



Appeal Decision

Site visit made on 31 July 2006

by **David Rusdale** BA DipTP MRTPI

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

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Date

10 Aug 2006

Appeal Ref: APP/X5210/C/05/2002380
24 Cricklewood Broadway, London NW2 3HD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Twinstar Limited against an enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN020291.
- The notice was issued on 15 April 2005.
- The breach of planning control as alleged in the notice is without planning permission, the installation of 4 air-handling units at rear ground floor level.
- The requirements of the notice are:
 - (a) The 4 air-handling units, together with any associated fittings, located at rear ground floor level shall be completely and permanently removed.
 - (b) Any resultant damage be made good to an appropriate and proper standard, and the building restored to its former condition.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Main Issue

1. The main issue in this appeal is the effect of the 4 air-handling units on the living conditions of the residents of the adjoining flats in terms of noise and vibration.

Reasons

2. The noise assessment made by the consultants on behalf of the appellants supports the Council's view that the 4 air-handling units cause significant noise disturbance to the adjoining residents, particularly the occupiers of flat 24A, which is situated immediately above the units. The resident of this flat also complains of vibration and interference to the ventilation of his living room, although I have no further evidence on these matters. Given the noise assessment, I have no doubt that the air-handling units seriously affect the living conditions of the occupiers of the adjoining flats in terms of noise. Thereby, the units materially conflict with Policies EN1, EN5 and EN6 of the adopted London Borough of Camden Unitary Development Plan.
3. The appellants' consultants have suggested that the nuisance caused by the air-handling units could be mitigated by relocating them and taking other measures to reduce their impact. However, repositioning the units elsewhere on the property would result in a materially different development to that which is subject to the enforcement notice. Even if the proposed mitigating measures removed the harm caused by the units, it would not be

legitimate to grant planning permission for the existing development subject to the units being relocated elsewhere.

Conclusions

4. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

5. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

David Rusdale

INSPECTOR