

Appeal Decision

Site visit made on 30 August 2023

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref. APP/X5210/D/23/3322161
5 Pilgrim's Lane, London NW3 1SJ

- 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 Ms Alison Jane Baker against the decision of the Council of the London Borough of Camden.
 - The application ref. 2022/2476/P, dated 8 June 2022, was refused by notice dated 29 March 2023.
 - The development proposed is "*Installation of external air conditioning units and associated acoustic enclosure within the rear side courtyard*".
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The description of the proposed works in the heading above is taken from the decision notice and the appeal form. The householder application form referred only to a single air conditioning "*unit*", when in fact 2 such units are proposed.

Main issue

3. The main issue is whether the proposed installation would comprise sustainable infrastructure, having regard to the need to minimise the effects of climate change and reduce carbon dioxide emissions.

Reasons

4. Paired with no. 5a, no. 5 is a semi-detached, 2-storey house with a near full-width rear ground floor extension and a raised rear garden. The external plant and the associated low-sound louvred enclosures proposed would be attached to the side of the rear extension which faces onto a narrow side courtyard and the high wall on the common boundary with no. 3.
5. The application could have been presented to the Council with greater clarity. The principal application documents (the plans, the householder application form and the Design, Access & Heritage Statement) did not specifically mention the term *air source heat pump* or its abbreviation (*ASHP*). This technology, which is directly referred to in the Appeal Case Statement, is still a form of air conditioning where use is made of a heat pump to extract heat from the

outside air to warm the interior or to heat hot water and also to extract heat from the inside to provide cooling. An ASHP needs electricity to function.

6. The determination of the appeal is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the Camden Local Plan 2017 (LP). It is supported by various supplementary planning documents, the *Camden Planning Guidance Energy efficiency and adaptation* (CPG) 2021 being of most relevance.
7. LP Policies CC1 and CC2 and the CPG tackle climate change mitigation and adapting to climate change. The approach on mitigation in CC1 is that all new development is required to reduce carbon dioxide emissions by following the steps in the energy hierarchy which prioritise using less energy through lower cost passive design measures, such as improved fabric performance, over higher cost active systems, such as renewable energy technologies. In CC2, the Council will require development to be resilient to climate change. All development should adopt appropriate climate change adaptation measures, such as those aimed at reducing the impact of urban and dwelling overheating, including the application of the cooling hierarchy. The provision of active cooling systems, like air conditioning units, is at the bottom of the cooling hierarchy and should presumably be limited if the hierarchy is adhered to.
8. Indeed, paragraph 8.42 of the LP says that active cooling (air conditioning) will only be permitted where dynamic thermal modelling demonstrates there is a clear need for it after all of the preferred measures are incorporated in line with the cooling hierarchy. No such modelling has been submitted.
9. I agree there are some limitations in how an existing building can be adapted and that the best opportunities to achieve an energy efficient design can be assembled when a scheme is being designed from scratch. Still, existing buildings cannot be excluded because they account for almost 90% of the borough's carbon dioxide emissions, according to the CPG. So I do not find the Council's approach to be disproportionate to this householder application. Under LP Policy CC2, any development involving 5 or more residential units is required to submit a Sustainability Statement covering the range of climate change adaptation measures set out in sections a. to d. Such a statement is not required for schemes under 5 dwellings or for householder applications. However, the relevant principles in this policy cannot be ignored for such minor developments since the key parts of the policy start with the phrases "*The Council will require development...*" and "*All development should adopt...*".
10. The existing dwelling supports a number of passive ventilation amenities, including windows in the front, side and rear elevations, wide patio doors to the rear, and so I am told, an openable roof light. These could possibly be used so as to increase passive ventilation to minimise overheating and achieve internal comfort. If they cannot and certain rooms experience overheating and other passive forms of ventilation or energy efficient technology like Mechanical Ventilation with Heat Recovery (MVHR) are not feasible or practicable as claimed, this is where the appellant should demonstrate a clear need for the air conditioning system through dynamic thermal modelling.
11. It is said that the ASHP would be used for heating and cooling and result in the removal of the gas boiler which is not energy efficient. Had an ASHP been

acceptable in principle when assessed against the relevant energy and cooling hierarchies, it would be for the appellant to consider how much electricity is required to work the pump versus the energy savings of providing heating and cooling. Carbon calculations would need to be submitted to show that their use for heating is more efficient than gas.

12. The appellant has said that the proposed air conditioning system will only be used during extreme weather events as opposed to being in use all year round, so as to limit its overall usage. That scenario is not something that could realistically be achieved or guaranteed through any planning controls.
13. I have considered the 4 other planning permissions in Camden for air conditioning units brought to my attention in Appendix 1 of the Appeal Case Statement. One of them (ref. 2016/0552/P) pre-dated the LP, 2 related to larger-scale commercial properties where different energy considerations might have applied and all 4 of them pre-dated the current CPG which provides detail on how to implement LP Policies CC1 and CC2. Whilst the omission of any reference to LP Policies CC1 and CC2 is regrettable in 3 of those cases, this does not provide a sound or persuasive basis in favour of allowing this appeal. Moreover, there could be other cases where the Council has followed the same approach as at the appeal site but the chosen householder appeal procedure does not permit the Council any opportunity to respond on this point.
14. On the evidence available, I find on the main issue that the proposed installation would not comprise sustainable infrastructure, having regard to the need to minimise the effects of climate change and reduce carbon dioxide emissions. The scheme conflicts with LP Policies CC1 and CC2.

Other matters

15. The appeal dwelling falls within the Hampstead Conservation Area and there are a number of listed buildings in the vicinity of the site. The Council did not take exception to the scheme on heritage protection grounds and I saw no reason to disagree with that stance.
16. Having regard to the appellant's Noise Impact Assessment and the observations of the Council's Environmental Health Department, the Council was satisfied that the amenities of nearby residents would not be harmed, subject to conditions specifying noise limits and requiring the installation of anti-vibration isolators and fan motors. On balance, I accept that finding.

Conclusion

17. My finding on the main issue is decisive to the outcome of this appeal. There is conflict with the development plan. The harm cannot be mitigated by the imposition of planning conditions and it is not outweighed by other material considerations. For the reasons given above and having regard to all other matters raised, including the representations made at application stage, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR