

Enforcement Delegated Report

Receipt Date:

22/08/2019

Officer

Enforcement Case Number(s)

Miles Peterson

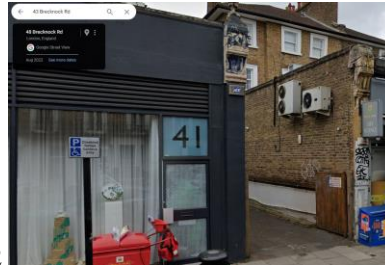
EN19/0452

Breach Address

Photo & Other Material

43 Brecknock Road
London
N7 0BT

2022



2024



Authorised Officer Signature

01/08/2024

Alleged Breach

Without planning permission: The installation of 1 x air conditioning unit on the side of the ground floor retail unit.

Recommendation:

That the Borough Solicitor issue an Enforcement Notice under section 172 of the Town & Country Planning Act 1990 as amended, and officers be authorised in the event of non-compliance to prosecute under section 179 or appropriate power and/or take direct action under section 178 in order to secure cessation of the breach of planning control.

Priority:

C

Site Description

The site comprises a single storey commercial unit located on the western side of Brecknock Road. The breach of planning control relates to the installation of an air conditioning installed on the side of the property. The building is not listed nor is it located within a conservation area.

Relevant Planning History

No relevant planning history.

Investigation History

2nd May 2019: Complaint received

9th May 2019: Subject site visited by Planning Site Inspectors; breach of planning control confirmed.

24th June 2019: First warning letters sent to the freeholder, leaseholder and occupier. Received telephone response from occupier who claimed that the units had been in place for more than 4 years.

1st August 2019: Second warning letters sent to the freeholder, leaseholder and occupier. No response received.

21st August 2019: Subject site visited by Planning Officer; it appears that no action has been taken in light of the aforementioned warning letters.

10th January 2019: An enforcement notice issued in relation to the units located on the roof of the property which required the removal of the unit from the roof and resultant debris.

November 2022: The unit is moved next to 2 x existing units which have been in place for 4 years on the side elevation of the unit. It is considered that the enforcement notice has not fully been complied with given the second step which states all debris to be removed. However to ensure removal, prosecution action may continue alongside the new notice.

May 2023: Site visit confirmed that the unit has been moved to the side of the property.

25th July 2024: Site visit confirmed that the unit remained in place on the side of the property.

11/10/2024: Letter sent to the CEO of Bestway to seek compliance with the notice.

Relevant policies

National Planning Policy Framework 2018

London Borough of Camden Local Plan (2017)

A1 – Managing the Impact of Development

A4 – Noise and Vibration

D1 – Design

Camden Planning Guidance: Design (2019)

Camden Planning Guidance: Amenity 2021

Breaches:

The air conditioning unit was previously installed on the roof of the property but was relocated to the side of the property as a result of the Council's enforcement notice requesting that the unit be removed. Although the notice has technically been complied with given it required the removal from the roof, the resulting harm caused by the unit continues and accordingly further formal action is necessary.

Assessment:

Visual Impact

Policy D1 of the Camden Local Plan (2017) emphasises the need for high-quality design that respects the local context and character. Whilst there are existing air conditioning units which are lawful by the passage of time, they are considered to be harmful adding clutter to the side elevation which is visible from the street. The installation of a further unit which is more

prominent and adds further clutter is considered to harm the character and appearance of the host building. The unit is prominently visible from the public realm, specifically from Brecknock Road and adjacent properties. This visibility and additional clutter is considered to harm the host building and wider streetscene of which it forms part. Camden Planning Guidance: Design (2019) further supports this by advising that external additions should not detract from the character and appearance of buildings and their settings.

Impact on Living Conditions

Policy A1 of the Camden Local Plan (2017) seeks to manage the impact of development on the amenity of existing and future occupiers and nearby properties. The continuous operation of the air conditioning unit causes significant noise disturbance, particularly during night-time hours, affecting the sleep and peace of residents in adjacent flats at 41 and 43 Brecknock Road. The unit's poor maintenance exacerbates noise issues, with additional sounds of rattling and buzzing reported by residents. In the absence of a noise report and conditions there is no evidence that the units meet Camden's noise levels.

Policy A4 of the Camden Local Plan (2017) requires developments to minimise and mitigate noise and vibration impacts. The current situation fails to meet these requirements, as evidenced by site visits where noise levels were noted to be above acceptable background levels. This persistent noise pollution negatively impacts the living conditions of neighbouring residents, contrary to the objectives of Policy A4.

The lessee, Mr Patel, has demonstrated non-compliance with previous enforcement actions and has been uncooperative in addressing residents' concerns. Despite the Council's intervention, Mr Patel has relocated the unit instead of removing it, continuing to cause significant disturbance to neighbouring residents. This ongoing non-compliance and disregard for the enforcement notice highlight the necessity for stringent enforcement action.

Conclusion

Taking into account the above planning considerations, the installation of the air conditioning unit is considered unacceptable in planning terms. It causes significant harm to the character and appearance of the property and surrounding area and adversely affects the living conditions of neighbouring residents through noise pollution and disturbance.

Recommendation:

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended to secure the removal of the air conditioning unit and to pursue any legal action necessary to secure compliance. Officers be authorised in the event of non-compliance to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The Enforcement Notice shall allege the following breaches of planning control:

Without planning permission: The installation of 1 x air conditioning unit on the side of the ground floor retail unit (marked in red on the attached plan – appendix A).

The Notice shall require the following:

The Enforcement Notice shall require that within a period of three calendar months of the Notice taking effect;

Completely remove the air conditioning unit shown in appendix A from the building unit and make good any resulting damage; and

Remove any resultant debris and paraphernalia from the premises as a result of the above works.

Reasons why the Council considers it expedient to issue the Enforcement Notice:

The air conditioning unit was installed within the last four years and it is therefore expedient to pursue enforcement action.

The air conditioning unit by reason of its size and position resulting in additional clutter is harmful to the character of the host building, the wider the terrace of which it forms part and character and appearance of the conservation area contrary to policy D1 of the Council's Local Plan adopted in 2017.

In absence of a noise report the unit has the potential to result in an unacceptable level of harm to neighbouring residents' living conditions through noise pollution contrary to policies A1 (Managing the impact of development) and A4 (Noise and vibration) of the Council's Local Plan adopted in 2017.

Appendix A

