

Delegated Report		Analysis sheet	Expiry Date:	24/10/2017
(Members Briefing)		N/A / attached	Consultation Expiry Date:	07/06/2020
Officer			Application Number(s)	
Sofie Fieldsend			1. 2017/3835/P 2. 2017/4297/L	
Application Address			Drawing Numbers	
49 Heath Street LONDON NW3 6UF			Refer to draft decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Replacement of 6x condensers with 2x condensers and associated enclosures within the internal courtyard at first floor to serve the ground floor unit (A2 use).				
Recommendation(s):		1. Grant Conditional Planning Permission and warning of enforcement action 2. Grant Listed Building Consent and warning of enforcement action		
Application Type:		1. Full Planning Permission 2. Listed Building Consent		

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	0	No. of responses	9	No. of objections	9
			No. Electronic	0		
Summary of consultation responses:	<p>The application was advertised in the local press on 31/08/2017 (expiring 21/09/2017) and a site notice was displayed on 01/09/2017 to 22/09/2017</p> <p>9x objections were received from the leaseholders of the 49 Heath Street, 'The Clocktower' (the subject property):</p> <ol style="list-style-type: none"> 1. The air conditioning units are unsightly and have adverse impact on the internal appearance of the building. Flats overlook development. 2. Noise, amplified by location within courtyard. 3. Location of proposed air conditioning unit and measurements are incorrect on the noise assessment document. 4. Not informed of the proposed works. 5. Position of one of the AC unit would affect right of light to one of the apartments. 6. Health and safety of residents. 7. Query if units can be located elsewhere within the building such as the commercial unit itself. 8. Loss of communal space as units occupy entire courtyard. <p>Officer's Response:</p> <ol style="list-style-type: none"> 1. <i>The replacement units are not visible from the public realm and are not considered to cause a detrimental degree of harm in terms of visual amenity.</i> 2. <i>See paragraph 3.3.2</i> 3. <i>A revised noise assessment was submitted and reviewed by the Environmental Health Officer.</i> 4. <i>The Council no longer sends out consultation letters. However, a site notice and press notice were issued in line with the Council's guidance. In addition the Council has been working closely with the residents of the building to ensure they are updated on progress and revised plans to assess their concerns.</i> 5. <i>The AC unit is approximately 3m away from the existing window and there are other openings to gain daylight.</i> 6. <i>The Environmental Health Officer has raised no health and safety concerns.</i> 7. <i>The suggested location (within a different part of the building or within the commercial unit) also backs residential properties. This would not solve the overall amenity issue.</i> 8. <i>There was a commercial lease agreed to use this space with planning</i> 					

permission granted in 2005. The revised proposal occupies a smaller footprint than the previously approved application.

Following revisions a further site and press notice were issued.

The application was advertised in the local press on 26/03/2020 (expiring 19/04/2020) and a site notice was displayed on 27/03/2020 to 20/04/2020.

9x objections were again received from the same leaseholders of 49 Heath Street, 'The Clocktower'.

Their objections can be summarised as follows:

1. Red line incorrect on OS map
2. Floor plans do not include annotated measurements and does not show location in relation to the flats
3. Noise report states nearest residential property is 4m away and plans show the distance as 2m. Noise test undertaken in the wrong location. Concerns about noise impacts
4. Concerns about loss of light, request daylight and sunlight report
5. Units installed without listed building consent
6. Issues with wording of design and access statement
7. Commercial lease not followed. Existing unit's dripping water has caused damage to floor fabric

Officer response:

1. *Red line corrected and was subject to public consultation.*
2. *Plans have been annotated to show the measurements of the new a/c units, scale bars have been provided on the drawings and the nearest residential property is 3.1-3.2m away. The application shows the location of the courtyard in relation to the flats; and the flat layouts are not required to be shown in detail.*
3. *See sections 3.18-3.19*
4. *See section 3.5*
5. *This application seeks to resolve this breach.*
6. *Design and access statement revised.*
7. *Commercial lease is a civil matter not a material planning consideration. The existing units would be replaced and the applicant would be required to repair any damage. This would be secured by condition.*

A third round of consultation through a press and site notice was undertaken following correction of the OS map red line.

The application was advertised in the local press on 14/05/2020 (expiring 07/06/2020) and a site notice was displayed on 13/05/2020 to 06/06/2020

No responses were received during this third round of consultation.

CAAC/Local groups* comments:

Hampstead CAAC and Hampstead Neighbourhood forum were consulted and no responses were received to the original or revised scheme.

Site Description

The application relates to a grade-II-listed former fire station, now a building society on a prominent corner site in the Hampstead Conservation Area.

The existing air conditioning units are located within a courtyard on the first floor to the rear at No 49 Heath Street, which is occupied by the Nationwide Building Society (use class A2) at ground floor. Nine residential flats, which are accessed by the lightwell staircase, overlook this internal courtyard at 49 Heath Street. Some a/c units have already been installed on site without consent. This application seeks permission for a revised scheme.

Relevant History

2005/3045/P - Retention of 6 x air conditioning units at the rear on the 1st floor level flat roof, to serve the Building Society office (Class A2) on the ground floor – **Granted 11/11/2005**

2014/4802/P - Installation of a microcell antenna and ancillary telecommunications equipment to front elevation.- **Granted 24/09/2014**

2014/5104/L - Alterations in connection with the installation of a microcell antenna and ancillary telecommunications equipment to front elevation – **Granted 24/09/2017**

2017/3194/P - Installation of a replacement shopfront with associated works to existing bank – **Granted 22/08/2017**

2017/3265/L - Installation of a replacement shopfront with associated works involving the removal of 5 guard bars on side elevation windows and internal alterations to floor, wall and ceiling of existing bank – **Granted 22/08/2017**

2017/3196/P - Display of x2 fascia and x2 projecting externally illuminated signs on Heath Street and Holly Hill elevations and x1 internally illuminated ATM surround to existing bank – **Granted 22/08/2017**

2017/5702/L - Installation of 5no floor boxes at ground floor level – **Granted 08/01/2018**

EN20/0177 - Unauthorised air conditionings units

Relevant policies

National Planning Framework (2019)

The London Plan (2016)

Intend to publish London Plan (2019)

Camden Local Plan (2017)

A1 Managing the impact of development

A4 Noise and vibration

D1 Design

D2 Heritage

CC1 Climate change mitigation

Camden Planning Guidance

CPG Design (2019).

CPG Amenity (2018)

Hampstead Neighbourhood Plan 2018

DH1 Design

DH2 Conservation areas and listed buildings

Assessment

1. Proposal

1.1 Planning permission and listed building consent are sought for the replacement of six condenser units, within the internal courtyard at the rear of the Nationwide premises, with two condenser units and associated enclosures. The enclosures measure:

- 2m wide by 1.5m deep and 2.8m high
- 1.7m wide by 1m deep and 1.7m high

1.2 There is an active enforcement case ref. EN20/0177 on the installation of the 6x existing units installed without planning permission. Residents have raised concerns that the current units are an eyesore and noisy. The revised proposal seeks to remove the unauthorised units and replace them with two condenser units.

2. Amendments

2.1 During the course of the application process, the following revisions were negotiated:

- The retrospective 6x units will now be replaced with 2x units along the back wall of the courtyard and they will be in acoustic enclosures. The back wall of the courtyard is part of the bank.
- Revised noise report so that it complies with Policies A1 and A4 of the Camden Local Plan
- Red line corrected to show accurate location of development
- More detail provided on plans to show units in location to the residential units.

3. Assessment

3.1 The material considerations for this application are summarised as follows:

- Design and Conservation (including impact on Listed Building)
- Amenity of neighbouring residential occupants
- Sustainability and the 'cooling hierarchy

3.2 Design and Conservation (including impact on Listed Building)

3.1 Local Plan Policies D1(Design) and D2 (Heritage) states that within conservation areas, the Council will only grant permission for development that preserves and enhances the character and appearance of the conservation area.

3.2 The replacement air conditioning units are located on the first floor landing area (internal courtyard). In 2005 planning permission was granted for 6 x air conditioning units on this first floor internal courtyard at the rear of Nationwide Bank. This set the principle of air conditioning units being acceptable in this location to serve the commercial unit at ground floor. In 2017 these units were replaced with 6x new units without planning permission. They were installed in the same location and utilising the existing metal base units, although one of the units is larger in scale than the original units granted permission in 2005. Since then the Council has been working with the applicant to negotiate a revised scheme to address the resident's concerns about visual amenity

and noise. The Council advised that the number of units should be reduced and acoustic enclosures should be included.

- 3.3 The scheme was revised to reduce the number of units from six to two with acoustic enclosures to mitigate the noise and improve visual amenity. The units were relocated to the back wall of the courtyard to minimise their visual impact. The courtyard is enclosed and there would not be any public views of the units, only some private views of the units would be possible from the stairwell and the windows of the flats that face on to the lightwell.
- 3.4 The design and access statement states that although light grey is suggested for the acoustic enclosures that these can be powder coated any colour in line with the advice of the Council's Conservation Officer. It is considered black to match the existing railings would be preferable and a condition securing this colour for the acoustic enclosures has been attached.
- 3.5 The new location has been carefully chosen to not obscure nearby windows. Given that the principle of air conditioning units on this terrace has already been established, the reduction in the number of air conditioning units, revised location and the use of a suitable acoustic enclosure would result in an acceptable scheme. It is considered that this would be a visual improvement on the unauthorised units.
- 3.6 The listing of the building refers to the exterior features and states the interior was not inspected. The mechanical plant would not have an impact on the historic setting of the building and the proposed condenser units would be located in the same courtyard as the previously granted units. Given the internal courtyard location, the air-conditioning units would remain out of public view and the visual significance of this building would remain unaffected. Moreover, the contribution that the host building makes to the character and appearance of the conservation area would be unaltered and there would be no harm to the historic architecture of the listed building.
- 3.7 The design and access statement outlines that all new and existing pipework would be rerouted to suit the new locations and be neatly dressed and contained. The existing surface to the courtyard will be cleaned and any damaged areas made good.
- 3.8 The proposed heritage statement outlined that the existing unlawful air-conditioning units are located on a galvanized steel framework that is located centrally within the tiled podium on rubber spreader pads, this frame was reused from the 2005 permission. The pipework and electrical supply follow the route of the original units from the tiled podium into the Nationwide premises. The revised proposal will remove this steel framework and units. Any marks left by the removal of this framework and spreader pads will be cleaned and made good. The new units will be supported directly on rubberised pads without any holes being drilled into the terracotta tiles.
- 3.9 The galvanized cable and pipework containment tray that will support and contain the pipes and cables will be located as close to the rear wall as possible and return to the position where the original containment tray connects the tiled podium to the Nationwide premises. The pipework and cables would be fixed neatly to the containment tray. The containment tray would rest on supports with rubberized feet to avoid damage to the tiled surface of the podium. The installation is designed to minimize any impact on the listed building. The Conservation officer has confirmed that the mechanical plant including pipework would not have any impact on the historical fabric of the listed building.
- 3.10 Special regard has been attached to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses under s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.
- 3.11 Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas Act) 1990 as amended by the Enterprise and Regulatory Reform Act (ERR)

2013.

3.12 With the revised proposal the visual obtrusiveness of the existing air conditioning units would be reduced. It is considered that the new siting and enclosure is an overall improvement and given the siting in an enclosed rear lightwell, surrounded by railings it is not considered to cause harm to the host building. The units would not be visible from the public realm. The appearance of the units are therefore considered to be acceptable for this relatively hidden location. The Council's Conservation Officer has raised no objection to the proposed new location and layout.

3.13 Amenity of adjoining residential occupants

3.14 Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. Policy A4 seeks to ensure that noise and vibration is appropriately considered at the design stage and that noise sensitive uses are not negatively impacted by noise and vibration.

3.15 Objections were received raising concerns about loss of light and the need for a daylight and sunlight report for the revised scheme. The revised proposal reduces the number of units down from 6 to 2 and relocates them against the back wall of the courtyard so they are no longer centrally located. In terms of height the larger unit with enclosure will stand at 2.8m high (1.5m depth) and the second unit with enclosure stands at 1.7m (1m depth). The larger unit will be between 3.1-3.2m away from the window of the closest residential unit. The revised development would comply with the 25 degree light test outlined in CPG Amenity. Given the separation distance and modest depth of the units it is considered in this instance that it would be unreasonable to request a daylight and sunlight report and the proposal would not result in significant loss of light to an extent that would warrant a reason for refusal.

3.16 **Additional justification for paragraph 3.15:** The rooms opposite the proposed a/c units are shown on historic plans as a bathroom, kitchen and entrance hall. More recently one of these rooms has been identified as a bedroom. These rooms have poor light levels as they are at the lowest level of the building, face onto an internal lightwell and have projecting walkways above the windows which reduces the light reaching these windows. Therefore, these rooms already need artificial light. The existing windows beneath the projecting walkways are shown in the photographs below. While the proposed air conditioning units may reduce light levels (to a degree) reaching these windows, the main impact on the light levels for these rooms are the existing conditions. In this context, the reduction in light would not be so noticeable as to support a reason for refusal.

3.17 The normal opening hours of the commercial unit are Monday-Friday 9am-4:30pm, with the units likely to be operational an additional 30minutes to a 1 hour either side of these hours.

3.18 The existing units as installed without planning permission do not comply with the noise criteria outlined in policy A4. A revised noise assessment was submitted by the applicant with the new units and location, this was assessed by the Council's Environmental Health Officer and found to comply with policy A1 and A4 if the acoustic enclosures are installed. Given the sensitive location the environmental health officer recommended that the following conditions be included in addition to the standard noise conditions to control the level of noise from the proposed plant. That an acoustic enclosure be installed prior to the use of the air conditioning units and the hours of operation limited to office hours to reduce the chance of unnecessary noise transfer to nearby residents.

3.19 Objections were received that the noise report was not done in the correct location, the Council's Environmental Health officer reviewed their concern and concluded that the report acknowledges that without the acoustic enclosures the air con units would fail the required noise criteria anyway and that acoustic enclosures would be required no matter the location which is why their installation prior to use is secured by condition to address this concern.

3.20 A condition has been attached to ensure that the unlawful units are removed within 3 months of the permission being approved. Normally a shorter period to comply would be requested but given the current covid-19 pandemic a longer time period to comply is considered reasonable.

4.0 Energy and Sustainability

4.1 Policy CC2 (Adapting to climate change) normally requires air conditioning applications to demonstrate thermal modelling which shows that there is a clear need for it after all preferred measures are incorporated in line with the London Plan cooling hierarchy. However, given that this proposal would replace the original lawful A/C units it is considered that this information is not required in this instance.

4.2 An informative has been attached reminding the applicant to consider the government's recommended minimum energy efficiency standards for building types.

5.0 Conclusion

5.1 Overall, the revised proposal would have no detrimental impact on the character and appearance of the listed building and would preserve the character of the conservation area and would not significantly affect the amenity of nearby residents, all in accordance with policies A1, A4, D1 and D2.

6. Recommendation

6.1 It is recommended that planning permission and listed building consent be granted with conditions.

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 29th June 2020, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'.