

**TOWN AND COUNTRY
PLANNING ACT 1990**

APPEAL STATEMENT

*Planning application seeking a
temporary permission for use of
land as a public car park*

**Land at 44-46 Caversham Road,
London NW5 2DS**

July 2024

**Statement on behalf of
NCP Car Parks prepared by
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LPA Ref: 2024/2094/P

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1. INTRODUCTION

- 1.1 This Statement has been prepared in support of an appeal following the refusal of planning permission by Camden Council for the temporary change of use of land at 44-46 Caversham Road, London, NW5 2DS to be used as a public car park. Permission was sought for up to three years.
- 1.2 The application was submitted on the 23 May 2024 following a letter received from the Council dated 25 April 2024 (reference: EN24/0168) which stated that the change of use of the site from a B8 Use Class to a sui generis use (parking lot) had taken place without planning permission. However, the Council refused permission on the 19 July for the following reasons:

'1 The use of the land for public car parking is contrary to Policy G1 (Delivery and Location of Growth) and H1 (Maximising Housing Supply) of the Camden Local Plan 2017 as the basis of inefficient land use, and housing as a priority land use of the Local Plan

2 The use of the land for public car parking would prioritise the use of private motor vehicles, fail to encourage the use of sustainable modes of transport, exacerbate local traffic xx and harm local amenity, contrary to Policies T1 (Prioritising walking, cycling and public transport), T2 (parking and car free development) and A1 (Managing the impact of development) of the Camden Local Plan 2017.'

- 1.3 The purpose of this Statement is to review the reasons for refusal and prevailing planning policies and other material considerations that are relevant to the consideration of this appeal and to present a case for granting planning permission.

2. SITE AND SURROUNDING AREA

- 2.1 The application site is located on the north side of Caversham Road adjacent to the railway and within the Bartholomew Estate Conservation Area.



Location Plan

- 2.2 The site is screened from the road by fencing and wall. Access is directly off Caversham Road and comprises a pair of green gates. The railway lines, at a lower level than the application site, are to the east. To the west is modern four storey residential flats with Victorian four storey terraced properties opposite the site. The land consists of an area of hardstanding which has function as a storage area for building materials and cars.
- 2.3 The Site is located entirely within Flood Zone 1 (lowest risk).



Frontage to the site showing access

3. PLANNING HISTORY

- 3.1 The following applications are of relevance to this appeal proposal.

Application 2022/3351/P – Use of the land for open storage of rental vehicles with no public access to the site (Class B8)

- 3.2 Permission was granted on the 18 October 2022. In the officer's report it is noted that the planning history in relation to the site does not include any conditions restricting the use of the premises and that there is not a condition or restriction associated with the lawful use of the application site established in 2004 which limits the use of the land for the open storage of building materials only.
- 3.3 It was also noted that vehicles would be stored at surface level only with on average around 30 rental vehicles (cars and vans) going to and from the site spread throughout the working day. Vehicle movements in and out of the site would therefore be limited. The officer indicated that the proposed activity is not considered to amount to a different or separate use, either physically or functionally, from the established lawful use, nor would it result in any significant change in the character or use of any part of the 'buildings or other land' within the site.
- 3.4 It was considered that the proposal would not result in a material change of use, nor fall within the 'meaning of development' which would require planning permission. A Certificate of Lawfulness was granted.

Application 2004/1361/P – Certificate of Lawfulness (Existing) for use of the yard as open storage yard for building materials.

- 3.5 The Council granted the Certificate on the 20 May 2004.

Application PE9800902 – Redevelopment of existing building store by erection of part 1 and part2 storey building to accommodate a nursery school

- 3.6 This application was withdrawn.

Application 8600880 – Construction of 2.5m wide crossover

- 3.7 This application was approved by the Council on 22 September 1986.

4. RELEVANT PLANNING POLICY

- 4.1 The starting point for assessing development proposals is always the Development Plan. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states *‘if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.’*

- 4.2 The Development Plan for this appeal consists of the Camden Local Plan adopted in July 2017. A review of the Local Plan is underway but at this point little weight can be given to it. A number of the Local Plan policies are referred to in the Council’s reasons for refusal, specifically Policies G1, H1, T1, T2 and A1. I set these out below and comment on their relevance later in this statement.

Policy G1: Delivery and Location of Growth

- 4.3 Policy G1 states that the Council will create the conditions for growth to deliver the homes, jobs, infrastructure and facilities to meet Camden’s identified needs and harness the benefits for those who live and work in the borough. The Council will deliver growth by securing high quality development and promoting the most efficient use of land and buildings in Camden by supporting development that makes best use of its site, taking into account quality of design, its surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site. It will resist development that makes inefficient use of land and is expecting the provision of a mix of uses where appropriate, in particular in the most accessible parts of the borough.

Policy H1: Maximising Housing Supply

- 4.4 Policy H1 sets out the Council’s aim to secure a sufficient supply of homes to meet the needs of existing and future households by maximising the supply of housing and exceeding a target of 16,800 additional homes from 2016/17 - 2030/31, including 11,130 additional self-contained homes. The Council seek to exceed the target for additional homes and regard self-contained housing as the priority land-use, will work to return vacant homes to use and ensure that new homes are occupied and resist alternative development of sites identified for housing or self- contained housing through a current planning permission or a development plan.

Policy T1: Prioritising walking, cycling and public transport

- 4.6 Policy T1 states the Council will promote sustainable transport by prioritising walking, cycling and public transport in the borough. In order to promote walking in the borough and improve the pedestrian environment, the Council seek to ensure that developments improve the pedestrian environment, make improvements to the pedestrian environment including the provision of high quality safe road crossings, that there are easy and safe walks and these are adequately lit. In order to promote cycling in the borough and ensure a safe and accessible environment for cyclists, the Council seek to ensure that development provides for and makes contributions towards connected, high quality, convenient and safe cycle routes. In order to safeguard and promote the provision of public transport in the borough the Council seeks to ensure that development contributes towards improvements to bus network infrastructure. Where appropriate, development will also be required to provide for interchanging between different modes of transport including facilities to make interchange easy and convenient for all users.

Policy T2: Parking and car-free development

- 4.7 Policy T2 seeks to limit the availability of parking and require all new developments in the borough to be car-free. The Council will not issue on-street or on-site parking permits in connection with new developments and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits, will limit on-site parking to spaces designated for disabled people where necessary and/or essential operational or servicing needs. The Council will support the redevelopment of existing car parks for alternative uses and resist the development of boundary treatments and gardens to provide vehicle crossovers and on-site parking.

Policy A1: Managing the impact of development

- 4.8 Policy A1 seeks to protect the quality of life of occupiers and neighbours. The Council will grant permission for development unless this causes unacceptable harm to amenity and ensure that the amenity of communities, occupiers and neighbours is protected. The Council will resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network. The policy states the importance of considering impact in terms of noise, fumes, dust and privacy.

National Planning Policy Framework (2023)

- 4.9 The National Planning Policy Framework (NPPF) guides the policies within Local Plans and forms a material consideration to determining planning applications. The paragraphs listed below are deemed relevant.
- 4.10 The NPPF recognises that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 11 sets out the presumption in favour of sustainable development as the central aspect of planning policy and decision-taking. In terms of determining development proposals, this means approving schemes which accord with the Development Plan without delay.
- 4.11 Local Planning Authorities should approach decisions on development in a positive and creative way and seek to work proactively with applicants to secure developments that will

improve economic, social and environmental conditions of the area. Sustainable development should be approved where possible [paragraph 38].

- 4.12 Planning authorities should consider whether unacceptable development could be made acceptable through the use of conditions or planning obligations [paragraph 55]. Conditions should be kept to a minimum and only imposed where they are necessary, relate to planning, are enforceable, precise and reasonable in all other respects [paragraph 56].
- 4.13 Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe [paragraph 115].

5. THE APPEAL PROPOSAL

- 5.1 The proposal relates to the change of use of the site from B8 to sui generis to allow the land to be used for public car parking. Vehicular access will remain as per existing arrangements from Caversham Road. No physical changes to the site are proposed.

6. THE CASE ON BEHALF OF THE APPELLANT

- 6.1 This section of the Statement assesses the proposed development against the policies of the Development Plan as identified in the Council's reasons for refusal and against all other relevant material considerations and sets out why the appeal should be allowed and planning permission granted.
- 6.2 The starting point for assessing development proposals is the Development Plan, unless material planning considerations indicate otherwise.

Principle of development

- 6.3 The Appeal Site comprises an area of hardstanding adjacent to the railway and existing residential properties. The Council had stated prior to the submission of the application that a formal change of use to a public car park was required.
- 6.4 The planning history of the site raises a number of matters which it is considered supports the appeal proposal. In considering the application 2022/3351/P, it was acknowledged by the planning officer that the use of the site for the storage of building materials had no restrictions placed on that use. In addition, the officer considered that the storage of cars was within the same B8 use class as the then existing use and that no planning permission was required. In allowing the change, it was acknowledged also that the use for cars at ground level would not cause harm.
- 6.5 The appeal proposal will have the same impact in terms of the scale of the use and the fact that it will be used for parking cars, essentially the same use of the land as the 2022 application for Enterprise. Vehicles will enter and leave the site spread over the day and the site is well screened by existing wall and fencing to ensure there is no visual impact on the street scene. The site has already been considered as acceptable for the parking of cars and no conflict with the local plan policies was considered. As such the change of use to a public car park is de minimus with no external changes occurring.

- 6.6 Chapter 11 of the National Planning Policy Framework promotes the efficient use of previously developed land, and the change of use to a public car park would use an area of hardstanding otherwise laying unused. This accords with Policy G1 of the Local Plan. As the site is well screened, the proposal will accord with Policy A1 of the Local Plan.

Heritage

- 6.7 In previous decisions listed above, no reference is made to the impact on the Conservation Area. In respect of this appeal proposal, the use of the site will be less harmful than the use for building materials and will have no different impact that the storage of cars approved in 2022. There is no harm to the character of the area with the site well screened. The proposal accords with both the NPPF and Policy A1 of the Local Plan.

Access

- 6.8 The appeal proposal utilises the existing access arrangements and the area of car parking. Paragraph 115 of the NPPF is clear that development proposals should only be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Given there is no discernable differences between the use of land to provide storage for cars and for parking the proposal wholly accords with the Framework. It is also an improvement on the use of the site for the storage of building materials.

Assessment against Local Plan policies

- 6.9 In the reasons for refusal, the Council refers to Policies G1, H1, T1, T2 and A1 in the 2017 Local Plan. I now assess the appeal proposal against these policies.
- 6.10 Policy G1 refers to the delivery of growth and homes in the borough and making efficient use of land. It seems unfair in my view that all sites would be considered in the way the Council has applied this policy to the appeal proposal. Not all sites can be redeveloped for housing and the Council have accepted through their decisions that other uses are lawful on this site. The site is already lawful for the storage of cars and the appeal proposal does not materially alter the use considered as acceptable. Throughout the whole of the borough this policy cannot be applied and I consider the reference to it in the reasons for refusal as unjust.
- 6.11 In respect of Policy H1 sets out the scale of the housing requirement. Again, it is unreasonable to apply this policy in the refusal when the lawful use of the site is for parking cars and for the storage of building materials. The site is small at only 0.7ha in area and its contribution to housing supply would be minimal. The use for car parking would not materially change the type of use made of the site.
- 6.12 Policy T1 prioritises the use of sustainable transport. However, it is unreasonable to judge all development against a blanket 100% approach. The lawful use of the appeal site includes the parking of cars and this in itself can make a contribution to the ability to use other modes for continued journeys and assist in providing small parking areas for visitors to the area. the use of this small site would not undermine the aims of the policy.
- 6.13 Policy T2 refers to parking and car free development. In my view, this policy is not relevant to the appeal proposal given the proposed use and lawful use.

- 6.14 I have referred above to Policy A1. The Council provides no information on any concerns which the change of use has for the area. the lawful use is the right starting point and the proposed use will not cause any additional harm. Conditions imposed on the times the site is used would assist if there are concerns.

7. CONCLUSIONS

- 7.1 This Appeal Statement has been prepared in support of the temporary change of use of the land at 44-46 Caversham Road to allow for public car parking for up to three years. The Council recently approved the use of the site for the storage of cars considered as within the same B8 use class as the use of the site for building materials. It is considered that the proposal is de minimus with no external changes occurring. Vehicular access remains as existing. The site is well screened and secured and the use will not harm the setting of any heritage assets.
- 7.2 The relevant planning policies have been reviewed and for all the reasons set out in this Statement it is considered that the proposal accords with the Development Plan. Under Paragraph 11c of the National Planning Policy Framework this means granting planning permission without delay. The Inspector is respectfully invited to allow the appeal.