

Delegated Report		Analysis sheet		Expiry Date:		29/10/2024	
		N/A / attached		Consultation Expiry Date:		24/10/2024	
Officer				Application Number(s)			
Henry Yeung				2024/3724/P			
Application Address				Drawing Numbers			
9 Briary Close London Camden NW3 3JZ				Refer to Draft Decision Notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Retrospective application for 3 x AC Units on the roof							
Recommendation(s):		Refused and Warning of Enforcement Action to be Taken					
Application Type:		Householder Application					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	00	No. of responses	06	No. of objections	01
				No. electronic	06		
Summary of consultation responses:		<p>A site notice was displayed from 11/09/2024 to 05/10/2024.</p> <p>Four supporting letters were received during this period, stating that the air-conditioning units cause no harmful impact.</p> <p>One objection letter was also received, stating that the consultant's reports, which claim the rooftop plant is not visible, are incorrect. The objection highlights that the rooftop plant is clearly visible from Adelaide Road and at the entrance to the Close, where it intersects with Fellows Road. It further notes that Chalcots Estates Limited has consistently refused consent for any visible rooftop installations, including water tank housings. The objection argues that the rooftop plant, given its size as proposed in the application, effectively adds a fifth storey to what were originally three-storey houses.</p> <p><i>Officer Comment: The impact on the character of the area will be assessed in the following section.</i></p>					

Site Description

The application building is a two-storey dwelling with a single-storey rear extension, located within Briary Close, Swiss Cottage. It forms part of a homogeneous 20th century residential estate development. It is not within a conservation area nor a listed building.

Relevant History

2022/2231/P- "Installation of Solar PV panels on the roof of dwellinghouse." Granted on 11-07-2022

2022/0830/P- "Installation of new Air Source Heat Pump (ASHP) for heating on the roof of dwellinghouse." Granted on 10-05-2022

2021/4062/P "New single storey rear extension with green roof and replacement of garage door with window to front elevation." Granted on 26-01-2022

2021/3827/P "Erection of an additional storey to dwellinghouse." Grant Prior Approval on 13-09-2021

2020/5246/P "Erection of an additional storey (2.9m in height) on the roof of the existing dwellinghouse" Grant Prior Approval on 20-11-2020

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 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)

CPG Amenity (2021)

Assessment

1. Background

Retrospective planning permission is sought for the retention of 3 air-conditioning (AC) units on the flat roof of the dwelling.

2. Assessment

The main considerations in relation to this proposal are:

- Design
- Amenity (the impact of the proposal on the amenity of adjoining occupiers);
- Energy and Sustainability, and;
- Enforcement

3. Design

3.1 Policy D1 of the Local Plan requires development to respect local context and character, and should carefully integrate building services equipment, is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation; integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage and preserves strategic and local views. The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

3.2 The proposal includes the installation of new air-conditioning units on the flat roof of the dwelling, positioned in the middle of the property. The units would be modest in size and carefully located to minimise visibility, being set back from the eaves and not visible in public views towards the front of the property. While the units may be visible from Adelaide Road, located approximately 10 metres away, their visibility would be minimal and not to an extent that would cause harm. The units remain a minor element of the roofscape, having a limited impact on the building's overall appearance.

3.3 Overall, the proposed air-conditioning units and the existing air-source heat pump are relatively insignificant, not harming the character or appearance of the host property or the surrounding area. Due to the limited architectural alteration to the roof, which is less sensitive to small-scale utilitarian installations, the proposal would not detract from the character or appearance of the building or the surrounding area. Therefore, the proposed units comply with policy D1 of the local plan.

4. 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 Briary Close. 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 acoustic report 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.

4.4 Because of the scale and siting on the unit, there would be no adverse impacts relating to outlook, daylight or sunlight.

5. Energy and Sustainability

5.1 As the application is for active cooling, policy CC2 and Energy Efficiency and Adaption CPG are relevant. Schemes are required to demonstrate that other adequate measures have been considered and modelled before active cooling is considered. 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 ground floor single storey extension (2021/4062/P), First to Third Floor which makes particular reference to the open plan living/kitchen area and 4 bedrooms. 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 Council's Sustainability officer reviewed this application and the applicant not providing sufficient demonstration that all feasible passive and other design measures to reduce overheating (cooling hierarchy) have been incorporated in the overheating assessment/property before consideration of air conditioning.

5.3 Despite the above the applicant has included internal window blinds in the Dynamic Thermal Model (DTM), and the updated overheating assessments show an improvement, with the kitchen, diner, and lounge areas now close to meeting the passing criteria. However, other measures, such as fans and ceiling fans, have not been included in the DTM, despite our previous request. The applicant has stated that "ceiling fans cannot be added to the assessment and are not considered within TM59." This contradicts our understanding, as the TM59:2017 Design Methodology document specifies that fixed ceiling fans installed as part of new builds or refurbishments must report elevated airspeed assumptions. Additionally, we have reviewed other planning applications using overheating assessments under TM59 that incorporated ceiling fans. Sustainability officers proposed the inclusion of Mechanical Ventilation with Heat Recovery (MVHR) with air tempering in the DTM as part of the cooling hierarchy. The applicant responded that if MVHR were mechanically tempered to provide cooling, it would constitute an air conditioning system by nature. However, MVHR with air tempering actively cools incoming air rather than the air inside the building. While it does consume energy, it should be considered as a more energy-efficient option compared to full air conditioning, and it would likely reduce overheating risks to acceptable levels. Furthermore, the applicant has not provided sufficient justification for the installation of all three air-conditioning units being required to reduce temperatures to acceptable levels. Supporting information, such as required cooling load calculations or other relevant data, has not been submitted to demonstrate their necessity.

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, through not providing sufficient demonstration that all feasible passive and other design measures to reduce overheating (cooling hierarchy) have been incorporated in the overheating assessment/property before consideration of air conditioning.

6. 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:

Installation of 3 air conditioning units on the flat roof of dwelling.

WHAT ARE YOU REQUIRED TO DO:

1. Completely remove the 3 x 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. The proposal has failed to provide sufficient demonstration that all feasible passive and other design measures to reduce overheating (cooling hierarchy) have been incorporated in the property before consideration of air conditioning, contrary to policies CC1 (Climate change mitigation) and CC2 (Climate change adaptation measures) of the Camden Local Plan 2017.