

Wednesday, 22 November 2017, Updated 29 November 2017

Enforcement Notice appeal

Dear Planning Inspectorate,

I understand from reading the appeal guidelines that what follows *you should avoid repetition and information that does not relate to the issues involved. The grounds of appeal should be clear and concise and we would not expect them to exceed 3,000 words.*

What follows is the reason for the appeal and below this the timeline of how this situation has arisen.

The architect that we engaged has suggested we choose option F. that states *the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary either to remedy any breach of a planning control or to remedy any injury to amenity which has been caused by any such breach.*

Reason for the appeal

Specifically my medical conditions are being negatively affected by this ongoing situation that started in early 2017 and with the real prospect that this will continue well into 2018, there is a need to end this matter.

I have two main health conditions, Arthritis in the spine and also Chiari Malformation that was diagnosed when I was 50 years of age (this condition affects the brain, skull and top of the spine). Having the new double glaze windows is already having a beneficial effect on both my Arthritis and Chiari Malformation but the mental distress of being refused planning permission and the continuing nature of this process, culminating in receiving the Enforcement Notice on 20th October 2017 has increased the pain associated, specifically with my Chiari Malformation. Please click on this link to view more information about this condition www.nhs.uk/conditions/chiari-malformation. Also being cold or catching a cold etc. exasperates this condition. My Arthritis is also adversely affected by living in cold conditions. Hence the requirement for double glazing.

I can only get pain relief from injections that need to be administered by my partner. During this time, the frequency of these injections, have increased from 4 per month to 8 per month. These injections are not cheap but thankfully I can get, for now, via an NHS prescription (non NHS prescription is about £40 for 2). Nevertheless, this increased mental distress and anxiety caused by the issue with the window frames and having to interact with Camden Council is costing me additional money to try to cope with the increased pain and mental distress.

My pain is also not helped by Camden Council Planning department who claimed (and I have in an email that states this...) that they will help us to find a resolution (see two email extracts below from John Diver) whereby our new windows can remain 'as is', however, they have not helped and have been very difficult to communicate with, either by phone or email.

Extract from John Diver, dated 30 August 2017

"Now that the decision has been issued Angela* will likely be in touch in order to make arrangements for steps to be taken to rectify the situation. As discussed if you are willing to work with us on this then hopefully we can get the windows adjusted without too much hassle". *Angela Ryan, Camden Council Planning Department.

Extract from John Diver, dated 01 September 2017

"After this has been issued Angela* will be in a position to involve her and will be aiming to work with you both in order to rectify the situation. We will work with you in order to rectify the situation where possible". * Angela Ryan, Camden Council Planning Department.

My medical condition is also helped because the new windows are easy to open and close, regulating the flat temperature. Compared to the original Crittall window frames that had become fragile, opening and closing had become an ordeal as we were afraid that more glass panes might break and a potential danger of broken glass falling on 'passers-by'.

Pollution and my Health:

An unexpected benefit has been the reduction of the toxic traffic pollution from the heavily used Camden Road. My Flat is approximately 20-30 steps from Camden Road. Since the new windows have been installed there is a noticeable increase in cleaner air in the Flat and this also has a beneficial effect on my health.

This Enforcement Notice is a block to my lease extension: (another reason aside from my medical conditions)

I am a leaseholder and the plan was that when my partner had a permanent job again (salary circa. £40K) we would look to extend the lease to 99 years (currently the lease has 58 years left). With the years 'ticking by' and every 6 months my lease extension fee is becoming greater. We have in 2016, spoken with our freeholder and bank to explore extending my mortgage for the purposes of buying a lease extension. In light of this Enforcement Notice, Camden Council has written to my mortgage lender bank and freeholder and while this Enforcement Notice is in place there can be no lease extension. This is another reason why we need to get this notice removed.

We (Lucy Medhurst and John Fitzgerald) believe we were conscientious in contacting Camden Council Planning department for advice/planning permission. We know that many Flat owners in the block who have installed double glazing, in the past, have not sought Camden Council planning permission. We have now learnt and understand that some of the flat owners who didn't inform the Council can't now be challenged as 4 years have passed. And Flat 40, for example, was only allowed to install PVC Double Glazing by Camden Council.

We felt seeking planning permission was our responsible duty, however, due to our desperate need to combat the cold and be energy efficient there would be no problem in our installing double glazing in the correct manner.

Timeline of events leading to the Enforcement Notice

December 2016

At the Highstone Mansions's AGM, in December 2016, we were informed by the Managing Agent, Maunder Taylor, that the building needed to be re-pointed, re-plastered and re-painted and as a result, scaffolding would need to be erected around the whole building from 'March to May' in 2017. It was stated the if flat owners wanted to address their decrepit Crittall windows then this was the time to do so and we were advised to contact Camden Council, as planning permission may be required depending on what each flat owner wanted to do.

It is our belief that in a matter of years the managing agent will request that all flat owners will be advised to install double glazing for energy efficiency etc.

January, February, March 2017

In January 2017, some of the flat owners (including ourselves) attended 2 meetings to discuss the way forward with new windows installation. At a second meeting our free holder was present. We (Flat 25) decided to address our Crittall Windows that had been installed in 1937 (when block was built), however by 2017 the window frames were no longer tight against the frame panels causing cold and draught. There were two broken handles and three glass panes that needed urgent replacing/repair. At this point our flat windows/frames were very decrepit and draughty. Previously we had tried to get the handles and glass panes fixed and discovered that the nearest Crittall Window Glazing Company was based outside London; although they came out to view and they quoted £230 to replace the broken glass panes, they were unwilling to do the work to replace/fix the handles and glass panes.

At this time we also investigated about scaffolding for our own flat, however, we were told that where our flat is situated, this would mean that single flat scaffolding couldn't be used because our three windows facing Lyme Terrace/Canal side did not have a level base but continued into the basement via a steel staircase.

In February 2017, we contacted Camden Council planning department to explain that we had a need to install double glaze windows to replace the decrepit and draughty single glaze Crittall window frames (installed in 1937) for reasons of energy efficiency, this would be beneficial to my health conditions.

By energy efficiency I mean that during the winter months (along with communal radiator heating and hot water which I pay for as part of the service charge) I need to have two extra electric heaters to gain some warmth in the lounge. I was told that my electricity bill was equivalent of a 2/3 bedroom house and not a 1 bedroom flat – circa £800 per year.

We also explained that we only had a small time of opportunity (March – May 2017) to replace the old windows, as the whole block was being scaffolded, and this has not been done for about 25 years. (My flat is on the 2nd floor – three storeys up from basement/ground level and scaffolding would be required to install new windows). At this stage we knew this was the opportunity, with the block being scaffolded and therefore we had to start making arrangements for the double glaze windows installation.

In February 2017 Laura Hazelton from Camden Council planning department advised the following:

- You can replace single glaze Crittall with double glaze windows as long as the frames remained metal (we chose Aluminium)
- You need to keep 'like for like' design

In March 2017 I applied for planning permission, only realising later that a decision on the planning permission would come too late and after the scaffolding was taken down. Laura Hazelton then advised that I could apply retrospectively after the installation was complete. I called the planning department to discuss this matter and spoke with a John Diver, a colleague of Laura who said because you have submitted and paid the full planning permission, then all you need to do is amend your 'statement of work', add the word 'retrospective' and re-submit. I did this.

The Camden Council planning department had said that as long as we complied there should be no problem.

May and June 2017

The new Double glazed windows were installed in May 2017 (completed May 17th) – We insisted that the manufacturers and installers took care to make a 'like for like' design as advised by Camden Council. As a result the work took a couple of weeks to make sure we had 4 vertical cross bars for the 2 large window frames and 3 vertical cross bars for the 2 smaller window frames. Also black frames at the back (backyard) and white frames at the front (canal side).

After several attempts at requesting a representative to visit and view the new windows, John Diver from the Camden Council Planning Dept. eventually visited on the 10 July.

Upon arrival and viewing outside, John Diver commented that he found it hard to see any fault with our windows to such an extent that he had trouble finding the correct windows/locating our flat in the first place.

The visit lasted around an hour whereby we showed him the internal of our flat; also as an example we showed him some of the decrepit original Crittall windows in the stairwell of the block, so he could understand our reasons for replacing. We took him externally around the whole building showing him many of the other flats that had already replaced their Crittall windows to double glazing.

John Diver took pictures of the new windows and stated that these pictures would be reviewed by the Camden Council Team and they will decide if the retrospective planning permission would be granted. He felt very confident that it would be granted as he could see no reason why it should be refused.

(Along with this visit, in a previous phone conversation, John Diver had said "it is not as if you put in double glazing frames that you found in a skip".)

Both my partner and I felt a sense of relief, at this time, with his positive comments and statements.

But we (my partner and I) were really shocked to learn (9th August) that the outcome of this meeting was that the retrospective planning permission was not approved; the reasons given were that the horizontal cross bars needed to be external, the vertical frames need to be narrower and the two top middle windows need to be wider.

Over the next two days, on researching, we discovered that due to modern style of double glaze windows the frames are designed wider to hold double glazing and the cross bars are always in between the double glaze panes of glass.

Camden Council planning department officer (Angela Ryan) then asked us to address these concerns and then she would re-inspect. We then contacted up to 6-8 window glazing/house builders/handyman but no one was able to do this work. In fact one gentleman from a window glazing company said he had never heard of such a situation and he had been in this business for 20 years*.

My partner John spoke to Angela Ryan at Camden Council planning Department again, updating them on what the 6-8 window glazing/house builders/handyman had said and asked if the Camden Council Planning Department would re-visit our property and assess the window frames again. She said no and that she had no choice but to serve the Enforcement Notice.

*I was, also, told by someone whose background is in architecture who said that the double glazed window frames would have to be wider than the single Crittall frames to hold the double glazing, if not, it would be dangerous and a hazard to have single frames holding in double glazing.

We have measured the different widths, our new vertical frames width is 7.8cm versus 5.8cm for the single Crittall window frames. Taking into account that we are on the 3rd floor and at the back of the block, the optical angle is almost 30% and the optical difference is 0.

We, just about managed to afford the installation of these new double glazed windows and don't have any further financial means to rectify. We have 1 small salary income that barely covers our outgoings.

This is the reason we have appealed to you, so that we can bring this desperate matter to an end.

You are very welcome to come and visit our flat to view our windows.

Please feel free to contact myself or my partner John Fitzgerald.

Kind regards

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