefore, there can be no doubt that the 'internal alterations associated with the proposed external lighting' included their associated fixings. The Council is of the opinion that if the lighting was omitted from the scheme, that this would not adversely affect the building's marketability as a music venue as claimed in paragraph 6.1.53 of the Appellant's statement. Whilst the lights when on may attract attention to the building, the Council is of the opinion that they are not imperative to the building's functional purposes in terms of safety and security to those visiting the

site and those within the site's vicinity. Moreover, this can be dealt with using alternative methods e.g., cameras, security guards etc.,

- 5.9** The Council is of the opinion that the requirements in the notice for the louvres, cameras and lights to be removed are not excessive. These particular features have all been installed without the benefit of listed building consent and are therefore unauthorised development and is an offence under section 7 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, from an enforcement perspective, the only remedy to resolving the offence is for these unauthorised elements to be totally removed from the building.
- 5.10** As the window panes have been removed without consent, the notice cannot state what should specifically be replaced, as the Appellant has provided no evidence of what was in place prior to their removal, or the method statement that was used for their installation. Therefore, it is not simply a case of requiring the Appellant to revert to the previous iterations as the Council has no knowledge of what these were, and has a duty to ensure that no further harm is caused to the historic fabric of the building.
- 5.11** In light of the above, the Council refutes that the requirements in the notice seeking removal of the unauthorised louvres, generator terminal, CCTV camera, and lighting is excessive, as they are necessary to resolve this current breach.

Ground (h) - that the time to comply with the enforcement notice too short:

- 5.12** The Appellant states in paragraph 6.1.65 that the total removal of the louvres, generator terminal, light fixings and CCTV Camera requires specialized contractors and protective equipment, and in paragraph 6.1.66 of their statement claims that the total removal is a larger and more complex operation, but have not specified why this is the case. An extended 19-month compliance period has been requested by the Appellant. This is based on the Appellant having pre-application discussion and submitting further applications for approval, which is alluded to in paragraphs 6.1.70 and 6.1.71 of their statement. The Council however cannot guarantee that proposals put forward would be acceptable or that consent will be granted, therefore, the timescale requested is considered to be arbitrary. The Council does not consider that the removal of the unauthorised elements from the building should be contingent on the submission and approval of further applications as it is considered that the operation of the premises is not reliant on these elements being present. Moreover, the Appellant's case relies on

the time before the requirements can be carried out, and therefore, the actual removal of the unauthorised elements are able to be removed within the stipulated 1 month period specified in the notice, as an extension of time has not been justified. However, if the Inspector is minded to dismiss the appeal and considers that a longer compliance period is necessary, then the Council would raise no objection to a longer compliance period being given.

Ground(i)- the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose:

- 5.13** Paragraphs 6.1.77 and 6.1.78 of the Appellant's statement contests that the removal of the louvres, external lighting and light fixtures is a valid requirement of the notice. It is stated that the enforcement notice relates to internal routing associated with the external lighting fixtures. It further goes on to state in paragraph 6.1.76 that the replacement light fittings are in the same location as the existing light fixtures, with the existing internal routing being re-used. In the absence of the Council being able to assess the works prior to them being implemented (given that they were undertaken without the benefit of planning permission/listed building consent) it is difficult for the Council to know whether existing or new routing was used. However, requirement (4) contained in the notice does not mention routing and specifically requires the total removal of the internal light fixings installed that are associated with the external lighting installed on the front and side of the building.
- 5.14** In paragraph 6.1.78, the Appellant contests that the requirement to remove the louvre installed behind the windows (requirement 2 on the enforcement notice) is invalid as they have been installed within two window openings and not behind the windows. The Council contends that whether the louvres have been installed in the window openings or behind the windows, they are still unauthorised development. The requirement for their removal is not prejudiced by virtue of their location as the requirement is clear what the unauthorised louvres are required to be removed. If the louvres are removed, then the Appellant has the option to reinstate the panes of glass that were removed from the windows on a 'like for like' basis, which would not necessarily require planning permission or listed building consent. This would then not leave the building open and exposed as claimed in paragraph 6.1.80 of the Appellant's statement. Therefore, the Council is of the opinion that requirement (2) contained in the notice is capable of being fully complied with.

Ground (j)- the requirement to remove the CCTV security cameras on the Crowndale Road elevation exceeds what is necessary to alleviate the effects of the works to the building:

5.15 Paragraph 6.1.81 of the Appellant's statement argues that the requirement to remove the CCTV security camera on the Crowndale Road elevation exceeds what is necessary to alleviate the effects of the works to the building. Paragraph 6.1.83 of their statement further goes on to say that the CCTV cameras are replacements of cameras that were significantly more intrusive and harmful to the character and appearance of the building. As there has been an increase of two additional cameras with one installed on the Crowndale Road elevation, this cannot be viewed as a replacement to that which was previously installed. The camera installed on Crowndale Road elevation is considered to interrupt the architecture and detailing of the façade and adds unnecessary clutter to the building.

6.0 Conclusion

- 6.1** The louvres, generator terminal, lighting and CCTV cameras are currently unauthorised development.
- 6.2** The position of the louvres have resulted in removing or harming the historic fabric of this grade II listed building and detracts from the architectural and historic interest.
- 6.3** The generator terminal is unsympathetic intervention. Even though they have been painted white to match the colour of the brickwork, they are still visible within the street scene and are jarring against the linear emphasis of the existing brickwork. This is a significant elevation on the building and ideally would not house servicing in this way and detracts from the character and appearance of this grade II listed building.
- 6.4** The building is a statutorily grade II listed building and is of important architectural and historic interest, where Council policy seeks that development preserves or enhances the character and appearance. The removal of the glass window pane and installation of a louvre on the external façade are considered to alter the composition and rhythm of the fenestration and elevation, detracting from the building's historic significance.

The camera installed on the Crowndale Road elevation is considered unacceptable as it would be located on the principal elevation, interrupting the architecture and detailing of the façade and adding to unnecessary clutter to the building and the surrounding conservation area.

- 6.5** The appeal proposal is thereby contrary to policies D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017.
- 6.6** On the basis of the information available and having regard to the entirety of the Council's submissions, including the content of this

letter, the Inspector is respectfully requested to dismiss this appeal for the reasons stated on the enforcement notice.

7.0 Suggested conditions should the Inspector be minded to allow the appeal.

7.1 The works are installed and it is not considered that any conditions would mitigate the impact of the works .However the 2 conditions recommended in the Planning Statement to ensure the drawings are complied with and finishing works are acceptable.

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

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'A Ryan', is positioned below the closing text.

Angela Ryan
Planning Officer
Culture and Environment Department