

Committee	PLANNING COMMITTEE (C)	
Report Title	21 MONTPELIER ROW, BLACKHEATH SE3 0RL	
Ward	Blackheath	
Contributors	Michael Forrester	
Class	PART 1	Date: 13 FEBRUARY 2014

<u>Reg. Nos.</u>	DC/13/84600
<u>Application dated</u>	20.08.2013
<u>Applicant</u>	Richard Wallis Associates on Behalf of Mr R Wallis
<u>Proposal</u>	An application submitted under Section 73 of the Town & Country Planning Act 1990 for a minor material amendment in connection with the planning permission (DC/12/81076) dated 22 November 2012, for the construction of a single storey extension at the lower ground floor level and ground floor level at 21 Montpelier Row SE3, together with excavation to provide an indoor swimming pool and alterations to the rear garden in order to allow the location of heat pumps in an existing light well.
<u>Applicant's Plan Nos.</u>	Photograph, Air Conditioners Technical Data, Site Plan, Proposed Condenser Locations 021 & Noise Impact Assessment Report 9504.NIA.01
<u>Background Papers</u>	(1) Case File LE/417/20/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework Documents (4) The London Plan (5) National Planning Policy Framework
<u>Designation</u>	[Core Strategy or Adopted UDP] - Existing Use

1.0 Property/Site Description

- 1.1 No.21 Montpelier Row is a substantial locally listed detached three storey and basement building on the eastern side of Montpelier Row within the Blackheath Conservation Area.
- 1.2 The property was constructed as a dwelling house in 1885, before being converted to office use in 1919. It was subsequently converted into five self contained flats in the mid 1990s. The property is currently in the process of being converted back to the original use as a single dwelling house.

- 1.3 The property has a relatively large front garden containing an early-mature Holm Oak tree which is subject to a tree preservation order, permission has recently been granted for landscaping works to allow for the creation of a driveway.
- 1.4 There is a brick front boundary wall between the front garden and the public footway. The wall and piers measure up to 2.3m in height.
- 1.5 The property is located within the Blackheath Conservation Area, which is not subject to an article 4 direction. Adjacent buildings in Montpelier Row are nationally listed.
- 1.6 Montpelier Row is a classified road and is within a controlled parking zone (CPZ).

2.0 Planning History

- 2.1 11/11/1994: Permission granted for the alteration and conversion of 21 Montpelier Row and the building to the rear from office space to provide 5 self contained flats. Permission amended 31/05/1995 to include the construction of a rear single storey extension.
- 2.2 25/06/2012 (DC/12/80141): Certificate Of Lawful Development (Proposed) issued in respect of the alteration and conversion of the property from five self contained flats to a single dwelling-house.
- 2.3 20/12/2012 (DC/12/81076): Planning permission granted for the construction of a single storey extension at the ground floor level, together with excavation to provide an indoor swimming pool, and alterations to the rear garden.

3.0 Current Planning Applications

The Proposals

- 3.1 Construction of the extension and swimming pool for which permission was granted in 2012 has commenced on site. It is proposed as part of this application to relocate the heat pumps that in the consented scheme were to be located within the building so that they would be located externally within an existing light well on the exterior northern flank of the property.

Supporting Documents

- 3.2 VRV Daikin technical data – these brochures provide details as to the air conditioning units.

4.0 Consultation

- 4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.2 Site notices were displayed and letters were sent to residents and business in the surrounding area and the relevant ward Councillors.

- 4.3 Neighbour notification letters were sent to 121 properties. Site notices were displayed outside of the side facing Montpellier Row.

Written Responses received from Local Residents and Organisations

- 4.4 Three representations were received (all from flats at No. 20 Montpellier Row) with the objections summarised below:
- The pumps may well conform to Environmental Health noise limits, but will be disruptive by noise and vibration.
 - Object to the change on the original plans as this is being snuck through by applicant.
 - Alternative location should be found for the pumps.
 - This application contradicts the previous application for the swimming pool extension.
 - Pumps would be in constant use.
 - Application should be refused.

(Letters are available to Members)

- 4.5 Environmental Health: Relocation of the heat pump is acceptable provided it remains in accordance with the noise report submitted with the original application. A statement should be provided by the applicant/ noise consultant stating that there would be no adverse impact, given the sensitivities of the site.

5.0 Policy Context

Introduction

- 5.1 Section 73 of the Town and Country Planning Act 1990 allows an application to be made for the development of land without complying with conditions subject to which a previous planning permission was granted. This also allows for applications to be made for minor material amendments to a consented scheme. On receiving an application, the Council can only consider the question of the changes to the proposal subject to which permission was granted.
- 5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.
- 5.3 The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

- 5.4 The NPPF was published on 27th March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF.

In summary this states that (paragraph 211), policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

- 5.5 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, and 215 of the NPPF.

Ministerial Statement: Planning for Growth (23 March 2011)

- 5.6 The Statement sets out that the planning system has a key role to play in rebuilding Britain's economy by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The Government's expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.
- 5.7 The statement further sets out that local authorities should reconsider at developers request, existing Section 106 agreements that currently render schemes unviable, and where possible modify those obligations to allow development to proceed, provided this continues to ensure that the development remains acceptable in planning terms. [Delete if not relevant]

Other National Guidance

- 5.8 The other relevant national guidance is:
By Design: Urban Design in the Planning System - Towards Better Practice (CABE/DETR 2000)

London Plan (July 2011)

- 5.9 The London Plan policies relevant to this application are:
Policy 7.5 Public realm
Policy 7.6 Architecture
Policy 7.14 Improving air quality
Policy 7.15 Reducing noise and enhancing soundscapes

Core Strategy

- 5.10 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan.

The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Lewisham Core Strategy as they relate to this application:

Core Strategy Policy 15 High quality design for Lewisham
Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment

Unitary Development Plan (2004)

5.11 The saved policies of the UDP relevant to this application are:

STR URB 1 The Built Environment

URB 6 Alterations and Extensions

URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas

URB 20 Locally Listed Buildings

ENV.PRO 11 Noise Generating Development

HSG 4 Residential Amenity

Residential Standards Supplementary Planning Document (August 2006)

5.12 This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility, and materials.

5.13 Blackheath Conservation Area Appraisal and Supplementary Planning Document (2007)

This document sets out the history and spatial character of the area, identifying areas of distinct character, advises on the content of planning applications, and gives advice on external alterations to properties within the Blackheath Conservation Area. The document provides advice on repairs and maintenance and specifically advises on windows, satellite dishes, chimney stacks, doors, porches, canopies, walls, front gardens, development in rear gardens, shop fronts and architectural and other details.

Emerging Plans

According to paragraph 216 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

5.14 The following emerging plans are relevant to this application.

Development Management Local Plan

5.15 The Development Management Local Plan – Proposed Submission Version, is a material planning consideration and is growing in weight. Following the close of public consultation on 4 October 2013 the Proposed Submission Version will be submitted to the Planning Inspectorate for an Examination in Public.

Therefore, in accordance with the NPPF, the weight decision makers should accord the Proposed Submission Version should reflect the advice in the NPPF paragraph 216.

5.16 The following policies are considered to be relevant to this application:

DM Policy 1 Presumption in favour of sustainable development

DM Policy 26 Noise and vibration

DM Policy 30 Urban design and local character

- *General principles*
- *Detailed design issues*

DM Policy 31 Alterations and extensions to existing buildings including residential extension

DM Policy 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens

- *A. General principles*
- *B. Conservation areas*
- *C. Listed Buildings*

6.0 Planning Considerations

6.1 The main issues to be considered in respect of this application are whether the proposed location of the heat pumps is acceptable in relation to design and impact on the locally listed building, adjacent Listed buildings and the conservation area and whether the impact on there would be any adverse impact on the amenities of neighbouring properties by way of noise and vibration.

Design and Conservation

6.2 Planning permission has been granted for the construction of a single storey rear extension including a swimming pool, under application reference DC/12/81076. Heat pumps and associated swimming pool plant were originally proposed to be provided within an internal room at lower ground floor.

6.3 The applicant now proposes to relocate the heat pumps to an external elevation due to technical difficulties in providing these within the fabric of the building.

6.4 The heat pumps are now proposed to be located within an existing lightwell on the northern elevation at lower ground floor. The location of the pumps would mean that they would not be visible from the public realm, as such it is considered that there would be no adverse harm to the character and appearance of the Blackheath conservation area. No objection to the revised location has been raised by the Conservation Officer.

Noise and Impact on Adjoining Properties

6.5 UDP policy HSG 4 seeks to improve and safeguard the character and amenities of residential areas throughout the borough. UDP Policy ENV.PRO 9 'Potentially Polluting Uses' states that applications for a polluting or potentially polluting use will be assessed against criteria including the loss of residential amenity, design and appearance of the development, hours of operation.

- 6.6 Policy ENV.PRO 11 'Noise Generating Development' of the Unitary Development Plan states that 'the Council will resist development that could lead to unacceptable levels of noise. Where noise-sensitive development is proposed close to an existing source of noise, or where a noise generating development is proposed, the Council may require the developers to have prepared a detailed noise impact survey outlining possible attenuation measures.
- 6.7 DM Policy 26 of the Development Management Local Plan (submission version) states that the Council will require 'a Noise and Vibration Assessment for noise and/or vibration generating development or equipment and new noise sensitive development, where appropriate, to identify issues and attenuation measures, prepared by a qualified acoustician. Where development is permitted, conditions may be attached to the planning permission to ensure effective noise insulation or other mitigation measures are undertaken'.
- 6.8 The consented application was accompanied by a noise report which includes results of monitoring of background noise levels, finding that existing noise levels arise from passing traffic on Montpelier Row to the front of the property. The noise measurements were taken on a dry day with wind speeds of acceptable tolerances, resulting in suitable conditions for monitoring. The plant equipment for the swimming pool was tested and found to have noise levels below existing day and night background noise levels.
- 6.9 Additionally, calculations were undertaken as part of the survey to assess whether the noise emissions from the plant would meet British Standard recommendations. British Standard 82333:1999 (sound insulation and noise reduction for buildings – code of practice) provides recommendations for acceptable internal noise levels within residential property. BS8233:1999 recommends 30dB(A) as being a 'good' internal resting/ sleeping condition. The plant records noise emissions of 12dB(A) and as such is well within the British Standard limits.
- 6.10 The report states that the swimming pool could be used throughout the day, and as such, the plant should accord with the recommendations provided in the report (to adopt strict noise levels equating to the lower night time background noise). The report concludes that there would be no adverse impacts to surrounding residential occupants.
- 6.11 This application seeks permission for the relocation of heat pumps from within the building to a lightwell on the lower ground floor facing the flank wall of the adjacent property, no. 20 Montpelier Row which is a residential property converted into flats, from which objections have been received relating to the potential for noise and vibration from the equipment and that the application seeks to make revisions to the permitted scheme.
- 6.12 Representations received from the Councils Environmental Health Officers raise no objections in principle to the relocation of the heat pumps on the basis of the information submitted (within the approved noise report and technical data of the heat pumps) and whilst the pumps would be on an external wall facing a neighbouring property, they would be located at lower ground floor level, enclosed by a lightwell and face onto a blank elevation.

- 6.13 The plan submitted shows that the plant equipment would be located on acoustic isolation bases to reduce vibration and therefore noise levels to further mitigate against noise and vibration. This is considered to be acceptable and details are to be secured by condition, to ensure that they are of a sufficient standard.
- 6.14 Noise levels are specified within the report submitted for the original planning application (secured by condition), and a condition is similarly proposed for this application. It is noted that should excessive noise levels arise from the development, which do not accord with the applicants commissioned report, then there are enforcement powers available to the Councils Planning and Environmental Health team.
- 6.15 As such, the proposal is considered to accord with Policy HSG 4, ENV. PRO 11 and DM Policy 26.

7.0 Community Infrastructure Levy

- 7.1 The above development is not CIL liable.

8.0 Conclusion

- 8.1 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 8.2 On balance, Officers consider that the relocation of the heat pumps would be acceptable.

9.0 RECOMMENDATION GRANT PERMISSION subject to the following conditions

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

- (2). The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

Photograph, Air Conditioners Technical Data, Site Plan: Proposed Condenser Locations 021, Noise Impact Assessment Report 9504.NIA.01

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

- (3) The swimming pool shall not be used until the noise mitigation scheme detailed in the application and the associated noise report (Report 9504.NIA.01 and plan no. 021) has been implemented in its entirety. Thereafter, the scheme shall be maintained in perpetuity.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

- (4). Prior to the installation of the heat pumps, details shall be submitted of the acoustic bases within the lightwell and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be maintained in perpetuity.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

INFORMATIVE

Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted by the applicant confirming that the relocation of the heat pumps does not contradict the approved noise report.