



Appeal Decision

Site visit made on 5 February 2025

by **H Nicholls** **FdA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/X5990/W/24/3354611

Ground Floor, 322 Kilburn Lane, London W9 3EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Piatta Di Salwa Ltd against the decision of City of Westminster Council.
 - The application Ref is 24/05142/FULL.
 - The development proposed is installation of two air conditioning units at second floor rear roof and acoustic enclosure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice.
3. Two air conditioning units were in situ at the time of my site visit. The proposal has been assessed on the basis that the development has commenced but not completed.
4. The site location plan originally submitted with the appeal incorrectly outlined a neighbouring property and not the appeal site, No 322 Kilburn Lane. On questioning this inconsistency, an amended site location plan was submitted outlining the site. This plan had previously been submitted to the Council on the 19 August 2024, although it had not passed on to the Planning Inspectorate at any earlier point in time.
5. The site location plan outlines in red the full extent of the plot between the adjacent properties, from the front wall on Kilburn Street and extends to a point at the rear of the plot or beyond the plot where the ground floor of the building meets with an adjoining irregularly shaped building (precise address unknown).
6. The proposed plan appears to show the location of the air conditioning units at the rearmost part of the site with an 'adjoining property' (sic) located almost directly adjacent to the south of the air conditioning units.
7. On site, the position of the air conditioning units is just to the north of a low wall or ledge that projects marginally higher than the flat roof. There is no reference to this low wall on the plans or how its position will affect the proposed enclosure of the air conditioning units, if at all. It is also unclear if the adjoining property begins at the approximate position of the low wall and extends southwards, or if the property boundary with the neighbour is some distance to the south, as suggested by the red line site location plan.

8. As such, reading across the combination of the proposed plans and site location plan, it is ambiguous as to the extent of the red line site area under the control of the appellant and what position the air conditioning units occupy in relation to neighbouring properties or features on site. Further issues hindering the identification of the correct site relate to the incorrect way in which the rear profile of the building of the upper floors is shown. As a result of these concerns, it is impractical to assume that any condition requiring adherence to the plans could be robustly enforced.
9. In short, the plans are insufficiently precise to allow for me to be certain of the extent and nature of the proposal. As the appeal process should not be used to evolve the scheme, or to repeatedly rectify plan inconsistencies, my decision is that the appeal should not succeed.

Other Matters

10. The Council refused the application for reasons of its harm to the character and appearance of the area. If the restaurant is to continue operating, such air conditioning units are likely to be necessary and some form of enclosure is likely to be more aesthetically pleasing than leaving them exposed. However, given my findings above, I have not considered this aspect further.
11. I also note from the evidence that the air conditioning units, or similar versions thereof, have been in situ for a considerable period of time. Be that as it may, it has little bearing on my decision in this particular case.

Conclusion

12. On the basis of the above, the appeal does not succeed.

H Nicholls

INSPECTOR