



Appeal Decisions

Site visit made on 30 April 2025

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 9 JUNE 2025

Appeal A Ref: APP/N5090/C/23/3331070

Land at 82 Wolmer Gardens, Edgware, HA8 8QD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr D Shooter against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 20 September 2023.
 - The breach of planning control as alleged in the notice is: Without Planning Permission, the Installation of 6no Air Conditioning Units to the side elevation of the building.
 - The requirements of the notice are: Permanently remove the 6no air conditioning units from the flank elevation of the property.
 - The period for compliance with the requirement is: 2 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/N5090/W/23/3331074

82 Wolmer Gardens, Edgware, Barnet, HA8 8QD

- 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 Mr D Shooter against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/3120/RCU .
 - The development proposed is Installation of side air conditioning units (Retrospective Application).
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Appeal A Decision

1. It is directed that the enforcement notice is varied by the deletion of the words "2 months" in paragraph 6 and their substitution with the words "five (5) months".
2. Subject to the variation Appeal A is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Decision

3. The appeal is dismissed.

Preliminary Matters

4. Since the appeals were registered, the Barnet Local Plan 2021-2036 was adopted by the Council in March 2025 ('LP'). The policies contained within it supersede those referenced in the decision notice and enforcement notice and I have had regard to these new policies in reaching my decisions.

5. The revised National Planning Policy Framework 2024 came into force during the course of the appeal. The revisions made have not had a direct bearing on the issues which are central to these appeals.
6. As regards Appeal B, I have taken the description of development from the decision notice since the application description referenced 'retention' of the air conditioning units which is not an act of development.

**Appeal A – the appeal on ground (a) and the deemed planning application (DPA);
Appeal B – s78 Appeal**

Main Issues

7. Appeals A and B relate to the same development and I shall therefore deal with these together. The main issues are the effect on the living conditions of the neighbouring occupants with regard to noise and disturbance, and on the character and appearance of the host property and area.

Reasons

Living conditions

8. The six air conditioning units are sited on the side elevation of the appeal dwelling in close proximity to side windows of the adjacent property to the south. The appellant has provided in these appeals a Noise Impact Assessment produced by Evolved Acoustics Ltd dated 10 October 2023 ('NIA'). The NIA sets out that if the air conditioning units were housed within an acoustic enclosure, the noise impact of these could be reduced such that they would have a very low sound impact on the affected neighbours (based on the likely minimum effect of an enclosure).
9. However, the noise impact calculations for night-time in the NIA are on the basis of only four of the six air conditioning units being operated which is considered to be a 'reasonably cautious' assumption based upon the 'usage profile' provided by the appellant. Whilst it may be unlikely that the six units would be operated at night-time, I cannot rule out this possibility and I do not have data indicating the cumulative noise impact of six units operating at night-time. Indeed, night-time operation of six units would likely coincide with hotter weather when occupants of the affected property to the south would likely leave their windows open at night-time. There remains then a risk of significant noise impact at night-time even with an acoustic enclosure in place.
10. I conclude then on the first main issue that, on the available evidence, there is a material risk of a harmful level of noise and disturbance to neighbouring occupants. There is conflict then with Policies CDH01 and ECC02 of the LP which seek to ensure a good standard of amenity and that development proposals avoid unacceptable noise levels.

Character and appearance

11. The appeal property is located in a residential area where numerous houses have some modest visual clutter at first floor level, typically in the form of satellite dishes and security devices. The appeal development comprises six air conditioning units positioned at first floor level on the side elevation of the appeal property. Since the units are fairly shallow in profile and are set back away from the road, and given the narrow gap between this flank elevation and the side wall of the neighbouring

property, they are not especially prominent in main public views. They would be clearly visible from side windows of the neighbouring property but in my view would not be materially harmful bearing in mind that the previous view was of a wall.

12. However, per the NIA, the air conditioning units would have a significant adverse impact on neighbouring residents absent mitigation in the form of an acoustic enclosure. The appellant has suggested that the provision of an enclosure could be dealt with by condition. However, given the need for such an enclosure to allow for adequate air flow to the air conditioning units, this would potentially add a harmful level of bulk at first floor level. As such, without a detailed proposal, it is not possible to properly assess the impact of a proposed acoustic enclosure on the character and appearance of the area.
13. On the available evidence, I cannot be satisfied that the appeal development, if appropriately enclosed to prevent noise and disturbance, would not result in harm to the character and appearance of the host property and area. There is conflict then with Policy CDH01 of the LP and Policies D1, D3 and D6 of the London Plan which strive to ensure a design-led approach and that new development proposals respond sensitively to the distinctive local character and design and are appropriate for the surrounding context.

Other Matters

14. An interested party has raised concerns as to the resale value of the neighbouring property as a consequence of this development but this is not a planning matter.

Appeal A conclusion on ground (a) and the DPA; Appeal B s78 conclusion

15. The appeal development results in harm to the living conditions of neighbouring residents. While this could be mitigated against by an acoustic enclosure, I do not have sufficient evidence to determine whether this would reduce noise to an acceptable level at night-time or to assess the resultant effect on the character and appearance of the area. There is conflict then with the development plan read as a whole and no material considerations warrant a decision other than in accordance with the plan.
16. For the above reasons, and taking into account all other matters raised, the Appeal A ground (a) appeal fails and planning permission is refused for the DPA. Appeal B also fails and planning permission is refused.

Appeal A: Time for compliance

17. The appellant has not made an appeal on ground (g) that the time for compliance falls short of what is reasonable and the two month period stipulated would be reasonable to arrange removal of the air conditioning units. However, I found above that there is scope for the appellant to provide noise evidence related to the operation of six units at night-time, as well as to give details of a proposed acoustic enclosure to enable a proper assessment of the likely visual impact, or to reduce the number of units proposed if appropriate.
18. As such, it is appropriate that I extend the period for compliance to enable the appellant to submit further information in a new application. A period of five months would strike the right balance between bringing ongoing harm to an end and enabling the appellant to explore a revised application. This modest extension of time would not result in any injustice so I shall vary the notice accordingly.

Appeal A Overall Conclusion

19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Appeal B Overall Conclusion

20. For the reasons given above the appeal should be dismissed.

V Bond

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/N5090/C/23/3331070	Mr D Shooter
Appeal B	APP/N5090/W/23/3331074	Mr D Shooter