

---

# Statement of Case

72 MARESFIELD GARDENS, LONDON, NW3 5TD  
JANUARY 2023

---

PREPARED FOR MR JENSEN

<b>CONTENTS</b>	<b>PAGE</b>
1. INTRODUCTION	1
2. BACKGROUND TO THE APPEAL	3
3. APPEAL PROPOSALS	4
4. PLANNING POLICY CONTEXT	5
5. PLANNING ASSESSMENT	8
6. SUMMARY AND CONCLUSIONS	12

## **APPENDICES**

**Appendix 1 – Site Location Plan**

**Appendix 2 – Objection from HCCAAC**

**Appendix 3 – Objection from 70 Maresfield Gardens**

**Appendix 4 – Decision Notice (2021/0467/P)**

**Hybrid Planning & Development Ltd.**

**The Old Vyner Street Gallery**

**23 Vyner Street**

**London**

**E2 9DG**

**[www.hpduk.com](http://www.hpduk.com)**

**Contact: Sophie Hardy**

**[shardy@hpduk.com](mailto:shardy@hpduk.com)**

**+44 (0)20 3633 1678**

**+44 (0)75 1450 0047**

## 1.0 INTRODUCTION

1.1 This Full Statement of Case has been prepared in support of a Planning Appeal on behalf of Mr. Jensen (the 'Appellant'), pursuant to Section 78 of the Town and Country Planning Act 1990, against the decision of the London Borough of Camden ('the Council') to refuse a Planning Application in relation to 72 Maresfield Gardens, London, NW3 5TD as outline in red on the site location at **Appendix 1**.

1.2 The Appellant seeks retrospective planning permission for the:

*"Installation of 2x air condensing units, 1x extract duct, 1x gas meter box and 1x external lighting box to the southern passage to residential dwelling."*

3.1 The Planning Application (2021/0467/P), the subject of this appeal, was submitted to the Council on 27 January 2021:

- Duly completed application form;
- Ownership Certificate A;
- Location and Site Plan (dwg ref: 0158-GA-006);
- Existing Ground Floor Plan (dwg ref: 0158-GA-001);
- Existing South Elevation (dwg ref: 0158-GA-002); and
- Proposed South Elevation (dwg ref: 0158-GA-102).

1.3 On 21 July 2021, the following drawing was submitted to the Council:

- Proposed Ground Floor Plan (dwg ref: 0158-GA-101)

1.4 Following this, on 18 September 2019, an Overheating and Cooling Strategy, prepared by PML M&E Services & Consulting Engineers, was submitted to the Council.

1.5 The application was validated on 20 September 2019. The consultation period for the application expired on 11 October 2021. The expiry date of the application was 4 November 2021.

1.6 During the consultation period, one objection was received from the Hampstead Conservation Area Advisory Committee (**Appendix 2**). On 3 December 2021, an additional objection was received from no. 70 Maresfield Gardens (**Appendix 3**).

1.7 Post submission, and during the determination period, additional information was provided comprising:

- The Use of VRF Air Condition Report, prepared by PML M&E Services & Consulting Engineers (ref: P190-05-XX-RE-EN-16-01-D); and
- Noise Impact Assessment, prepared by dB Consultation Ltd.

1.8 The application was refused under delegated powers on 16 January 2024, with the following reasons for refusal, as set out in the Decision Notice (**Appendix 4**):

1. *The proposed external condenser unit, by virtue of its size, design, location and visibility would result in harm to the character and appearance of the street scene and wider Fitzjohns Netherhall Conservation Area, contrary to Policy D1 (Design) and D2 (heritage) of the Camden Local Plan 2017.*
2. *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) of the Camden Local Plan 2017.*

1.9 This Full Statement of Case sets out the background to the Appeal and the Appeal Proposals at Sections 2 and 3, followed by the legislative context at Section 4. Section 5 then provides an assessment of the appeal proposals against the planning policy framework, before providing the Appellant's concluding remarks in Section 6. A full copy of the application submission is enclosed on the Appeals Casework Portal.

## 2.0 BACKGROUND TO THE APPEAL

### Site and Surroundings

- 2.1 The appeal site is a detached, two storey (plus basement and loft extension) dwelling, located on the eastern side of Maresfield Gardens. The site sits within a residential area.
- 2.2 The dwelling is not statutorily listed, nor are there any listed buildings located nearby. The site is situated within the Fitzjohns Netherhall Conservation Area. The dwelling is considered to be characteristic of the Conservation Area, where there is a mix of architectural styles.

### Planning History

- 2.3 The appeal site has been subject to several planning applications in recent years. These are set out below in Table 1.

Application Ref	Description of Development	Decision and Date
2018/5918/P	Variation of condition 3 (approved plans) of planning application 2017/3869/P dated 22/11/2017 namely to make alterations including increase in front parapet height, alteration to front balustrade details, removal of chimney stack, fenestrations details alterations and installation of glazed balustrade to roof level rear Juliet balcony	Granted 20 December 2018
2018/5223/P	Details of qualified chartered engineer required by condition 3 of planning permission 2018/0669/P dated 16/10/2018 for 'Excavation of existing basement to lower internal floor level by 600mm'	Granted 30 October 2018
2018/0669/P	Excavation of existing basement to lower internal floor level by 600mm.	Granted 13 March 2018
2017/3869/P	Replacement roof (following removal of existing roof) with front and rear dormers and 5 x rooflights; single storey front porch infill extension; two storey side infill extension; various external alterations including infilling of parking space and formation of front lightwell, alterations to fenestrations, landscaping alterations and new front boundary treatment	Granted 22 November 2017

### **3.0 APPEAL PROPOSALS**

- 3.2 The Appeal seeks retrospective planning permission for the installation of two external wall-mounted air-condensing units, one extract duct, one gas meter box and 1 external lighting box to the southern passage to the dwellinghouse.
- 3.3 The AC unit will measure 1615mm (H) x 940mm (W) x 460mm (D).
- 3.4 The AC unit will be located at ground level to the side passageway. For full details of the proposals and their siting, please refer to dwg ref: 0158-GA-102.

## 4.0 PLANNING POLICY CONTEXT

- 4.1 Following Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

### **National Planning Policy Framework (NPPF)**

- 4.2 The National Planning Policy Framework was most recently updated on 19 December 2023.
- 4.3 Paragraph 11 of the NPPF states that plans and decisions should apply a presumption in favour of sustainable development.
- 4.4 Paragraph 135, part f, requires planning policies and decisions to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 4.5 Section 16 of the NPPF relates to the conservation and enhancement of the historic environment. Notably, paragraph 201 advises local planning authorities to identify and assess the significance of any heritage asset that may be affected by a proposal.
- 4.6 Paragraph 205 recognises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

### **The London Plan (2021)**

- 4.7 In March 2021, the Mayor's Spatial Development Strategy for London, known as 'The London Plan', was adopted and provides the overall strategic plan for London, setting out an integrated framework for the development of London over the next 20-25 years.
- 4.8 The following policies from the London Plan are considered to be relevant to the appeal proposals:
- GG6 (Increasing efficiency and resilience) – sets out how those involved in planning and development can help London become a more efficient and resilient city;
  - HC1 (Heritage conservation and growth)
  - SI1 (Minimising greenhouse gas emissions)

## Camden Local Plan (2017)

- 4.9 The Local Development Framework of the London Borough of Camden comprises the Camden Local Plan (2017) and a number of supplementary planning documents. The policies listed below are of relevance to this planning appeal.
- 4.10 **Policy A1** (Managing the impact of development) seeks to protect the quality of life of occupiers and neighbours. The policy states that the Council will grant permission for development unless this causes unacceptable harm to amenity.
- 4.11 **Policy D1** (Design) seeks to secure high quality design in development. The policy sets out a clear criteria which development must accord with, including:
- a. Respects local context and character;
  - b. Preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;
  - c. Is sustainability in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;
  - e. comprises details and materials that are of high quality and complement the local character; and
  - o. carefully integrates building services equipment.
- 4.12 **Policy D2** (Heritage) states that the Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas...It also states that the Council will (inter alia) require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area.
- 4.13 **Policy CC1** (Climate change mitigation) requires 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.
- 4.14 **Policy CC2** (Adapting to climate change) requires development to be resilient to climate change. The policy further states that all development should adopt appropriate climate change adaptation measures such as measures to reduce the impact of urban and dwelling overheating, including application of the cooling hierarchy.
- 4.15 The following Camden Planning Guidance (CPG) documents are material considerations in the determination of any planning application and comprise:
- Amenity (January 2021);



- Design (January 2021);
- Energy efficiency and adaptation (January 2021); and
- Home improvements (January 2021).

4.16 In addition to the above, it is important to acknowledge the Fitzjohns and Netherhall Conservation Area Appraisal & Management Strategy (2022).

## 5.0 PLANNING ASSESSMENT

5.1 We consider that the key planning issues relevant to the determination of this Appeal (based on the reasons for refusal as set out below) are the design of the installation and its impact on the character of the area, and the impacts caused by energy consumption. We turn to address these in turn below.

5.2 The assessment of this appeal is based on the following reasons for refusal (as shown in **Appendix 4**).

1. *The proposed external condenser unit, by virtue of its size, design, location and visibility would result in harm to the character and appearance of the street scene and wider Fitzjohns Netherhall Conservation Area, contrary to Policy D1 (Design) and D2 (heritage) of the Camden Local Plan 2017.*
2. *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) of the Camden Local Plan 2017.*

### **Reason for Refusal 1: Size, Design, Location and Visibility of external condenser unit**

5.3 It is acknowledged and agreed that the installation of the gas meter box and external lighting box are considered minor additions that would have a minimal impact on the host property and are considered acceptable. This is confirmed in paragraph 3.5 of the Officer's Report.

5.4 As such, this appeal seeks to solely deal with the impact of the condenser unit in isolation.

5.5 The air condensing units are located at ground level to the side passageway, which are visually screened by fences to the front and side. In addition, these fences are covered in greening which provides greater screening.

5.6 The Council consider that the condenser's are *"visibly cluttering even to the side of a property and are visible from the upper-level of windows of the nearest property at 70 Maresfield Gardens."*

5.7 Whilst neighbours at 70 Maresfield Gardens may be able to look out of their windows and down onto the condenser unit, this is only the case for one solitary window on the side elevation of the upper floor. It is hard to argue that by reaching out of the window and craning

their neck to the ground, that this view would be detrimental to the occupiers of no. 70 Maresfield Road, and this concern falls away.

- 5.8 In terms of the visible ‘clutter’ it is important to note that the Council are solely assessing the condenser unit and have found the remaining installations acceptable. Whilst it is true that the Council could consider that cumulatively the installations are “visibly cluttering”, this is not the case, and some level of acceptability has been applied here.
- 5.9 In any case, this elevation is heavily screened from both the streetscene, and neighbouring properties (unless one was to lean out of a window) and it can be concluded that the impact on the character and appearance of the streetscene, wider Fitzjohns Netherhall Conservation Area and occupiers of the adjacent properties is negligible.
- 5.10 The Officer’s Report (paragraph 3.4) states the *“the addition of air condensing units further detracts from the appearance of the property and sets a precedent for additional installations which would damage the aesthetic quality of the area with unsightly external units.”* This point is redundant, as Local Planning Authorities have the power to refuse future applications for additional installation, if they were considered to, cumulatively, damage the aesthetic quality of the area.
- 5.11 The anticipation of future additional applications should not influence the appeal proposals for the installation of two air condensing units.
- 5.12 Whilst it could be argued that the appeal proposals do not enhance the Conservation Area, it is our view that the character and appearance would be preserved with this minor addition. The introduction of two condenser units to the side of the property, out of view from the streetscene, is considered to be negligible and would not result in unacceptable harm to the character and appearance of the host property.
- 5.13 Accordingly, we conclude that the proposal size, design, location and visibility of the external condenser units would not result in harm to the character and appearance of the street scene and wider Fitzjohns Netherhall Conservation Area, in accordance with Policy D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.

#### **Reason for Refusal 2:**

- 5.14 The original application, and this appeal, was supported by an Overheating and Cooling strategy prepared by PML M&E Services and Consulting Engineers. This report was undertaken to determine the risk of summertime overheating and to consider measures for the minimisation of cooling demand.

- 5.15 The Council consider that *“the overheating analysis does not demonstrate that there is a clear need for the proposed units and is not supported by thermal modelling.”*
- 5.16 The report sets out a number of mitigation measures which will be implemented to minimise internal heat gains, these include energy efficient lighting and equipment, and pipework insulation. External gains include glazing ratio, G-value and light transmittance, insulation and fabric air permeability and ventilation.
- 5.17 The Local Plan states that passive cooling should be sought prior to installation of mechanical heating. As demonstrated within the supporting Overheating and Cooling Strategy, the cooling hierarchy has been followed to limit the heat gains in the summer, and proposed mitigation measures identified. The proposed mitigation can only limit the cooling effect to a certain degree, and therefore to achieve greater cooling, two condenser units are required.
- 5.18 Paragraph 5.1 states *“if active cooling is unavoidable, applicants need to identify the cooling requirement and provide details of the efficiency of the system.”* This level of detail could have been provided as part of the application process to satisfy this requirement. In any case, a planning condition could be attached requiring details of the system to ensure that the installation meets the requirements of the Local Authority.
- 5.19 In addition to the Overheating Report, and separate report was prepared which looks at the reasons the condenser was installed and the steps taken to mitigate the impact of its use.
- 5.20 This report sets out number of improvements to the building fabric and building services which were carried out in 2020 as part of the upgrade works to the property. The works sought to reduce energy demand and provide an efficient means to service the house. The works included:
- Low-E, highly efficient glazing
  - Excellent insulation to walls, floors, ceilings and the roof
  - High performing insulation to all pipework and ductwork
  - Mechanical ventilation with heat recovery
  - Efficient heat pump system, to provide heating/cooling
  - Low energy LED lighting throughout
  - New, highly efficient gas boiler; and
  - Home battery storage.
- 5.21 As set out in the supporting report, the upgraded works exceeded the standards set out in AD Part L1b, and beyond the regulations to satisfy Part L1b. The supporting reports demonstrate that significant measures have been implemented to reduce energy demand within the property, however when it comes to cooling of the property, greater cooling is required, which can be delivered by the external condenser units.

- 5.22 The two small condenser units on the southern elevation were installed after great consideration had been given to alternative mitigation measures, and passive cooling maximised. The reports identify a need for active cooling, and the addition of two small condenser units, will ensure that dwelling overheating has been reduced and mitigated through both passive and active cooling measures.
- 5.23 It has therefore been demonstrated that the proposal has justified the need for active cooling in accordance with policies CC1 and CC2 of the Camden Local Plan 2017.

## 6.0 SUMMARY AND CONCLUSIONS

6.1 This appeal seeks planning permission for

*“Installation of 2x air condensing units, 1x extract duct, 1x gas meter box and 1x external lighting box to the southern passage to residential dwelling.”*

6.2 This Statement of Case has demonstrated that the proposals accord with the relevant national and local planning policy and guidance and that the appeal proposal would:

- Have an acceptable effect on the character and appearance of the streetscene and the wider Conservation Area; and
- Provide appropriate active cooling to reduce and mitigate dwelling overheating.

6.3 Having regard to the above, the Inspector is respectfully requested to allow this appeal, and grant planning permission.

## **APPENDIX 1**

1 Location Plan  
1:1250



2 Site Plan  
1:500



## **APPENDIX 2**

---

**From:** John Malet-Bates [REDACTED]  
**Sent:** 19 October 2021 17:50  
**To:** Leela Muthoora  
**Subject:** 2021/0467/P :72 Maresfield Gardens  
  
**Categories:** CASES

**[EXTERNAL EMAIL]** Beware – This email originated outside Camden Council and may be malicious Please take extra care with any links, attachments, requests to take action or for you to verify your password etc. Please note there have been reports of emails purporting to be about Covid 19 being used as cover for scams so extra vigilance is required.

Dear Leela,  
HCAAC Objects to the proposal and would favour a nature based solution for cooling, eg. natural and designed building ventilation, tree planting to provide shade and cooling. The machinery proposed is likely to constitute a noise nuisance to residents using the adjoining garden.  
Best regards,  
John

John Malet-Bates RIBA  
For Hampstead CCAAC,  
[REDACTED]  
[REDACTED]

## **APPENDIX 3**

**Subject:**

Re: 2021/0467/P. Re: 72 Maresfield Gardens NW3 5TD

Camden Planning Department

Dear Sir/Madam

I write this on behalf of myself and other residents at number 70 Maresfield Gardens.

I live directly opposite the extractor vent for the kitchen and two air condensing units and boiler flue for number 72 approximately 4 m away from the windows of the room I occupy fulltime. I have suffered from the resultant noise since the moment the units were installed and have had to close my windows to follow a telephone conversation or listen to the radio and most acutely and uncomfortably in the summers of last year and this year.

I duly informed the planning enforcement officer over a year ago in July 2020 who confirming there had been no planning application submitted therefore resulting in an installation without permission, assured me of their removal. The units presence should not have been allowed to continue ever since for the following reasons:

1 The impact given the close proximity to the windows of my main living accommodation together with the unplanned installation of the units constitute a Noise Nuisance.

2 The failure of L.B. Camden's planning department to alert and inform me and act promptly despite being made aware of my grievances over a considerable period; without any mention of the retrospective planning submission in the press (unlike customary lesser matters such as internal flooring materials or removing 20% of the crown of a tree for example).

There appears to have been an attempt to avoid public notification or a substantive degree of negligence to enforce the acoustic survey in good time and inform me. It is no longer a proposal due to the units put in place without pp and the planning department 'allowed the case to sit idle' by their own admission.

Therefore, the observation regarding other residents in the adjoining garden being affected - as correctly identified by the Hampstead Conservation Area Advisory Committee see their email 19/10/2021 and who 'objects to the proposal and would favour a nature based solution for cooling', eg. Natural and designed building ventilation, tree planting to provide shade and cooling' - is only partly correct because the Hampstead CAAC were not made aware of the close proximity of my main living accommodation.

Since the harmful and unwanted effect of the noise emanating from the units were installed, the quiet enjoyment of my home has been profoundly disturbed and constitutes a considerable loss of amenity.

3 Misrepresentations in the document ref:dBC/Maresfield Gdns/10157/ML/04.

A case in point on page 10, point 5 site description:

5.1 the noise sensitive receptor location NSR1 is far from the units at point P1 and unrepresentative of the impact to my flat as the location is the other side of the building. I can confirm the noise levels experienced have certainly not

been overestimated see p15 point 6.13. I have made my own recordings confirming this. On page 17 however under assessment locations the photo does illustrate the close proximity to my windows.

I believe this retrospective planning permission should be disallowed due to the considerable actual, demonstrable and measurable harm caused to myself over the past 14 months.

Yours faithfully

A black rectangular box used to redact the signature of the sender.

## **APPENDIX 4**

Application ref: 2021/0467/P  
Contact: Leela Muthoora  
Tel: 020 7974 2506  
Email: [Leela.Muthoora@camden.gov.uk](mailto:Leela.Muthoora@camden.gov.uk)  
Date: 16 January 2024

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Ackroyd Lowrie Ltd  
The Old Vyner Street Gallery  
23 Vyner Street  
London  
E2 9DG

Dear Sir/Madam

## DECISION

Town and Country Planning Act 1990 (as amended)

### Householder Application Refused and Warning of Enforcement Action to be Taken

Address:

**72 Maresfield Gardens**  
**London**  
**NW3 5TD**

Proposal:

Installation of 2x air condensing units, 1x extract duct, 1x gas meter box and 1x external lighting box to the southern passage to residential dwelling. (Retrospective).

Drawing Nos: dBc Consultation Ltd Noise Impact Assessment dated 24 May 2022; PML Engineers New Dwelling Overheating Strategy; PML Use of VRF Air Conditioning Ref: P190905-XX-RE-EN-16-01-D-Use of VRF Air Conditioning; (0158-GA-)001; 002; 100 Rev A; 102; 006

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):

Reason(s) for Refusal

1 Reason for Refusal

The proposed external condenser unit, by virtue of its size, design, location and visibility would result in harm to the character and appearance of the street scene and wider Fitzjohns Netherhall Conservation Area, contrary to Policy D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.

2 Reason for Refusal

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) of the Camden Local Plan 2017.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with the National Planning Policy Framework.

### **ENFORCEMENT ACTION TO BE TAKEN**

The Council has authorised the Planning Department to instruct the Borough Solicitor to issue an Enforcement Notice alleging breach of planning control. Please contact the enforcement team immediately by emailing [planning@camden.gov.uk](mailto:planning@camden.gov.uk)

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-householder-planning-decision>.

If you submit an appeal against this decision you are now eligible to use the new [submission form](#) (Before you start - Appeal a planning decision - GOV.UK).

Yours faithfully

A handwritten signature in black ink, appearing to read 'DPope', is written over a light blue rectangular background.

Daniel Pope  
Chief Planning Officer



