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The Planning Inspectorate
3b
Temple Quay House
2 The Square
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BS1 6PN

Dear Ben White,

**Town and Country Planning Act 1990 as amended
Planning Appeal Statement (Local Planning Authority)**

Site: 2 Quex Road, NW6

**Appeal by: MR MUHAMMAD ARIF CHAUDHARY, Haji Suleman Halal Butchers
Enforcement Notice dated 16th November 2023**

I write in connection with the above Enforcement Notice regarding the removal of the traditional shopfront at the above address.

The shop front was removed to allow the shop to be wide open to the street during opening hours, and a metal shutter would provide security when the shop is closed. There is no replacement shopfront. The EN requires the reinstatement of the pre-existing traditional shopfront to replicate its design, materials and proportions and the making good of any damage caused as a result of these works.

The Council's case is primarily set out in the delegated enforcement officer's report (EN23/0867) which has already been sent with the questionnaire. It is to be relied on as the principal statement of the case. Copies of the relevant Camden Local Plan policies and accompanying guidance were also sent with the appeal questionnaire.

In addition, the Council would be grateful if the Inspector would consider the contents of this letter which includes confirmation of the status of policy and guidance, comments on the appellant's grounds of appeal and further matters that the Council respectfully requests be considered without prejudice before deciding the appeal.

1. Summary

This two-storey commercial building is identified as part of a designated Local Plan frontage in the Kilburn Town Centre. The appeal relates to the ground floor shop.

The previous shopfront comprised a glazed shopfront window, tiled stall riser, and recessed doorway. It was removed without planning permission in summer 2023.

The removal of the shopfront without a suitable replacement creates a negative impact on the appearance and character of the building and the wider setting of the commercial

area. Currently, there is an established pattern of shopfronts along Kilburn High Road and this small section of Quex Road, and this repetitious design contributes to the character and appearance of the Kilburn Town Centre and wider commercial area.

An application for the removal of the existing shopfront (2023/3367/P) was refused on 20th October 2023 on the basis that the shopfront's removal without a suitable replacement, results in an incongruous alteration, harming the character and appearance of the host building and the wider commercial streetscene, contrary to policies D1 and D3 the Camden Local Plan 2017. A site visit on 10/10/2023 had revealed that the works were completed without planning permission.

An enforcement notice (EN23/0867) was served on 16th November 2023 requiring the reinstatement of the existing shopfront to replicate the design, materials and proportions of the existing shopfront, and the making good of any damage caused as a result of these works.

2. Status of policies and guidance

National Planning Policy Framework 2023

The London Plan 2021

Camden Local Plan 2017

Policy A1 Managing the impact of development

Policy D1 Design

Policy D3 Shopfronts

Camden Planning Guidance (CPG)

CPG Amenity (2021)

CPG Design (2021)

- Chapter 2 – Design Excellence
- Chapter 6 – Shopfronts

There are no material differences between the NPPF and London Plan in relation to this appeal. The Council's Local Plan policies are in the early stages of being updated and it is not envisaged that there would be any material differences in relation to this appeal.

3. Comments on appellant's grounds of appeal:

The appellants have appealed on grounds A, B, C, F and G. The grounds of appeal are summarised and addressed below under these headings.

Ground A- that Planning permission should be granted.

The appellant argues on ground A that planning permission should be granted for what is alleged in the notice for several reasons.

Firstly, they claim that moving the front door would not cause any damage to the structure. The Council notes however that the enforcement notice alleges the removal of the shopfront and does not allege that a new door would cause damage or even mention the implementation of a new door.

The appellant argues that the glass in the old shopfront was sharp and could have posed a health and safety risk. The Council notes however that it is the responsibility of the owner/proprietor to ensure that the materials of any approved shopfront do not pose harm to the general public and should be kept in safe condition by the owner/proprietor.

The appellant argues that the old shopfront was “not good for business”. However the council notes that this is not a planning consideration insofar as it relates to the harm caused by the removal of the shopfront which is recognised as contributing to a pleasant repetitious design of shopfronts on Quex Road. Furthermore, the decision to remove the existing shopfront has been made for business reasons rather than those relating to the granting of planning consent.

The appellant offers to install a new shopfront in place of that which is removed (no indicative plans have been submitted). The Council considers that this offer is not a reason for no shopfront at all to be permitted. The appellant also mentions the application they made for the removal of the shopfront which was refused. Again, this is not a reason to grant approval for what has been implemented. The refusal of 2023/3367/P has outlined exactly the opposite.

Ground B- That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

The appellant under Ground B argues again that no structural harm was caused to the building by removing the shopfront. This is not an argument that the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

Ground D- That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

The appellant states that they emailed the Council’s general planning inbox on 27th July with an enquiry “about the planning permission” but does not elaborate more on the nature of the query. They state that as they did not hear back for 5 months regarding this enquiry, they removed the shopfront before obtaining consent. The Council considers that this is not an argument that demonstrates that at the time the enforcement notice was issued, it was too late to take the enforcement action.

Ground F- The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

The appellant argues that reinstating a shopfront like-for-like with that which has been removed would be bad for business and could potentially lead to a drop in customers at the premises. The Council is of the view that these unsubstantiated business arguments do not address the aesthetic harm caused by the removal of the shopfront.

The appellant also argues that implementing a full glass shopfront in lieu of the approved shopfront would be more beneficial to the business: however no indicative plans have been submitted. The Council considers that this argument expressing a business preference has not been substantiated, and more importantly, does not justify that the enforcement action is excessive.

Ground G- The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.

The appellant argues that for financial reasons they would be unable to implement the changes required in the enforcement notice. The Council considers the six-month

compliance period given in the enforcement notice a reasonable amount of time to comply which is sympathetic to the possibility of financial hardship on the part of the shop owner. Furthermore no time is provided by the appellant which they would consider reasonable for them to comply with the notice.

Suggested conditions should the appeal be allowed.

The works have taken place. It is not considered that any conditions would mitigate the harm caused.

Please do not hesitate to contact me to discuss the matter in more detail.

Yours sincerely

Miles Peterson
Planning Enforcement Officer
Supporting Communities Directorate