

From: Christine Hereward

Sent: Thursday, February 15, 2024 8:22 PM

To: TeamE1

Subject: APP/X5210/C/23/3331834 - Appellant's Final Comments on the LPA's Statement of Case. - EN Appeal re 1-6 Arco Walk, Highgate Road, NW5 1BZ

Importance: High

Appellant's Final Comments on the LPA's Statement of Case

Responding to para 3.19 of the Council's Statement of Case -

Each of these six houses is now registered for Council Tax - please see screen-shot below which evidences that. The Council's information as related at para 3.19 of its Statement is out of date.

(It is understood that occupation of each house within Use Class C3 is also underway.)

The alleged Breach cited in the Enforcement Notice ("EN") was "use as temporary sleeping accommodation".

The Council's Reasons for issuing the EN (at para 4(b) and 4(c)) comprised -

(b) loss of permanent residential accommodation

(c) the use as "temporary sleeping accommodation" not being regulated by any Section 106 Agreement addressing parking stress and congestion.

Those objections will be overcome by the six houses being in C3 use (occupation as C3 being pursuant to planning permission 2018/1528/P, which is bound by an Agreement (under S.106 T&CPA 1990 and S.16 Greater London Council (General Powers) Act 1974) which, inter alia, restricts Residents Parking permits).

At para 3.26 of the Council's Statement of Case, the Council acknowledges that once the houses are in C3 residential use the existing S.106 Agreement will bind the property and therefore the Council's Reason 4(c) for serving the Enforcement Notice no longer be applicable, likewise paragraphs 4.1 to 4.9 of the Council's Statement of Case.

Turning to the Requirements of the EN (at para 5), there were two limbs -

1. Cease the use of units 1-6 for temporary sleeping accommodation.
2. Make the use of the building comply with the terms (including conditions, limitations, and agreements) of permission 2018/1528/P as 6 x 4 bedroom units.

It is understood that the first Requirement is on its way to being complied with (see above).

The second Requirement is wholly inappropriate within this EN. It does not relate to the alleged Breach or to the Reasons (as cited above). The Council's assertions at para 3.24 of its Statement are without basis.

If the Council considers that there is a breach of any Condition of planning permission 2018/1528/P then it should send a Warning Letter identifying the alleged breach(es). In the event that any breach of Condition were to continue and the test of expediency be met, it would be open to the Council to serve an Enforcement Notice (or Breach of Condition Notice).

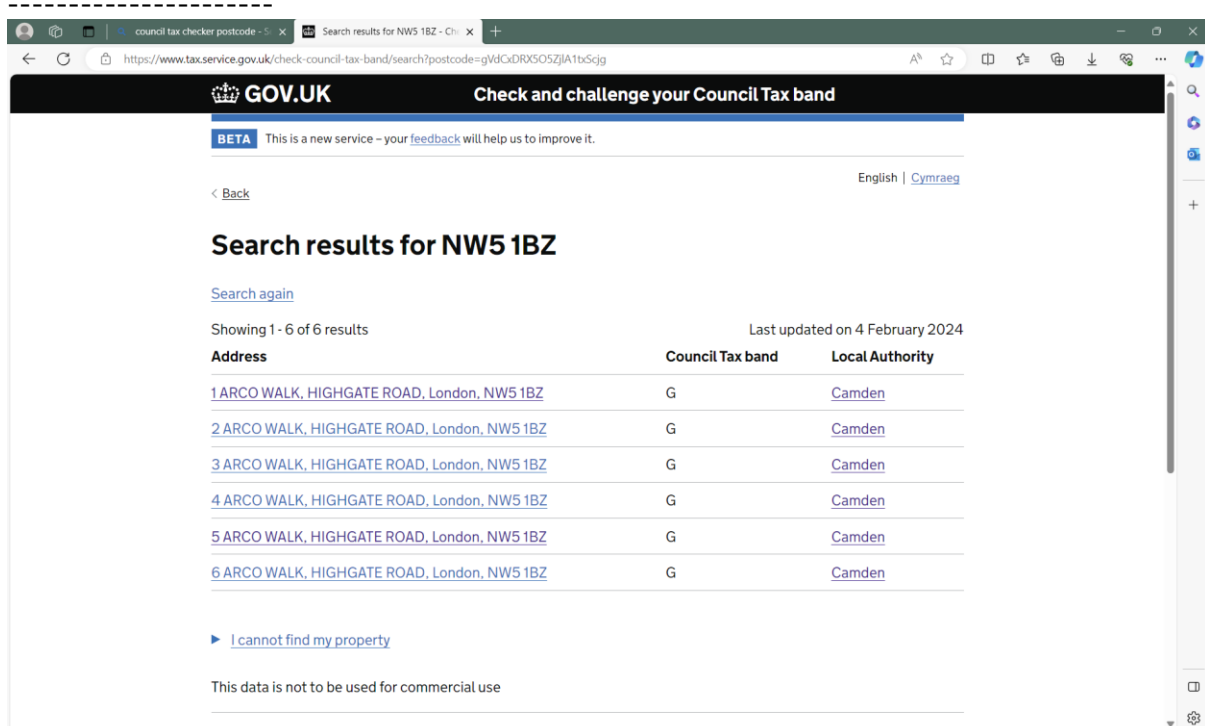
As regards any non-compliance with a S.106/S.16 Agreement, the Council should send a Warning Letter (identifying the alleged non-compliance and giving a deadline for remedying it). Were a breach to continue, the mechanism for enforcing breach a S.106/S.16 Agreement is through the Courts (by seeking an injunction).

The Enforcement Notice powers and processes do not apply to Agreements under S.106 T&CPA 1990 and/or S.16 Greater London Council (General Powers) Act 1974.

With regard to the second Requirement of the EN, para 5.2, the Appellant therefore submits that in the event of the Enforcement Notice being upheld –

- para 5.2 should be deleted
- the following words should be added to para 5.1 "(save in accordance with Section 25A of the Greater London Council (General Powers) Act 1973). "

It appears from para 3.22 of the Council's Statement of Case that the Council shares the view that, if the Notice is upheld, words (as proposed above) should be added to para 5.1.



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4 ARCO WALK, HIGHGATE ROAD, London, NW5 1BZ	G	Camden
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