

Enforcement Delegated Report

Receipt Date:

Officer

Jennifer Watson

Enforcement Case Number(s)

EN19/0638

Breach Address

10 Antrim Grove
London
NW3 4XR

Photo & Other Material



Authorised Officer Signature

Date

02/03/2023

Alleged Breach

Without planning permission: The installation of 3 x air conditioning units on the side of the residential property adjacent to 10 Antrim Grove.

Recommendation:

That the Borough Solicitor issue an Enforcement Notice under section 172 of the Town & Country Planning Act 1990 as amended, and officers be authorised in the event of non-compliance to prosecute under section 179 or appropriate power and/or take direct action under section 178 in order to secure cessation of the breach of planning control.

Priority:

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Site Description

The site comprises a three storey residential property on the northern side of Antrim Grove. The breach of planning control relates to the installation of air conditioning units installed on the side of the property. The building is not listed but is located within the Belsize Park Conservation Area.

Relevant Planning History

No relevant planning history.

Investigation History

1st July 2019: Complaint relating to two authorised air conditioning units received
22nd July 2019: Subject site visited by Planning Site Inspectors; breach of planning control confirmed.
30st August 2019: First warning letters sent to the freeholder, leaseholder and occupier. No response received.

26th November 2019: Second warning letters sent to the freeholder, leaseholder and occupier. No response received.
31st January 2019: Subject site visited by Planning Officer; no action had been taken in light of the aforementioned warning letters.
22nd September 2020: The Council served a planning enforcement notice against the two air conditioning units reported by the complainant.
2nd November 2020 - Appeal lodged against the enforcement notice.
7th July 2021: The Council formally withdrew the notice.
24th February 2022: Costs application decision concluded that the Council did not behave unreasonably given the offender's failure to provide access to the property
5th October 2022: Application ref: 2022/2473/P was refused with a warning of enforcement action to be taken.

Relevant policies

National Planning Policy Framework 2018

London Borough of Camden Local Plan (2017)

A1 – Managing the Impact of Development
A4 – Noise and Vibration
D1 – Design

Camden Planning Guidance: Design (2019)

Breaches:

Air conditioning units installed on the side of the residential property. Planning permission has not been granted for the installation of the units.

Assessment:

On 22nd September 2020 the Council served a planning enforcement notice against the two air conditioning units originally reported by the complainant. On 2nd November 2020 an appeal was lodged against the enforcement notice. During the inspector's site visit it was revealed that three units were installed to the side elevation, only three of which had been reported by the complainant. Given that the offender failed to provide access to the property, the Council did not become aware of the additional unit until the inspector carried out a visit to the property.

The notice referred to the installation of *two* air conditioning units. There was therefore concern that the notice failed to fairly outline what the exact breach was and what was required to remedy it. On 7th July 2021 the Council therefore formally withdrew the notice.

On 24th February 2022 the Planning Inspectorate published their costs application decision, noting that in the absence of any contrary communication from the appellants, the Council had no option but to go by the information provided by the complainant, which referred to two units and included photographic evidence also showing two units. The Secretary of State therefore decided that no award of costs, on grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense, was justified in the particular circumstances.

Alterations which can be seen from any single vantage point on the ground or in any neighbouring building can materially affect the external appearance. The air conditioning units are visible from the public footpath and neighbouring properties. They add clutter to the elevation and in this prominent position detracts from the overall character and appearance of the property.

Paragraph 6.3 of policy A1 'Managing the impact of development' states that "Protecting amenity is a key part of successfully managing Camden's growth and ensuring its benefits are properly harnessed. The Council will expect development to avoid harmful effects on the amenity of existing and future occupiers and nearby properties or, where this is not possible, to take appropriate measures to minimise potential negative impacts."

Turning to the impact of the units on the living conditions of neighbours, the Council's objections relate to the noise that could be generated by them. Policy A4 states that the installation of these units would require a noise, vibration and ventilation assessment in order to prove that the units will not create unsatisfactory noise levels for neighbouring occupiers. However, during a site visit to the property, it was noted that the level of noise generated by the units is above background noise level. Given the close proximity to habitable rooms, the units result in an unacceptable level of harm to neighbouring residents' living conditions through noise pollution and disturbance issues.

The Council discourages the use of air conditioning and excessive mechanical plant because of the additional energy consumption from operating the equipment, impacts on microclimate from the warm air expelled from the equipment, and because of the competition for plant space, which could otherwise be used for other renewables or green roofs.

If active cooling is unavoidable, applicants need to identify the cooling requirement of the different elements of the development in the Energy Statement. Where cooling proposed, the efficiency of the system and details of controls should be provided, as well as the ability to take advantage of free cooling and/or renewable cooling sources (e.g. ASHP). Where cooling is provided in residential development, this should be modelled and the monthly kWh/m² consumption attributed to the cooling included in the energy assessment.

The unauthorised development, by reason of its additional energy consumption and in the absence of evidence that demonstrates the efficiency and controls of the system, as well as the ability to take advantage of free cooling and/or renewable cooling sources, is contrary to policy CC2 of Camden's Local Plan.

Taking into account the above planning considerations, the inappropriate appearance of the units are considered to be unacceptable in planning terms, as they cause demonstrable harm to neighbours' living conditions and the character of the surrounding area.

Recommendation:

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended to secure the removal of the air conditioning units and to pursue any legal action necessary to secure compliance. Officers be authorised in

the event of non-compliance to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The Enforcement Notice shall allege the following breaches of planning control:

Without planning permission: The installation of 3 x air conditioning units on the side of the residential property adjacent to no. 10 Antrim Grove.

The Notice shall require the following:

The Enforcement Notice shall require that within a period of three calendar months of the Notice taking effect;

- 1) Completely remove the air conditioning units from side of the residential property and make good any resulting damage; and
- 2) Remove any resultant debris and paraphernalia from the premises as a result of the above works.

Reasons why the Council considers it expedient to issue the Enforcement Notice:

- 1) The air conditioning units by reason of their size and position are harmful to the character of the building, the integrity of the terrace of which it forms part and character and appearance of the conservation area contrary to policy D1 of the Council's Local Plan adopted in 2017.
- 2) Given the close proximity to habitable rooms, the unit gives rise to potentially unacceptable levels of noise detrimental to the neighbouring residents' amenity contrary to policies A1 and A4.
- 3) The unauthorised development, by reason of its additional energy consumption and in the absence of evidence that demonstrates the efficiency and controls of the system, as well as the ability to take advantage of free cooling and/or renewable cooling sources, is contrary to policy CC2 of Camden's Local Plan.
- 4) The air condition units have been installed at 10 Antrim Grove within the last four years and it is therefore expedient to pursue enforcement action.