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Town and Country Planning 1990 (As Amended)

**Enforcement Appeal relating to:
The Enforcement Notice issued by Camden Council in relation to
20 Endell Street, London, WC2H 9BD**

**Appellant:
Baudry & Greene**

Grounds for appeal for the appellant.

December 2024

Our Ref: LP/20.1.1

SECTIONS

1. Introduction
2. Appeal Site Description and Location
3. Background
4. Relevant Planning History
5. Relevant Examples in the immediate area
6. Appeal Proposal
7. Appellant's Grounds of Appeal
8. Planning Policy Context
9. The Case for the Appellant
10. Conclusion

APPENDICES

Appendix 1 Enforcement Notice and refusal notice from LB Camden

Appendix 2 Heritage Report

Appendix 3 Photo and Analysis Schedule of Street

Appendix 4 Existing and Proposed Drawings and Operational Management Plan

Appendix 5 Letters of support

1. Introduction

This Appeal is made on behalf of our client Baudry & Greene (the Appellant) in respect of the Enforcement Notice issued by Camden Council (the Council) dated 13th November 2024 (Ref: EN23/0511) relating to the basement and ground floor at 20 Endell Street, London, WC2H 9BD (The Appeal Site).

The alleged breach of planning control is:

“Without planning permission, the removal of historic metal railings on Betterton Street at ground floor level, the installation of non- heritage sliding windows on the Endell Street elevation at ground floor level, the removal of a historic blind window on Betterton Street at ground floor level, and the installation of a serving hatch on Betterton Street at ground floor level.”

Please refer to Appendix 1 which includes a copy of the enforcement notice.

This appeal is brought under three main grounds. Firstly, it is claimed that retrospective planning permission should be granted through this appeal with regard to the Council's Local plan policies, the National Planning Policy Framework and other material considerations. Secondly, it is claimed that the steps required to comply with the requirements of the Notice are excessive and lesser steps would have overcome the Council's objections. Thirdly, it is claimed by the appellant that the time given to comply with the notice is too short.

2. Appeal Site Description and Location

The appeal site relates to the ground floor of the four-storey plus basement property located on the corner of Endell Street and Betterton Street within the Seven Dials (Covent Garden) Conservation Area and Central Area. Endell Street is crossed only by Shorts Gardens and Shelton Street. Betterton Street intersects between these on the eastern side.

The property comprises a Class E unit with access from Endell Street. A serving hatch has been created within the original door opening on Betterton Street. The appeal property's shopfront, particularly by virtue of its more traditional features such as framed doors and smaller sectional glazing panels broken up by thicker frames, stallriser and fascia board, is proportionally in keeping with the more traditional appearance, proportions and rhythm of the upper floors compared to that which previously existed. This is also in keeping with the prevailing pattern and character of shopfronts within Endell street.

The appeal site is not listed nor is it listed as a building of merit within the council's Conservation Area guidance. It does adjoin 33 Betterton Street and is adjacent to 22 Betterton Street and 31 Endell Street, which are all Grade II listed buildings.

The ground floor is in Class E use. The street is mixed in nature with predominately commercial on the ground floors and residential above.

The special character of the Conservation Area is found in the range and mix of building types and uses and the street layout. The character is not dominated by one particular period or style of building but rather it is their combination that is of special interest. Please refer to the attached photo schedule (Appendix 3)

The previous shopfront detracted from the building and the local area. It is unclear as to what the materials were previously but appears to be part timber part metal. The previous shopfront was of poor design and provided for a rather hostile and drab frontage with its large roller shutters and boxes and poorly designed shopfront, which failed to enhance the building and the conservation area.



3. Background

The 10 Cases Bistrot a Vin next door to the Appeal Site was opened in 2011 by the Appellant. In 2013 the use was extended into the neighbouring building which now occupies two units/frontages.

The Appeal site at 20 Endell Street is located next door to their much-loved wine bar, 10 Cases at 16-18 Endell Street and opposite their acclaimed fish restaurant, Parsons, at 39 Endell Street. These established venues have become integral to the local community, reflecting the strong connection to the area. With a proven track record of running thriving, well-regarded businesses. The Appeal proposals have been supported by numerous letters of endorsement from the community and positive feedback in regards to the design scheme implemented.

Following Covid 19 many businesses are finding it difficult to trade or continue trading. As such many London restaurants, and particularly independent restaurants are finding new ways to enhance their premises and operation. The Appellant opened their new premises in late 2023, the offer is a balance and nod to a European style restaurant. The proposed modern shopfront is a deliberate response to the lack of evidence of the historic ground-level elevation of this building, and to the proposed functions of the refurbished premises within. The aim of the works was to improve and enhance the appearance of the building whilst respecting the historic character of the building.



4. Relevant Planning History

We have undertaken a review of the online planning records available for the Site and there is limited history available. Tables and Chairs have been approved since its opening in 2023.

Of interest however, is the 1980 planning permission granted for the following:

“Change of use, including works of conversion, to three self-contained flats.” Permission Granted 29-05-1980- Council Ref: [30625](#)

The approved drawings show that the Council approved the opening up of the blocked 2 upper most windows and that there has always been an access/ opening onto Betterton Street.

Commented [DZ1]: Great find!!



5. Relevant planning History for sites within the immediate streets

The below provides examples of schemes within the immediate vicinity of the site demonstrating that an alternative material such as metal, or larger openings are acceptable in this location:

- 2024/0031/P Garden Studios 11-15 Betterton Street London WC2H 9FE Alterations to ground floor front elevation and entrance. 31-01-2024 Granted
- 2019/3728/P 43-47 Shelton Street/15 Endell Street London WC2H 9HJ Installation of new shopfront; installation of mechanical plant and associated louvres to ground floor unit (Use A1) 24-07-2019 Granted
- 2017/6734/P 43-47 Shelton Street and 15-17 Endell Street LONDON WC2H 9HJ Installation of replacement shopfronts (Use Class A1) 13-12-2017 **Granted**

Commented [DZZ]: Can we provide the approved elevation for these?

6. Appeal Proposal

Ground (a). The Appellant submits that planning permission should be granted for any breach of planning control which may be constituted by the matters stated in the Notice.

Ground (c) The Appellant submits that the steps required by the notice, exceed what is necessary to remedy the breach of planning control.

Ground (g) The Appellant submits that the period specified in the notice falls short of what should reasonably be allowed- and should the appeal not be allowed- a time frame of 18 months is more reasonable.

7. Appellant's Grounds of Appeal

The main issue is whether the alleged breach of planning control would preserve or enhance the character or appearance of the Seven Dials (Covent Garden) Conservation Area (the CA).

The sectional glazed frontage to Endell Street creates a sympathetic replacement at ground floor level which is in keeping with the proportions and vertical emphasis of the upper floors of the building, and of those around it. The retractable awning, fixed stall riser, fascia panel and framing are pleasant features that evokes a more traditional appearance and character for the shopfront, the positive aspects of the presence of these overcome any harm and is a suitable replacement for that which previously existed.

On Betterton Street, historically it can be seen that the Council have approved the opening up of two blind windows on the upper floors which is more prominent on the building and site lines. By opening up of the ground floor window this allows more natural light and a more pleasant dining experience in a smaller unit which contributes to its longevity and viability as a Class E unit. The transformation from a door opening to serving hatch, also creates no additional harm to that which previously existed and provides further interest to the ground floor façade and brings activity to the shop's frontage.

The openable element represents an opportunity to improve the operation and functionality of the ground floor operation within Class E of the use class order. The part openable shopfront is significantly more inviting and engaging than the existing fixed shopfront and shutters and will add to the visitor experience within the local area and will add to the vitality and vibrancy of the street.

The replacement shopfront is therefore considered to maintain and enhance the distinctive character and appearance of the Conservation area.

8. Planning Policy Context

Legal Context

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the development plan comprises the Camden Local Plan (2017) and the London Plan (2021).

National Planning Policy Framework (NPPF) 2023

The revised National Planning Policy Framework ('NPPF') was published on 5 September 2023 and sets out the national planning policy and how this needs to be applied. The NPPF focuses on sustainable development with three key objectives: economic, social and environmental.

Paragraph 218 states that the policies in the Framework are material considerations which should be considered in dealing with applications.

- Chapter 2 Achieving sustainable development.
- Chapter 8 Promoting healthy and safe communities.
- Chapter 12 Achieving well-designed places.

The London Plan 2021

On 2 March 2021, the Mayor of London published the London Plan 2021. The spatial development strategy sets a strategic framework for planning in Greater London and forms part of the statutory Development Plan for Greater London. The relevant policies are:

- Policy D2 Infrastructure requirements for sustainable densities
- Policy D3 Optimising site capacity through the design-led approach.
- Policy D4 Delivering good design.
- Policy D8 Public realm
- Policy D13 Agent of Change
- Policy T2 Healthy Streets

Camden Local Plan (CLP 2017)

Camden Local Plan provides strategic policies, development management policies, area visions and site allocations which set out the strategy for managing growth and development across the borough. The relevant policies are:

- D1 (Design)
- D2 (Heritage)
- D3 (Shopfronts)
- Seven Dials (Covent Garden) Conservation Area Statement

9. The Case for the Appellant

Section (a) – That planning permission should be granted for what is alleged in the notice.

Shopfront

Below we set out the policy considerations for retaining the replacement shopfront:

Design

Careful consideration has been given to ensure the design of the shop front appears as historically sensitive and contextually appropriate within this locality.

The proposal seeks to subdivide the display window through the addition of two horizontal bars to subdivide the portion of the window into three equal panes which slide along a runner to create a partially openable shopfront but gives the appearance of a fixed shopfront when closed. The pre-existing shopfront subdivided this window into two large and two smaller panes, which created an unbalanced appearance.

The proposal maintains a stallriser, however the new stallriser is slightly higher and contains traditional panel detailing, considered more appropriate for the area.

It is not clear what the previous shop front at the appeal building was constructed of but from google maps it appears it could have been a mix of timber with metal framing. Nonetheless, the previous shopfront at the premises was not similar in design and appearance to other shopfronts in the surrounding area, nor did it relate to the age or the historic character of the and appearance of the building.



On the Betterton Street elevation, the proposed works are limited to the transformation of the door opening to a serving hatch and the opening up of the blocked window to the ground floor window, which has been accepted in principle by the Council through the grant of consent for opening up the window blank windows on the upper floors as noted above.

The works have been reviewed by a Specialist heritage consultant who has advised as follows:

“The works undertaken are significant improvements to the pre-existing position. It has resulted in a minor benefit to the character and appearance of the Conservation Area, with no loss of significance to this designated heritage asset. The works do not affect the ability to appreciate the significance of any of the listed buildings whose settings the site falls within.”

The enhancements to the appearance of the property should assist in the financial viability of this restaurant unit. If successful, there will be opportunities to invest in further enhancements, which could include the replacement of the existing fascia cover with a traditional painted fascia and re-instatement of the lower fascia mouldings. But this would be a further benefit, based on a prudent approach to the conservation of this building.

From the above analysis of the history of the site and examination of the visual evidence available of the shop front before the works were undertaken, it is possible to identify its heritage significance and the contribution that it made towards the significance of relevant heritage assets:

Summary of significance of the pre-existing shop front

From the above analysis of the history of the site and examination of the visual evidence available of the shop front before the works were undertaken, it is possible to identify its heritage significance and the contribution that it made towards the significance of relevant heritage assets:

Heritage Significance	Pre-existing features	Contribution to Conservation Area
Archaeological/Evidential value	Minor value – limited to capital and top moulding to fascia	Very Minor Benefit of original framing of shop front and its contribution to the run of shop fronts
Artistic and Architectural value	None - Modern additions, poor proportions and loud and discordant advertising	Minor Harm – due to the loud advertisement on the flank wall, security grills and boxes
Historic value	Minor value – it is possible to appreciate the existence of a retail unit and the evolution of a residential building to a part commercial one	Neutral - the building itself makes a positive contribution to the historical interest of the area

The site does not make any material contribution to the significance and setting of the three listed buildings whose settings it is located within. Whilst the shop front advertising was loud and a visual distraction to the general character and appearance of the Conservation Area, it did not harm the ability to experience the significance of the listed buildings”.

The proposed alterations and materials are considered minor and appropriate for the age and style of the host building. The overall development design would not detract from the appearance of the site. Furthermore, it is considered that improving the operation of the subject site would be of a benefit to the wider area.

As such, the proposed development is in general accordance with policies D1 and D2 of the Camden Local Plan 2017. The proposed development also accords with the London Plan 2021 and the National Planning Policy Framework 2023

Heritage

Paragraph 212 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given that the works are relatively minor in extent and the effect would be limited to the section of Endell Street where the appeal building is situated, the harm is considered to be less than substantial in this instance. The public benefits to the proposal have also been noted above and within this statement.

The appeal site is located on Endell Street which is within the Seven Dials (Covent Garden) Conservation Area. The conservation area covers an area that encompasses the streets around Seven Dials and a number of other streets to the north east. Its broader significance is derived from the evidence it provides of the seventeenth century urbanisation of the area following the establishment of Covent Garden Market. Although relatively compact, the conservation area is divided into three sub-areas that have different characters.

The appeal site lies within sub-area one of the conservation area. The Seven Dials (Covent Garden) Conservation Area Statement (CAS) sets out that the distinct layout around the Seven Dials is unique in being the only one of the seventeenth and eighteenth century developments in the West End of London which departs from a grid plan, having instead a radiating plan of streets formed around a small central polygonal circus.

Seven Dials CAS notes that Endell Street has an interesting architectural diversity, with many distinctive buildings. The shopfront is not highlighted as being one of merit. Traditional materials and street features which enhance the Conservation Area are noted within the CAS, however the blocked windows on Betterton Street are not one of these noted.

The special character of the Conservation Area is found in the range and mix of building types and uses and the street layout. The character is not dominated by one particular period or style of building but rather it is their combination that is of special interest. Therefore, the significance of the conservation area, insofar as it relates to this appeal is primarily associated with the evidence that it provides to the unique planned layout of the area. It has an aesthetic value derived from the layout of the streets, and the interaction of different building typologies in the area.

The alterations allow for the ground floor elevation to be sensitively refurbished, resulting in a modern and cohesively designed ground floor elevation. Therefore, the works will not harm the character or setting of the host building or wider Conservation Area.

The shopfront comprises a high-quality design and materials that have been meticulously selected so as to adhere to surrounding context of the site. It offers a sensitive approach enhancing the streetscape from that which previously existed, thus confirming with Policy D3.

Please refer to the attached updated heritage statement in support of this appeal.

Amenity

The Council confirms within their officer's report that there are no issues arising from amenity. Due to the scale of the proposed works, they would not cause any adverse impacts on the amenity of adjoining or nearby residential occupiers in terms of loss of daylight/sunlight, outlook, noise or privacy.

Section (f) – The steps required by the notice, exceed what is necessary to remedy the breach of planning control.

The requirements set out in the notice are unreasonable and excessive as the notice does not take into proper account the possibility of a reasonable and possible alternative already discussed on site with the Council that they might accept.

As referred to above, and within the heritage report, the existing shopfront held little merit and was not considered to make a positive contribution to the area. Therefore, there is scope to enhance this aspect. The Appellant is preparing a pre application submission to the Council to engage with them to enhance the meaningful discussions previously held on site. Discussions included:

- Reinstatement of the railings but in a differing design to match that opposite
- Retention of the blocked window but add further design and heritage support
- Amend the hatch so that it appears more like a solid feature
- Paint the sliding hatch window and provide further justification for its retention

The Council indicated on site that some of the suggested changes might be acceptable. Although this was expressed as a broad suggestion at the time by the Council officer. The Council has not indicated that such a revised proposal would not be granted.

Instead, the Council has required the appellant to completely remove the existing shopfront and reinstate to something that is considered to detract from the area.

We kindly request the Inspectors views on the changes proposed above to remedy the unauthorised works.

Section (g) The period specified in the notice falls short of what should reasonably be allowed- and should the appeal not be allowed- a time frame of 18 months is more reasonable.

The appellant is submitting a pre application request with the Council in tandem with this appeal. With the aim to submit a revised planning application shortly after pre application discussions. This would take at least 6months if not more subject to the speed at which the Council might deal with such a matter and given the time of year and the Council's delays in dealing with pre-application requests and planning applications.

The appellant has sought and would like to continue to work positively and proactively with the Council. They have a proven, reliable and consistent enhancement to the area, and they wish to continue their positivity to the area. This is demonstrated by the support they have received since opening and during the course of the planning application.

Further time would be needed to obtain the instruction of third parties such as manufacturers and builders and take into account manufacturing times frames.

Therefore, we kindly request that an additional 18 months is allowed from the date of this decision to allow sufficient time for negotiations to take place with the Council on a suitable alternative scheme which would allow a viable business to operate.

This full requirement of the notice would also prevent the business from continuing and operating at its maximum. In this respect, the appellant is not challenging all the requirements of the notice (as stated above the Appellant is willing to make amendments potentially) but the time frame which would directly affect, on an immediate basis, their ability to continue operating the unit, which could be at a detriment to the business at this time of year. The appellant remains willing to reach agreement with the Council, but the enforcement notice does not give sufficient time to either do this or carry out whatever proves necessary whilst at the same time enabling the appellant to manage and develop the business's growing customer base necessary to ensure the long-term viability of the site.

Bearing in mind that the notice gives only six calendar months from when it comes into effect and that the period for compliance runs through the Christmas and New Year period, Valentines Day up until Easter, the busiest time for any restaurant business, there is no doubt the business would have to close, many bookings cancelled and customers disappointed in the extreme. It is not possible for the business to continue to operate at the same time as

works necessary to comply with the notice are carried out. In fact such works as currently required by the notice and the time given would mean the immediate closure of the business putting in jeopardy many jobs and the future of the unit.

In the light of the above, there is also a need to arrange a detailed programme of works balancing the need of the business to continue against the desire of the Council, and its replacement with whatever is agreed, progress at a reasonable pace. A period of 18 months would give time for all that is necessary to resolve issues between the Council and the appellant.

10. Conclusion

Overall, the existing shopfront respects local context and character; preserves the historic environment and heritage assets; and preserves the character and appearance of the Seven Dials conservation area in accordance with policies D1 and D2. It would also comply with the relevant requirements of Local Plan Policy D3 which expects new shopfronts to be of a high standard of design that has regard to the existing character, architectural and historic merit, and design of the building, and the general characteristics of shopfronts in the area. As a result, the proposal would be in accordance with the relevant policies within the development plan.

Accordingly, the Inspector is respectfully requested to squash the enforcement notice and grant planning permission.

Should the Inspector be minded to dismiss the appeal, they are kindly requested to increase the compliance period to 18months in light of the reasons noted above.