



# Appeal Decision

Site visit made on 8 July 2024

**by N Teasdale BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 July 2024**

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**Appeal Ref: APP/X5210/D/24/3337969**  
**72 Maresfield Gardens, London NW3 5TD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
  - The appeal is made by Mr Mads Jensen against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2021/0467/P.
  - The development proposed is 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)
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The description of development in the above banner heading has been taken from the decision notice and appeal form as this accurately describes the proposed development.
3. The development as set out above has already been completed at the property. On this basis, the appeal has been considered on a retrospective basis.

## Main Issues

4. The main issues of the appeal are:
  - Whether the development justifies the need for active cooling; and
  - The effect of the development on the character and appearance of the host building and surrounding area, including whether it would preserve or enhance the character or appearance of the Fitzjohns Netherhall Conservation Area (CA).

## Reasons

### *Active cooling*

5. The appeal site relates to a detached, two storey (plus basement and loft extension) dwelling, located on the eastern side of Maresfield Gardens within a residential area. The property is set back from the main road behind a tall, gated entrance with the nearest residential property being that of the neighbouring property at 70 Maresfield Gardens (No 70) to the south which is sub-divided into eight flats. The dwelling is characteristic of the area where

there is a mix of architectural styles, mainly drawing on Queen Anne influences, but also Arts and Crafts.

6. Amongst other works, two external wall-mounted air-condensing units have been installed to the side elevation of the property adjacent to the passageway of the house facing the boundary fence to No 70. It is understood that the justification for the units is that, since refurbishment of the house, the room used as an office at the second-floor level within the roof is subject to solar gain and overheating. The units are therefore required to cool this room.
7. Policy CC2 of the Camden Local Plan, 2017 (CLP) explains that the Council will require development to be resilient to climate change and all development should adopt appropriate climate change adaption measures such as, amongst others, measures to reduce the impact of urban and dwelling overheating, including application of the cooling hierarchy. It is explained that active cooling (air conditioning) will only be permitted where dynamic thermal modelling demonstrates there is a clear need for it after all of the preferred to measures are incorporated in line with the cooling hierarchy. The cooling hierarchy as set out includes 6 measures to mitigate against overheating with energy efficient design first and active cooling last. The officer's report explains that active cooling systems increase energy consumption and carbon emissions and I have no compelling reason to disagree hence it being the least preferred option in the cooling hierarchy and discouraged by the Council.
8. The Camden Planning Guidance Energy Efficiency and Adaption, 2021 (CPG) supports the above approach requiring the cooling hierarchy to be followed. The CPG also sets out further information relating to each criterion of the cooling hierarchy in terms of various ways to achieve compliance with each criterion. If active cooling is unavoidable, applicants need to identify the cooling requirement and provide details of the efficiency of the system.
9. The appellant claims that insulation and solar reflecting glazing has been installed in the house and high-performance fabric insulation along with other measures such as pipe/ductwork insulation, mechanical ventilation with heat recovery, heat pump system, LED lighting, gas boiler, window dimensions and home battery storage. There are also further plans to enhance the building performance including extending mechanical ventilation to the remainder of the house and installation of solar panels. Such measures may satisfy and extend far beyond building regulations although this would not alter the policy position in relation to active cooling and the requirement to incorporate the preferred measures.
10. Based on the evidence before me, it has not been adequately demonstrated that there is an overheating problem which can only be overcome with active cooling in the form of an air conditioning unit. To this end, there is no thermal modelling supporting the proposals to demonstrate that there is a clear need for the proposed units as required by the CLP and CPG. The property is a large single-family home which can be cooled in passive ways, through shading techniques, cross ventilation etc. Whilst some passive cooling measures have been installed and considered, there is insufficient evidence to demonstrate that all preferred measures within the cooling hierarchy have been adequately reviewed and incorporated within the host building particularly considering the various ways to achieve compliance contained within the CPG. I note the appellants' claims that details of the efficiency of the system could be

conditioned. However, sufficient evidence would still be needed to justify the overall need for the units which has not been sufficiently provided.

11. For the above reasons, I conclude that the development fails to justify the need for active cooling. It is therefore contrary to Policies CC1 and CC2 of the CLP which together, amongst other matters, requires development to be resilient to climate change.

#### *Character and appearance*

12. The property is situated in the CA and I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I have had regard to paragraph 205 of the National Planning Policy Framework which explains 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.
13. The Fitzjohns and Netherhall Conservation Area Appraisal & Management Strategy (2022) advises that the character of Fitzjohns/Netherhall conservation area developed in the late 19<sup>th</sup> century with large villas and gardens. Maresfield Gardens retains its original verdant and open character although the appraisal notes that the loss of traditional front boundary walls and increase in front garden car parking has harmed Maresfield Gardens.
14. The air-condensing units are located at ground floor level and are small in scale in terms of height, depth and width covering a small area to the side of the property. The overall design is that typically used for such systems. The side elevation of the host property is wide and tall and the units when viewed against the large side elevation are read as being relatively minor. I cannot therefore agree that their overall size and appearance appears as visually cluttering or an incongruous addition in this context, particularly given the amount of walling surrounding the units to the sides and above which further reduces any prominence on the building.
15. Further, the units are restricted to the side of the property which faces south at ground floor level. The side of the property has a narrow access way via steps and a tall gate and is enclosed by tall fencing to the side. This, together with the positioning of No 70 to the south, means that views of the units are somewhat restricted from Maresfield Gardens located to the west. Some views may be possible from upper-level windows of the nearest neighbouring property at No 70. However, at my site visit, I noted some trees/hedging located along the boundary which were of a good height to screen views of the units. Even without this vegetation or when not in leaf, the tall fence that exists screens the majority of the units where only partial views may be experienced. There is also a level of separation distance that exists between both properties where the units do not appear as overbearing features.
16. I appreciate that air conditioning is not part of the historical development of the domestic dwelling and remains outside of the requirements of a domestic house design which can be successfully integrated into the overall house design. This however does not necessarily lead to harm and would not alter my findings in terms of overall character and appearance matters nor would any changes that have already been made in relation to hard surfaced areas and fencing as I am considering the scheme that is before me based on its own

individual merits. Any future applications for similar development would be subject to an assessment of its own and I do not find my findings on character and appearance related matters in the particular circumstances of this case to set a harmful precedent.

17. For the above reasons, I conclude that the development does not unacceptably harm the character and appearance of the host building and surrounding area. It therefore preserves the character and appearance of the CA and complies with Policy D1 and D2 of the CLP which together, amongst other matters, requires development to respect local context and character. The Council will also preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas.

### **Conclusion**

18. Whilst I have found a lack of harm in relation to character and appearance, the development fails to justify the need for active cooling. It therefore conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination, that outweighs the identified harm and associated plan conflict. I conclude that the appeal should therefore be dismissed.

*N Teasdale*

INSPECTOR