

LONDON BOROUGH OF CAMDEN	WARDS: All	5
REPORT TITLE: Enforcement, Trees and Appeal Performance Update		
REPORT OF: Director of Economy, Regeneration and Investment		
FOR SUBMISSION TO: Planning Committee	DATE 4 November 2024	
<p>SUMMARY OF REPORT</p> <p>This report provides an update on performance of the planning enforcement team during Q1 and Q2 of 2024/25. The report outlines the number and type of reported breaches of planning control. The report includes further details on the CMP enforcement work, an update on a number of specific projects such as work being done to tackle Short Term Lets and some examples of recent enforcement cases.</p> <p>The report outlines the number of tree notifications made and Tree Preservation Orders served.</p> <p>The report includes an analysis and overview of all appeal decisions during Q1 and Q2. Significant appeal decisions are highlighted and cost decisions updated. It also highlights forthcoming hearings and inquiries and key written representations decisions awaited.</p> <p>Local Government Act 1972 – Access to Information No documents that require listing were used in the preparation of this report.</p> <p>Contact Officer: Elizabeth Beaumont, Appeals and Enforcement Team Manager 5 Pancras Square, London N1C 4AG Tel: 020 7974 2075 E-mail: elizabeth.beaumont@camden.gov.uk</p>		
RECOMMENDATION: The Planning Committee is asked to note the report.		

Signed:



Dated: 23 October 2024

1. Enforcement

1.1. The following section of the report provides an update on planning enforcement performance during Q1 and Q2 of 2024/25.

2. Reports of Breaches Planning Control Received

2.1. In Q1 of 2024/25, 250 reports were made of potential breaches of planning control and 272 in Q2. The figures remain similar to 2023/24 with 269 in Q1 and 239 in Q2. Overall, the Enforcement Team received 1098 new reported breaches of planning control in 2022/23 and 1031 in 2023/24, we expect a similar number this financial year.

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. Whilst works to residential properties remains the highest category, currently works to listed buildings and breaches of condition are the next highest category in Q1 and Q2 of 2024/25.

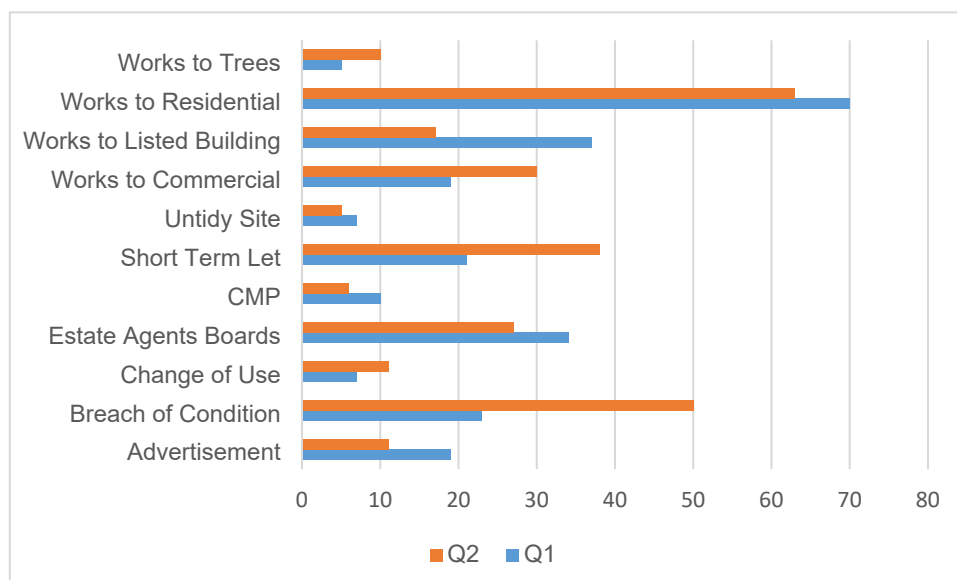


Figure 1- Type of breaches reported

3. How Breaches Are Resolved

3.1. The team closed 1246 cases in 2023/24 of which 40% were within 16 weeks from the start of the investigation. In Q1, 54% of the 183 cases resolved were within 16 weeks or less of having been reported to the Council. In Q2, 177 cases were closed of which 73% were within 16 weeks. The figures demonstrate the work the team has been doing to reduce time taken to investigate an enforcement complaint.

3.2. Of the cases received in Q1 and Q2 of 2024/25, 26% are now closed, 19% cases as a result of informal action and 5% via retrospective planning

applications. Formal action has already been taken on 56 of the cases received, the next steps include potential appeals and awaiting compliance. These cases will be closed once a compliance inspection is undertaken. The remainder are currently under investigation.

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 around a year to be determined by the Planning Inspectorate. In Q1, 32% of cases were closed as a result of informal action and in Q2 16% of cases (these cases includes those prior to Q1 and Q2). This is a key indicator of the success of the enforcement team.

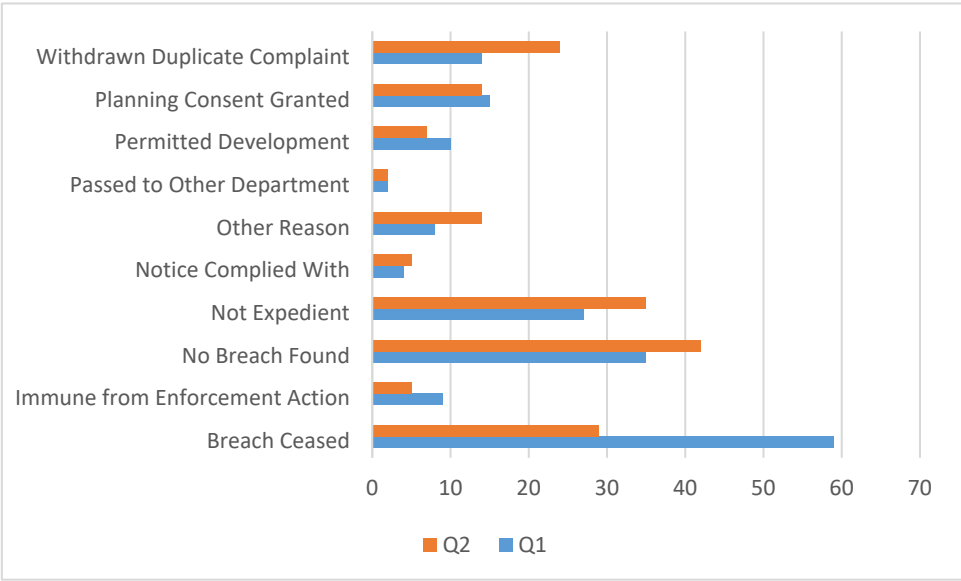


Figure 2- Case closed reason 2024/25

3.4. Officers secured the submission of 86 retrospective planning applications in 2020/21, 55 in 2021/22, and 97 in 2022/23. In 2023/24, 94 enforcement cases were resolved following retrospective permission being obtained. In Q1, the team secured 15 retrospective applications and 14 in Q2. In addition to bringing in income this ensures the necessary controls through planning conditions and Section 106 Legal Agreements.

3.5. In 2021/22, 23 enforcement notices were complied with, 40 in 2022/23 and as a result of a project with compliance checks of historic formal cases undertaken, 327 were closed in 2023/24. In Q1 and Q2, 9 notices were complied with. This is as a result of awaiting appeal decisions and compliance periods. It is expected that this number will be higher in the latter quarter. Formal enforcement action does not always ensure compliance. In most cases, formal notices will be appealed which can add significant time to the process. Following which failure to comply can result in prosecution action.

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 served as part of enforcement investigations. A planning contravention notice may be used to allow the local planning authority to require any information they want for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land, and can be used to invite its recipient to respond constructively to the local planning authority about how any suspected breach of planning control may be satisfactorily remedied
- 4.2. Enforcement Warning Notices were introduced in April 2024. This formalises the process for a local planning authority to invite a retrospective planning application. Under section 172ZA of the Town and Country Planning Act 1990, where a local planning authority considers that unauthorised development has a reasonable prospect of being acceptable in planning terms, it can issue an enforcement warning notice. The notice will set out the matters that appear to be a breach of planning control and state that, unless an application is made by a specified date, further enforcement action may be taken.
- 4.3. In 2021/22 96 notices were served, 91 in 2022/23 and 119 notices in 2023/24. In Q1 and Q2 of 2024/25, 62 have already been served, including 2 enforcement warning notices.
- 4.4. Planning Resource featured an article in Q2 highlighting the Councils that issued the most enforcement notices in 2023/24. Camden ranked 9th out of all authorities across England for issuing enforcement notices.
- 4.5. In 2023/24, 21 enforcement notices were appealed, of which only 7 have been determined to date, all of which were dismissed. In Q1 and Q2 of 2024/25, 6 enforcement notices have been appealed. A decision has been issued on one appeal determined by Public Inquiry, 267 Eversholt Street (see XXX). The appeal was dismissed and the enforcement notice was upheld with variations and costs awarded to the Council. A further Public Inquiry will open on 26 November for 254-258 Belsize Road. The remaining appeals will be determined by written representations.

5. Short Term Lets

- 5.1. The enforcement team continues to seek to tackle the rise of Short term let accommodation resulting in the loss of permanent homes. In London it is permitted to rent an entire property for up to 90 nights a year as short term lets. The teams findings are that the majority of short term lets are operated as a full time businesses with residents renting their own property whilst away on holiday as the exception.
- 5.2. In Camden, we estimate there are at least 6000 entire properties being used for short term letting. The previous administration released a ministerial statement

setting out the proposals to automatically designate existing short term lets into a new use class. The Council set out in two letters that this would have a devastating impact for Camden, equating to a loss equivalent to the amount of housing Camden is expected to deliver in the next 6 years and a financial loss through Council Tax income of £9,235,020 a year (see Appendix A). Officers met with the Ministry of Housing, Communities and Local Government in September 2024 to share our concerns about the impact that the rise of STL is having on the provision of permanent homes.

- 5.3. The Council has seen a rise in entire buildings being used as blocks of short term let accommodation, see 267 Eversholt Street (15 units) and 254-256 Belsize Road and 258 Belsize Road, London, NW6 (55 units).
- 5.4. The enforcement team undertakes blitzes on STL enforcement throughout the year but are only able to tackle a small number of the properties in breach of planning regulations. This is due to the number of properties in STL use and the ability for operators to hide their operation limiting the ability of effective enforcement. Whilst we continue to seek to take action and welcome Members support, we hope that greater controls and enforcement support will be provided.

6. Construction Management Plans

- 6.1. Camden's approach to Construction Management Plan (CMP) enforcement includes a proactive element and a reactive element. The CMP Planning Site Inspector (PSI) undertakes inspections of CMP sites to ensure compliance. The CMP Enforcement Officer deals with any resultant non-compliant sites and complaints about CMP sites from local residents, Councillors or businesses. The CMP Enforcement officer takes action to secure compliance, is a direct contact for local residents and will often attend Construction Working Groups. Both these officers form part of the Council wide Construction Management Forum, which includes officers from highways, parking, air quality, environmental health and planning obligations.
- 6.2. The CMP PSI undertakes a program of proactive site inspections specifically to assess development sites against their approved CMPs. There is a set program for the type and number of visit, this includes several categories of visits, which are as follows;
 - CMP Planned Inspections – full site inspection to assess compliance against the CMP.
 - Unplanned/Compliance inspections – these are usually unannounced and are undertaken at regular intervals following a full site inspection. The purpose of these inspections is to ensure that developments sites are maintaining compliance for the duration of works.
 - iii) Routine Inspections – unplanned site visit to investigate the status of works/actions from inspections or a specific condition of the CMP.
 - iv) Reactive Inspections – a site inspection in response to a request to visit a development site. This could be to assess a potential breach or complaint received. These can be planned or unannounced.

- Confirmation of Works Complete - The purpose of these reports is to record for the purpose of the CMP that works are complete and that no further inspections are required and secondly, to notify Planning Obligations that where a CMP Bond is held, that this can be released.

6.3. A site would normally have one planned inspection followed by unplanned inspections every 5 months and supported by routine visits. A site could have more than one planned inspection if the works are split in two phases with different contractors. If a site fails a planned inspection we would schedule an earlier unplanned inspection with additional routine visits.

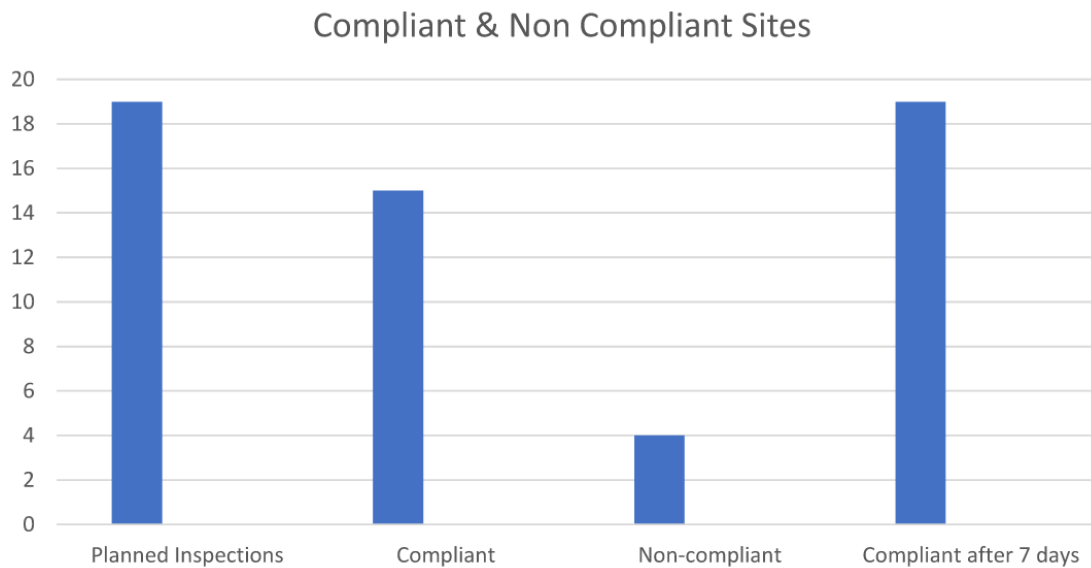
	2022	2023	2024
Confirmation of Works Complete	0	37	22
Planned Inspection	57	25	19
Reactive Site Inspection	9	11	5
Routine Site Visit	58	77	75
Unplanned/Compliance Inspection	59	89	47
Grand Total	196	239	168

Table 1 - type of CMP inspections

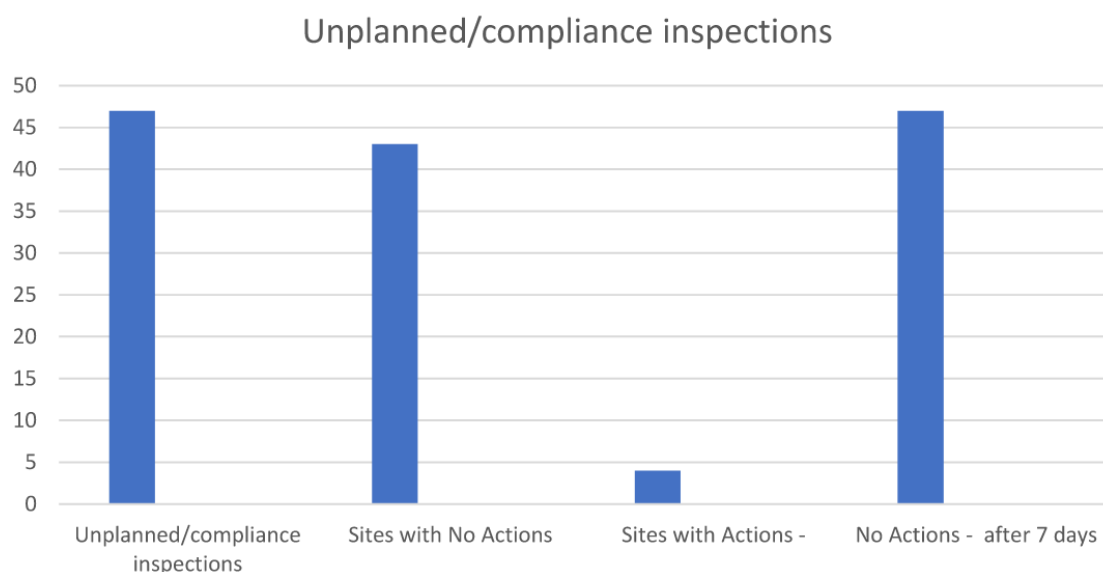
6.4. The table above shows the number and types of visits made in calendar years. In 2022, there was a total of 57 Planned CMP Inspections undertaken, of which 11 development sites were assessed as non-compliant. The percentage of compliant sites after they were given 7 days to achieve compliance following a CMP Planned Inspection was 100%. 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 and as with the Planned Inspections did not result in any enforcement action being taken.

6.5. 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 compliance with the CMP. All 34% of sites where a breach was found were able to ensure full compliance with the CMP within 7 days from the visit.

6.6. There have been a total of 19 Planned CMP Inspections undertaken so far in 2024, of which 4 development sites were assessed as non-compliant. There was a total of 44 non-compliant concerns identified across the 4 sites, giving an average of 11 concerns per site. These development sites were given 7 days to achieve compliance, and all 4 sites were able to meet this within the timescale, meaning that enforcement action was not required. The percentage of non-compliant sites reported at the time of a CMP Planned Inspection for 2024 was 21%, giving 79% of development sites being compliant at the time of the inspection. The percentage of compliant sites after they were given 7 days to achieve compliance following a CMP Planned Inspection was 100%.



- 6.7. 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.
- 6.8. The data shows the number of sites found to be uncompliant is decreasing each year, 11 in 2022, 7 in 2023 and so far in 2014, 4 sites. We consider this demonstrates the success of the proactive compliance checks, ensuring sites know that thorough inspections do take place and Camden will seek to ensure compliance is taken seriously.
- 6.9. There was a total of 47 Unplanned/Compliance inspections undertaken in 2024, 8 sites had breaches approx. 5 for each site. These sites were given 7 days to address the Actions, which all development sites achieved within the timescale and as with the Planned Inspections did not result in any enforcement action being taken.
- 6.10. The percentage of development sites with Actions reported at the time of a CMP Unplanned/Compliance Inspection for 2014 to date was 17%, giving 83% of development sites with no Actions reported.
- 6.11. The table below shows the total number of sites with Actions following an Unplanned/Compliance inspection.



6.12. The team also deal with reported breaches of a CMP. Enforcement cases are opened and investigations undertaken when any breach is reported or following a failed site inspection. Whilst there will always be disturbance from development sites, the CMP seeks to minimise this disruption where possible. The general types of complaints received include, vehicle routing not in accordance with the CMP, the levels of noise or dust from sites, vehicles waiting outside the site and operating outside of permitted hours.

6.13. Where a breach has taken place a review of the event is undertaken, to understand how best to tackle the problem, depending on whether it is a one-off event, repeated breach or a more serious offence. The team keep evidence of all reported breaches and actual breaches. Enforcement is secured through the threat of injunctive action, including requiring the site to sign an undertaking when at risk of the site being closed and a review of drawing down from the CMP bond.

6.14. Warnings of injunctions following failures to comply with the Construction Management Plans, thereby putting a site on warning of an injunction have been issued on the following sites;

- Camden's Good Yard – following a fatality. Works were stopped on part of the site whilst an investigation was undertaken.
- 2 St Pancras Way Letter and undertaking warning of injunction served on 29/4/24 for breaches in relation to early morning parking on surrounding streets.
- 156 West End Lane – following work outside of permitted hours, a Section 60 Notice was also served.

7. Enforcement In Action

7.1. The following section provides examples of recent enforcement action undertaken by the team.

- 7.2. **9 Crossfield Road** - A sign advertising Shakib & Co, a commercial and residential real-estate investment business, was installed last year without permission at their property on Crossfield Road in the Belsize Park Conservation Area. Complaints were received about the harm to the host building and the wider conservation area. After Shakib & Co refused to remove it, the team prosecuted for the display of an unauthorised advert under section 224(3) of the Town and Country Planning Act 1990.



- 7.3. The trial took place on Wednesday 31st July in the Highbury Corner Magistrates' Court. The Defence argued that under the advertisement regulations, the advert had deemed consent under Class 2A (adverts that give information, direction and warning) and Class 2C (adverts that relate to different types of buildings, including a block of flats), however the Magistrates found that this was not the case and made the following remarks:

We do not believe that the sign provides any link to that building, no identification, warning or direction. There are no details at all of how it is linked to the building. It is simply just an advert for the company and therefore is not deemed under 2A.

Even at a low threshold, the sign tells nothing of the building or its function. It merely says 'managing agent', with no connection to the building or its function. It is therefore not deemed under 2C.

- 7.4. Shakib & Co were convicted of an offence and fined £1500, with a £600 surcharge along with full costs awarded to the Council at £3681.76.
- 7.5. **7 Back Hill** – a hearing was listed for the 3rd October following the failure to comply with an enforcement notice requiring the removal of 4x unauthorised A/C units which caused harm to the surrounding residential amenity. The applicant sought to obtain temporary permission for some of the units with the addition of an acoustic enclosure, this would allow them time to complete the roof top location for the plant, approved as part of an earlier consent. On the basis that the mitigation was implemented for the temporary consent, the prosecution was withdrawn. The Council received its full costs. The units will be completely removed by February next year (relocated to a more acceptable position on site).
- 7.6. **64 Aberdare Gardens** – Unauthorised uPVC windows in South Hampstead Conservation Area.

Before:



After:



7.7. 41 Priory Terrace – Works not in accordance with planning permission, unauthorised glazed Juliette balcony, fences, and bin store.

Before:



After:



7.8. 23-25 New End – Unauthorised forecourt structure on property located within Hampstead Conservation Area.

Before:



After:



7.9. 32 Harwood Street - Unauthorised AC unit

Before:

After:



7.10. 122A Drummond Street – Listed shopfront in poor condition of repair.

Before:



After:



7.11. Phone kiosks – The Enforcement Team continues to lead the way in using

planning powers to tackle the removal of older phone kiosks cluttering the borough's high streets. This follows the removal of 19 kiosks in Tottenham Court Road following the serving of Breach of Condition Notices, their poor condition and lack of usage meaning they were no longer required for telecommunication purposes and in breach of the condition attached to their grant of permission under the General Permitted Development Order.



Figure 3- Photos of kiosks removed at Tottenham Court Road



Figure 4- Photos of Princes Circus - before and after



7.12. The team have also secured the removal of 2 x kiosks in Princes Circus (see below). This work aided in the award winning West End Project work. In addition the team secured the removal of 7 kiosk in Kilburn High Road. These kiosks were in a poor condition, poorly sited and hubs for ASB. Like with Tottenham Court Road, securing their removal has assisted with the improvements of these area. A kiosk was removed outside Holborn Station (see below) following a Breach of Condition Notice served on 23rd July.



7.13. The Council continues to receive new planning applications for new phone kiosks comprising large digital advertisement screens with a phone attached. Given the harmful visual impact and unnecessary clutter these are generally refused permission. Recent appeals relating to phone kiosks has been on sites where appeals for replacement kiosks were allowed. The Council was unsuccessful on a replacement kiosk at Shaftesbury Avenue and Earlham Street. This appeal was in relation to an Infocus (JCDecaux) phone kiosk with a digital advert attached. Our main concern was the impact on the Seven Dials Conservation area. The Inspector noted that there were other adverts in the area and it was clearly a location with a day and night-time economy. The Inspector did not agree, given the existing kiosk that the proposal was additional clutter. They considered the prominent digital screen would be obscured by a tree. The Inspector did not agree that the proposal would increase crime. Appeals were also allowed at 371 Euston Road.

7.14. The Council was successful in defending an appeal against a replacement kiosk at 221 Camden High Street. The Inspector noted that if this appeal was dismissed the redundant kiosk might remain, but it was more likely the previous appeal scheme would be implemented and gave this fallback significant weight. The Inspector noted that the footprint of the proposed kiosk was larger than the approved scheme and had a larger digital display, they concluded that what was proposed was visual clutter which would have an unacceptable impact on the street scene and nearby conservation area. The Inspector also felt that the

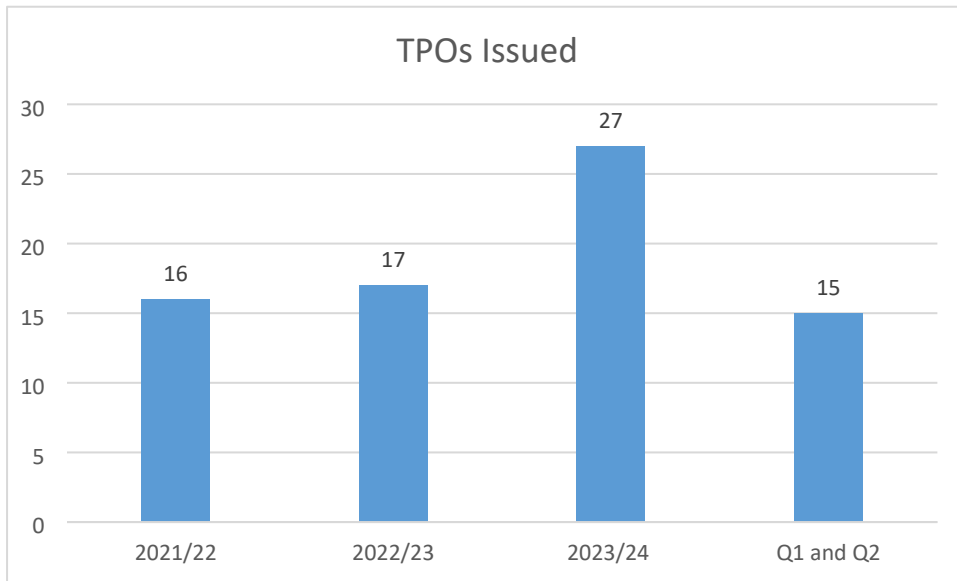
structure which is more enclosed that the approved scheme would create more opportunities for crime and ASB, but did not feel that there would be more impact on pedestrian movement.

8. Trees

- 8.1. An application must be submitted to the Council to carry out works on a tree that is subject to a Tree Preservation Order (TPO) or if located within a conservation area if the tree is more than 1.5m in height and more than 7.5cm in diameter (Section 211 notification). For Section 211 notifications, if the Council object to your proposed works, a Tree Preservation Order (TPO) will be served.
- 8.2. In the past two financial years the Council has received around 1300 notifications of works to trees, the majority of which are Notification of Intended Works to Tree(s) in a Conservation Area (Section 211 notifications). The team is on track to deal with a similar number of applications in 2024/25.

	2021/22	2022/23	2023/24	Q1 and Q2
Application for Works to Tree(s) covered by a TPO	219	271	243	140
Notification for Emergency Works to Protected Tree(s) under TPO	11	17	14	8
Notification of Intended Works to Tree(s) in a Conservation Area	923	1035	1010	537
Notification to Carry Out Emergency Works to Protected Tree(s)	56	68	50	48
High Hedge Mediation	0	0	1	0
Total	1297	1391	1318	733

- 8.3. In Q1 and Q2 321 notifications were determined, of which 117 included proposals to fell trees. This included 21, notifications for urgent works to trees in a conservation area and 2 for urgent works to TPOs. The team determined 87 Section 211 notifications, 5 were withdrawn, 4 part refused and 2 objections. The remaining 76 were not objected to. The remaining 204 application involved works to trim/reduce existing trees.
- 8.4. In 2021/22, 16 new Tree Preservation Orders (TPOs) were served, 17 in 2022/23 and 27 in 2023/24. In Q1 and Q2 15 TPOs have been issued.



8.5. A TPO was served on a Strawberry tree (*Arbutus unedo*) at 32 Bartholomew Villas. It is very rare to see such a tree of this size in an urban environment. Initially permission was sought to remove the tree but as a result of the TPO the owner is looking to make repairs to the fence and keep the tree.



8.6. A TPO was served on a Magnolia at 9 Ellerdale Road following a Section 211 notification. The proposed works would have completely destroyed the very high visual amenity value that it adds to this part of the conservation area.



9. Appeals

9.1. This section of the report presents an analysis and overview of appeals received and determined in Q1 and Q2 of 2024/25. 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 and upcoming appeals are highlighted.

9.2. In 2022/23, the Council received 106 appeals against planning decisions and enforcement notices. In 2023/24, 108 appeals were received. In Q1 and in Q2 2024/25, 30 appeals have been received.

9.3. Of the appeals determined in 2022/23, 70% were dismissed and in 2023/24, 78% were dismissed. For England as a whole, the average number of appeals dismissed in the year ending 31st March 2024 was 71%. Camden therefore exceeded the average. So far, in Q1 71% of appeals were dismissed and in Q2, 68% of all appeals were dismissed. The appeals allowed included 2 x planning and advert appeals for kiosks, Alpha House and, this included the 4 appeals relating to phone kiosks and 2 applications relating to design issues.

9.4. The following appeal events took place since the last report to committee:

9.5. **178B Royal College Street and Arches 73, 74 and 75 Randolph Street –** Hearing opened on 26th 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. The main issues were the effect of the proposal from deliveries and collections on pedestrian and highway safety in Randolph Street; (b) the effect of the proposal on the living conditions of neighboring residents in in Rousden Street, Randolph Street, and Camden Road, with regards to noise from vehicular deliveries.

9.6. There was an average of 350 two-way movements per day from the development, 525 if at full occupation. The Inspector agreed that there was real potential for conflicts to arise, even if some might be at a relatively low speed. Whilst there was a draft Operational Management Plan the Inspector considered that based on what they observed, it did not instil confidence in the effective operation of the OMP. The appellant's own survey shows that numerous riders have travelled down the street, cycle lane or pedestrian footway in the wrong direction to access the appeal site. The Inspector concluded that the proposal caused unacceptable harm to the living conditions of neighbouring residents in Rousden Street, Randolph Street, and Camden Road, with regards to noise from vehicular deliveries and collections.

9.7. The Inspector balanced the impact on the business and the impact on highway safety and residents, concluding that the Council's compliance time of 6 months was adequate. The use is required to cease by the 3rd November 2024.

9.8. **Gloucester Lodge, 12 Gloucester Gate and 12 & 13 Gloucester Gate Mews –** Hearing opened on 1st May These were non-determination appeals of planning application 2023/1742/P and listed building consent 2023/2290/L, for a two-storey glazed extension which would link the main house with the mews



buildings at both lower ground and ground floor levels. Also 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.

- 9.9. The first pair of applications were for a glazed link between 12 Gloucester Gate and 13 Gloucester Mews designed by Ken Shuttleworth – designer of the Gherkin tower in the city. The second pair were for a wider range of external and internal works. The property is grade I listed built in the 1820s and is located in the Regents Park CA. Whilst the Inspector felt the rear façade and mews were of less interest, they did acknowledge that the hierarchy of spaces were of significance and, characteristics contributing to the authenticity of the building. The interior of the property retains many internal features.
- 9.10. The Inspector noted that there had historically been a glazed link and there were other precedents in the area, the proposed link did not pretend to be historic, it would not be prominent from principal rooms and agreed with the appellant it would be ‘striking and silent’, the fluid form meant it would relate well to the garden and be distinct from the two buildings it would connect, and described its visual impact as limited and inoffensive. The Inspector concluded no harm to heritage assets and allowed the appeals in relation to the link extension.
- 9.11. **267 Eversholt Street** – Public Inquiry opened on the 10th September 2024. This appeal was against an enforcement notice alleging a material change of use from 3 flats (Class C3) and commercial unit (Class E) unit to 15 units of temporary sleeping accommodation (Class C1) with ancillary concierge/office. The appeal included the non-determination of 2 x certificate of lawful developments (LDC) which would have been refused seeking to establish 15 residential units were lawful.
- 9.12. Once the Inquiry had opened the appellant confirmed the two LDC appeals were withdrawn. The appellant’s remaining case centred on the factual accuracy of the use of the Property as at 9 February 2024, the date the notice was issued. The appellant, relying primarily on evidence from Foxton’s, submitted all 15 units were in use as self-contained C3 residential flats on that date. The appellant did not argue the alleged use as temporary sleeping accommodation did not in fact happen. Rather, the appellant accepted a breach of planning control had occurred but the breach taking place when the notice was issued was wrongly described.
- 9.13. The Inspector disagreed with the appellant that the use of the property on 9 February 2024 is the determining factor. The Inspector agreed with the Council’s approach and the question to ask in the ground (b) appeal is whether the appellant has shown on the balance of probabilities that the matters stated in the notice have not occurred, namely a material change of use of the Property to 15 units of temporary sleeping accommodation (Class C1) with ancillary concierge/office space on the ground floor.
- 9.14. The comprehensive photographic record taken by officers and evidence of online material of advertising and marketing and reviews of the accommodation as short

stay transient accommodation were all consistent with temporary sleeping accommodation in Class C1 use. The Inspector noted the appellant's evidence to challenge that of the Council was very limited. Statutory declarations from the former and current lessee company were submitted but they were directed primarily to the marketing, management and use of the non-commercial space in the property. The Inspector doubted their reliability as they were produced, at least in part, to support the withdrawn LDC appeals. The appeal was dismissed, the enforcement notice was upheld with variations including an extension for the compliance period.

9.15. **Alpha House, 24-27 Regis Road** – A Public Inquiry opened on the 21-24 May 2024 – This was an appeal against the refusal of planning permission for the demolition of two-storey warehouse to erect a self-storage building. The site is part of Regis Road Growth Area.

9.16. The key reasons for refusal related to piecemeal development of the Regis Road site where the Council had sought comprehensive redevelopment and the design quality of the proposed facility. The Inspector placed weight on



the existing character and appearance of the industrial area and surprisingly considered this was an appropriate standard of design despite the site being in a growth area. The Inspector noted that pre-app on a masterplan was underway, but felt it was at an early stage and felt the proposed building would not compromise the Council's aspirations for connectivity and servicing across the site.

9.17. **Flat 4, 39 Belsize Square NW3 4HL** – This appeal was downgraded from a public inquiry to written representation. This appeal was against an enforcement notice served on the unauthorised change of use of a flat on the second and third floors into two units. The key reason for taking action was in the absence of a Section 106 Legal Agreement to secure both units as car free. The appellant sought to argue that the breach had not taken place given historically the unit had been two units. The Council was able to show the planning history including an application form from the owner confirming the works to create two units had not yet started. The Inspector considered the Council's evidence was quite compelling to show the two flats were in use as a single dwellinghouse from at least 1994 until 2021. The counter evidence provided by the appellant was limited. The Inspector found on the balance of probabilities, that the two flats were unlawful and the lawful use was as a single dwellinghouse continuously between 1995 and 2021.

9.18. The appellant sought to argue that only one of the units should be designated as car free. In this case, as the owner was not returning to any of the units, our policies require all the units to be designated as car free. The Inspector supported

our application of the car-free policy and CPG Transport which advises that the car-free policy makes an important contribution towards the Council's strategic aims relating to transport, as well as wider responsibilities such as public health. These include reducing congestion, promoting sustainable transport, improving air quality, reducing carbon emissions and supporting healthy, active sustainable lifestyles, all legitimate planning purposes. The Inspector supported the Council and considered that both units would need to be secured as car free. The appeal was dismissed.

- 9.19. **38A St Paul's Crescent** – the appeal site is within the Camden Square Conservation area whose significance derives from its planned development as a 19th Century inner London suburb, the properties are mainly Victorian, but with some more contemporary designed properties having been added. The appeal



site is adjacent to No. 38 which is a two-storey semi-detached traditional brick built building over a stucco lower ground floor. The appeal site used to be part of the rear garden of Nos. 100 and 102 and was occupied by a garage which was redeveloped with a dwelling that the Inspector described as unassuming and understated, low, flat and with simple fenestration. The proposal was to add a timber framed roof extension finished in black metal cladding with a pitched form. The Inspector felt that this was an overly complex addition at odds with the regular and unassuming form of the existing dwelling. Overall harm was identified and there was considered to be limited public benefit to weigh against that. The appeal was dismissed.

- 9.20. **9D The Grove** – Permission was refused for the demolition of an existing dwelling and construction of a replacement dwelling. Permission was refused due to insufficient evidence to justify the need for demolition of the existing building nor the use of active cooling. The Council argued this would result in an unsustainable development contrary to the Local Plan 2017 and Highgate Neighbourhood Plan 2017.

9.21. The inspector found that *“the evidence presented does not sufficiently convince me that retaining and improving the existing building is not possible”*. It was concluded that *“the proposal fails to adequately justify why the existing building cannot be retained and improved, and it would consequently fail to accord with climate change objectives. As such, it would conflict with Policy CC1”*.

9.22. This appeal supports the Council's application of Policy CC1. This promotes zero

carbon development and requires the steps in the energy hierarchy to be followed. It also requires all proposals involving substantial demolition to demonstrate that it is not possible to retain or improve the existing building and expects all development to optimise resource efficiency. CPG on Energy and efficiency suggests a condition and feasibility study of the existing building outlining the condition of the existing structure should be provided. There should be exploration of development options: renovation and extension; and new framed construction. Considering reuse, retrofit, partial retention and refurbishment, and partial disassembly are important steps to consider and echoed in the London Planning Guidance for Circular Economy.

9.23. **71 Avenue Road** - A one day hearing took place on 1st October 2024 following the refusal of planning permission due to insufficient evidence to justify the demolition of the existing building, would result in an unsustainable development. In addition the proposed development failed to achieve sufficient carbon savings by minimising embodied carbon through sustainable design decisions, resulting in an unsustainable development. The Inspectorate were sent a copy of the 9D The Grove appeal decision and the Council is awaiting the decision on this appeal.

9.24. The following costs awards were made in relation to appeals:

9.25. **267 Eversholt Street** – In this case, costs were awarded to the Council following unreasonable behaviour by the appellant. The Lawful Development Certificate appeals were withdrawn over a year after they were made. The appeals on grounds (a) and (d) were withdrawn around 6 months after the appeal against the enforcement notice was made. The appeals' process was at an advanced stage. Parties are encouraged to keep their cases under review. The appellant agreed that the LDC appeals and grounds (a) and (d) in the enforcement notice appeal were withdrawn at a late stage, without good reason. The appellant in principle acknowledged unreasonable behaviour occurred. The Inspector determined the appellant's action amounts to unreasonable behaviour, the result of which caused the Council to incur wasted expense in the appeals process to ensure procedural requirements were met at all stages and in preparing for the inquiry.

9.26. **9D The Grove** – In this case the Appellant was awarded costs following the Council's late withdrawal of one reason for refusal, which was added as an oversight. A second reasons for refusal relating to a Basement Impact Assessment (BIA) was overcome following a review by Campbell Reith. As this matter should have been settled earlier. This demonstrates the need to ensure all reasons for refusal are accurate and reviewed as early as possible as part of the appeal process.

9.27. Cost applications were refused for two appeals at 239 Camden High Street. The applications were made on procedural grounds, on the basis that the Council failed to determine the applications within the statutory timescale. During the application the Council accepted revised drawings and additional information during the lifetime of the applications. The Inspector was satisfied that a large part of the delay in the determination of the applications is attributed to the

preparation, submission, and consideration of this additional information. The Inspector concluded the Council has clearly set out clear, precise, specific and relevant reasons why it would have refused the applications in the decision notices submitted with its appeal evidence. Therefore, if the applications had been determined and the applicant wished to seek an alternative outcome, it would have needed to submit an appeal in any case. Therefore, no unnecessary or wasted expense had been incurred in the appeal process.

9.28. A cost application was made by the Council following the change in appeal method resulting from the appellant claiming to have witnesses who would need to be cross-examined. This resulted in the Council instructing Counsel at the initial stages of the appeal. The appellant responded with their own Cost application which was also refused. The Inspector considered that the decision to change the appeal method could not have taken place until the CMC where he heard the views of each party. Overall, the Inspector was not persuaded that unreasonable behaviour by the appellant causing unnecessary or wasted expense on the part of the Council has been demonstrated, so an award of costs is not justified. The Appellant claimed unreasonable behaviour on the basis the Council referred to relevant Appeal Decisions in the statement of case, but later in the written representation included only one appeal decision. The Inspector considered that unreasonable behaviour leading to unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted.

9.29. **Upcoming events** – the following appeal events are due to take place within the remainder of 2024/25.

9.30. **31 - 39 Argyle Street WC1H 8EP** – A hearing following an enforcement notice alleging unauthorised alterations to the façade of these Grade II listed buildings opens on 10 December 2024.

9.31. **254-256 Belsize Road and 258 Belsize Road** – A Public Inquiry is due to open on 26 November 2024 following an enforcement notice alleging a material change of use of the Property from 2 x office blocks to serviced apartments for short term lets (Sui Generis).

9.32. **17 York Way** – A hearing is due to open on 29 January 2025 following the refusal of planning permission for ground floor alterations, demolition and re-build of 1st and 2nd floors, erection of a mansard roof and three storey side 'infill' extension, retention of public house on ground floor (and basement) and provision of 7 self-contained flats on 1st, 2nd floor and mansard roof levels.

10. Legal Comments of The Borough Solicitor

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

11. Finance Comments of the Executive Director Corporate Services

11.1. As set out in section 5.2, the previous administration released a ministerial statement setting out proposals to automatically designate existing short term lets into a new use class. Should these proposals be taken forward, then this poses a significant financial risk to the Council.

12. Environmental Implications

12.1. There are no environmental implications from this report.

13. Appendices

Appendix A – Short Term Lets Letter

REPORT ENDS