
45 Maresfield Gardens, Hampstead NW3 5TE

Enforcement Notice Appeal Documents

Grounds and Facts

APP/X5210/C/15/3133473

for Mr Kfir Chervinski

September 2015

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1 Introduction

- 1.1 This short report provides details grounds and facts in relation to an enforcement appeal.

2 Facts to support that planning permission should be granted for what is alleged in the notice (Appeal form section A)

- 2.1 Application reference 015/3684/P was registered on 27-07-2015 , but remains to be determined. This included supporting evidence. The LPA pre-determined the application without properly considering the supporting evidence. Full details are available on the Council web site and will be submitted with the full appeal statement.
- 2.2 Evidence has been submitted indicating that the effect upon highway safety by virtue of inadequate sightlines for vehicles leaving the site is less than the LPA claim, particularly given the relatively few times a car will enter of leave the right hand bay. Further evidence will be submitted with the appeal statement.
- 2.3 The LPA has approved a series of similar access arrangement in the immediate area. These are detailed in supporting evidence submitted with the planning application, to be supplemented in the appeal statement.
- 2.4 The LPA refers to parking and access policies. These contain no specific guideline or prohibition to support their objection. Instead, policy and guidance advocates a balanced approach, taking account of the context, and based on principles, not fixed rules. The LPA did not apply these guidelines in a balanced way and did not take proper account of the particular context.
- 2.5 Reinstatement of the former layout represents a diminution in quality. It will be harmful to the character and appearance of the conservation area and to the host building, which is listed as contributing to the character of the conservation area. This will be contrary to Cores Strategy Policy CS 14 (Promoting high quality places and conserving our heritage).
- 2.6 The as-built gates and gate piers do not result in the loss of an on-street residential parking bay. The on-street 'box' will be shortened by approximately 3m, far short of a full bay length of 5m; and this will only occur where the crossover and bay are adjusted to accommodate the appeal scheme. Confusingly, the LPA's case is partly based on the claimed impact of the development upon on-street parking, where the bay length is adjusted, and partly on the impact upon the pavement and crossover, where there is no adjustment.
- 2.7 It possible to adjust the position and alignment of the vehicle crossover and the position of the on-street residents parking bay to better accommodate the existing access arrangement and gates. This should be

considered a less excessive measure that addresses many of the LPA's stated concerns. The LPA is also the Highway Authority, so that control is separately available for them to permit this. An undertaking will be offered to meet the potential costs. An undertaking will be offered to limit the owner or occupant of Flat 1 to a single on street parking permit (up to two are currently permitted). These measures could and should have been sought in determining the current, undetermined planning application.

- 2.8 The former layout represents a worsening of the position compared with the appeal scheme in terms of parking provision, frequency of use, amenity, safety, and the effect upon character and appearance of the conservation area. The effect of the removal would be disproportionately harmful. The effect of this diminution is a material consideration in this appeal.

3 Facts to support that the notice was not properly served on everyone with an interest in the land (Appeal form section E)

- 3.1 The Notice was served on the appellant marked 'recorded post'. The appellant claims that no person at his property signed to acknowledge receipt.
- 3.2 The LPA was fully aware that the appellant was away on holiday at the time the Notice was served. No copy was served on the Agent. This allowed little time to consider the implications and the only available option in the circumstances, given the time available, was to lodge the enforcement appeal.
- 3.3 The LPA could and should have exhausted the planning application route prior to serving any Notice.
- 3.4 The LPA had indicated that they intended to serve a Notice, but measures were taken to lock the entrance gates in order to remedy immediate concerns prior to the determination of the current application for the works, still to be determined. Neither the appellant nor the Agent therefore expected the Notice to be served.
- 3.5 The LPA has subsequently claimed that the notice was published on the Council's web site, but in a discrete section relating to enforcement notices, not the general planning history. The appellant maintains that this was insufficient, given the close co-operation and on-going dialogue between the LPA and the Agent.
- 3.6 The Notice affects two property interests, Flat 1 and Flat 2. A copy of the Notice is addressed to Mr Paul Humphreys at Flat 1 and was delivered to Flat 1. Mr Humphreys does not live at Flat 1 and the appellant states he has no way of forwarding the notice to him. The Notice confirms that no copy was sent directly to Flat 2. We have undertaken a search of title for Flats 1 & 2 (Attached). These indicate that Mr Humphreys owns Flat 2, but his address is incorrectly given as Flat 1. This may explain the LPA's actions, but does not help to clarify whether or not Mr Humphreys has received the Notice.

- 3.7 This has placed the appellant in an invidious position where they may be required to demolish and remove gates and boundary treatment relating to another property interest.

4 Facts to support that the steps required to comply with the requirements of the notice are excessive, and less steps would overcome the objections (Appeal form section F).

- 4.1 The notice requires complete removal of the gates and gate piers and restoration of the former layout. This is excessive.
- 4.2 It is possible to remove part of the scheme in order to address the LPA's concerns without complete demolition and removal. Further details will be submitted with the appeal statement
- 4.3 The former layout represents a worsening of position compared with the appeal scheme in terms of parking provision, frequency of use, amenity, safety, and the effect upon character and appearance of the conservation area. The effect of the removal would be disproportionately harmful and the scope of the Notice is therefore excessive.
- 4.4 It possible to adjust the position and alignment of the vehicle crossover and the position of the on-street residents parking bay to better accommodate the existing access arrangement and gates. This should be considered a less excessive measure that addresses many of the LPA's stated concerns. The LPA is also the Highway Authority, so that control is separately available for them to permit this.
- 4.5 An undertaking will be offered to meet the potential costs of adjusting the crossover and on-street bay. An undertaking will be offered to limit the owner or occupant of Flat 1 to a single on street parking permit (up to two are currently permitted). These measures could and should have been sought in determining the current undetermined planning application.

5 Fee for the deemed planning application

- 5.1 A planning application and fee has been submitted and registered to the exact same development. We therefore suggest either the deemed fee should not be paid for this appeal, or the cost of the still to be determined application is reimbursed, particularly given the LPA's pre-determination of the application and precipitate action in serving the Notice prior to determining the application

6 Appendix 1: Information

A1 Information about the Appellant

Full name:	Kfir and Liron Chervinski
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Status	Appellant
Agent's Name:	Michael Doyle
Agent's Address:	Doyle Design LLP 86-90 Paul Street London EC2A 4NE
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A3 Information about the appeal

Planning Inspectorate appeal reference number:

APP/X5210/C/15/3133473

Name of Local Planning Authority:

London Borough of Camden

Description of the development:

The erection of metal gates and brick gate piers on the front boundary of the property.

Address of the site:

Flat 1, April House. 45 Maresfield Gardens London NW3 5TE