

# **ENFORCEMENT APPEAL BY WRITTEN REPRESENTATIONS AGAINST ENFORCEMENT NOTICE REF. EN16/0052**

**22-26 CRICKLEWOOD BROADWAY, LONDON,  
NEW2 3HD**

**ON BEHALF OF THE CO-OPERATIVE GROUP FOOD LIMITED**

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)  
PLANNING AND COMPULSORY PURCHASE ACT 2004**

**Prepared by: JR**

## **Pegasus Group**

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## 1. INTRODUCTION

- 1.1 This Statement of Case has been prepared by Pegasus Group on behalf of The Co-Operative Group Food Ltd. ('the Appellant') and relates to an Enforcement Appeal following the issue of an Enforcement Notice (Ref.EN16/0052) by the London Borough of Camden. The Enforcement Notice relates to the following alleged breach of planning control:

*"Without planning permission: The unauthorised installation of plant equipment in the rear yard (1No. air condensing unit and 1No. refrigeration unit)."*

- 1.2 The reasons for the Council issuing this Enforcement Notice were as follows:

- a. *"It appears to the Council that the above breach of planning control has occurred within the last 4 years."*
- b. *The proposed plant equipment by reason of its size, design and location is harmful to the appearance of the building contrary to policies C55 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and to Policies DP24 (Securing high quality design), DP26 (Managing the impact of development on occupiers and neighbours) and DP29 (Improving access) of the London Borough of Camden Local Development Framework Development Policies.*
- c. *The plant equipment, by virtue of its operating noise and vibration, is harmful to the amenities of neighbouring occupiers, contrary to Policy C55 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework Development Policies."*

1.3 As detailed within this Statement, this appeal seeks to quash Enforcement Notice EN16/0052 with planning permission granted in accordance with the following documents:

- Planning Appeal Form;
- Location Plan (Drawing Number: CHQ.16.11872-10);
- Site Plans (Drawing Number: CHQ.16.11872-11);
- Detail Plans / Elevations (Drawing Number: CHQ.16.11872-12);
- A/C Units 'Dalkin' spec;
- Green & Cool Refrigerating System Spec; and
- Noise Assessment (Prepared by 24Acoustics).

1.4 It should be noted that concurrent to this appeal, a planning application (part retrospective) has been submitted to the London Borough of Camden for the following development:

*"Installation of external plant equipment to serve retail unit  
with associated pedestrian access."*

1.5 Should this submitted planning application get a positive resolution from LB Camden before the determination of this enforcement appeal, then it is expected this enforcement appeal will be withdrawn.

#### Grounds of Appeal

1.6 It shall be demonstrated through this appeal submission that the plant equipment installed at the premises does not have a detrimental impact on the visual appearance of the building and/or the amenity of the neighbouring occupiers.

## **2. THE APPLICATION SITE AND ITS SURROUNDS**

- 2.1 The application site (Nos. 22-26) is located on Cricklewood Broadway (A5) which is a main road linking to central London approximately 8km to the south east. The part of the road where the site is located in, is a terrace of retail and commercial units that provide a range of local services.
- 2.2 The site has been in use as a convenience food store (Class A1) operated by The Co-Operative Group since January 2016.
- 2.3 Residential uses are located above the site on the upper floors of the building. The side roads located off Cricklewood Broadway to the rear of the site are residential in character, consisting predominantly of Victorian 2No. storey bay fronted, red brick houses.
- 2.4 Small yards enclosed by boundary walls are located to the rear of the units. An alleyway and residential dwellings lie to the rear of these yards.
- 2.5 The site is not located within a Conservation Area nor close to any Listed Buildings.

### Planning History

- 2.6 Of most relevance, planning permission was refused on 18<sup>th</sup> May 2016 (Ref. 2016/0398/P) for the following development:

*"Installation of external plant to serve retail unit (1No. air conditioning unit and 1No. refrigeration unit) (retrospective)."*

- 2.7 This application was refused for the following reasons:

- A. *The proposed plant equipment by reason of its design and location is harmful to the appearance of the building and to the free passage by occupants into the first floor flat, contrary to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Development Policies.*
- B. *The plant equipment, by virtue of its operating noise and vibration, is harmful to the amenities of neighbouring occupiers, contrary to Policy CS5 (Managing the impact of growth and development) of the*

*London Borough of Camden Local Development Framework Core Strategy and to policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and Vibration) of the London Borough of Camden Local Development Framework Development Policies."*

- 2.8 LB Camden issued the Enforcement Notice EN16/0052 following the refusal of planning application 2016/0398/P. Since this time, the Appellant has reviewed the plant location and noise mitigation measures (as detailed later in this Statement) to ensure appropriate levels of amenity for nearby residents and acceptable visual impact.
- 2.9 Since May 2016 remedial works have been undertaken to reduce noise emissions from the plant systems. Works have included the installation of attenuators to the bakery plant (between the bakery extract vent and atmosphere side louvre).

### **3. DEVELOPMENT PROPOSAL**

- 3.1 Further to the refusal of planning application 2016/0398/P the Appellant has reviewed the location of the plant equipment to the rear of the convenience store and proposes measures to mitigate the impact of the development upon surrounding residential properties. These can be seen on the accompanying drawings and are summarised below.
- 3.2 The refrigeration unit (gas cooler) currently in situ provides chilled air to the refrigeration units within the store and as such is essential for the display and sale of chilled food. The unit is 4170mm long, 1137mm wide and 1530mm high. Following the recommendations of the accompanying Acoustic Assessment, this unit is to be entirely surrounded within a timber acoustic enclosure located directly to the rear of the premises.
- 3.3 The 1no. condenser unit provides air conditioning for the manager's office which houses computer equipment, essential to the running of the store. Whilst the condensing unit is currently in situ on a boundary wall within the rear courtyard, a further recommendation of the Acoustic Assessment identified the unit should be relocated adjacent to the refrigeration unit, within the acoustic enclosure. The condensing unit is relatively small, being 765mm wide and 550mm high.
- 3.4 Whilst not specifically referenced on Enforcement Notice EN16/0052, it should also be noted that 4no. ventilation louvres have been installed on the rear elevation of the building. For completeness the drawings forming part of this appeal submission have included these ventilation louvres and planning permission is sought for these louvres as part of this appeal process. As recommended by the accompanying acoustic assessment, these have been fitted with acoustic attenuators to ensure they do not have a detrimental impact upon the residential property located at first floor level.
- 3.5 Furthermore, an additional gate / access will be provided within the rear boundary wall to allow separate pedestrian access to the residential properties located above the appeal site.
- 3.6 It should be reiterated that the plant equipment located to the rear of the premises is essential to the operation of the retail store and cannot be located internally due to space restrictions.

#### 4. PLANNING POLICY CONTEXT

- 4.1 This section summarises the planning policy context considered relevant to the determination of this appeal.

##### **National Planning Policy Framework (NPPF) (2012)**

- 4.2 The NPPF seeks to drive sustainable economic development and requires Local Planning Authorities to plan to meet the needs of businesses, whilst Paragraph 23 seeks to promote competitive Town centres.
- 4.3 The 3<sup>rd</sup> bullet point of Paragraph 70 states that planning policies and decisions should:

*"Ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community."*

##### **Local Development Plan**

###### Core strategy (2010)

- 4.4 Camden Core Strategy was adopted in 2010 and provides a framework for development during the plan period.
- 4.5 Of relevance in the determination of this application, Policy CS5 states that the Council will manage the impact of growth and development in Camden and protect the amenity of residents and those working in the Borough by making sure the impact of developments on their occupiers and neighbours is fully considered and *inter alia* requiring mitigation measures when necessary.
- 4.6 Policy CS7 seeks to protect Camden's shopping centres and maintain their vibrancy. The Core Strategy identifies the site to fall within a Neighbourhood Centre where the Council will seek to retain a strong element of convenience shopping for local residents in Camden's neighbourhood centres and ensure that any development in them does not harm the function, character or success of that centre.
- 4.7 Policy CS14 requires development of the highest standard of design that respects local context and character and *inter alia* seeks the highest standards of access in all buildings and places.

Development Policies (2010)

- 4.8 Adopted in November 2010, Camden's Development Policies set out the detailed development management policies applicable during the plan period.
- 4.9 Policy DP12 echoes Core Strategy Policy CS7 and seeks to promote retail centres to maintain their vibrancy and the shopping function. The policy also seeks to ensure that development does not have an unacceptable impact on amenity.
- 4.10 Policy DP24 requires development of the highest standard of design, including *"the appropriate location for building services equipment."*
- 4.11 Policy DP26 confirms that the Council will protect neighbour amenity and will assess noise and vibration impacts of a development proposal amongst other considerations.
- 4.12 Policy DP28 states that the Council will only grant permission for plant or machinery if it can be operated without cause harm to amenity and does not exceed the noise thresholds.

## **5. STATEMENT OF CASE**

5.1 As set out within the introduction of this Statement, it shall be demonstrated through this appeal submission:

- The plant equipment located to the rear of 22-26 Cricklewood Broadway does not have a detrimental impact to the following:
  - Visual appearance of the building; and
  - Amenity of the neighbouring occupiers.

5.2 This Statement of Case below provides an assessment of the following, which form the Appellant's Grounds of Appeal:

1. Principle of Development;
2. Amenity;
3. Visual Appearance; and
4. Other Material Considerations.

5.3 Each issue will be discussed in turn below:

### **Principle of Development**

5.4 National and local planning policy supports the creating of vibrant centres and encourages retail uses, especially within existing centres.

5.5 The plant equipment is essential to the operation of the convenience food store and helps to maintain a retail use in an identified neighbourhood centre that is of benefit to the local community. It is therefore considered that the air condensing unit and refrigerating unit is acceptable.

### **Amenity**

5.6 A detailed assessment of the equipment already in place, has been undertaken to determine the impact upon the amenity of surrounding residential properties (namely those properties located directly above the ground floor convenience food store).

- 5.7 The Noise Assessment which accompanies this appeal submission (prepared by 24 Acoustics) concludes that subject to appropriate mitigation measures, the noise emission levels are acceptable and accord with Camden's requirements.
- 5.8 This includes the relocation of the condensing unit from its current position to lie adjacent to the refrigeration unit and enclosing both within an acoustic enclosure. Furthermore, the ventilation louvres have been fitted with noise attenuators to ensure their noise impacts is minimised. The drawings accompanying this appeal submission demonstrates the described mitigation measures.
- 5.9 As described in detail with the accompanying Noise Assessment, these mitigation measures would address the concern of amenity of neighbouring occupiers and ensure the proposed plant is entirely acceptable from an noise/amenity perspective.

### **Visual Appearance**

- 5.10 Firstly, it is important to note that the plant is located within an existing yard and is not visible from any public vantage points.
- 5.11 As described the plant equipment is to be located within a timber enclosure to minimise the visual and amenity impacts. Consequently, the plant equipment will not be seen from any public or private vantage points and will not have an adverse impact on the character or appearance of the street scene.
- 5.12 The property is not Listed, nor is it located within a Conservation Area, and the proposal would not have a significant adverse impact on the character or appearance of the property. The use of timber enclosure is considered acceptable from a design perspective in accordance with local planning policy.

### **Other Material Considerations**

- 5.13 The Co-Operative Group is operating within a retail store that would otherwise have stood vacant. Their occupation has created benefits in terms of investment in the local area and the creation of employment.
- 5.14 The air condensing unit and the refrigeration unit is essential to the operation of the food store in order to keep a steady flow of air within the unit as well as keeping food and drinks chilled. It is therefore an integral part of the store, and necessary in order to deliver the above benefits.

## **6. CONCLUSION**

- 6.1 This appeal is made following an Enforcement Notice (Ref. EN16/0052) received from London Borough of Camden in relation to the alleged breach of planning control for the unauthorised installation of plant equipment within the rear yard of 22-26 Cricklewood Broadway.
- 6.2 The plant equipment is an integral part of the infrastructure underpinning the retail operation. National and local policy supports economic development, meeting the needs of businesses and maintain a retail function in retail centres.
- 6.3 It is considered that following the implementation of the mitigation measures recommended within the accompanying noise assessment, the air condensing unit and refrigerating unit will not have an adverse impact on residential amenity. Consequently, the equipment complies with Policy DP26 of the Core Strategy.
- 6.4 Based on the arguments set out within this Statement and the merits of the retail store, the air condensing equipment and refrigerating equipment have been shown to adhere with relevant development plan policies. As such, the Inspector respectfully requested to quash Enforcement Notice EN16/0052 and grant planning permission for the plant equipment as per the accompanying planning drawings.