

<b>LONDON BOROUGH OF CAMDEN</b>	<b>WARDS:</b> All
<b>REPORT TITLE:</b> Enforcement, Trees and Appeal Performance Update	
<b>REPORT OF:</b> Director of Economy, Regeneration and Investment	
<b>FOR SUBMISSION TO:</b> Planning Committee	<b>DATE</b> 8 <sup>th</sup> April 2024
<p><b>SUMMARY OF REPORT</b></p> <p>This report provides an update on planning enforcement performance during Q3 and Q4 of 2023/24 and overall performance of the year (to 18<sup>th</sup> March) compared to 2022/23. The report outlines the number and types of reported breaches of planning control. The report includes details of CMP enforcement work and an update on a number of projects and examples of recent enforcement cases.</p> <p>An update on the amount of tree notifications made and Tree Preservation Orders served is also provided.</p> <p>The report includes an analysis and overview of all appeal decisions during 2023/24 to date. Significant appeal decisions are highlighted and cost decisions updated. It also highlights forthcoming hearings and inquiries and written representations decisions awaited.</p> <p><b>Local Government Act 1972 – Access to Information</b> No documents that require listing were used in the preparation of this report.</p> <p><b>Contact Officer:</b> Elizabeth Beaumont, Appeals and Enforcement Team Manager 5 Pancras Square London N1C 4AG Tel: 020 7974 2075 E-mail: <a href="mailto:elizabeth.beaumont@camden.gov.uk">elizabeth.beaumont@camden.gov.uk</a></p>	
<b>RECOMMENDATION:</b> The Planning Committee is asked to note the report.	

**Signed:** 

**Dated:** 25<sup>th</sup> March 2024

# 1 Enforcement

1.1 The following section of the report provides an update on planning enforcement performance during Q3 and Q4 of 2023/24, 2023/24 (up to 18<sup>th</sup> March) compared to 2022/23.

## 2 Reports of breaches planning control received.

2.1 Overall, in 2022/23, the Enforcement Team received 1098 new reported breaches of planning control. In Q1 and Q2, 2023/24 there were 507 reports and 483 in Q3 and Q4, giving a total of 990. The graph below shows the number of cases received and closed each quarter. The team aim to close as many cases as are received to limit any backlog of cases. In Q3 of 2023/24, a review of historical formal cases was undertaken to ensure they were correctly closed on our system. This resulted in a very high number of closures for this period.

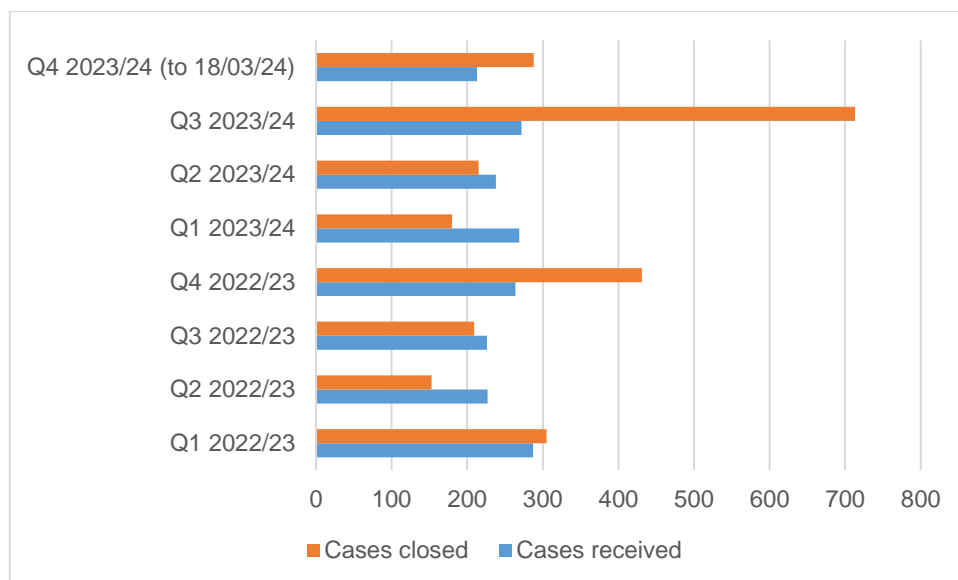


Figure 1 - Reported breaches and case closures of planning control

2.2 Most reported breaches of planning control relate to works to residential properties. In 2023/24, this was followed by estate agent boards and reported changes of use. This is a change from 2022/23, where breaches of condition was the third highest reported breach of planning control. This pattern has remained consistent through 2022/23 and 2023/24. There has been a rise in the reports of short term lets and the team continue to take actions with short term let projects throughout the year.

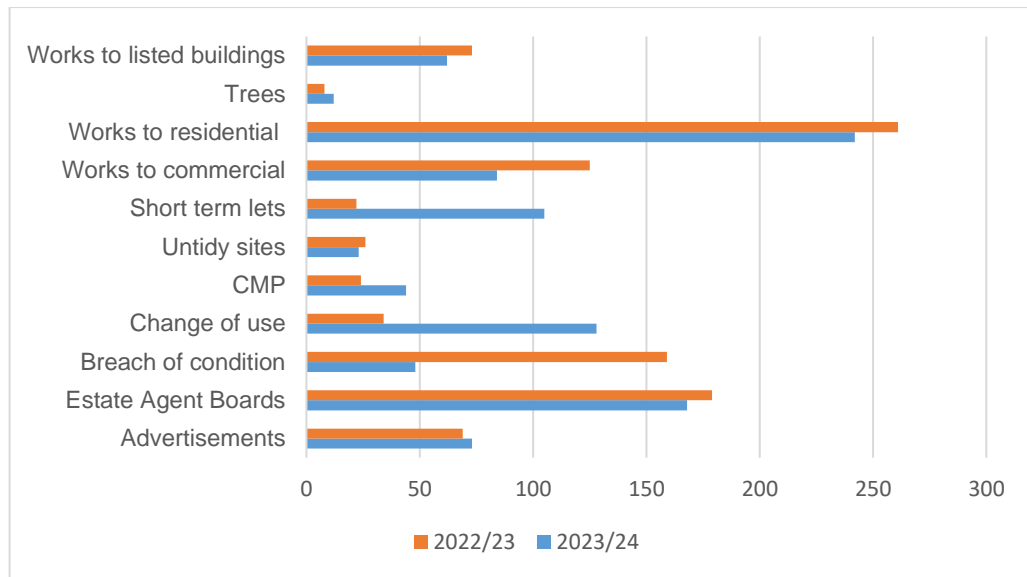


Figure 2- Type of breaches reported

### 3 How breaches are resolved

- 3.1 The team closed 1181 enforcement investigations in 2022/23, 45% of which were within 16 weeks from the start of the investigation. In Q1 and Q2, 395 investigations were closed of which 49% were within 16 weeks. In Q3, the team had a project to review historical formal cases which had not fully closed on the system, which resulted in 713 closures. So far in Q4 289 cases have been closed. Overall in 2023/24, 1397 enforcement investigations have been closed reducing the overall number of active cases to 1073 (882 active and 191 formal).
- 3.2 Of the 998 cases received in 2023/24 (up to March 18<sup>th</sup>) 33% were closed (327) in an average of 8 weeks. Formal action has been taken for 41 cases of these cases and 5 appeals have been lodged.
- 3.3 The most effective way to resolve breaches is through informal action. This is where enforcement officers secure the resolution of a breach using the threat of formal action. Informal action avoids the substantial delays and associated costs of enforcement appeals which currently take a year to be determined by the Planning Inspectorate. In Q1, 36% and Q2 in 29% were resolved through informal action. In Q3, following a project to close older cases on the system (checking compliance of older notices), the figure was 23% of all cases. In Q4, 45% of all cases were closed following informal action. This is a key indicator of the success of the enforcement team.

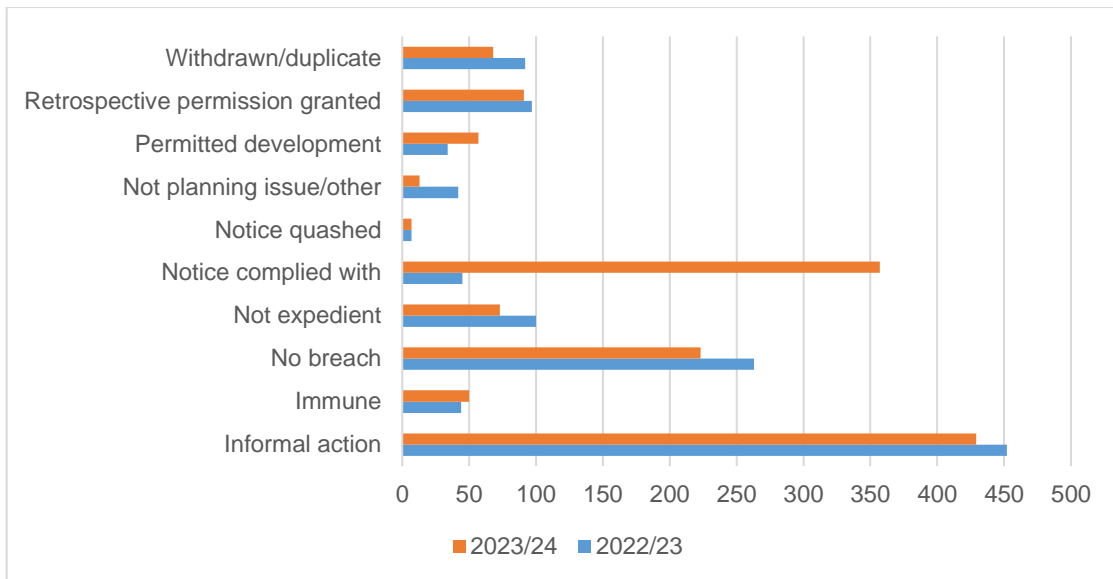


Figure 3- Case closed reason

- 3.4 Officers secured the submission of 86 retrospective planning applications in 2020/21, 55 in 2021/22, and 97 in 2022/23. In Q1 and Q2, 44 enforcement cases were resolved following retrospective permission being obtained. In Q3 and Q4 to date 47 retrospective applications were granted (91 to date in 2023/24). In addition to bringing in income this ensures the necessary controls through planning conditions and Section 106 Legal Agreements. It also ensures that offenders are made to follow the correct process and enables residents and local groups to have an opportunity to comment on the scheme.
- 3.5 In 2021/22, 23 enforcement notices were complied with and in 2022/23 this was 40. In Q1 and Q2, this figure was already at 24 notices. In Q3, compliance checks of historic formal cases was undertaken, which resulted in an increase to 327 cases being resolved following enforcement notices being complied with. In Q4 so far 6 notices have been complied with (357 in 2023/24).

#### 4 Formal action

- 4.1 Where there is significant harm and efforts to resolve the breach have not been successful, formal enforcement action will be taken. Planning Contravention Notices (PCNs) are also served as part of enforcement investigations. The combined number of notices served are reported to the Government quarterly. In 2021/22 96 notices were served an 91 in 2022/23. Overall, 119 notices have been served in 2023/24 which is the highest number in the past three years. This includes 63 enforcement notice, 4 breach of condition notice, 2 listed building enforcement notices and 50 PCNs.

Table 1 - Enforcement notices served

	2021/22	2022/23	2023/24
Breach of conditions notice		27	4
Enforcement Notice	28	42	63
Listed Building Enforcement Notice	1		2
Planning Contravention Notice	66	21	50

Temporary Stop Notice	1		
Section 215 Notice		1	
Grand Total	96	91	119

4.2 In 2023/24, 21 enforcement notices were appealed, only 4 have been determined to date, all of which were dismissed. Three appeals were withdrawn. The remainder of the 19 decisions relate to enforcement notices served and appealed prior to 2023/24. Enforcement appeals are taking approximately a year for a decision to be reached. Of these appeals (19) 73% were dismissed (11) which shows the correct approach is being taken by the enforcement team.

## 5 Construction Management Plans (CMPs)

5.1 The Enforcement Team includes a CMP Enforcement Officer and CMP Planning Site Inspector (PSI). These officers form part of the Council wide Construction Management Forum. The CMP PSI undertakes a program of proactive site inspections specifically to assess development sites against their approved CMPs. The CMP Enforcement Officer investigates reported breaches of a CMP and takes necessary enforcement action.

5.2 In 2022, there was a total of 57 Planned CMP Inspections undertaken, of which 11 development sites were assessed as non-compliant. All sites secured full compliance in 7 days. There was a total of 59 Unplanned/Compliance inspections undertaken. Eleven sites had non-compliant Actions reported. These sites were given 7 days to address the Actions and all development sites achieved compliance within the timescale.

5.3 During 2023 there were 25 planned inspections of which 72% were in full compliance with all inspected elements of the CMP. Of the 7 sites which were found non-compliant, these issues were all considered minor and were resolved within 7 days. Where a site had 2 or more non-compliance concerns, they were given 48 hours to resolve the breach, all site achieved this without further enforcement action being warranted. Of the 89 unplanned visits, 66% were in full compliance within the CMP. All 34% sites where a breach was found secured full compliance in 7 days from the visit.

*Table 2 - type of CMP inspections*

	2022	2023	2024
Confirmation of Works Complete	0	37	5
Planned Inspection	57	25	9
Reactive Site Inspection	9	11	2
Routine Site Visit	58	77	35
Unplanned/Compliance Inspection	59	89	14
Grand Total	196	239	65

5.4 In 2024, 14 unplanned/compliance visits have taken place so far and 100% were found to be in full compliance with the CMP. Out the 9, planned

inspections 2 were found to have minor breaches with the CMP. These were resolved within 7 days.

- 5.5 Whilst breaches were found, none of these warranted formal action to stop works on site. A draw down from the CMP Bond was made on three occasions for two sites following enforcement investigations.

## **6 Enforcement in Action**

- 6.1 **52 Fortune Green Road** - On 28 February 2024, the Court ordered a fine of £350,000 and full costs of £247,011.64 in Camden's favour against landlords Joel Salem and Judith Robinson-Dadoun who were both previously found guilty on 16 June 2020 by a judge at Highbury Corner Magistrates' Court, under section 179(2) of the Town and Country Planning Act 1990, for their failure to comply with an Enforcement Notice for the property at 52 Fortune Green Road in 2020.
- 6.2 Following an investigation by the team between 2009 and 2010, an Enforcement Notice was served on 6 October 2010, and this was due to be complied with by 18 May 2011. The defendants failed to comply, ignoring repeated written warnings as to the potential consequences. Summonses were served on the defendants on 5 October 2018, alleging that the defendants had acted unlawfully between 19 May 2011 and 7 June 2018. The defendants continued to receive rents until the property was sold, on 29 April 2021.
- 6.3 The reason for taking enforcement action was because the residential units in terms of their floorspace and mix of unit sizes did not provide residential accommodation to meet housing needs within the Borough or an acceptable standard of living accommodation.
- 6.4 Judge David Aaronberg KC in his sentencing remarks stated: "...Both defendants bear high culpability in respect of their failure to have complied with the enforcement notice". He added: "...I am satisfied that the property housed large numbers of people in unsatisfactory accommodation for many years after compliance was supposed to have taken place; this was in direct and flagrant breach of the requirements of the enforcement notice which sought to promote the Council's Development Plan policies, specifically designed to protect the living conditions of vulnerable people and their neighbours. The tenants of this kind of accommodation often do not feel able to complain to their local authority about their living conditions, and more often still, they do not have the means to do so. That is what makes such tenants vulnerable."
- 6.5 In this case, there was a delay in the legal proceedings. The Judge found that the defendants deliberately procrastinated, delayed being sentenced and by so doing, postponed their liability to pay the fine and costs.
- 6.6 On the 14 September 2023 the Judge determined the benefit figure was £841,041.08. This is the amount the Council was looking to recover under PoCA. However, since the enforcement notice was issued, the defendants' equitable interests in various properties had been reduced to a nil value as a

result of mortgage arrangements being entered into with three entities. In the end the Court made a nominal order against Joel Salem for £1. Mrs Dadoun was ordered to pay £16,696.

- 6.7 The Judge concluded on the 27 February 2024 that “I have no doubt whatsoever that, having been served with the enforcement notice in 2010, the defendants gave personal guarantees and deliberately entered into mortgage arrangements with a view to reducing their available assets from the grasp of the confiscation proceedings”.
- 6.8 In his sentencing remarks the Judge stated that: “That procrastination has been a hallmark of the defendants’ conduct which can be traced back to 2018 – the moment when each became fully aware, once the summonses were served upon them, that they had no defence to the charge of which they were convicted.” He added “Rather than concede their failure to have complied with the enforcement notice, they contested proceedings from 1 November 2018, the first appearance in the Magistrates’ Court, until their trial, on 12 and 13 March 2020.”
- 6.9 Following their convictions, the defendants appealed by way of case stated to the Administrative Court, arguing that the District Judge had erred in admitting hearsay evidence and that therefore their convictions should be quashed. That appeal was dismissed by Singh LJ on 19 May 2021.
- 6.10 The case was then listed on 4 June 2021, when the court set a timetable for the confiscation proceedings and sentencing. The Judge stated “It has taken two years and eight months to bring these proceedings to a conclusion, with almost all of the delay having been caused by the conduct of the defendants who have “drip fed information relating to their financial circumstances”, starting with their responses to an order made under s.18 of the Proceeds of Crime Act 2002 and continuing for more than two years since”. Issues raised by the Council’s financial investigator, have caused the court to request further information to be provided pursuant to both s.18A and s.10A of the Act.
- 6.11 This behaviour was reflected in the substantial fine issued and Council’s full costs being awarded by Judge David Aaronberg KC and serves as a deterrent to those considering ignoring enforcement notices or seeking to avoid confiscation proceedings. The fine and costs award was for £597,011.64.
- 6.12 This case has received national coverage in [Planning Resource Magazine](#), [Local Government Lawyer](#), and [The Negotiator](#).

- 6.13 **Nisa Co-op, 185-187 Haverstock Hill** - Another example of enforcement in action, is a breach which was enforced via both Planning controls and Environmental Protection Act 1990, S.80 Statutory Nuisance. Nisa Co-op, installed two air conditioning units within an enclosure without planning permission.



- 6.14 The site was a bank for many years and had four air conditioning units located on the service road at the rear. A Nisa supermarket opened (under the new Use Class E planning permission was not required for this change of use) and removed existing air conditioning units and installed new plant in August 2021. It is understood that complaints were soon made to environmental health about noise pollution. On 04/08/2022 a planning application (Ref: 2022/3337/P) for 'Installation of 2x air conditioning units and enclosure to rear ground floor' was submitted. An enclosure was proposed to seek to mitigate the noise issues however insufficient information was submitted with the application and it was not possible to validate the application.
- 6.15 An enforcement notice was subsequently served on the 2 December 2022 which required the removal of the equipment by the 14 February 2023. The reasons for taking enforcement action was that the noise levels from the equipment did not comply with the noise thresholds set out in planning policy, there was also concern about the enclosure, given its design, visibility from the street and that this is a conservation area. An appeal was made against this enforcement notice on 05/01/2023 (Ref: APP/X5210/C/23/3314141). PINS issued a start letter on the 6 February 2023.
- 6.16 Given the long delays experienced in the appeal process and the failure of Nisa to comply with the abeyance notice served by Environmental Health, it was considered that further more immediate action was necessary to address the ongoing noise disturbance to neighbours. A Stop Notice was served on the 21<sup>st</sup>



December 2023 and took effect on the 24<sup>th</sup> December. The notice was complied with and the owners closed the store for a short period.

6.17 On the 29<sup>th</sup> December 2023 the Planning Inspectorate issued their appeal decision on the Enforcement Notice. The appeal was dismissed supporting the Council on all grounds and the compliance period was kept at 1 month. The chiller unit and enclosure have now been completely removed and the enforcement notice has been complied with.

6.18 The necessary information to validate the above application was submitted and officers are in the process of determining the application which seeks to establish if there is a way of the business having the equipment whilst protecting the amenity of the nearest residents.

6.19 Other examples of the work undertaken by the team with breaches resolved in Q3 and Q4 of 2023/24 are outlined below:

6.20 **Railway Bridge Wall, Kentish Town Road Station, NW5 2TG** – Unauthorised advertisement Building in a poor state of neglect and need of repair.

**Before:**

**After:**



6.21 **57 Camden Road-** Unauthorised single-storey enclosure

**Before:**

**After:**



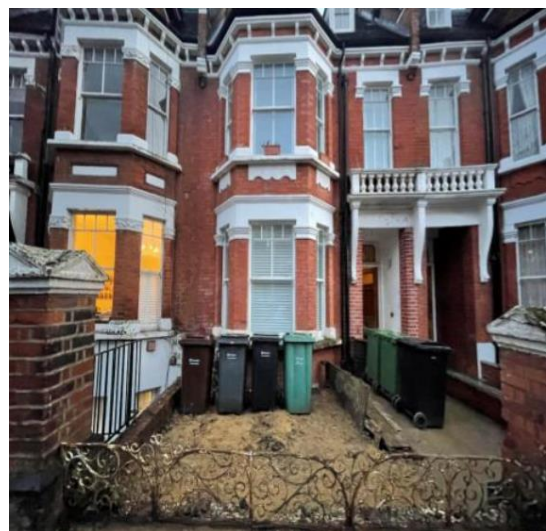
6.22 **4 Charlotte Street – unauthorised air conditioning unit**



6.23 **34 Somali Road - unauthorised fence along boundary wall**



6.24 **23 Inglewood Road - Hoarding over 4 years**



6.25 **22 Nassington Road – scaffolding in place for a number of years**

Before

After:



6.26 **11 Frognal – unauthorised air conditioning unit**

Before:

After:



**7. Trees**

7.1 There continues to be a high number of notifications for works to trees, as shown below. There were 1408 applications in 2022/23. In Q1 and Q2 of 2023/24 the Council received 649 notifications and in Q3/Q4 669 notifications.

	2021/22	2022/23	2023/24 to date
Application for Works to Tree(s) covered by a TPO	219	271	243
Notification for Emergency Works to Protected Tree(s) under TPO	11	17	14
Notification of Intended Works to Tree(s) in a Conservation Area	923	1035	1010
Notification to Carry Out Emergency Works to Protected Tree(s)	56	68	50
High Hedge Mediation	0	0	1
Total	1297	1391	1318
TPOs created	16	17	27

7.2 In 2021/22, 16 new Tree Preservation Orders (TPOs) were served, 17 in 2022/23 and in 2023/24 to date, 27 TPOs have been served. Generally, this is where a notification is submitted to undertake work to a tree in a conservation area (Section 211) and the Council can either not object or object, an issue a TPO.

7.3 As an example, a TPO was served on two cypress trees at 34 Heath Drive following a notification of a proposal to fell both trees due to alleged tree root damage to the property. Insufficient evidence had been submitted to confirm that the cypress trees were causing the damage. These trees provide significant visual amenity to the street scene. Officers objected to the application and a TPO issued.



7.4 A TPO was served on this Pine in the rear garden of 34 Queen's Grove following an application to fell due to claims the roots were disrupting a patio. The tree adds winter colour when most other vegetation is out of leaf, it is highly visible, has excellent form and its visual amenity will enhance over time as it grows. There were other solutions to the patio that could be implemented other than removing the tree.



7.5 A Tree Replacement Notice (TRN) was issued following the unauthorised felling of TPO Ash Tree at 12 Sarre Road. The owner of the property was successfully prosecuted for these unauthorised works following which a TRN was served when the owner failed to plant a replacement tree. The appeal was lodged on the basis that the requirements of the notice were unreasonable – 6 months to plant 1 x *Ulmus Lutece* measuring 14-16cm in circumference 1m above the root flare in the same position as the tree which had been felled. The owner of the property had previously been refused planning permission to build a new house on land to the rear of the site because to do so would have prevented the replacement tree. The Inspector said the Council were entitled to seek a replacement tree through a notice and it is customary for a replacement tree to be located reasonably close to the former protected tree as this allows for reinstatement of its contribution to the character and appearance of the area. The appellant sought to locate the tree more centrally in the garden to enable the redevelopment of the site. The Inspector concluded that the location we proposed was suitable for that purpose and there were no physical constraints to prevent planting there.



- 7.6 The Council defended an appeal at 10 Adamson Road following the refusal to fell a lime tree at the property and issuing of a TPO on the tree to protect it. The lime tree is in the rear garden but is prominent in the street scene creating a pleasing dense block of greenery with nearby trees. The Inspector felt that the loss of the tree would impact on character and appearance of the area. The applicant had argued that the roots of the tree was causing damage to a boundary wall. At the site visit the Inspector saw that the wall had been removed, it had no foundations and the intent was to construct a new one with fountains but that would harm the roots of the tree. The Inspector felt that they had not explored other options for rebuilding the wall. It was 'an excessive response to solve a simple dilemma' suggesting a fence as a possible alternative.
- 7.7 The team has commenced a new project to review and update the Council's TPO records. The outcome will be a usable publically accessible map showing the location of TPOs available on our website. Given the Council has approx. 3000 TPO's this is a long term project that we will keep members updated on throughout 2024/25.

## **8 Appeals**

- 8.1 This section of the report presents an analysis and overview of appeals received and determined in 2023/24. It reviews the Council's appeal performance in terms of appeal decisions overall and the type of appeal procedure. In addition, a selection of appeal decisions received from Q3 and Q4 2023/24 are highlighted as are forthcoming hearings.

## **9 Appeals received**

- 9.1 In 2022/23, the Council received 106 appeals against planning decisions and enforcement notices. In Q1 and Q2 of 2023/24, we received 57 appeals and this continued into Q3 and Q4 to date with 51 appeals, overall 108 appeals.
- 9.2 Of the appeals determined in 2022/23, 70% were dismissed and this has increased in 2023/24 (Up to 18<sup>th</sup> March) to 84%. In Q1 and Q2 of 2023/24, 80% were dismissed and 89% in Q3 and Q4.
- 9.3 For England as a whole, the average number of appeals dismissed in the year ending 31st March 2023 was 71% for s78 planning appeals, 65% for householder appeals and 73% for enforcement appeals quashed or granted planning permission.
- 9.4 For Camden, in 2023/24 (up to 18<sup>th</sup> March), 92% of S78 planning appeals were dismissed, 88% for householder appeals and 67% for enforcement appeals quashed or granted planning permission.
- 9.5 The following costs awards were made in relation to appeals:
- 94 Camden Road – appeal dismissed and cost award refused – The applicant claimed the Council were unreasonable because the development was policy compliant, had been in place since 2017 and was

permitted development. The Inspector stated, I have found the development to be not policy compliant and the Council justified in taking the action it did. 'I am entirely unconvinced by the applicant's submissions that the council has displayed any unreasonable behaviour.'

- 31 - 39 Argyle Street – an enforcement notice was withdrawn due to error with the requirements. It was not re-served at the time the cost decision was made and therefore the Inspector considered the costs had been unreasonable. Costs were awarded to the appellant.
- 38 - 40 Windmill Street – appeal against a non-determination appeal withdrawn following the Council approving a similar certificate of lawful development. The Inspector concluded that the Council failed to determine the application within the statutory period and failed to communicate properly with the appellant; taken together this amounts to unreasonable behaviour.
- The Council applied for costs for the late withdrawal of the appeal for 31 Willoughby Road by the appellant – waiting a decision.

9.6 Most appeals are dealt with by written representations (the exchange of written statements). In 2023/24 the following types of appeals were received:

- 74 Written representations
- 12 Householder appeals
- 12 Hearings (relating to 7 addresses)
- 4 Commercial appeals
- 3 Public Inquiries

9.7 As reported in the last report, in Q1 and Q2 of 2023/24, the following hearings took place, all of which were dismissed.

- Howitt Close - 4th July 2023 (Appeal dismissed)
- 264 Belsize Road - 12th September (Appeal dismissed)
- 46 Lancaster Grove, Belsize Fire Station (Appeal dismissed)

9.8 The following appeal events are due to take place with the remainder of Q4 2023/24 or 2024/25:

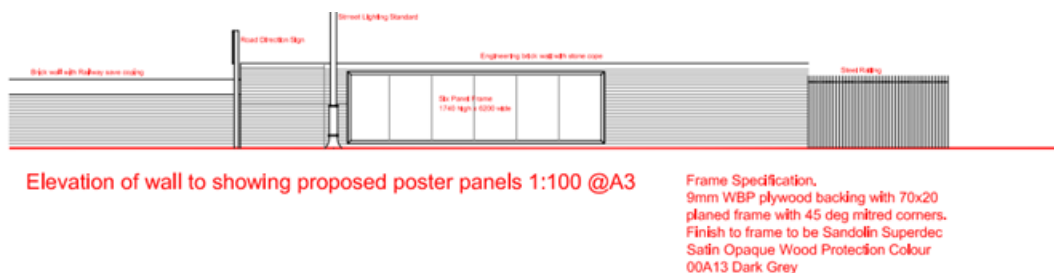
- **178B Royal College Street and Arches 73, 74 and 75 Randolph Street – Hearing opening on 26<sup>th</sup> March**
  - Appeal against 2021/4163/P to grant planning permission and against enforcement notice EN21/0681, served for material change of use to dark kitchens.
- **Gloucester Lodge, 12 Gloucester Gate and 12 & 13 Gloucester Gate Mews – Hearing opening on 1st May**
  - Non-determination appeals of planning application 2023/1742/P and listed building consent 2023/2290/L, for two-storey glazed extension which would link the main house with the mews buildings at both lower ground and ground floor levels.
  - Appeal against non-determination of planning application 2023/2155/P and listed building consent 2023/2324L, for various works to all floors of

the subject properties as well as to the mews courtyard elevation and forecourt.

- **Alpha House, 24-27 Regis Road – Public Inquiry opening 21-24 May**
  - Appeal against 2023/0093/P against refusal against demolition of two-storey warehouse to erect a self-storage building. The site is part of Regis Road Growth Area.
- **267 Eversholt Street – Public inquiry date to be confirmed**
  - Appeal against non-determination of a certificate of lawful development 2022/5295/P “Use as 5 self-contained flats” certificate & Case 3325801 against non-determination 2023/2017/P "Use as 10 self-contained flats” certificate.
- **31 - 39 Argyle Street WC1H 8EP – Hearing date to be confirmed**
  - Appeal against enforcement EN22/0113, against harmful works to listed buildings / unauthorised works to the brickwork and front elevations
- **Flat 4, 39 Belsize Square NW3 4HL - Public inquiry date to be confirmed.**
  - Appeal against enforcement EN23/0192 against the change of use of flat on the second and third floors.

## 10 Key appeal decisions

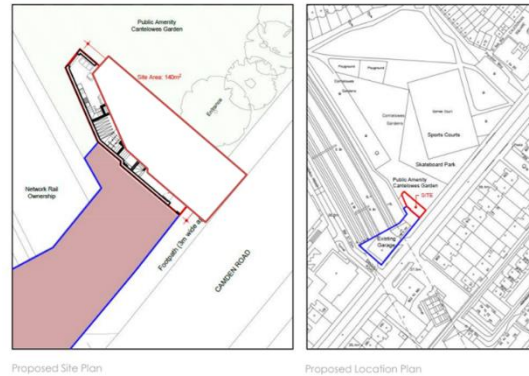
- 10.1 Railway Bridge Wall, Kentish Town Road – This appeal related to the refusal of advertisement consent for the display of a non-illuminated large advert hoarding (1.7m x 6.2m). The hoarding has already been erected on the wall of the railway bridge opposite the conservation area. The Inspector described the hoarding as disproportionately large and out of scale for its setting. The wall was otherwise free of adverts and that the hoarding was unduly prominent and incongruous.



The appellant’s offer for use of the hoarding for community messaging and supporting local businesses was given limited weight as the content of an advertisement is not a material consideration. The Inspector concluded that there was an impact on public amenity and refused advert consent. Following the appeal decision enforcement officers secured the removal of the advert (see 6.20 above).

10.2 139-147 Camden Road – The proposal

was for a 4 storey block of flats on a notable gap site on Camden Road, next to Canteloves Gardens and a railway line. Permission was refused due to the impact of the proposal on the character and appearance of the Camden Square Conservation Area and the open space, the living conditions of the proposed flats, air quality and S106 matters. The Inspector noted that the open space



made a positive contribution to the conservation area providing a break in the townscape, the site a surface car park with single storey motor service centre was visually poor but did because of its openness contribute to the open setting of the gardens and conservation area.

The Inspector concluded the proposal was bulky, incongruous and dominant in the street scene enclosing the open setting of the gardens. The proposal would result in less than substantial harm to the conservation area. The Inspector agreed that the single aspect nature of the flats and the lack of lift access meant that the proposed development did not provide satisfactory living conditions. Air quality issues were addressed within additional information provided by the Appellant. In



the planning balance the Inspector noted that Camden does not have a 5 year housing land supply and that the tilted balance (para 11) was engaged. The Inspector gave moderate weight to the provision of 6 flats and a small payment-in-lieu to affordable housing, but concluded that those benefits outweighed the harm to the conservation area. However the overall harm to the gardens, to the conservation area and the poor living conditions together outweighed the benefits, tilted balance disengaged and contrary to the development plan the appeal was dismissed.

10.3 94 Camden Road – This appeal followed the refusal of planning permission and

issuing of an enforcement notice against a retractable awning and timber enclosure with planters on the forecourt and ramped access to the front of the property. The Inspector concluded that the works were development and they did not benefit from permitted development rights. The remaining issues was whether the works should be granted planning permission, our concerns had been the impact on the Broadway CA and highway safety. The Inspector described the structures as untidy and cluttered additions to the pavement. It was noted that they





protruded much further onto the pavement than other commercial uses and was a poorly designed permanent feature. The planning appeal had a slightly amended scheme which reduced the height and depth of the enclosure and awning, the Inspector didn't think this was enough to address their concerns. Harm was identified to the conservation area and no public benefits outweighed that harm. The Inspector was also concerned about the impact on pedestrian movement noting that the site was close to an overground train station and was busy, both what was there and what was proposed would create issues of highway safety.

10.4 306 Kilburn High Road – Appeal against an enforcement notice and refusal of planning permission for the replacement of 22 timber sash windows with UPVC windows at 1<sup>st</sup> to 3<sup>rd</sup> floor level. The key issues were the impact on the character and appearance of the area and whether the replacements are a more environmentally sustainable form of development. The existing building was described as prominent and attractive, it was noted that there was strong cohesion on the upper floors of the buildings in the area, whilst there were some UPVC



windows they were not prevalent and the area retained a lot of its original character. The proposed modern windows by virtue of their material and undetailed design undermined the historic detailing of the building and were considered to have a harmful impact on the character and appearance of the area. The appellant argued that they installed the windows to improve the energy efficiency of the building. The Inspector took the view that there were a degree of benefits and disadvantages to each option – what is a more sustainable material; removing fabric which still has life in it; thermal efficiency of each window. The Inspector side stepped the issue by saying CC1 required 'sensitive' energy efficiency improvements to existing buildings and had concluded it was not 'sensitive' so it conflicted with policy CC1 as well.

10.5 264 Belsize Road – This decision followed a hearing in September 2023, the proposal was for alterations and extensions to a redundant building to create 5 x 2-bedroom residential units. The building is formed of a retail unit at the front and a larger warehouse style building to the rear. The front building provides a communal entrance and the flats are at the back, each being set over 3 floors. Permission was refused due to the quality of the proposed accommodation, the impact on existing accommodation, the lack of refuse facilities and the failure to address issues to do with affordable housing and car parking. The Inspector was not convinced that the convoluted means of access and the dwellings being set over 3 floors meant they were adaptable for accessibility or that fire safety had been properly addressed, nor were they satisfied that there was adequate daylight, sunlight, outlook, privacy or outdoor amenity space. The Inspector also felt that there would be loss of privacy to existing residents and the failure to provide a properly executed S106 to secure a CMP (plus fee and bond) meant construction would also harm their amenity. The proposed on-street refuse

arrangements (leaving the bags on the street) was not considered acceptable by the Inspector. A S106 was provided which sought to address the need for an affordable housing payment in lieu and car free, but the Inspector was not satisfied that it had been correctly executed and was legally sound and therefore there was a policy conflict on these matters as well. The Inspector did state that the titled balance was engaged in favour of the scheme because of the housing provision, but gave substantial weight to the policy conflicts identified and dismissed the appeal on that basis

## **11 Legal comments of the Borough Solicitor**

11.1 The Borough Solicitor has been consulted and has no legal comments.

## **12 Finance comments of the Executive Director Corporate Services**

12.1 There are no finance implications arising from this report.

## **13 Environmental Implications**

13.1 There are no environmental impacts.

**REPORT ENDS**