



# APPEAL CASE STATEMENT

May 2023

**Local Planning Authority (LPA) Reference:** 2022/2476/P

**Address:** 5 Pilgrim's Lane, London, NW3 1SJ

**Planning Appeal:** On behalf of Ms Alison Jane Baker

**Appeal Proposal:** Installation of external air conditioning units and associated acoustic enclosure within the rear side courtyard

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## 1. Introduction

- 1.1. This Appeal Case Statement has been prepared by Drawing and Planning on behalf of the appellant Ms Alison Jane Baker, against the decision by the London Borough of Camden to refuse planning permission for the installation of air conditioning units and associated acoustic enclosure at 5 Pilgrim's Lane in Hampstead.
- 1.2. Following a description of the site and surrounding area, this appeal case statement will review the planning history, will set out an overview of relevant planning policy and will look to outline the appeal case for the appellant.
- 1.3. It will be demonstrated that the proposal complies with relevant local and national policies and that planning permission should be granted.



**Fig. 1: Site Location Map**

## 2. Site Description

- 2.1. The appeal Site hosts a two-storey semi-detached dwelling house, built c.1960 as an infill development together with adjoining No.5a on the southwest side of Pilgrim's Lane. Historic ordnance survey maps indicate that the Site historically provided a secondary access point for the Rosslyn Hill Chapel, from Pilgrim's Lane. Nos. 5 and 5A Pilgrim's Lane were designed as a symmetrical pair of buildings.
- 2.2. The building is not statutorily or locally listed but is located within the Hampstead Conservation Area. The existing building is not identified as a positive contributor to the conservation area within the CAS. As a result, the building can be considered to make a neutral contribution to the Conservation Area. The site is also located within the Hampstead Neighbourhood Plan area.
- 2.3. The building includes a two-storey front projecting wing, with an internal garage located at the ground floor, built as a later extension. There is a side projection at first floor cantilevered over the side access to the rear garden, set back from the front façade. To the rear, the building has an existing full width single storey extension.
- 2.4. Pilgrim's Lane comprises a rich mixture of architectural styles, there is considerable-variety in design, colour palette and historic interest. There are a number of listed buildings within proximity to the application site. These include No. 1 - 3 Lloyds Bank which is a Grade II\* listed, situated immediately south of the application site. No. 38 Pilgrim's Lane- Rosslyn House is Grade II listed & located adjacent to the application site (southeast).
- 2.5. Hampstead is a Conservation Area of considerable quality and variety. A range of factors and attributes come together to create its special character. The Conservation Area stretches beyond the village itself to include South End Green, Frognaal and Rosslyn Hill and offers many fine and interesting examples of the architectural development of London.

### 3. Background

- 3.1. On 8<sup>th</sup> June 2022, the appellant via their agent, submitted an application to the London Borough of Barnet under (Ref: 2022/2476/P) for the following development:

*Installation of external air conditioning units and associated acoustic enclosure within the rear side courtyard*

- 3.2. In the decision notice, dated 29<sup>th</sup> March 2023, the LPA refused the application for the following reason:

1. *The proposal has failed to adequately 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) and CC2 (Climate change adaptation measures) of the London Borough of Camden Local Plan 2017.*

- 3.3. Whilst the appellant has applied for air conditioning units the proposal is for an air source heat pump (ASHP) that would be used for both heating and cooling. The proposal involves the removal of the existing gas boiler.

### 4. Planning History & Appeal Proposal

- 4.1. There are four planning applications registered on the Council's online planning records for this property, which are listed as follows:

- **2021/3160/P** External alterations including the installation of timber framed window to ground floor front elevation associated with the conversion of garage to habitable space, replacement of the rear window with new door, installation of glazed lean-to canopy to side elevation and installation of timber garden sheds to the rear. **Granted 12<sup>th</sup> April 2022**
- **2006/2857/P** Erection of a glass conservatory extension to the rear and a single storey extension to the side of the dwellinghouse, plus installation of a rooflight in the flat roof of the existing rear extension. **Granted 11<sup>th</sup> August 2006.**
- **PW9703056R2** Erection of an entrance porch, new double gates for vehicular entrance and boundary railings. **Granted 6<sup>th</sup> of March 1998**
- **TP/28340/C/7432** The erection of a pair of semi-detached houses, with a private garage at No. 5, Pilgrim's Lane, Hampstead, and the formation of a new access to the highway, in accordance with your letter dated 30th July 1954, specifying the use of Leicestershire Grey Rustic facing bricks. **Granted 19<sup>th</sup> August 1954.**

## 5. Planning Policy

- 5.1. The development plan for the area comprises the Camden Local Plan 2017 and the London Plan 2021.
- 5.2. According to the Decision Notice, the application was assessed in line with policies CC1 (Climate change mitigation) and CC2 (Climate change adaptation measures) of the Camden Local Plan 2017.
- 5.3. According to Policy CC1 of the Camden Local Pan 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*

- 5.4. According to Part d. of the policy the council will:

*Promote zero carbon development and require all development to reduce carbon dioxide emissions through following the steps in the energy hierarchy;*

- 5.5. According to Policy CC2 (Adapting to climate change) the council will require development to be adaptive to climate change. The policy requires all development to adopt appropriate climate change adaptation measures such as point d:

*measures to reduce the impact of urban and dwelling overheating, including application of the cooling hierarchy.*

- 5.6. The policy requires that “any development involving 5 or more residential units or 500 sqm or more of any additional floorspace is required to demonstrate the above in a Sustainability Statement.”

- 5.7. Paragraph 8.7 of the Local Plan describes the energy hierarchy:

*The energy hierarchy is a sequence of steps that minimise the energy consumption of a building. Buildings designed in line with the energy hierarchy prioritise lower cost passive design measures, such as improved fabric performance over higher cost active systems such as renewable energy technologies. The following diagram shows a simplified schematic of the energy hierarchy, which is explained further in supplementary planning document Camden Planning Guidance on sustainability.*

- 5.8. Paragraph 8.9 of the Local Plan describes how proposals should demonstrate compliance with the Be lean stage:

*Proposals should demonstrate how passive design measures including the development orientation, form, mass, and window sizes and positions have been taken into consideration to reduce energy demand, demonstrating that the minimum energy efficiency requirements required under building regulations will be met and where possible exceeded. This is in line with stage one of the energy hierarchy 'Be lean'.*

- 5.9. Camden Planning Guidance Energy Efficiency and Adaptation January 2021 advises on the application of the energy hierarchy. According to paragraph 3.1:

*Energy efficient design requires an integrated approach to solar gain, access to daylight, insulation, thermal materials, ventilation, heating and control systems. It is important that these aspects are considered in relation to each other when designing a scheme.*

*These measures are likely to have higher health and wellbeing benefits over active (mechanical) measures. A building which is naturally more efficient in retaining heat in cooler months and dissipating heat in warmer months are more likely to help reduce health risks, of older and vulnerable groups, particularly those who suffer from fuel poverty.*

*Energy efficient (passive) design measures should be considered prior to the inclusion of any active measures to ensure that the energy demand for developments is reduced as far as possible. This helps to reduce the size of building services and energy consuming technologies needed in developments.*

## 6. Case for the Appellant

- 6.1. The Council do not object to the two ASHP in terms of their design and appearance and raises no concerns relating to the impact on neighbours. The single issue which is the subject of this appeal is whether the use of the ASHP as air conditioning would be contrary to policies CC1 and CC2 of the Camden Local Plan which seek to minimise the effects of climate change and to adopt appropriate climate change adaptation measures.
- 6.2. The Council's approach is that the appellant must demonstrate that other energy efficiency measures have been considered and modelled before resorting to active cooling. Once other energy efficiency measures or passive measures have been considered the Council then requires a thermal modelling assessment. This must demonstrate that there is a clear need for active cooling after all preferred measures are incorporated.
- 6.3. The appellant believes that this approach is disproportionate to the application which seeks air-conditioning units for an existing dwelling. Applying Policy CC1 to a householder application is not considered proportionate to the scale and impacts of the development. The planning assessment for householder air conditioning units should solely focus on elements such as visual impact and noise.
- 6.4. The policy CC2 would be considered applicable for applications for the creation of new dwellings, and as reviewed in the policy section above it is for 5 or more dwellings that measures for dealing with overheating are triggered. Camden Planning Guidance Energy Efficiency and Adaptation January 2021 refers to the energy-efficient design and use of passive measures during the actual design conception and process:

*Energy efficient design requires an integrated approach to solar gain, access to daylight, insulation, thermal materials, ventilation, heating and control systems. **It is important that these aspects are considered in relation to each other when designing a scheme.***

*These measures are likely to have higher health and wellbeing benefits over active (mechanical) measures.*

- 6.5. The guidance and policy do not appear to have been conceived for the purposes for which the council are employing it. Firstly, for existing buildings, most passive measures cannot be implemented. The appellant has already installed blinds and the number of windows and ceiling heights cannot be changed. The floorplans show that the ground-floor kitchen



and first-floor bedrooms are single aspect and therefore cross ventilation is not possible. This causes these rooms to overheat and feel unpleasant in the summer months.

- 6.6. It is noted that MVHR and Radial Ducting would involve major internal works at the property. The use of hybrid methods (active and passive) to provide ventilation is the most realistic option due to the restrictions of the existing building.
- 6.7. The Council have asked for considerable justification whilst not quantifying the impacts. The Council have not displayed how energy intensive the air conditioning units would be. They have not quantified the carbon emissions of the air conditioning or factored in the savings that result from the removal of the gas-powered heating system
- 6.8. While the appellant has applied for air conditioning units on the application form the proposal is for an air source heat pump (ASHP) that would be used for both heating and cooling. The proposal involves the removal of the gas boiler which is not energy efficient.
- 6.9. The applicants have also asserted that the proposed air conditioning system will only be used during extreme weather events (high summer months – low winter months) as opposed to being in use all year round, to limit its overall usage.
- 6.10. The Council's online planning register shows examples of applications for air conditioning units approved without assessment against policies CC1 & CC2:
  - 2017/3183/P - 66 Pilgrim's Lane, NW3 1SN - Installation of new air conditioning unit in the rear garden of single dwelling (Class C3). **Granted planning permission on 6<sup>th</sup> September 2017.**
  - 2016/0552/P - 23 Gayton Crescent, NW3 1UA - Installation of an air conditioning unit with an outdoor condensing unit at Ground Floor west elevation and pipework to the indoor units to run on external wall. **Granted planning permission on 17<sup>th</sup> May 2016**
  - 2018/0748/P - Bank and Premises at Basement, Ground and 1st Floor, 106 Finchley Road - Installation of 2 x air conditioning plant on the roof at first floor to rear of the building. **Granted planning permission on 20th April 2018**
  - 2020/0805/P - 136-142 Finchley Road, London, NW3 5HS - Alterations to shopfronts and installation of air-conditioning plant behind louvred panels to the front. **Granted planning permission on 8th November 2020**

**The Officer's Report from 2017/3183/P - 66 Pilgrim's Lane (see page 1), the Decision Notice from 2018/0748/P - Bank and Premises (see page 6), the Decision Notice from 2016/0552/P - 23 Gayton Crescent (see page 9) & the Decision Notice from 2020/0805/P - 136-142 Finchley Road (see page 13) are shown in Appendix 1 as attached.**



## 7. Conclusion

- 7.1. The Council appear to not have recognised that the application is for two ASHP instead of solely for air conditioning units. The Council do not object to the design or locality of the ASHP and raises no objection relating to impacts on neighbours.
- 7.2. The appellant does not believe that the Council's interpretation of policies CC1 and CC2 and the associated supplementary guidance document is appropriate. The appellant believes that the application of the cooling hierarchy and overheating analysis are relevant to developments where new homes are being created. The appellant believes that the level of restriction is not proportionate to the proposals which are for two ASHP.
- 7.3. The Council have not identified or quantified the supposed harm to the environment in terms of carbon dioxide emissions. The appellant believes that the carbon emissions from two ASHP which will be used for cooling during extreme heat in the summer would be negligible and that this would also be offset by the move from a gas energy system for heating in the winter.
- 7.4. There are numerous examples of air conditioning units approved without the need to demonstrate how the cooling hierarchy has been applied or for the submission of an overheating report.
- 7.5. For these reasons, the appellant respectfully requests that the appeal be allowed.