

Enforcement Notice Appeal

EN23/1002

January 2023

“Retrospective application for an existing bungalow for use as 3 bedroom care home (C2).”

**Land and Buildings in Carlow Street and Miller Street and 49 & 51
Camden High Street, London, NW1 7JH**

1 Introduction

- 1.1 This Statement has been prepared by Sphere25 on behalf of Sabores Shisha Lounge (“the Appellant”) following London Borough of Camden’s (“the Council”) decision to issue an Enforcement Notice (“the notice”) on 22 December 2023 to remove the works as outlined below at Land and Buildings in Carlow Street and Miller Street and 49 & 51 Camden High Street, London, NW1 7JH (“the Site”).
- 1.2 This statement is prepared to support the appeal against the enforcement notice on the grounds 174 (1) (a) and 174 (1) (g) of The Town and Country Planning Act 1990.
- 1.3 This appeal sets out the councils alleged breaches and their reasons before discussing the Appellant’s case in support of the application.

Background

- 1.4 The current leaseholder undertook the lease of the property on 22 September 2022. All works noted within enforcement notice EN23/1002 were already in situ upon occupying the property. The current leaseholder does not have photo evidence of the plant/flues in situ prior to occupation, however additional information has been supplied by the appellant in support of this appeal as outlined below.
- 1.5 Information submitted in support of this appeal:

Document	Dated
Inv 1903 Sapores	03 August 2019
Inv 1907 Sapores	29 August 2019
Time stamped photos	05 January 2019
Pages from the current leasehold agreement	22 Septemeber 2022
Letter from contractors	30 November 2023
Noise Assessment	January 2023
Photos	Various

2 The Council's Case

Reasons for Refusal

2.1 The Council's alleged breaches of planning control are provided on Enforcement Notice EN23/1002 dated 22 December 2023 are as follows:

Breach 1: The Installation of two flues and ancillary plant equipment located at the rear of No 51

Breach 2: The installation of one flue and ancillary plant equipment located at the rear flat roof of the single storey extension to the rear of nos. 49-51.

Breach 3: The erection of a single storey extension which adjoins the extensions to the rear of nos. 49-51 and positioned on the 'Land and buildings in Carlow Street and Miller Street'.

2.2 The Council's reasons for issuing the notice EN23/1002 dated 22 December 2023 are as follows:

- a) The development has occurred within the last 4 years
- b) The two flues and ancillary plant equipment located at the rear of No. 51, and the flue and ancillary plant equipment located at the rear flat roof of the Nos. 49-51 single storey extension by virtue of their designs, sizes, bulk, positioning and locations, add clutter which is harmful to the character and appearance of the host building, neighbouring buildings and this part of the Camden Town Conservation Area. In the absence of a scheme, the development also fails to safeguard the amenities of neighbouring occupiers contrary to policies A1(Amenity), A4 (Noise), D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017, CPG Design and amenity and Camden Town Conservation Area statement Guidance.
- c) In the absence of an acoustic report to demonstrate compliance with Camden's Noise standards, the development also fails to safeguard the amenities of neighbouring occupiers contrary to policies A1(Amenity), A4 (Noise), D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017, CPG Design and amenity and Camden Town Conservation Area statement Guidance.
- d) The single storey extension which adjoins the Nos. 49-51 EXTENSION LOCATED ON THE 'Land and buildings in Carlow Street and Miller Street.by virtue of its design, location, size and bulk, add clutter which is harmful to the character and appearance of the host building, neighbouring buildings and this part of the Camden Town Conservation Area A1(Amenity), A4 (Noise), D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017, CPG Design and amenity and Camden Town Conservation Area statement Guidance.

3 Statement of Case

Grounds of Appeal

- 3.2 This Appeal is made brought on Ground (a) pursuant to Regulation 5 of the Town and Country (Enforcement Notices and Appeal) (England) Regulations 2002 –
- (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 or, as the case may be, the condition or limitation concerned ought to be discharged.

Statement of Case

- 3.3 Each of the council's reasons are disputed below.

Breach 1

- a) The development has occurred within the last 4 years
- 3.4 Based on the information supplied by the appellant, all development outlined within the enforcement notice was completed in 2019. The appellant has provided information in the form of a invoices, which have been submitted in support of this appeal:
- 3.5 Inv 1903 Sapores – was issued 29 August 2019. Items 1 and 2 are of relevance, for:
- (1) 1 airduct for lounge area to duct to flat roof
 - (2) 1 airduct for downstairs kitchen to duct to the flat roof
- 3.6 Inv1907 Sapores – was issued 03 September 2019. Items 1 and 6 are of relevance, for:
- (1) Storage area extension
 - (6) Extractor with ducting
- 3.7 In addition, the contractors - Jacobs Since 1992 have supplied a signed later confirming that all works in the invoices took place in 2019 with invoices later issues in September 2019. Whilst they have not been able to provide timestamped photos of items listed under the alleged breaches, they have supplied photos of the awnings being installed during the same time period, listed as item '3. 2 x awning' on invoice 'inv 1903 Sapores'. Jacobs Since 1992 have confirmed that all works on the invoices took place during the same time period.
- 3.8 Each of the listed items above address the alleged 3 breaches of planning control as outlined within the enforcement notice, taking account for 3 flues and the rear single storey extension. When assessed in conjunction with the information provided by the appellant it is shown that the works forming the breaches were installed in excess of four years prior to the date of the enforcement notice.

- 3.9 The Planning and Compensation Act 1991 states that *'Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.'*
- 3.10 Therefore when considering the information provided in support of this appeal it should be recognised that the works have been in place in excess of 4 years.

Breach 2

- b) The two flues and ancillary plant equipment located at the rear of No. 51, and the flue and ancillary plant equipment located at the rear flat roof of the Nos. 49-51 single storey extension by virtue of their designs, sizes, bulk, positioning and locations, add clutter which is harmful to the character and appearance of the host building, neighbouring buildings and this part of the Camden Town Conservation Area. In the absence of a scheme, the development also fails to safeguard the amenities of neighbouring occupiers contrary to policies A1(Amenity), A4 (Noise), D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017, CPG Design and amenity and Camden Town Conservation Area statement Guidance.
- 3.11 The flues and ancillary plant equipment are installed at the rear of the building and are not highly visible from publicly accessible land. Importantly, the flues cannot be seen from Camden High Street and do not impact the street scene or contribute to street clutter. Location at the rear of the site against the façade ensure the flues are not obtrusive or adversely impact key features of the conservation area.
- 3.12 Flues in this area are a common feature to the rear of buildings on Camden High Street due to commercial uses. Many of the neighbouring buildings along the southern side of Camden High Street have flues of a larger scale.
- 3.13 The flues and ancillary plant are simple in design, comprising stainless steel tubing fixed to the flat roof, similar to existing plant at 51 Camden High Street and neighbouring buildings. The plant does not extend beyond the roofline of neighbouring buildings. At a maximum, the flues extend to sit on top on the second storey, below the roof height of neighbouring buildings and reducing visibility.
- 3.14 The flues are unlikely to result in additional adverse impact to neighbours over other/existing flues and plant at 51 Camden High Street and the neighbouring commercial premises. Noise impacts are discussed below under Breach 3.
- 3.15 All flues are directed away from neighbouring buildings towards the centre of the site and airspace at the centre of surrounding buildings, avoiding discharge of extraction air and odour towards facades or windows.

3.16 Given that the flues and plant are discreetly located and of standard design commonly seen in the area it is considered that they are in line with D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017, CPG Design and amenity and Camden Town Conservation Area statement Guidance.

Breach 3

c) In the absence of an acoustic report to demonstrate compliance with Camden's Noise standards, the development also fails to safeguard the amenities of neighbouring occupiers contrary to polices A1(Amenity), A4 (Noise), D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017, CPG Design and amenity and Camden Town Conservation Area statement Guidance.

3.17 A noise survey has been undertaken by 'es acoustics' and submitted in support of this appeal. The assessment was undertaken in January 2024 for the noise impact of 3 no. flues and associated plant.

3.18 The assessment found that at present the noise emissions associated with the flues and plant operation would result in a likelihood of significant adverse impact when compared against Camden Noise Guidelines. However, the report has undertaken additional works that demonstrate that mitigation measures can be undertaken.

3.19 The proposed mitigation strategy would require in-line acoustic silencers with each of the flue systems. Once mitigated in accordance with the measures outlined within the assessment noise emissions would result in a low likelihood of adverse impact. This The criterion of 42 dB(A) established based on Camden's Noise Guidelines would be met, and the resultant noise level would fall to the Lowest Observed Adverse Effect Level (LOAEL).

3.20 The Noise report demonstrates that with appropriate mitigation the flues and plant will have a low risk of adverse impact. The appellant is aware and will undertake necessary works to retrofit, ensuring the flues and plant meet regulation.

3.21 For the reasons outlined above it should be considered that the works are in accordance with polices A1(Amenity), A4 (Noise), D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017, CPG Design and amenity and Camden Town Conservation Area statement Guidance.

Breach 4

d) The single storey extension which adjoins the Nos. 49-51 EXTENSION LOCATED ON THE 'Land and buildings in Carlow Street and Miller Street.by virtue of its design, location, size and bulk, add clutter which is harmful to the character and appearance of the host building, neighbouring buildings and this part of the Camden Town Conservation Area A1(Amenity), A4 (Noise), D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017, CPG Design and amenity and Camden Town Conservation Area statement Guidance.

- 3.22 The third alleged breach states that the rear extension is positioned on the 'Land and buildings in Carlow Street and Miller Street', however, the information provided by the Appellant shows the rear extension to be located on the land of 51 Camden High Street, as shown in the lease agreement submitted in support of this appeal.
- 3.23 located to the rear of 51 Camden Highstreet, the proposed design, height, size, and scale are appropriate within the context of its surroundings. The extension is not readily visible from publicly accessible land.
- 3.24 The structure is of a similar size scale and design that is common to the rear of commercial buildings in the area. The extension is single storey and of small scale ensuring it is subservient to the host building. The walls have been finished in a dark grey to further remove dominance of the structure when viewed in the surrounding context. Additionally, the flat roof sits below the level of neighbouring windows, further minimising visibility.
- 3.25 It is accepted that the site is located within the Camden Town Conservation Area, however it is not considered that the extension results in detrimental impact to this part of the Conservation Area or results in additional clutter. The vast majority of the commercial units along this stretch of Camden High Street have rear extensions of varying size and scale. Similar to the site, many of the extensions abutt the rear boundary. This is seen at the neighbouring 53 and 55 Camden High Street, the extension at 51 maintains this established building line.
- 3.26 The extension is finished in a discreet grey finish, below neighbouring window height, used only for storage limited visibility from publicly accessible land in keeping with existing extensions of the building and the existing building line.

4 Conclusion

- 4.1 In light of the evidence provided and the reasons set out in this Appeal Statement, the conclusion is that the retention of alleged breaches is in full accordance with the relevant local, regional, and national planning policy.
- 4.2 The appellant understands and is pending approval will retrofit the extraction and plant in line with the noise assessment.
- 4.3 The information provided demonstrates that the alleged breaches have been in situ in excess of 4 years; minimal impact on the character and appearance of the building and conservation area; and the extension is located within the curtilage of 51 Camden High Street.
- 4.4 The appellants submit that this appeal should be allowed, planning permission granted, and the enforcement notice withdrawn.

Appendix 1: Letter from Contractors

Appendix 2: Noise Assessment

Appendix 3: Invoices '1903 Sapoires' and '1907 Sapoires'

Appendix 4: Noise Assessment

Appendix 5: Extracts from Lease Agreement





EXTRACT FROM ORDNANCE SURVEY @ 1:500,
SHOWING LOCATION

Appendix 6: Photos







