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Appeal to the Secretary of State under section 174 of the Town and Country Planning Act 1990 against the Enforcement Notice served by
Camden Council for:

“Without Planning Permission: Engineering operation comprising demolition of front boundary wall, lowering level of forecourt and creation of new hardstanding to create off street parking”

EN18/0049

50a Haverstock Hill, London, NW3 2BH

Appellant: Mr A. Halpern

Prepared by EA Town Planning LTD

GROUNDS OF APPEAL

1. This is an appeal against an enforcement notice served by the London Borough of Camden under section 174 of The Town and Country Planning Act 1990 and is on grounds A, C and F.

2. By way of introduction, we observe that the first time the appellant heard about this issue from Camden Council was on receipt of the enforcement notice. Although the council claim they tried to contact the appellant, we would point out that the fact that they managed to find the appellant to serve the notice, they could easily have ensured that earlier communications reached the appellant too. This is important as we have found that the unwillingness of Camden council to engage properly with this has also meant that we could not come to a resolution that would have addressed their concerns. This is laid out more fully within the appeal grounds below.

The Ground Appeal on Ground A

3. This ground is without prejudice to the ground C and F appeals, and would only require consideration if the inspector deemed the alleged breach to be development requiring planning consent.

The alleged breach is:

“Without planning permission: Engineering operation comprising demolition of the front boundary wall, lowering the level of the forecourt and the creation of new hardstanding to create off street parking”

Three matters are alleged within this enforcement notice:

- a. Demolition of the front boundary wall
- b. Lowering the level of the forecourt
- c. Creating of a new hardstanding to create off street parking

The Notice then goes on to offer the reasons as to why planning permission would not have been granted:

- a. The increase in car use contrary to policy T2 and CPG7

b. Loss of wall, cars parking and materials all detract from the visual amenity of the streetscene contrary to policy D1 within CPG 1 Design.

4. In order to address this properly it is necessary to consider the site context:

Site and Surrounding Area

50a Haverstock Hill is on the east side of Haverstock Hill, 0.2 miles north of Chalk Farm Station. The building is not listed and is not within a conservation area. The properties lawful use is as self-contained flats and has been so for many years.

The hardstanding in front of the building was previously concrete slabs of no architectural significance which were in an extreme state of disrepair with parts of the ground collapsing. There was also a low concrete wall with pillars at the gateway in the centre, coping stones and metal railings. The pillars on the two ends were two different styles and colours relating to the neighbouring building. The wall was also cracked and tired looking with no benefit to the street scene.



View of the site before the development.

5. The appellant first carried out the removal of the wall due to its bad condition and also to ease the bringing out of the bins. As this is not a conservation area, planning consent is not needed for that operation.

A short while later the hard standing collapsed further and at this stage the appellant removed the existing concrete slabs, evening out and lowering the surface by some 30cm and resurfaced it with a new permeable surface of bricks.

6. It would seem that the only item that may require permission may be the changing of the hardstanding, since the property is not a single-family dwelling house.

The question therefore is whether the materials of the hardstanding comply with local policies. The council refers to policy CPG1 although they do not identify which part of the said guidance they are relying on. In chapter 6, paragraph 25, it states that new materials should be complementary to the setting.

See below:



The new hard standing

7. Looking up and down this street, there are no two properties which have the same hard-standing and each uses different materials. When looking at it from opposite, the materials blend into the surroundings and there is no reason to say they are not complementary. Furthermore, the image below shows the style of the hardstanding next to the neighbouring dental surgery and they are clearly very similar.



Hard-standing of adjoining property.

The other policies mentioned are the Camden Local Plan 2017, Policy D1 which provides design guidance. It is unclear which part of the policy they refer to in the service of this enforcement notice. There is certainly no mention of car parking detracting from the street scene and in terms of outlook there is no reason to refuse this.

Furthermore,, as this block is not a conservation area, all single-family dwelling houses have the freedom to put down any permeable hardstanding without express permission.

Essentially, this means that the LPA do not have control over the materials used in hard standings at this location. To say therefore that the materials are not in keeping with the area, would be conflating this with the rules of a conservation area.

8. Regarding the allegation that this creates off street parking there are a few points:
The hard-standing was present before, and there is still no dropped curb now, so driving onto the hardstanding would likely damage a car. The previous set up, once the wall was removed, it would also have been technically possible to bump up onto the hard standing. With regard to their use of T2 which discourages the creation of new parking spaces, this would not be relevant here as hardstanding was there before and simply lowering the level of the ground by around 30cm would not be a reason to refuse on parking grounds.
9. In summary, the removal of the wall does not require permission, the lowering of the hard standing is not an issue mentioned anywhere within planning policy. we believe that the current arrangement is a vast improvement on the pre-existing condition, the new hard-standing has been installed to a high standard with a permeable surface and sustainable drainage. It is compliant with local policies and blends with the surroundings.

The Appeal on Ground C

10. The ground c appeal 'that there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").
11. The alleged breach included the removal of the wall and lowering the level of the forecourt. The removal of the wall is demolition of a boundary wall which is classed as permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, part 11 Class C. The breach alleged in the enforcement

notice was that the combination of things which caused a detraction to the street-scene. Since the removal of the wall is not a breach, the allegation in the enforcement notice is wrong.

The Appeal on Ground F

12. The requirements of the notice are:

“Completely remove the brick hardstanding and reinstate the forecourt paving with materials to match the original. Reinstall the rendered brick boundary wall with coping stones to match the original”

The appeal on ground F is that *‘the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach’.*

11. When discussing the remedying of the breach, the service of the notice alleged that the breach was that:

- a. The creation of vehicle access increases car use contrary to Camden Council Local Plan 2017 Policy T2 and guidance contained in CPG7 Transport.
- b. The demolition of the front boundary wall, cars parking on the forecourt and the materials used in the hard standing detract from the visual amenity of the property contrary to Camden Council local policies.

In an email to Josh Lawlor (enforcement officer) between 26/06 and 29/06/2018 the appellant offered to replace the wall with a low wall which would ensure that there could be no parking. The council responded that they may be acceptable, but they would need more information on the wall. We suggested a white render wall 300mm high which would ensure it could not be used for parking. They responded that it would not be acceptable since it did not include the reinstatement of the coping stone and iron railings.

The email stated as follows:

“I did not agree to the wall, I said this ‘may be a suitable compromise however I would need to know more about the wall’. The wall you propose is very low and would not include iron railings and coping stone as was there originally. The council would be willing to overlook the engineering operation which removed the entire concrete paving slabs provided the wall is reinstated as the notice requires. Taking out the

requirement for the original forecourt to be reinstated would seem to be a fair compromise given that the previous forecourt was of a higher quality materiality to what is there now."

12. It is clear that the council felt that with regard to the material and height of the hard-standing, there was no objection and they were only insisting on the reinstatement of the wall in order to prevent parking on the hard standing.

13. As discussed, the removal of a wall is not a breach of planning so the steps required are not needed to remedy this breach. The steps requirements of the enforcement notice are therefore excessive.

In view of this we ask the inspector to quash the enforcement notice or grant planning permission if that is deemed necessary.

PREPARED BY:

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