
Appeal Decision

Site visit made on 26 November 2013

by Paul Freer BA (Hons) LLM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 January 2014

Appeal Ref: APP/X5210/A/13/2195754
44 Belsize Lane, London NW3 5AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr B Joseph against the decision of the Council of the London Borough of Camden.
 - The application Ref 2013/0195/P, dated 18 December 2012, was refused by notice dated 14 March 2013.
 - The development proposed is described as a retrospective application relating to the installed residential outdoor heat pump units at rear end of first floor level.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of outdoor heat pump units and the erection of an acoustic enclosure in accordance with the terms of the application Ref 2013/0195/P, dated 18 December 2012, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. A100; A101; A101 titled Acoustic Enclosure; A102; A301; A302.

Application for costs

2. An application for costs was made by Mr B Joseph against the Council of the London Borough of Camden. This application is the subject of a separate Decision.

Procedural Matter

3. The development proposed is described on the application form as a retrospective application relating to the installed residential outdoor heat pump units at rear end of first floor level. The proposed development involves the relocation of some of the existing outdoor heat pump units together with the erection of an acoustic enclosure covering those units already in situ and those proposed to be relocated. In my view, the description of development on the application form does not comprehensively describe the development proposed and I have therefore amended the description of development accordingly. However, because 'retention' is not development as defined in Section 55 of the Act, I omitted reference to the application being retrospective.

Main Issue

4. The main issue is whether the proposed development preserves or enhances the character or appearance of the Belsize Conservation Area.

Reasons

5. The character of the Belsize Conservation Area is described in the Council's Conservation Area Statement in relation to a number of sub-areas, with the appeal site falling within the Belsize Village sub-area. The larger terrace of which No. 44 Belsize Lane forms a part is identified in the Conservation Area Statement as making a positive contribution to the conservation area and, whilst the Conservation Area Statement also notes that Nos. 44-46 themselves are negative features due to deteriorating condition, this comment pre-dates the recent refurbishment of the building.
6. However, the descriptions in the Council's Conservation Area Statement relate primarily to the front elevation of the building. The rear elevation of the building is completely screened from general public view, and is visible only from a few adjacent properties. I therefore consider that the rear of the building makes no contribution to the character and appearance of the Belsize Conservation Area and that, in terms of the heritage asset, the rear of the building has little or no significance. I note that the Inspector determining an earlier enforcement appeal in relation to this site reached a similar conclusion (APP/X5210/C/11/2163296). Moreover, the area to the rear of this building is dominated by service equipment, including a substantial metal extract duct serving the adjoining restaurant. These structures result in the area to the rear of the building having a functional and utilitarian appearance.
7. Whilst I accept that the acoustic enclosure would surround a door opening onto a flat roof, the design of the enclosure reflects its purpose and would be constructed in different materials from the main building. Consequently, the proposed enclosure would not in my view appear as an extension to the building but rather would have a functional appearance that would be appropriate in the context of the functional and utilitarian appearance of its immediate surroundings. I acknowledge that the enclosure is sited on a flat roof at first floor level, although the enclosure would be affixed to the wall at the rear of the roof and in the context of the overall scale of the building would not be excessive or intrusive.
8. I conclude that the proposed development would preserve the character and appearance of the Belsize Conservation Area. I note that Policy DP25 of the Camden Development Policies 2010-2025 provides that only development that preserves and enhances the character and appearance of conservation areas will be permitted. However, the rear of this building makes no contribution to the character and appearance of the Belsize Conservation Area and has little or no significance in terms of the heritage asset. Consequently, I concur with the Inspector in the enforcement appeal referred to above that little weight attaches to Policy DP25 in these particular circumstances. On the basis that I find the design of the acoustic enclosure to be acceptable, the proposed development does not conflict with Policy CS14 of the Camden Core Strategy 2010 -2025 or Policy DP24 of the Camden Development Policies 2010-2025,

which require buildings to be the highest standard of design and to conserve the Borough's heritage.

9. In addition to the standard time limit and a condition requiring that the development is constructed in accordance with the approved plans, the Council has suggested a condition requiring that all new external works should be carried out in materials that resemble, as closely as possible in colour and texture, those of the existing building. However, in my view the materials proposed, which reflect the intended purpose of the acoustic enclosure and which are clearly stated on the applications drawings, contribute towards a functional appearance that is appropriate in the context of the immediate surroundings. I therefore consider that a condition requiring materials to match the existing building is neither necessary nor reasonably related to the development to be permitted.
10. Having regard to all the above, I conclude that this appeal should succeed.

Paul Freer

INSPECTOR