

Delegated Report		Analysis sheet	Expiry Date:	29/06/2023
		N/A / attached	Consultation Expiry Date:	30/07/2023
Officer			Application Number(s)	
Obote Hope			2023/2242/P	
Application Address			Drawing Numbers	
40 Hillway London N6 6HH			Please refer to decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Installation of 3 x air condenser units with acoustic enclosure to the rear roof of the single storey ground floor extension. Part retrospective.				
Recommendation(s):		Refused and Warning of Enforcement Action to be Taken		
Application Type:		Full Planning Permission		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	01	No. of objections	01
Summary of consultation responses:	<p>A site notice was displayed from 05/07/2023 to 29/07/2023. Press notice was displayed on 06/07/2023 to 30/07/2023.</p> <p>An objection was received from no 42 Hillway and their objections are summarised as follows:</p> <ul style="list-style-type: none"> • The Energy Overheating Assessment do not put forward a reasonable case for the air conditioning units; • There is no evidence of any thought of 'fabric first' at any point during this build or any passive cooling measures incorporated; • From the submitted report it is predicated that the changes being made to bring the extension (but not the refurbished existing house) up to the required building standards; • Noise levels: The Air Conditioning units will present an unacceptable level of noise, over the Camden limits, and will detrimentally impact our living conditions; • Sustainability and Camden's Climate Action Plan and Camden's Local Plan; • Unsightly appearance and intrusiveness of a/c units and enclosure, and; • We also request that in refusing planning permission for the air-conditioning units, the council requires the physical removal of the units. 					
Holly Lodge CAAC comments:	No response received					

Site Description

The application building is a two storey plus loft detached dwelling house located within the Holly Lodge Estate. The building has timber detailing to the front. These details reflect inspiration of the Arts and Crafts and Garden City Movement. The rear of the host building consist of a flat roofed extension and there is also a large side dormer.

The building is located within the Holly Lodge Conservation area and is identified as making a positive contribution to the character and appearance of the conservation area. The Holly Lodge Estate is a distinctive planned development in the Garden Suburb tradition, dating to the interwar period (1920's) and located on the south-facing slopes below Highgate Village. There is a homogeneity to the original design of the buildings which lends a strong sense of place.

The site is also located within the Highgate Neighbourhood Plan area.

Relevant History

2022/5452/P for the installation of 3 air-conditioning units and associated acoustic enclosure on roof of rear extension (part retrospective), **Refused on 02/05/2023**.

Reason for Refusal –

The proposal has failed to justify the need for active cooling in order to reduce and mitigate the impact of dwelling overheating and thereby fails to demonstrate that carbon dioxide emissions will be minimised, contrary to policies CC1 (Climate Change Mitigation) and CC2 (Adapting to climate change) of the London Borough of Camden Local Plan 2017.

Other relevant sites

15 Holly Lodge Gardens

Ref. 2022/2248/P Installation of air conditioning unit and acoustic cabinet to side elevation (within side courtyard area). **Refused 09/03/2023**

Reason for Refusal -

The proposal has failed to adequately justify the need for active cooling in order to reduce and mitigate the impact of dwelling overheating and thereby fails to demonstrate that carbon dioxide emissions will be minimised, contrary to policies CC1 (Climate Change Mitigation) and CC2 (Adapting to climate change) of the Camden Local Plan 2017.

Relevant policies

National Planning Policy Framework 2021

London Plan March 2021

Camden Local Plan 2017

Policy A1 Managing the impact of development

Policy A4 Noise and vibration

Policy D1 Design

Policy D2 Heritage

Policy CC1 Climate change mitigation

Policy CC2 Adapting to climate change

Supplementary Guidance

CPG Home improvements (2021)

CPG Energy efficiency and adaptation (2021)

CPG Design (2021)

Highgate Neighbourhood Development Plan (2017) (HNP)

Policy DH2: Development Proposals in Highgate's Conservation Areas

Holly Lodge Estate Conservation Area Appraisal and Management Strategy 2012

Assessment

Background

1.1 Retrospective planning permission is sought for the retention of 3 air-conditioning (AC) units on the flat roof of the existing single-storey rear extension. The proposal involves adding a new louvred acoustic enclosure with a lid to contain the AC units. The enclosure would be coloured white with a PPC finish.

2 Assessment

2.1 The main considerations in relation to this proposal are:

- Design and Heritage (the of impact of the proposal on the character and appearance of the host building and wider Holly Lodge Conservation Area);
- Amenity (the impact of the proposal on the amenity of adjoining occupiers);
- Energy and Sustainability, and;
- Enforcement

3.0 Design and Heritage

3.1 Policy D1 of the Local Plan requires extensions to consider the character, setting, context and the form and scale of neighbouring buildings; and the character and proportions of the existing building. Through Policy D2, the Council will seek to preserve and, where appropriate, enhance Camden's conservation areas.

3.2 CPG 'Design' states that the Council will only permit development within conservation areas that preserves and where possible enhances the character and appearance of the area. It further explains that when making a balanced judgment having regard to the scale of any harm or loss and the significance of the asset(s) affected, the Council will take account of the desirability of sustaining and enhancing the significance of any heritage asset/s and putting them to viable uses consistent with their conservation; the positive contribution that the conservation of heritage assets can make to sustainable communities including their economic vitality and health and wellbeing; and the desirability of new development that affects heritage assets to preserve and enhance local character and distinctiveness.

3.3 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering applications relating to land or buildings within that Area.

3.4 Para 153 of the NPPF (2021) states that 'Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk and the risk of overheating from rising temperatures. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.

3.5 Moreover, para 154 states that avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, which can help to reduce greenhouse gas emissions, such as through its location, orientation and design.

3.6 Policy DH2 of the Highgate Neighbourhood Plan (HNP) states that development proposals, including alterations or extensions to existing buildings, should preserve or enhance the character or appearance of Highgate's conservation areas. Whilst Paragraph 3.12 of the Hampstead Neighbourhood Plan states that harm to a designated or non-designated heritage asset would include development that through its height, mass, profile or quality, obstructs or degrades that asset or its setting.

3.7 The air-conditioning units would be located at the rear of the property on flat roof of the ground floor extension and whilst the proposal would not be visible from the public domain. However, the units are in a prominent position adding clutter at first floor level. The units within the enclosures would be visible from the private views of the neighbouring residential properties. The enclosure would serve to make the AC units appear more visually prominent from neighbouring gardens. Whilst permission was not previously refused for this reason, it is considered that the addition would add visual clutter which is out of character of a residential property, harming its appearance and should therefore be resisted.

3.8 Thus, the air condenser units would cause demonstrable harm to the character and appearance of the host building and wider conservation area. As discussed above, the HNP recognised the importance of heritage assets and requires new development to be designed to enhance or preserve the character and appearance of the host building. The design of the enclosure around them would represent an alien addition on this residential dwelling and would also be unacceptable given the bulk and number of units being proposed. The conservation officer was consulted and the air condenser units in this location in terms of design and heritage is considered to preserve or enhance the character and appearance of the host property or the wider conservation area.

4.0 Amenity

4.1 Policies A1 of the Local Plan seek to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and would not harm the amenity of neighbouring residents. This includes privacy, outlook, noise, daylight and sunlight. Policy A4 of the Local Plan seeks to ensure that noise and vibration is controlled and managed.

4.2 An acoustic assessment has been submitted with the application, which addresses the impact of the air condenser units and the nearest sensitive residential receptors are identified in the acoustic submission as the roof to the rear of 40 Hill Way. Based on the results of the environmental noise survey, the applicant proposes adequate levels to be achieved at 1 metre from the nearest noise sensitive window.

4.3 The applicant has submitted an acoustic report which has been reviewed by the Council's Environmental Health Officer, and it has been concluded that there would be no adverse impact on neighbouring residents in terms of noise and vibration. Compliance conditions would have been placed on the application in the event of any approval to limit noise and vibration. Because of the scale and siting on the unit, there would be no adverse impacts relating to outlook, daylight or sunlight.

The final conditions would be worded to prevent vibration of the 3 x air condenser units, the exact wording is attached below;

The external noise level emitted from plant, machinery or equipment at the development with specified noise mitigation hereby approved shall be lower than the typical existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity and thereafter be permanently retained.

Reason: *To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from mechanical installations/ equipment in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017*

Prior to use, machinery, plant or equipment at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

Reason: *To ensure that the amenity of occupiers of the development site and surrounding premises is not adversely affected by vibration in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.*

In this case suitable worded conditions would address potential noise concerns. Accordingly the units would not have a detrimental impact on the amenity of neighbouring occupiers.

5.0 Energy and Sustainability

5.1 As the application is for active cooling, as per policy CC2 and Energy Efficiency and Adaption CPG, schemes are required to demonstrate that other adequate measures have been considered and modelled before active cooling. In accordance with Policy CC2 of the Local Plan, the Council discourages active cooling. Using active cooling systems increases energy consumption and carbon emissions contrary to the aims and objectives of policy CC1. As a result, air-conditioning units are only permitted where thermal modelling demonstrates that there is a clear need for it after all preferred measures are incorporated in line with the London Plan cooling hierarchy. In addition, passive measures should be considered first. If active cooling is unavoidable, applicants need to identify the cooling requirement and provide details of the efficiency of the system.

5.2 The applicant has submitted a dynamic thermal modelling statement (TM59 Overheating report) assessing the measures within the cooling hierarchy, which concludes that, even after such measures have been implemented, active cooling would be required to mitigate overheating, which addresses the extension which makes particular reference to the open plan living/kitchen area. Section 5.3 mentions the measures the air condenser units would have in reducing the amount of heat entering the building in summer using CIBSE TM59 and TM49 to assess the space against the cooling hierarchy, The report also reaffirm its commitment to reduce energy consumption under occupancy through the adoption of a 'Fabric First' principle, which will seek enhanced insulation standards and improved heating and lighting efficiencies in comparison to the standard requirements of Approved Document Part L 2013. The report also acknowledges that there are measures that can be implemented with the use of mechanical cooling that would result in all the areas that have previously failed in terms of cooling would pass, as such would be CIBSE TM49: 2014 Compliance .

Room Name	Criteria 1 ≤3.0%	Criteria 2 We≤6	Criteria 3 ΔT ≤4	TM59 Compliance
% of spaces pass	100	100	100	Pass
% of spaces fail	0	0	0	

Room Name	Criteria 1 ≤3.0%	Criteria 2 We≤6	Criteria 3 ΔT ≤4	TM59 Compliance
% of spaces pass	100	100	100	Pass
% of spaces fail	0	0	0	

DYS2 (1976) Weather Data Results

Room Name	Criteria 1 ≤3.0%	Criteria 2 We≤6	Criteria 3 ΔT ≤4	TM59 Compliance
% of spaces pass	100	100	100	Pass
% of spaces fail	0	0	0	

5.3 However, there is no evidence that any thought was given to this ‘fabric first’ being referred to in the overheating analysis given the findings on “Mechanical Cooling” as indicated by the screenshots above. Moreover, there is at no point during the construction of the extension was any passive cooling measures incorporated, especially in the design of the extension. The overheating report does not specify where they are proposing active cooling measures and there is a mismatch between where overheating is expected and where the applicant is proposing the use of active cooling. In addition, it’s unclear from the assessment whether all 3 air condenser units are for the extension or if they would be connected to other rooms in the house which are not covered by the heat report.

5.3 Notwithstanding the above, the report also failed to justify the need for the 3 x air condenser units in a rational manner and why more passive measures can’t be utilised instead. It is considered that, on balance the only justification show that the carbon dioxide savings are similar for both options, with or without active cooling, and therefore it can be concluded that the use of active cooling does not lead to the increase of carbon emissions.

5.4 Therefore, due to the to lack of justification in the active cooling, thermal modelling or an overheating analysis that was submitted with the proposal the application fails to comply with policies CC1 and CC2 and advice in the Energy Efficiency and Adaption CPG, which seek to minimise carbon dioxide emissions and would therefore be a reason for refusal.

6.0 Refused and Warning of Enforcement Notice to be issued:

6.1 That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 as amended to remove all 3 x air conditioning units and officers be authorised in the event of non- compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

6.2 The notice shall allege the following breaches of planning control:

1. Installation of 3 air conditioning units on the flat roof of the ground floor extension.

WHAT ARE YOU REQUIRED TO DO:

1. Completely remove the 3 air conditioning units;
2. Remove any resulting debris from the site and make good any resulting damage.

PERIOD OF COMPLIANCE:

6.3 The Notice shall require the removal of the units within a period of 1 month of the Notice taking effect:

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

1. In the absence of justification for the need for active cooling by reducing and mitigating the impact of dwelling overheating through the application of the cooling hierarchy, the units fail to minimise carbon dioxide emissions, contrary to policies CC1 (Climate change mitigation) CC2 (Climate change adaptation measures) of the Camden Local Plan 2017.
2. The 3 air conditioning units, by virtue of their size, design and location cause harm to the character and appearance of the host building and the wider Holly Lodge Conservation Area, contrary to Policy D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017 and Policy DH1 and DH2 of the Hampstead Neighbourhood Plan 2018.