



Appeal Decision

Site visit made on 5 September 2022

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: APP/X5210/W/22/3297634

152A Agar Grove, Lower Ground Floor Flat, London NW1 9TY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Rasim Beqiri against the decision of the Council of the London Borough of Camden.
 - The application Ref 2021/0456/P, dated 1 February 2021, was refused by notice dated 10 November 2021.
 - The development proposed is the installation of 4no air conditioning units, 2no to front garden and 2no rear garden, in timber housings; and installation of canopy to the front entrance door.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed the word retrospective from the description of development above, as it does not describe development. However, for the avoidance of doubt, I saw on site that the air conditioning units and the front canopy are in place, in accordance with the plans before me, and I have considered the appeal on the basis that the development has already taken place.

Main Issues

3. The main issues in this case are:
 - the effect of the development on the character and appearance of the existing building, surrounding area and the Camden Square Conservation Area (CA);
 - the effect of the development on the living conditions of occupiers of existing properties, in particular Nos 154 and 152B Agar Grove, with regard to noise and disturbance; and
 - whether the development is necessary in terms of climate change resilience.

Reasons

Character and Appearance

4. The appeal site is located within the Camden Square CA. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The Camden Square CA Appraisal and Management Strategy (2011) (CAAMS) sets out that the unique

character of the CA is as a cohesive planned nineteenth-century suburb focused on Camden Square.

5. The CAAMS sets out that Agar Grove is a busy thoroughfare, with its original pattern of larger houses to the west leading to terraces at the York Way end remaining legible. However, it notes that the condition of many properties is also poor and in need of investment and reinstatement of detail.
6. No 152 is a mid-terrace 4 storey unit, split into flats. No 152A is set on the lower and upper ground floors. Small front gardens are evident, with lower ground floor and steps up to their front doors. The property and its immediate neighbours form an attractive and elegant traditional terrace, retaining the original historic form and architectural features, such as stucco decoration, mouldings around the windows and impressive pilasters and portico to the front door. Timber sash windows are also apparent. The property contributes positively to the character and appearance of the CA.
7. In this context, whilst of limited scale, the canopy above the lower ground floor door is prominent and out of keeping with its surroundings. Its use of polycarbonate exacerbates its incongruous modern appearance and relates poorly to the traditional form and detailing of the host property and wider terrace. The appellant sets out that such canopies are commonplace within the CA, however, I saw on my visit that they do not form part of the established character of the street.
8. The two air conditioning units to the front are sited close to the front elevation below the height of the retaining wall. The plans show that they sit within timber slat housing. Whilst the submitted Noise Impact Assessment Report (NIAR) sets out that they will be partially enclosed I saw on site that they are entirely enclosed in the timber slat housing, set behind some planting. A suitably worded condition can secure this (with appropriate access measures), in addition to landscaping details that would further obscure the timber unit from view. As such, I am satisfied that the two front units do not harm the character and appearance of the property nor the wider CA.
9. Similarly, the two rear units, also enclosed in timber slat housing, sit against the close boarded timber side boundary fence. They have the appearance of garden furniture. Again, their visual impact is limited and there is no harm to the character and appearance of the property, terrace or wider CA.
10. Given the localised impact of the front canopy, the harm it causes to the significance of the CA is considered to be less than substantial. Paragraph 202 of the National Planning Policy Framework (the Framework) makes it clear that in such circumstances, this harm should be weighed against the public benefits of the development.
11. The benefits associated with the canopy are private and as such do not outweigh the less than substantial harm to the significance of the CA as a designated heritage asset, to which I attach great weight as required by paragraph 199 of the Framework.
12. For the above reasons, I therefore find that the canopy detracts from the character and appearance of the existing building and terrace, and neither preserves nor enhances the character or appearance of the Camden Square CA. The proposal therefore conflicts with those aims of Camden Local Plan

(2017) (LP) Policies D1 and D2 which seek to ensure that development respects local context and character, and preserves or enhances the character and appearance of the CA.

Noise Disturbance

13. The submitted Noise Impact Assessment Report (NIAR) identifies the nearest residential receptor as Nos 152 B and 154 Agar Grove. Having undertaken a noise survey it concludes that the operation of the air conditioning units, in accordance with appropriate guidance, indicates creating a low impact.
14. The Council's Environmental Health Officer does not disagree with the findings and does not object to the scheme, subject to conditions. In addition to a condition controlling the decibel level of the units, a condition is recommended regarding the installation of anti-vibration measures.
15. The NIAR sets out that *'In addition to the control of airborne noise transfer, it is important to consider the transfer of noise as vibration to adjacent properties as well as any sensitive areas of the same building. Vibration from the units are not expected, however, as a precaution plant should wherever possible be installed on suitable type isolators.'*
16. Given the siting of the front units next to the retaining wall and the rear units up against the side boundary, consideration of vibrations is relevant. The NIAR is not clear whether suitable type isolators have been or should be installed. From everything I have seen on the site visit and in submissions, I have no reason to disagree that these conditions are necessary.
17. Given the retrospective nature of the development, a condition as requiring anti-vibration measures would be problematic, and as the potential subsequent addition of isolators may raise, however minimally, the height of the units, thereby raising visual impact issues for the front units. In addition, as they may already be installed, the condition may be unnecessary. As such, it would not meet the requirements of Framework paragraph 56.
18. I therefore find that it has not been demonstrated that the development has an acceptable impact upon the living conditions of occupiers of existing properties, in particular Nos 154 and 152B Agar Grove, with regard to noise disturbance. The development does not therefore meet the amenity protection goals of LP Policies A1 and A4.

Climate Change Resilience

14. LP Policy CC2 expects developments to be resilient to climate change and include measures to reduce the impact of urban and dwelling overheating, according to a cooling hierarchy. This policy is not restricted only to major developments. The supporting text to the policy sets out that the Council will discourage the use of air conditioning and excessive mechanical plant as, in addition to increasing the demand for energy, such measures expel heat from a building making the local micro-climate hotter. It states that active cooling such as air conditioning would only be permissible where *'dynamic thermal modelling demonstrates that there is a clear need for it after all other preferred measures have been incorporated.'*
15. A cooling hierarchy has been submitted by the appellant and I am satisfied that, as development serving an existing flat, the preferred measures set out in

the policy and Policy SI 4 of the London Plan have been addressed. However, no thermal modelling has been submitted and therefore the clear need for the units have not been demonstrated. The requirements of the policy have not been met.

16. The appellant has submitted numerous examples of approvals within the Borough of similar recent development where a cooling hierarchy or thermal modelling were not required. Such inconsistency in the application of policy is regrettable, however, this does not alter the clear wording and requirements of the policy before me.
17. For the above reasons, I therefore find that it has not been demonstrated that the air conditioning units are necessary, and therefore is resilient to climate change. The proposal therefore conflicts with the adapting to climate change goals of LP Policy CC2.

Other Matters

18. The appellant raises issues regarding air quality, and that the protection of the occupants from this should weigh in favour of the development. Even if some weight is given to this, given that the Council set out that the site is not identified within the Council's Air Quality Action Plan and none of the policies referenced above make reference to air quality, this weight is limited, and does not outweigh the harm identified.
19. I acknowledge the issues raised by the appellant regarding the consideration of the proposal and consultee comments by the Council, however, this does not alter the conclusions I have reached regarding conflict with the development plan.

Conclusion

20. The proposal conflicts with the development plan taken as a whole and there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan. Accordingly, for the reasons given above and having had regard to all other matters raised, the appeal is therefore dismissed.

B Phillips

INSPECTOR