

# Enforcement Delegated Report

Receipt Date:

Officer

Enforcement Case Number(s)

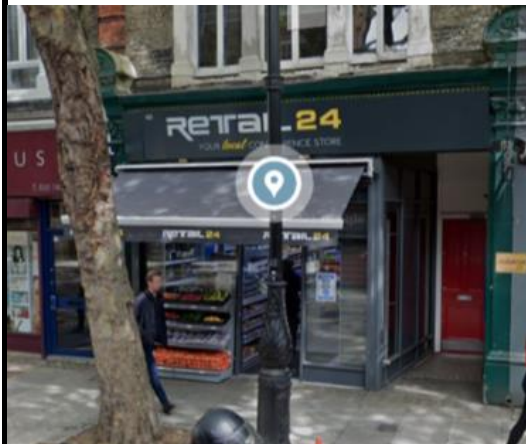
Jennifer Watson

EN20/1065

Breach Address

Photo & Other Material

40 Gray's Inn Road  
London  
WC1X 8LR



Authorised Officer Signature

12/01/2022

Alleged Breach

Without planning permission: The installation of 3 x air conditioning units in the rear courtyard and the installation of a new shopfront.

<b>Recommendation:</b>	That the Borough Solicitor issue an Enforcement Notice under section 172 of the Town & Country Planning Act 1990 as amended, and officers be authorised in the event of non- compliance to prosecute under section 179 or appropriate power and/or take direct action under section 178 in order to secure cessation of the breach of planning control.
<b>Priority:</b>	C
<b>Site Description</b>	
The site comprises a four storey mid-terraced property with commercial units on the ground floor and residential above on the eastern side of Gray's Inn Road. The building is not listed, but forms part of nos. 38 to 54 Gray's Inn Road which is locally listed. In addition the site is located opposite the boundary for the Bloomsbury Conservation Area.	
<b>Relevant Planning History</b>	
No relevant planning history.	
<b>Investigation History</b>	
26 <sup>th</sup> November 2020: Complaint received. 22 <sup>nd</sup> January 2021: Subject site visited by Planning Site Inspectors; breach of planning control confirmed. 15 <sup>th</sup> March 2021: First warning letters sent to the freeholder, leaseholder and occupier. No response received. 17 <sup>th</sup> September 2021: Second warning letters sent to the freeholder, leaseholder and occupier. No response received. 19 <sup>th</sup> December 2021: Subject site visited by Planning Officer; it appears that no action has been taken in light of the aforementioned warning letters.	
<b>Relevant policies</b>	
<b>National Planning Policy Framework 2018</b>	
<b>London Borough of Camden Local Plan (2017)</b>	
A1 – Managing the Impact of Development A4 – Noise and Vibration D1 – Design D2 – Heritage CC2 (Adapting to climate change)	
<b>Camden Planning Guidance: Design (2019)</b>	
Bloomsbury Conservation Area Appraisal and Management Strategy 2011	
<b><u>Breaches:</u></b>	
Air conditioning units installed in the rear courtyard of the property and replacement of original shopfront. Planning permission has not been granted for the above.	
<b><u>Assessment:</u></b> The key issues are:	
1) Impact of the new shopfront on the character and appearance of the host building, locally listed asset and the adjacent conservation area. 2) The impact of the air conditioning untis on the amenity of neighbouring occupiers.	

## Design

Camden's local list identifies historic buildings, spaces and features that are valued by the local community. They also help give Camden its distinctive identity. The list identifies parts of the historic environment that are not already designated in another way. The properties nos. 38 to 54 Gray's Inn Road are recognised for their architectural and townscape significance. The description of the groups are:

*Two late 19th century residential blocks with shops at ground floor level, either side of Baldwins Gardens. Robust and boldly embellished building with large decorative console brackets to shopfronts, brick pilasters, decorative parapet wall, defined string courses. Blocks have chamfered corners onto Baldwins Gardens and create a strong townscape element marking this junction. Also related stylistically and visually to nos 24-28 to the south.*

The shopfront which was removed without permission was in place at the time the property was added to the local list. It therefore forms part of the architectural and townscape significance of the wider parade.

The National Planning Policy Framework defines a heritage asset as: "A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing)."

As outlined in the NPPF, local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

The Council will seek to protect non-designated heritage assets (NDHA). The effect of a proposal on the significance of a NDHA will be weighed against the public benefits of the proposal, balancing the scale of any harm or loss and the significance of the heritage asset.

The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policy D1 are relevant to the replacement shopfront: development should consider the character, setting, context and the form and scale of neighbouring buildings, and the quality of materials to be used.

As shopfronts are seen at close quarters, the detailing, type and quality of materials are very important. Out of keeping shopfronts add clutter to the elevation and in this prominent position detract from the overall character and appearance of the property.

7.76 of the Camden Local Plan states that if a shopfront is replaced or altered, the design should respect the characteristics of the building and, where appropriate, shopfront windows and framework features, such as pilasters, fascias and console brackets, should be retained or restored. In the case of 40 Gray's Inn Road, the replacement shopfront has failed to take the above into consideration through the replacement of timber with metal, the relocation of the original door and prominent stallriser.

Namely, paragraph 7.11 of the Camden Design Guidance states that historic, locally distinctive or characteristic shopfronts which contribute to the townscape should be retained. Without

exception, the shopfront in question is the only one of its kind on the entire row of buildings comprising 40 Gray's Inn Road. All of the surrounding buildings retain their original architectural traits and are considered to make a key contribution to the character of the area.

The replacement shopfront is fully glazed with a nominal stallriser. It has lost the original entrance to the side of the recessed doorway and traditional stallriser. The introduction of metal, where timber was previously found, is alien to a building of this date and lacks the integrity and detail of other buildings on Gray's Inn Road and the wider area. The impact on the significance of the asset results from the loss of the traditional shopfront and replacement with an unsuitable design is harmful to the host building and the wider terrace.

Para. 196 of the National Planning Policy Framework states: "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

It is considered that the replacement shopfront results in less than substantial harm to the locally listed heritage asset. Whilst there are some benefits from a wider access door without a step, this benefit is not considered to outweigh the harm caused to the host building and the entire asset.

The AC units are located to the rear courtyard and cannot be seen from the wider public realm and in limited private views. For this reason the units are not considered to be harmful to the host building or the wider area.

### **Amenity**

Paragraph 6.3 of policy A1 'Managing the impact of development' states that "Protecting amenity is a key part of successfully managing Camden's growth and ensuring its benefits are properly harnessed. The Council will expect development to avoid harmful effects on the amenity of existing and future occupiers and nearby properties or, where this is not possible, to take appropriate measures to minimise potential negative impacts."

In terms of the impact the units have on the living conditions of neighbours, the Council's objections relate to noise that could be generated by them. Policy A4 states that the installation of these units would require a noise, vibration and ventilation assessment in order to prove that the units will not create unsatisfactory noise levels for neighbouring occupiers. However, during a site visit to the property, it was noted that the level of noise generated by the units was above background noise level. Given the close proximity to habitable rooms at 1-3 Brookes Court, the units result in an unacceptable level of harm to neighbouring residents' living conditions through noise pollution and disturbance issues.

### **Sustainability**

Paragraph 154 of the NPPF states that planning policies should seek to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, which can help to reduce greenhouse gas emissions, such as through its location, orientation and design. More sustainable options should

always be explored first before resorting to solutions involving active cooling – this approach is referred to by the London Plan policy SI 4 (managing heat risk) as the ‘cooling hierarchy’.

Policy CC2 of the Camden Local Plan also states that active cooling (air conditioning) will only be permitted where dynamic thermal modelling demonstrates that there is clear need for it and after other measures in the cooling hierarchy have been considered.

There is no justification in accordance with London Plan Policy SI 4 and Local Plan policy CC2 to demonstrate how the ‘cooling hierarchy’ has been considered, nor has an overheating assessment been conducted to demonstrate a need for the new cooling. As such the proposed development is unacceptable in this regard and contrary to policy CC2 and this forms a further reason for refusal

**Recommendation:**

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended to secure the removal of the air conditioning units and shopfront and to pursue any legal action necessary to secure compliance. Officers be authorised in the event of non-compliance to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

**The Enforcement Notice shall allege the following breaches of planning control:**

Without planning permission: The installation of 3 x air conditioning units at the rear courtyard of the property and the installation of a new shopfront.

**The Notice shall require the following:**

The Enforcement Notice shall require that within a period of three calendar months of the Notice taking effect;

- 3) Completely remove the 3x air conditioning units from the rear courtyard of the property and make good any resulting damage; and
- 4) Completely remove the unauthorised shopfront including and reinstate a shopfront to match the materials, proportions and design of the shopfront previously in place.
- 5) Remove any resultant debris and paraphernalia from the premises as a result of the above works.

**Reasons why the Council considers it expedient to issue the Enforcement Notice:**

- 6) In absence of an acoustic survey and noise assessment, given the close proximity to habitable rooms, the cumulative impact of the units give rise to potentially unacceptable levels of noise and disturbance detrimental to the neighbouring residents’ amenity contrary to policies A1 (Managing the Impact of Development) and A4 (Noise and Vibration) of the Camden Local Plan (2017).

- 7) The replacement shopfront, by reason of the inappropriate design and materials, is harmful to the character and appearance of the host building and the architectural and townscape significance of the locally listed terrace (nos. 38 to 54) of which the unit forms part, contrary to policy D1 (Design) and D2 (Heritage) of the Council's Local Plan adopted in 2017.
- 8) In the absence of dynamic thermal modelling to demonstrate the need for the 3 x air conditioning units, the Council cannot be satisfied that the proposed works are necessary and that appropriate climate adaptation measures to reduce the impact of overheating could not be achieved by other preferred measures as set out in the cooling hierarchy proposal is therefore contrary to Policy CC2 (Adapting to climate change) of the Camden Local Plan 2017.
- 9) The air conditioning units and shopfront have been installed at 40 Gray's Inn Road within the last four years and it is therefore expedient to pursue enforcement action.