

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b> 12/10/2022	
		N/A		<b>Consultation Expiry Date:</b> 23/10/2022	
<b>Officer</b>			<b>Application Number(s)</b>		
Ewan Campbell			2022/3532/P		
<b>Application Address</b>			<b>Drawing Numbers</b>		
21 Cressy Road London NW3 2NB			Please refer to draft decision notice		
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>		
<b>Proposal(s)</b>					
Installation of two external air-conditioning condenser units and erection of replacement purpose-built acoustic enclosure around them. (retrospective)					
<b>Recommendation(s):</b>		Refuse Planning Permission and Enforcement Action to be taken			
<b>Application Type:</b>		Full Planning Permission			
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice			
<b>Informatives:</b>					
<b>Consultations</b>					
		No. of responses	<b>00</b>	No. of objections	<b>00</b>
<b>Neighbour Consultation</b>		A site notice was displayed on 28/09/2022 and expired on 22/10/2022 A press advert was published on 29/09/2022 and expired on 23/10/2022.  No comments have been made			
<b>Mansfield CAAC</b>		Mansfield CAAC have commented on the proposal but raised no objection. They stated that the proposal would have limited impact on the CA but could impact neighbour amenity.  <i>Officer Comments: issues of neighbouring amenity are discussed in section 3 under amenity</i>			

## Site Description

The application site comprises a large two storey residential property in use as two residential flats. The building was recently redeveloped following planning permission being granted in 2015 (see planning history section below). The site is located on the west side of Cressy Road in a predominantly residential area.

The site is not listed but is located within the Mansfield Conservation Area. It is identified as making a positive contribution to the character of the area in the Mansfield Conservation Area appraisal and management strategy.

## Relevant History

**2014/2553/P** - Change of use from 4 x residential units to 2 x residential dwellings (1x2 bed and 1x3 bed); excavation and development of a new basement; a lightwell and basement shaft to the side of the building; a replacement single storey rear extension and the installation of a new front wall and automatic gate to parking space. Granted 03/02/2015.

**2020/4238/P** - Erection of timber storage unit containing 2 air conditioning (condenser) units in rear garden.(Retrospective)

Refused 19/11/2021 for following reasons-

1. The applicant has failed to provide sufficient information to demonstrate that the proposed plant would operate in accordance with the Council's minimum noise and vibration standards and that that the plant, when operating at full capacity, would be capable of doing so without causing noise disturbance and harm to the local residential environment, contrary to policies A1 (Managing the impact of development) and A4 (Noise and vibration), of the London Borough of Camden Local Plan 2017.
2. In the absence of dynamic thermal modelling to demonstrate the need for active cooling equipment, the Council cannot be satisfied that the proposed works are necessary and that appropriate climate adaptation measures to reduce the impact of urban and dwelling overheating could not be achieved by other preferred measures as set out in the cooling hierarchy. The proposal is therefore contrary to Policy CC2 (Climate change adaptation measures) of the Camden Local Plan 2017.

It was also agreed to serve an enforcement notice to remove the 2 unauthorised a/c units.

**2022/1237/P** - Installation of two external air-conditioning condenser units (retrospective) and erection of replacement purpose-built acoustic enclosure around them.

Refused on 18/07/2022 for following reason-

1. The proposal has failed to justify the need for active cooling by reducing and mitigating the impact of dwelling overheating through the application of the cooling hierarchy, thereby failing to minimise carbon dioxide emissions, contrary to policies CC1 (Climate change mitigation) and CC2 (Climate change adaptation measures) of the London Borough of Camden Local Plan 2017.

## National Planning Policy Framework 2021

### The London Plan 2021

### Camden Local Plan 2017

Policy A1 Managing the impact of development

Policy A4 Noise and vibration

Policy D1 Design

Policy D2 Heritage  
Policy CC1 Climate change mitigation  
Policy CC2 Adaption to Climate Change

### **Camden Planning Guidance (CPG)**

CPG Design (January 2021)  
CPG Amenity (January 2021)  
CPG Home Improvements (January 2021)  
CPG Energy Efficiency and Adaption (January 2021)

Mansfield Conservation Area Appraisal and Management Strategy 2008

## **Assessment**

### **1. PROPOSAL**

- 1.1. Retention of two outdoor air-conditioning condensers and erection of new replacement timber acoustic enclosure to serve the existing residential property.
- 1.2. This application is a resubmission following the previous refusals, references 2022/1237/P and 2020/4238/P (see history above); the later application had a new acoustic enclosure proposed to replace the existing timber cupboard and address the previous reason for refusal on noise grounds. Now this application seeks to justify retention of the air-conditioning units, through the submission of a cooling hierarchy assessment and supporting dynamic thermal model, to address the reason for refusal regarding justification for the need for active cooling.

### **2. CONSIDERATIONS**

- 2.1. The material considerations for this application are as follows:
  - 2.1.1. Design
  - 2.1.2. Amenity
  - 2.1.3. Energy and Sustainability

### **3. ASSESSMENT**

#### Design

- 3.1.1. Local Plan policies D1 (Design) and D2 (Heritage) are aimed at achieving the highest standard of design in all developments. Policy D1 requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area; and Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings. Camden's Development Policies Document is supported by CPG (Design) and the Mansfield Conservation Area Statement.
- 3.1.2. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") is relevant to the determination of this application. It requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering applications relating to land or buildings within that Area.
- 3.1.3. As with the previously refused application (2020/4238/P) for the timber storage cupboard and the later refused application (2022/1237/P) for a new acoustic enclosure, which had an identical design, size and location to the currently proposed one, its visual impact would be limited and is not considered to cause harm to the character and appearance of the area or this part of the Mansfield Conservation Area. Thus it is considered acceptable

in accordance with policies D1 and D2 of the Camden Local Plan.

### Amenity

- 3.1.4. Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. It seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. This includes privacy, outlook and implications on daylight and sunlight. This is supported by the CPG Amenity.
- 3.1.5. The proposals would not impact residential amenity by way of loss of outlook, daylight, or privacy. The principal consideration is the noise disturbance which would arise from use of the condenser units. This new application, as with the previously refused one (2022/1237/P), addresses the earlier reason for refusal on noise by replacing the existing cupboard by a bespoke acoustic enclosure.
- 3.1.6. Policy A1 notes in paragraph 6.20 that when development that is likely to generate noise is proposed, the Council will require an acoustic report to accompany the application. Policy A4 seeks to ensure that noise sensitive uses (such as residential homes) are not negatively impacted by noise and vibration and states that the Council will only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity. In assessing applications likely to generate noise, the Council will have regard to noise and vibration thresholds, set out in Appendix 3 of the Local Plan and other relevant national and regional policy and guidance and British Standards.
- 3.1.7. Appendix 3 sets out Camden's noise thresholds which reflect observed effect levels outlined in National Planning Practice Guidance. The thresholds set noise levels for: noise-sensitive development in areas of existing noise; and noise-generating development in areas sensitive to noise.
- 3.1.8. As the proposals involve the installation of new noise-generating machinery in a residential area sensitive to noise, it is the thresholds set out in relation to the second point which is relevant in the assessment of the proposals. Table C of appendix 3 sets out noise levels applicable to plant and machinery and requires noise levels to be 10dB below background levels and no events exceeding 57dBLAmax.
- 3.1.9. The appropriate noise guidelines have been followed within the new submitted acoustic reports such as Noise Policy Statement for England, National Planning Policy Framework (NPPF), Planning Practice Guidance on Noise, Camden Council's Local Plan 2017 and BS 4142:2014.
- 3.1.10. Based on the results of the submitted noise assessment, noise limits for the new plant have been adequately calculated. The calculations show that the noise levels of the plant with the proposed acoustic enclosure in place will meet the Local Authority criteria during the operating period with specified mitigation as specified and should not have an adverse impact on the nearest sensitive receivers.
- 3.1.11. It is considered that on this basis the proposal complies with A1 and A4 of the 2017 Local Plan in terms of protecting neighbour amenity against noise and vibration impacts.

### Energy and Sustainability

- 3.1.12. Because the application is for active cooling, as per policy CC2 and Energy Efficiency and Adaption CPG, schemes are required to demonstrate that other adequate

measures have been considered and modelled before active cooling. 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.

The cooling hierarchy includes:

Minimise internal heat generation through energy efficient design; Reduce the amount of heat entering a building in summer through orientation, shading, albedo, fenestration, insulation and green roofs and walls; Manage the heat within the building through exposed internal thermal mass and high ceilings; Passive ventilation; Mechanical ventilation; and Active cooling.

- 3.1.13. The Home Improvements CPG also suggests that passive cooling measures which do not rely on an energy source should be considered first, and these include the following measures: Shading (blinds, shutters, trees, vegetation); High performance glazing, specially treated or tinted glass; Green and brown roofs. This is in line with the cooling hierarchy as explained above.
- 3.1.14. The application involves submission of a cooling hierarchy assessment and supporting dynamic thermal model to address the latest reason for refusal. However the Cooling hierarchy has not been adequately addressed as outlined in Section 10.7 of CPG Energy Efficiency & Adaption. Passive design measures further up the hierarchy should be considered, i.e. having internal or external blinds to reduce heat entering the building especially in highly fenestrated areas such as the rear conservatory. There has not been any significant or concerted effort to consider these aspects of the cooling hierarchy resulting in a failure to properly implement it. This is in contravention of Local Plan policy CC2 which states developments should adopt 'measures to reduce the impact of urban and dwelling overheating, including application of the cooling hierarchy.'
- 3.1.15. As opposed to the previous refused application, the applicant has provided a dynamic thermal modelling. However, the methodology used to assess overheating risk does not use the recognised guidance and data sets outlined in Section 10.5 of CPG Energy Efficiency & Adaption. Overheating in homes should be assessed using CIBSE TM49 'Design summer years for London' (climate data) against the methodology outlined in CIBSE TM59 'Design methodology for the assessment of overheating risk in homes'.
- 3.1.16. The results shown on various tables indicate erratic and incorrect results which cannot be verified. For example rooms L00-01a and L00-01b recorded temperatures of 94.0 and 67.0 degrees Celsius. These temperatures are considerable and even dangerous. However for a property which has no south facing windows, is the northernmost property in the terrace and only has partially glazed roof and walls, these temperatures are inaccurate and further supports the Council's Sustainability team claim that the results are incorrect. These therefore cannot be accepted as results to accept active cooling.
- 3.1.17. It is considered that, on the basis of all the issues as raised above, the application still fails to comply with policies CC1 and CC2 of the 2017 Local Plan and advice in the Energy Efficiency and Adaption CPG. Thus it should be refused for the same reason as with the previous application.

#### **4. RECOMMENDATION**

##### 4.1. Refuse Planning Permission for the following reason:

The proposal has failed to justify the need for active cooling by reducing and mitigating the impact of dwelling overheating through the application of the cooling hierarchy, thereby failing to minimise carbon dioxide emissions, contrary to policies CC1 (Climate change mitigation) and CC2 (Climate change adaptation measures) of the Camden Local Plan 2017.

##### *Enforcement Recommendation:*

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring the removal of the timber storage units and 2 x air conditioning units located in the rear garden, and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

*NB. The previous officer reports ref 2022/1237/P and 2020/4238/P recommended that enforcement action be taken to remove the unauthorised air condensers and this instruction is still valid. The enforcement notice was not served but was put on hold in Nov 2021 pending consideration and determination of this new application; however it is recommended that the process is reinstated and the notice is served now.*