



PLANNING ENFORCEMENT

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

STATEMENT OF CASE

APPEAL SITE

3 Collard Place, London, NW1 8DU

LPA CASE OFFICER

Mr Joshua Cheung (Enforcement)

APPELLANTS

Ms Natalie Yaffe and Mr Jacob Yaffe

SUBJECT OF APPEAL

Appeal against the Enforcement Notice dated 13th January 2025

LPA REFERENCE

EN23/0484

PINS REFERENCES

APP/X5210/C/25/3361256
APP/X5210/C/25/3361257 (**Lead case**)

DATE

24th April 2025

The appeals (3361256 and 3361257) against the Enforcement Notice have been submitted by two persons on one appeal form. They have therefore been given two reference numbers by PINs. The appeals are linked, are made under the same grounds and use the same statement of case.

1. Summary

1.1 The site is a three-storey, end of terrace dwelling that forms part of a modern residential development. The site has a rear single storey extension.

1.2 Two unauthorised A/C units were installed to the flat roof of the rear single storey extension without the benefit of consent. A retrospective application (reference 2023/4577/P) to retain these works was refused on sustainability and amenity grounds. A subsequent appeal (reference 3351577) was dismissed on amenity grounds only. Following dismissal of the appeal the Council served an Enforcement Notice on the 13th January 2025, alleging:

Without planning permission: *The installation of two air conditioning units located on the flat roof of the rear single storey extension.*

1.3 And requiring that:

*Within a period of **TWO (2) months** of the Notice taking effect:*

- 1. Completely remove the two air conditioning units located on the flat roof of the rear single storey extension from the site;*
- 2. Remove all constituent materials; and*
- 3. Make good any damages caused.*

1.4 The reasons for serving the notice:

- a. The development has occurred within the last 4 years.*
- b. The two unauthorised air conditioning units located on the flat roof of the rear single storey extension, by way of noise and vibration, have an adverse impact and cause harm to the amenity of neighbouring properties, contrary to Policies A1 (Managing the impact of development) and A4 (Noise and vibrations) of the Camden Local Plan 2017.*

1.5 The appeal is made on Grounds F and G.

2. Relevant planning history at the site

2.1 This planning history demonstrates that the Council is consistent in resisting unacceptable development at this site. The Council however seeks to grant permission where the development accords with the development plan. In relation to this appeal, that residential amenity is safeguarded.

- 2008/1823/P: Erection of single-storey rear ground floor level extension with door in side boundary wall and canopy to rear in connection with the single family dwellinghouse (Class C3). Granted on the 24th June 2008.
- 2021/0857/P: Erection of single storey rear extension. Granted on the 15th July 2021.
- **2023/4577/P**: Installation of 2x AC units. Refused with warning of enforcement action on the 9th August 2024.

2.2 A copy of this the Officer's Report is sent separate to this statement as Appendix A.

- ***APP/X5210/D/24/3351577**: Householder appeal against the Local Planning Authority's decision of the 2023/4577/P application. Dismissed on the 27th December 2024.

2.3 A copy of this appeal decision is sent separate to this statement as Appendix B.

- 2024/4797/P: Proposed hip to gable roof extension with rear dormer and PV panels. Granted on the 6th November 2024.
- ***2024/5232/P**: Installation of two Air Conditioning Units. Live application.

2.4 Highlighted with an asterisk (*) are applications are further discussed.

3. Status of policies and guidance framework

3.1 In arriving at its current position, Camden Council has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The development subject to this appeal was considered in the light of the following policies:-

- **National Planning Policy Framework 2024**
- **The London Plan 2021**

3.2 The full text of each of the below policies and guidance has been sent with the questionnaire documents.

- **Camden Local Plan 2017**
 - A1 – Managing the impact of development
 - A4 – Noise and vibration
- **Camden Planning Guidance 2021**
 - CPG Amenity

3.3 It is noted that the Council has begun the process of updating the Local Plan. Having looked at the relevant emerging policies, I am of the opinion that there is no material difference that would alter the Council's decision and within this appeal.

3.4 It is also noted that there have been recent changes to the NPPF. Having looked at the relevant adopted policies, I am of the opinion that there are no material difference that would alter the Council's decision and within this appeal.

4. Preliminary Matters – Live *2024/5232/P application

4.1 There is a live application that proposes the minor reconfiguration of the air conditioning units - subject of this appeal - on the flat roof, with proposed acoustic enclosures. As the scheme is materially different to the alleged works, the Council did not exercise their powers under Section 70C of the Act.

4.2 The Council is still determining the application but have the following concerns about it - which also form the Council's reasons why this Ground F appeal, in particular, should fail.

4.3 The Council is concerned about the design impacts of the acoustic enclosures. Only examples have been provided through a [website link](#) in the submitted acoustic report. This acoustic report is sent separate to this statement as Appendix C, and the website has been gleaned onto a separate

document as Appendix D. As seen in the photos, these enclosures are bulky and have an ‘industrial’ appearance, which would be incongruous in the context of the site’s relatively uncluttered residential area. The Council is not able to dispense good judgement on ‘examples’, to which the proposed drawings do not show the acoustic enclosure the appellant (applicant) wishes to opt for.

4.4 Nonetheless, another concern is the relocation, which will exacerbate the visual prominence of an ‘enclosed (bulky)’ unit. The new position of this unit would also look ‘out of place’, thus incongruous in relation to the host building and surrounding area (see Figures 1 – 3).

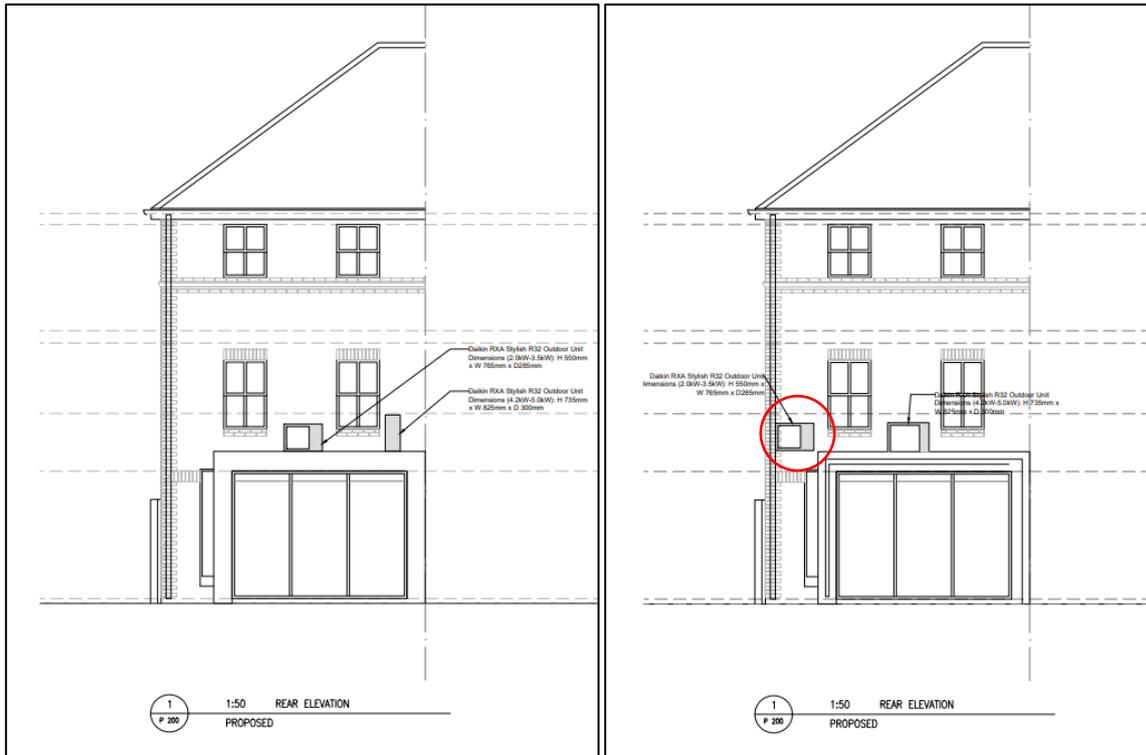


Figure 1: [Left] As-built position drawing (from the 2023/4577/P app).
Figure 2: [Right] Proposed relocation drawing (from the live 2024/5232/P app).



Figure 3: Site photo of the area the relocated unit would be displayed.

4.5 The Council will keep PINS updated with the determination of this application.

5. Grounds of appeal

5.1 The appellant has appealed against the Enforcement Notice under Grounds F and G and has submitted a statement which sets out their case. There are no other documents/drawings that have been submitted to the Council as part of this appeal.

5.2 In order to respond to the appellants' grounds of appeal I will seek to break down the issues raised on each ground. Where relevant, the appellants arguments will be copied, pasted, and formatted in italics below and responded to underneath.

6. Ground F: "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach"

6.1 **Appellant:** *"The recommended solution which would be a simple lesser step to address the objection would be to reduce plant noise by 12 dB using an acoustic enclosure to ensure that noise levels remained below background noise levels, thereby achieving a "low impact" classification under BS4142:2014+A1:2019."... "The implementation of this enclosure would eliminate the potential for noise disturbance, fully addressing concerns raised during the original assessment and ensuring compliance with relevant planning policies. Given the effectiveness of this solution, it would be entirely appropriate for the enclosure to be secured via a planning condition, ensuring its installation and retention to safeguard the amenity of neighbouring properties."*

6.2 **Response:** The Inspector of the previous *3351577 appeal states (Paragraph 13): *"To allow the proposal to evolve at the appeal stage and include acoustic enclosures, without a clear understanding of the impact of those enclosures, or even whether they would achieve the required reduction in noise levels in this specific case, would not be reasonable or fair. Consequently, I do not consider that enclosures to the AC units should be made the subject of a planning condition in any approval."*

6.3 Within this appeal, it continues to be the case that no specific details and specifications are provided – reflecting the situation with the previous appeal and live application. Accordingly, there is no clear understanding of not only the visual impact of the enclosures, but their efficacy too. Whereby, using the live application as an indication, the enclosures will likely result in prominent visual clutter to the host building and surrounding area. As such, the 'second bite' of developing the retention proposal at appeal stage continues to create doubt and ambiguity and is not a secure course of action to regularise the alleged works.

6.4 As such, the lesser step suggested by the appellant (to retain the units but install unspecified enclosures) would not remedy any injury to amenity which is being caused by the two air conditioning units and Ground F should fail.

6.5 The Council would also add that the need for enclosures and relocations shows the present AC units does not meet the Council's noise standards and, therefore, there is an immediate issue to resolve. The Enforcement Notice requirement will resolve this issue. Considering this:-

7. Ground G: “that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed”

7.1 Whilst concerns around disruption are expected, without further evidence the Council believes it is not demonstrated why four additional months are required to comply with the notice when the units are not meeting our noise standards at present time.

7.2 The Council maintains that a two-month compliance period is sufficient to quote, carefully plan (minimisation of any disruption) and execute the notice requirements and Ground G should fail.

8. Conclusion

8.1 The lesser step suggested by the appellant would not remedy any injury to amenity which is being caused by the two air conditioning units and Ground F should fail.

8.2 The units are currently not meeting our noise standards and the Council maintains that a two-month compliance period is sufficient and Ground G should fail.

8.3 The Council kindly invites the inspector to dismiss this appeal and uphold the enforcement notice.

9. Without prejudice, suggested conditions should the inspector be minded to allow the appeal

9.1 It should be noted that the Inspector of the previous *3351577 appeal has also stated (Paragraph 15): *“The second suggested condition from the Council requires that the external noise level emitted from the equipment shall be lower than the typical existing background noise level by at least 10dBa. It appears that the present AC units would not meet this noise level requirement on occasions and, therefore, there would be an immediate issue to resolve. In these circumstances, this suggested condition does not seem to provide a reasonable way forward to address the noise issue. Consequently, I am not satisfied that these or other conditions, with a revised or different wording, would be reasonable to address the issues that I have identified.”*

9.2 The Council is thereby unable to suggest any conditions that would overcome the harm caused by the alleged works.

If any further information or clarification on any matter associated with this case is required, please do not hesitate to contact Joshua Cheung on the above email or direct dial number.

Yours sincerely,

Joshua Cheung
Planning Enforcement Officer
Supporting Communities Directorate