

# Enforcement Delegated Report

Receipt date:

09/07/2020

## Officer

Angela Ryan

## Enforcement Case

EN20/0537

## Breach Address

335 West End Lane  
London  
NW6 1RS

## Photos & Other material



## Authorised Officer Signature

15/06/2022

## Alleged Breach

Installation of a new shopfront, and timber balustrade and decked seating area installed on the front forecourt

## Recommendation(s):

That the Borough Solicitor be instructed to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 as amended, to secure the removal of the unauthorised shopfront, timber balustrade and decked seating area installed on the front forecourt and to authorise in the event of non-compliance, to prosecute under Section 179 or other appropriate power and/or take direct action under section 178 in order to secure the cessation of the breach of planning control.

## Site Description

The site is a four-storey mid-terrace building and is currently being used as a café/restaurant at ground floor level within a commercial parade on the south side of West End Lane opposite the West End Green. There is residential accommodation located on the upper floors of the host building and wider terrace.

The site is not listed but lies within the West End Green Conservation Area and is identified as making a positive contribution to the character and appearance of the conservation area.

## Investigation History

09/03/2020- Letter of Alleged Offence sent to Offender relating to the unauthorised display of 1 x internally illuminated fascia sign, and requested a response within 14 days from the date of the letter. I received an e-mail on the same day from a planning consultant (Upp-planning), reminding me that the client had 8 weeks to appeal the advertisement consent that was refused on 30/01/2020, and that no action can be taken until 26/03/2020. The e-mail also confirmed that their client was intending to appeal the Council's decision and that the advertisement will not be required to be removed during the appeal process, and that my letter was premature. I replied back on the same date, advising that even though there is an 8 week appeal period, the advertisement is unauthorised and that I have the right to inform the Offender of the offence. That planning and enforcement are separate teams and that my timescales to not depend on timescales taken to determine planning applications. That I will hold enforcement action in abeyance until such time that an appeal has been decided. Appeals were dismissed on 17/11/2020.

23/12/2020- e-mail received from planning consultant referring to appeal decision and confirming that they are keen to resolve the issue in a peaceful manner and will be seeking pre-application advice. Requested that I refrain from taking further action as they are keen to resolve matters as a priority and follow due planning process. I responded on the same day via an e-mail confirming my willingness to hold enforcement action in abeyance but requested that there is no lengthy delay in addressing the concerns.

20/01/2021- e-mail received from planning consultant confirming that a planning application will be prepared within the coming weeks and asked whether the Council would accept an aluminium shop front.

22/01/2021- I responded to the planning consultant's e-mail (referred to above) advising that it would be more beneficial for them to liaise with the Planning Case Officer and that their type of query is normally dealt with under a formal pre-application enquiry.

11/03/2022- Letter sent to Offender reminding them of the breaches including the unauthorised timber enclosure and decked seating area, and illuminated advert being displayed and requested that the unauthorised timber decking and fascia are removed within the next 14 days from the date of the letter.

## Relevant policies / GPDO Category

**NPPF 2021:** Paragraph 59 (Enforcement)

**London Plan 2021** – D4 (Delivering good design)

### **Camden Local Plan 2017:**

D1 Design

D2 Heritage

D3 Shopfronts

D4 Advertisements

A1 Managing impact of development

A4 Noise and vibration

TC4 Town centre uses

**Camden Planning Guidance 2021**

CPG Amenity 2018 -chapter: 2 and 6  
CPG Design 2019 -chapter: 3, 6 and 7  
CPG Advertisements 2018- chapter:1  
CPG Transport 2019 -chapter: 9.14

West End Green Conservation Area Appraisal and Management Strategy 2011 (CAAMS)  
paragraphs 5.3.1, 5.3.2 (pages 16-17), Section 2 (page 38), 7.3 (page 49)

Fortune Green and West End Green Neighbourhood Plan 2015 Policies 2, 3 and 13

## **Assessment**

### **Relevant Planning history:**

**30/01/2020-** Permission **refused** for the installation of replacement shopfront, including retractable awning and balustrading to decked area to forecourt of existing restaurant (Class A3). (**Ref: 2019/3436/P**).

**30/01/2020-** Advertisement consent **refused** for the display of 1x internally illuminated fascia sign to existing restaurant (Class A3). (**Ref: 2019/3692/A**)

**The above refusals were appealed against and were subsequently dismissed on 17/11/2020 (Refs: APP/X5210/W/20/3249374 & APP/X5210/Z/20/3249368)**

**07/04/2021-** A pre-application enquiry was submitted relating to rectifying the property and amending the shop front/balustrade following appeal dismissal (**Ref: 2021/1812/PRE**)

### **Relevant Enforcement History:**

**31/01/2020-** complaint received relating signage works carried out despite refusal. (**Ref: EN20/0106**). This case is still active

**09/07/2020-** complaint received relating to unauthorised shopfront, heaters, signage, decking and balustrade (**Ref: EN20/0537**)

### **Issues:**

A new shopfront, including shutter box and awning was installed without the benefit of planning permission. A timber balustrade and decked seating area has also been installed on the front forecourt. These elements are currently subject to enforcement action.

An unauthorised illuminated advert is also being displayed on the shopfront and is subject to direct prosecution and is therefore not included in this action.

In 2019 a retrospective planning application and advertisement consent applications were submitted in order to retain the current shopfront, timber balustrade, decked seating area and illuminated advertisement. The applications were refused, appealed against and both appeals were dismissed by the Planning Inspectorate on 17/11/2020 (Ref: APP/X5210/W/20/3249374 & APP/X5210/Z/20/3249368).(**See Appendix 1**)

In light of the above, the relevant works that have been undertaken at the site remain unauthorised development.

## **Assessment:**

The site lies within the designated West End Green Conservation Area and is considered to be a non-designated heritage asset. The site is identified in the Conservation Area Appraisal as making a positive contribution to the character and appearance of the conservation area.

Policy D1 in Camden's Local Plan 2017 stipulates that the Council will seek to secure high quality design in development. Good design takes account of its surroundings and preserves what is distinctive and valued about the local area. The new shopfront is considered to be inappropriate for the host building because it involves the loss of a traditional shopfront in a conservation area. The replacement shopfront forms a large expanse of glass which is contrary to policy D3 for shopfronts, and results in the loss of the remaining traditional architectural details and no longer relates to the composition of elevations at upper floor levels.

In accordance with policy D2 in Camden's Local Plan 2017, the Council will expect developments to preserve or enhance the character and appearance of the area.

The immediate area is characterised by its village character with a central green and substantial buildings, terraces and mansion blocks, many of which have retained their traditional appearance and detailing. Paragraph 7.3 in the Conservation Area Appraisal and Management Strategy advocates for the retention of traditional shopfronts and that they maintain visual character and appearance of the street. Replacement shopfronts are not expected to be facsimiles of the existing shopfronts, but alterations should be in a material of a similar appearance to the original as the conservation area can be eroded through the loss of traditional architectural features, particularly at ground floor level.

Policy D3 of Camden's local plan states that that when determining proposals for shopfront development the Council will consider the existing character, architectural and historic merit and design of the building and its shopfront, and the general characteristics of shopfronts in the area. It also states that traditional architectural features should be reinstated where they have been lost. The host building has traditional fenestration on the upper floors thus creating a regular rhythm in this part of the street scene. Whilst there are a variety of shopfronts on the ground floor of the terrace of buildings, many retain traditional windows and features such as pilasters and stall risers. The traditional timber shopfront at the host building has been replaced with a fully glazed shopfront, with aluminium framing. The Council considers that a full height glazed shopfront is not appropriate for this property and advised that a traditional timber shopfront would be acceptable and should include architectural elements such as a stall riser, transom and mullions glazing bars and a door frame to the entrance. Of the current shopfront, paragraph 12 in the appeal decision states:

*"It lacks traditional features thus failing to relate to the proportions or layout of the upper floor of the host building. It reads as a gap along the frontage and adds a horizontal emphasis to the otherwise traditional vertical detailing on the building. Heaters and an awning have also been installed in front of the shopfront window. Due to their prominent forward positioning and design they also read as incongruous additions which detract from the characteristics of the building and wider terrace".*

A timber balustrade and decked seating area has been installed on the front forecourt. The planning Inspector confirms in paragraph 16 of the appeal decision that:

*"The decking seating area has been constructed in timber and is finished in a dark colour. To take account of the slope in ground levels outside the appeal site, the decking is raised above the adjacent pavement. There are narrow gaps between the balustrades which restrict views through to the seating area. All these factors cause it to be a prominent addition to the front of the appeal site and its solid appearance significantly encloses this part of the street scene".*

The Council seek to maintain uncluttered spaces and high quality footpaths that are wide enough for the number of people expected to use them so that they give the maximum possible space to pedestrians who can use them safely and easily. CPG Transport states in paragraph 9.14 that 'The back of the footway must be free from obstruction to assist visually impaired users and to avoid

unwanted gathering of litter and antisocial behaviour.'

In paragraph 16 of the appeal decision, the Inspector was not convinced that a safe and enclosed seating area could not be achieved by a design that would be more in keeping with the area.

**Conclusion:**

The unauthorised development has resulted in the loss of architectural details, and the replacement shopfront by reason of its design and materials is an incongruous addition which fails to relate to the proportions or layout of the upper floor of the host building and detracts from the character and appearance of the host building, shopping parade and wider West End Green Conservation Area contrary to policies D1 (Design), D2 (Heritage) and D3 (Shopfronts) of Camden's Local Plan 2017 and policies 2 & 3 of the Fortune Green and West End Green Neighbourhood Plan 2015.

The timber balustrade and decked seating area are prominent additions which by reason of their location, scale and solid appearance encloses this part of the street scene on of their location have a detrimental impact on the host building, shopping parade and wider West End Green Conservation Area are contrary to policies D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017 and polices 1, 3 and 13 of the Fortune Green and West End Green Neighbourhood Plan 2015.

**Recommendation:**

That the Borough Solicitor be instructed to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 as amended, to secure the removal of the unauthorised shopfront, timber balustrade and decked seating area installed on the front forecourt at the property and to authorise in the event of non-compliance, to prosecute under Section 179 or other appropriate power and/or take direct action under section 178 in order to secure the cessation of the breach of planning control.

**The notice shall allege the following breaches of planning control:**

Installation of a new shopfront, including retractable awing and balustrading to decked seating area to the forecourt

**WHAT ARE YOU REQUIRED TO DO:**

1. Totally remove the unauthorised shopfront and reinstate a traditional timber shopfront to match the proportions of the shopfront in place prior to the unauthorised works;
2. Totally removed the timber balustrade and decked seating area from the front forecourt; and
3. Remove from the land any resulting material and make good any damage caused as a result of the above works

**PERIOD OF COMPLIANCE: 3 Months**

**REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:**

1. The installed shopfront, by reason of its inappropriate design and materials, fails to preserve or enhance the character and appearance of the host building, the parade of which it forms a part, and the West End Green Conservation Area, contrary to the provisions of policies D1, D2 and D3 of the Camden Local Plan 2017 and policies 2, 3 and 13 of the Fortune Green and West End Green Neighbourhood Plan 2015.
2. The installed balustrade, decking and associated seating area, by reason of its inappropriate design, fails to preserve or enhance the character and appearance of the host building, the parade of which it forms a part, and the West End Green Conservation Area, contrary to the provisions of policies D1, D2 and D3 of the Camden Local Plan 2017 and policies 2, 3 and 13 of the Fortune Green and West End Green Neighbourhood Plan 2015.

