

**Ref: APP/X5210/C/23/3323537**

Site: 29 Prowse Place, London, NW 9PN

## **Introduction**

These grounds of appeal relate to the service of an Enforcement Notice by the London Borough of Camden on the 15<sup>th</sup> May 2023 for the installation of 2 x air condenser units on the rear elevation at roof level, at 29 Prowse Place, London, NW1 9PN.

The enforcement notice comes into effect on the 27<sup>th</sup> June 2023. (Council Ref: EN22/0017).

As set out in the following section the appellant is appealing the notice on grounds (a) and (g).

## **Grounds of Appeal**

### **Ground A) Planning permission should be granted for what is alleged in the notice**

In November 2022, retrospective planning permission was sought for the installation of 2 x air condenser units to the rear of the site known as 29 Prowse Place, London, NW1 9PN under reference 2022/3750/P. A copy of the documents form part of Appendix A of the supporting appendices.

The application was supported by existing/proposed plans, plant noise assessment and a block/location plan.

On the 3rd March 2023 planning permission was refused on the following grounds, **'The proposal has failed to justify the need for active cooling by reducing and mitigating the impact of dwelling overheating through the application of the cooling hierarchy, thereby failing to minimise carbon dioxide emissions, contrary to policies CC1 (Climate change mitigation) CC2 (Climate change adaptation measures) of the Camden Local Plan 2017.'**

Within the delegated report officers comment that it is the absence of information relating to cooling hierarchy, thermal modelling or active heating which leads the LPA to be uncertain as to the genuine need for the units.

Policy CC1 of the adopted Camden Local Plan sets out that the Council will require all development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation. Para (d) of the policy sets out that the Council will support and encourage sensitive energy efficiency improvements to existing building.

Policy CC2 sets out that the Council will require development to be resilient to climate change. Para (d) of the policy sets out that development should take measures to reduce the impact of urban and dwelling overheating, including application of the cooling hierarchy.

The cooling hierarchy stems from the context of Policy 5.9 of the London Plan (overheating and cooling) which sets out how proposals should reduce potential overheating and reliance on air conditioning systems.

The existing building is of an intra-war period with solid brick walls and is reflective of the period of construction at the time. The building is locked between two other structures which when considered cumulatively with the limited scope, and cost of significant alteration, renders total adherence to the cooling hierarchy extremely challenging and unreasonable for a building and proposal of this nature.

In support of these grounds of appeal the applicant has instructed Vision Energy to undertake an overheating analysis of the dwelling. The findings of the report concluded that to ensure compliance with CIBSE TM52 (2013), and for the dwelling to be no greater than 26 degrees for more than 3% of the year, there would be a requirement for all windows and doors across the floors to be open during the day and at night utilising cross ventilation.

Within the summary of section 3.2 the report identifies that whilst in principle cooling could occur through the use of ventilation, this is not within itself a realistic proposition given it would require windows to be open during the day and at night. This typically gives rise to security concerns where the windows abut the public footpath with no means or realms of defence. Secondly, it is based on the assumption that occupancy of the building is consistent and 24/7. The reality of habitable space is that windows would be closed during the day when the occupiers are at work, or away from the building shopping or on holiday. The demand for over heating would equally occur during this period and it would not be reasonable to rely on windows being opened upon their return before the building cools down to an ambient level.

The appellant strongly considers that had the LPA had visibility of the associated report, they would have understood the position and the absence of practicality in cooling the dwelling through the use of open ventilation. The dwelling is limited in scope for further works such as enhancing upper floor glazing sizes which would likely pose a planning objection, as well as the cost of air recovery systems outweighing the harm and cost of smaller condenser units.

On balance the condenser units are reasonably required to assist with active cooling during the day when the building would be at its warmest. The requirement of use throughout the day is limited and the potential CO2 emissions from casual use during the summer months would be of a small-scale as not to harm the aims of the development plan policies. Notwithstanding this, the development plan policies cannot be reasonably achieved in a building of this age or with security/practicality challenges of achieving natural ventilation.

As such, the units are reasonably required to provide ambient levels of cooling within the dwelling. Whilst there may be some modest conflict with the development plan policies, on balance the output from these units would be modest and would be unlikely to harm their overarching aims.

**Ground g)**

**'any period specified in the notice in accordance with section 173(9) of the TCPA 1990 falls short of what should reasonably be allowed (ground g)';**

The Council have set out a compliance period of 3 months for the works set out in section 5 to be addressed. The appellant considers this to be too short and not reflective of the period required to organise scaffolding, instruct the technicians to remove the condenser units during largely their busiest period of the year where lead times are largely in excess of 10-12 weeks.

In the event the enforcement notice is upheld, a period of 3 months would not be reasonable for the appellant to secure the relevant professionals to remove the units from their current elevated location. The appellants will seek to lay out reasonable grounds to amend the period specified in accordance with section 173(9), to protect those it could be of greater harm to. Accordingly, with these factors in mind the appellant will respectfully ask for a minimum period of 4 months.



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