

Enforcement Delegated Report

Receipt date:

01/03/2024

Officer

Joshua Cheung

Enforcement Case

EN24/0168

Breach Address

44-46 Caversham Road, London, NW5 2DS
(also known as 'Land and Buildings at 44/46
Caversham Road, Kentish Town, London,
NW5 2DS')

Photos & Other material



Authorised Officer Signature

25/07/2024

Alleged Breach

Without planning permission: The change of use from Use Class B8 (Building materials storage) to use as a car park (Class Sui Generis).

Recommendation(s):

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning act 1990 as amended for **the cessation of the unauthorised use of the site as a Sui Generis car park from Class B8 (Building materials storage)**, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

Site Description

The site consists of open hardstanding land and a small 'security-hut' style outbuilding. The site is located on the north side of Caversham Road, to the immediate west of the railway line, and lies within the Bartholomew Estate Conservation Area. The lawful use of the site is for the storage of building materials.

Investigation History

25-APR-24 – PCN served to ascertain whether a change of use had in fact occurred.

07-MAY-24 – Alongside other PCN responses from those with an interest in the land, planning agent of NCP (the leasehold tenant - who are operating the site as an unauthorised public car park) expresses that a retrospective application will be submitted.

16-MAY-24 – Officer advises that a retrospective application is likely to not be looked upon favourably and requests a response to the PCN.

23-MAY-24 – NCP's PCN response confirms the suspected breach of planning control.

24-MAY-24 – Application submitted (referenced: 2024/2094/P) for "Change of use of land used for storage of vehicles (Class B8) to public car park (Sui Generis)".

19-JUL-24 – Application refused with warning of enforcement action.

Relevant policies / GPDO Category

National Planning Policy Framework 2023

- Paragraph 59 - 'Enforcement'
- Section 5 – 'Delivering a sufficient supply of homes'
- Section 9 – 'Promoting sustainable transport'
- Section 11 – 'Making effective use of land'

London Plan 2021

- H1 – Increasing housing supply
- T1 – Strategic approach to transport
- T6 – Car parking
- D14 – Noise
- GG2 – Making the best use of land

Camden Local Plan 2017

- G1 – Delivery and location of growth
- H1 – Maximising housing supply
- A1 – Managing the Impact of Development
- A4 – Noise and vibration
- T1 – Prioritising walking, cycling and public transport
- T2 – Parking and Car-free development

Camden Planning Guidance 2021

- CPG Transport (2021) – Section 5 (Parking and car-free development)
- CPG Amenity (2021) – Section 6 (Noise and vibration)

Kentish Town Neighbourhood Plan 2016

- D2 – Railway Lands

Bartholomew Estate Conservation Area Statement 2000

Planning history of site

8600880 – Construction of 2.5m wide crossover. **Granted on the 22nd September 1986.**

2004/1361/P – Certificate of Lawfulness (Existing): For use of the yard as open storage yard for building materials. **Granted on the 20th May 2004.**

2022/3351/P – Certificate of Lawfulness (Proposed): Use of the land for open storage of rental vehicles with no public access to the site (Class B8). **Granted on the 18th October 2022.**

***2024/2094/P** - Change of use of land used for storage of vehicles (Class B8) to public car park (Sui Generis). **Refused with warning of enforcement action on the 19th July 2024.** The subject of this notice/report.

Assessment

Issues:

The main issues for considerations are:

- Transport
- Amenity
- Land use

Transport

Policy T1 of the Local Plan states the Council will promote sustainable transport by prioritising walking cycling and public transport. This is achieved by improving pedestrian friendly public realm, road safety and crossings, contributing to the cycle networks and facilities and improving links with public transport. All these measures are in place to ensure the Council meets their zero carbon targets. In a wider context, to contribute toward meeting the wider London and National targets too.

Policy T2 of the Local Plan limits the availability of parking in the borough and requires all new developments in the borough to be car free. Proposals seeking to develop land for the purposes of providing public car parking will therefore be resisted.

CPG Transport states the Council will expect all new residential development to be car-free, including redevelopments (and changes of use) with new occupiers. The car-free policy applies across the whole borough, regardless of public transport accessibility level (PTAL) ratings.

Paragraph 115 of the NPPF also states in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location.

Camden's Local Plan policies and guidance unequivocally resist development that promotes reliance on the private motor vehicle, seek to promote sustainable forms of travel (walking, cycling and public transport), and limit the availability of parking in the borough and address problems associated with poor air quality in the borough.

The unauthorised use of the site as a public car park is contrary to Policies T1 and T2, as well as the NPPF, as it would promote the use of private motor vehicles, fail to encourage the use of sustainable modes of transport, and exacerbate local traffic conditions.

Transport officers were consulted for the associated 2024/2094/P application and stated the following:

'The proposed change of use is clearly contrary to Policy T2 and as such should be refused on that basis. The proposed use of the site as a public car park fails to promote walking, cycling and public transport as a sustainable transport mode. The proposal is clearly contrary to Policy T1 and as such should be refused on that basis.'

Whilst there is a consent for the site's use as a rental vehicle storage, it is considered that the operations of a public car park are materially different. Whereby, it will have an inappropriate impact on the surrounding area, as well as actively encouraging travel by private motor vehicles, contrary to Policy T1.

Amenity

Policy A1 of the Local Plan seeks to protect the quality of life of occupiers and neighbours by only granting permission to development that would not cause harm the amenity of residents by way of assessing a variety of considerations, including the impacts on outlook, noise, vibration, and odours and fumes. The Council will resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network; and require mitigation measures where necessary. The Council will consider the cumulative impact of noise in the area and proximity to 'sensitive uses', which are defined in the Local Plan as housing, schools and libraries, healthcare, children's and elderly facilities, hotels, amenity and open spaces.

Policy A4 of the Local Plan states that the Council will seek to ensure that noise and vibration is appropriately controlled and managed to avoid undue harm. It states that the development should have regard to Camden's adopted Noise and Vibration Thresholds and that the Council will not grant planning permission for development likely to generate unacceptable noise and vibration impacts. We will also seek to minimise the impact on local amenity from deliveries and from the demolition and construction phases of development.

CPG Amenity states the Council expects the noise impacts of these uses to be considered within an acoustic report. Assessments of noise from entertainment and leisure premises must include consideration of amplified and unamplified music, human voices, footfall, vehicle movements and other general activity. Developers should contact the Council's Noise team to discuss the most appropriate methodologies to undertake the assessment.

The unauthorised change of use is considered harm the amenity of neighbouring residents by way of increased air pollution, traffic congestion surrounding the site, and through the transient nature of car parking operations. Further, NCP's PCN response confirms that the use of the public car park is 24/7. The Council identifies residential use as a sensitive use. Caversham Road is residential in nature and the Council is concerned that the nuisances can bleed into anti-social hours and would directly and detrimentally impact the neighbouring residential amenity. The scale and intensity of the breach contributes toward this harm.

The development fails to safeguard the amenity of neighbouring occupiers contrary to policies A1 and A4 of the Camden Local Plan 2017.

Land use

Policy G1 of the Local Plan aims to deliver growth in the borough 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 states the Council will resist development that makes inefficient use of Camden's limited land and expects the provision of a mix of uses where appropriate, in particular in the most accessible parts of the borough, including an element of self-contained housing where possible. Growth in Camden will be expected to help contribute towards achieving the strategic objectives of the Local Plan, London Plan, and NPPF. Whereby, **Policy H1** stipulates self-contained housing as the priority land-use.

Policy T6 of the London Plan, which states car parking should be restricted in line with levels of existing and future public transport accessibility and connectivity. Car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport, with developments elsewhere designed to provide the minimum necessary parking ('car-lite').

The site has a PTAL rating of 5 which means its accessibility by public transport is excellent. The site is located in close proximity to Kentish Town Station and many Bus Stops.



Site's PTAL map – 6a (next to 'Best')

Accordingly, there is no justifiable reason to use the site as a public car park and is contrary to the Local and London Plan.

Policy D2 of the Kentish Town Neighbourhood Plan supports sustainable development on railway land and would support the reinstatement of frontages along Caversham Road.

Policy H1 of both the Local Plan stipulate housing as the priority land-use. **Policy H1 of the London Plan** also seeks housing development to meet Local and London targets. No evidence in the 2024/2094/P application neither demonstrated Class B8 to no longer be viable or exploration of other uses that would positively contribute to the Borough.

The use of the land for public car parking, is not considered an effective or efficient use of land. It is therefore considered that the proposal is contrary to policies G1 and H1 of the Camden Local Plan 2017 on the basis of ineffective land use, and the priority land use being housing. It is considered that any proposed development at this site should support Camden's key priority of the delivery of additional homes.

In relation to transport considerations, the proposal fails to comply with policies A1, T1 and T2 of the Camden Local Plan 2017.

It is considered that any benefits of the public car park would be outweighed by the harm caused by the car park.

Recommendation:

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning act 1990 as amended for **the cessation of the unauthorised use of the site as a Sui Generis car park from Class B8 (Building materials storage)**, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breaches of planning control:

Without planning permission: The change of use from Use Class B8 (Building materials storage) to use as a car park (Class Sui Generis).

WHAT ARE YOU REQUIRED TO DO:

1. Cease the use of the site as a Car Park (Class Sui Generis)

PERIOD OF COMPLIANCE: ONE (1) month

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

- a) The change of use has occurred within the last 10 years.
- b) The use of the land for car parking is contrary to policies G1 (Delivery and location of growth) and H1 (Maximising housing supply) of the Camden Local Plan 2017 on the basis of ineffective and inefficient land use, and housing as the priority land use of the Local Plan.
- c) The use of the land for car parking promotes the use of private motor vehicles, fails to encourage the use of sustainable modes of transport, exacerbates local traffic conditions and harms 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.