

Delegated Report		Analysis sheet	Expiry Date:	28/12/2023
		N/A / attached	Consultation Expiry Date:	24/12/2023
Officer		Application Number(s)		
Obote Hope		2023/4698/P		
Application Address		Drawing Numbers		
38 Belsize Avenue London NW3 4AH				
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Retrospective application for the erection of a pergola and alterations to the hard/soft landscaping arrangement all in the rear garden.				
Recommendation(s):	Refused Planning Permission			
Application Type:	Full Planning Application			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	07	No. of objections	05
			No. electronic	07		

Summary of consultation responses:

A site notice was displayed on 28/12/2022 and expired on 21/01/2023 and press notice was displayed on 29/11/2023 and expire on 24/12/2023

An objection was received from 34 Belsize Lane as summarised below:

1. The structure is higher than the boundary fence;
2. The proposal is unneighbourly that would obstruct views from the windows in the rear elevation;
3. The proposal is prominent and takes up more than half the garden area;
4. The size and scale is not characteristic feature in a garden setting;

Officer response below:

1. *Please refer to amenity section in paragraph 4.5 below.*
2. *Please refer to amenity section in paragraph 4.3 below.*
3. *The nature of the works is relatively minor which means that the proposal is unlikely to require heavy machinery that would have a structural impact or cause damage to underground vaults.*
4. *The nature of the works is relatively minor which means that the proposal is;*

An objection was received from 7 Bracknell Gardens as summarised below:

1. The proposal is higher than the boundary fence and is prominent;
2. The proposal is unneighbourly that would obstruct views from the windows in the rear elevation;
3. The proposal is prominent and takes up more than half the garden area;
4. The size and scale is not characteristic feature in a garden setting;

An objection was received from 57 Glenmore Road as summarised below:

1. The garden structure is prominent and take up half of the garden space and the height is above the garden fence;
2. It can be seen from multiple rear windows on the street and therefore contravenes the principles of the conversation area, and;
3. There are no other similar pergola proposals in the area that match the size;

An objection was received from Unknown Address as summarised below:

1. What we can see from our bedroom window is the actual swimming pool and enclosure which detract from the character of the conservation area;
2. The proposal is prominent and takes up more than half the garden area;
3. The use has already generated nuisance, and contribute to light pollution;

Support was received from 38 Belsize Lane as summarised below:

1. The garden structure is prominent and take up half of the garden space and the height is above the garden fence;
2. The garden structure is prominent and take up half of the garden space and the height is above the garden fence;

3. The garden structure is prominent and take up half of the garden space and the height is above the garden fence;

Support was received from Unknown address as summarised below:

1. The rationale of the application is compelling given the pergola is within the height of 250cm and does cover with ca 25% of the garden less than 50pct maximum area;
2. We have also noticed that the design fits nicely to the area and enhances the overall attractiveness of the Belsize Park neighbourhood, and;
3. Finally we would like to reiterate that the pergola can hardly be seen from the outside so we are very comfortable.

An objection was received from 40 Belsize Lane as summarised below:

1. The application is not for minor alteration. It's a new building in the back garden of a residential property;
2. The application is for a "pergola". Maybe this is for a different site or an error by the applicant's agent. A pergola is an open framework over which plants are trained. It is not a fully enclosed swimming pool enclosure, and;
3. Using other pergolas as comparable precedents is inaccurate and not relevant;
4. the applicant's agent as acceptable from a design, heritage and amenity perspective, preserve local context, character, preserve or historic environment and materials complement and sympathetic to local character, high quality design that does not adversely impact the character of the local area. These inaccurate statements do not apply to site in question, ad;
5. There is loss of residential garden land in a very small garden.

Belsize Park CAAC & Belsize Society comments:

Belsize Park Conservation Area Committee responded and objected to the proposals as follows:

1. *"The description 'pergola' is misleading, it is a building with sides"*
2. *"The cedar fencing is higher than the original brick walls and damages the openness of the back garden"*
3. *"The building takes up too much of the green space in the garden", and;*
4. *"The building takes up too much of the green space in the garden"*

The Belsize Society responded and objected to the proposals as follows:

5. *"The structures that have been erected mean that virtually the entire rear garden area is covered by the pergola, decking hardstanding and artificial lawn";*
6. The development alters the balance and harmony of the property and its neighbours, and;
7. It is not in harmony with the original form and character of the house and is over development and the application should be refused.

Site Description

The application site is a 3-storey mid-terrace property on the south-side of Belsize Avenue in the Belsize Conservation Area. It forms part of a late 19th/early 20th century terrace of properties (Nos. 32-42) which is identified as a positive contributor to the character and appearance of the conservation area. Each property in this terrace has a gable-frontage with setbacks between each pair to give the appearance of semi-detached properties. The property is currently divided into a 1 Bed flat at lower-ground floor with a maisonette on the upper floors.

The existing gardens covers approximately 73sqm (from the rear boundary wall) which is predominantly lawn. However, the north end (the back of the dwelling) consist of timber decking measuring approximately 3.3m in depth and 4.0m in width. Therefore, the garden was previously undeveloped land that retains it open character with predominantly timber fencing along the side boundary.

Relevant History

2012/4196/P – Planning permission was refused on 16/10/2012 for the replacement of windows on front and rear elevation in connection with existing residential flats (Class C3). Reason for refusal:

“The windows and doors, by reason of their inappropriate material would be detrimental to the visual appearance and character of the host building as a positive contributor and cause harm to the character and appearance of this part of the Belsize Conservation Area contrary to policies CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.”

2012/3751/P – Planning permission was granted on 19/09/2012 for the conversion of ground - first floor maisonette and second floor flat into a single dwelling (Class C3).

2012/3936/P – Planning permission was granted on 18/09/2012 for the erection of roof extension with 4 circular windows and 4 rooflights in connection with existing residential flat (Class C3).

PW9902536 – Planning permission was granted on 02/11/1999 for the conversion of a single family dwelling to a self-contained maisonette and two self-contained flats, including external alterations and a rebuilt rear extension and enlarged front lightwell.

Other relevant site:

86 Greencroft Gardens London NW6 3JQ

2023/0017/P – Planning permission was granted for the erection of single-storey rear extension and pergola in rear garden. **Granted** on **28/07/2023**.

1 Courthope Road London NW3 2LE

2023/1673/P – Planning permission was granted for the erection of a ground floor side infill and rear extension with associated pergola, replacement of rear dormer with karger dormer, installation of replacement pergola and balustrade to second floor rear roof terrace, and minor associated works. **Granted** on 03/10/2023.

5 Wadham Gardens

2022/3138/P – Planning permission was granted for the erection of a timber pergola in the rear garden of the dwelling house (Class C3). **Granted** on 25/11/2022.

35 John Street

2022/3277/L – Listed building consent was granted for Soft Landscaping and Pergola to the rear garden. Granted on

Relevant policies

National planning Policy Framework 2023

The London Plan (2021)

Camden Local Plan 2017

A1 Managing the impact of development

A3 Biodiversity

CC1 Climate Change Mitigation

CC2 Adopting to Climate Change

D1 Design

D2 Heritage

Camden Planning Guidance

CPG Design (January 2021)

CPG Home Improvement (January 2021)

CPG Amenity (January 2021)

CPG Biodiversity (March 2018)

Belsize Park Conservation Area Statement 2003

Draft Camden Local Plan

The Council has published a new Draft Camden Local Plan (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account in the determination of planning applications, which has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).

Assessment

1.0 PROPOSAL

1.1 The proposal is for the erection of a single storey rear extension to the rear host building.

ASSESSMENT

The material considerations for this application are summarised as follows:

- Design and heritage
- Sustainability and biodiversity
- Neighbouring amenity impact

2.0 Policy and Context

2.1 The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policy D1 are relevant to this planning application which requires new development to respect local context and character; comprise details and materials that are of high quality and complement the local character; and respond to natural features. Policy D2 'Heritage' states that in order to maintain the character of Camden's conservation areas, the Council will not permit development within conservation areas that fails to preserve or enhance the character and appearance of that conservation area.

2.2 Camden planning guidance Design states that hard and soft landscaping makes a significant contribution to the character of the Borough. The scale, type, pattern and mix of materials help define different uses and effects the perception of the surrounding buildings... Moreover, the policy document stipulates that the Council will discourage the replacement of soft landscaping with hard landscaping in order to preserve the environmental benefits of vegetation identified above. However where hard landscape is unavoidable, the council will seek sustainable drainage solutions to any drainage.

2.3 Also of relevance is Camden planning guidance which states that rear garden become particularly prone to development pressures where the loss of soft landscaping has resulted in the erosion of local character, amenity, biodiversity and their function as a sustainable drainage system to reduce local storm water runoff has been reduced. This is reaffirmed in policy CC2 which requires that new development to not increase, and wherever possible reduce surface water run off through increasing permeable surfaces and use of Sustainable Drainage Systems. Moreover, green sustainable drainage and biodiversity plays a vital role in slowing the speed at which rainwater enters the drainage network, green roofs provide valuable habitats which promote biodiversity, cool the local microclimate and can provide visual amenity.

2.4 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 2013. As stated above in the site description the host building makes a positive contribution to the Belsize Park Conservation.

3.0 Design and Conservation

Garden Development

3.0 The proposed garden structure would be constructed using matte grey steel, with full height glazed doors facing east which leads into the rear garden. As built the proposal would include new paving stones, approximately 14m² of artificial grass 2.9ms of additional decking for seating area along with the existing 14.2sqm of decking area would result in majority of the garden being built upon with the exception of the 6m² of planting. The proposal would include louvered roof, which would allow lighting in and out of the structure and the elevation drawing indicates that the structure would be higher than the rear garden fence. Thus, the proposal is contrary to the Belsize Park Conservation Area Statement that requires extensions and conservatories to be design so that the proposal does not unbalance the harmony of a property or of a group of properties by insensitive scale, design or inappropriate materials. The conservation area statement also requires that rear extension/alterations does not alter the character of the building or the Conservation Area and in most cases such extensions should be no more than one storey in height but its effect on neighbouring properties and Conservation Area would be the basis of its suitability.

3.1 The garden structure dimensions are 2.48m height, 6.2m length and 3.5m width, which would result in a significant proportion of the garden space being removed. The proposed extension is excessive in scale and would not be 'subordinate' to the original building. Moreover, the extension would occupy approximately 38.7sqm of the rear garden space, in terms of the depth from the main rear wall this is more than half of the existing space and is therefore unacceptable as the majority of the outdoor amenity would be lost. If the proposal was otherwise acceptable a condition would be attached for the materials of the proposed garden structure to be submitted and approved.

3.2 Reference was made to a previous approval at 86 Greencroft gardens. However, as discussed in paragraph 3.0 above the proposal would be of an inappropriate scale in the context of the garden which would unbalance the harmony of the group of properties due to its insensitive, design and inappropriate materials.

3.3 The applicant stated that application for planning permission was granted 2023/1673/P on the 03/10/2023 for the erection of a ground floor side infill and rear extension with associated pergola, installation of replacement pergola and balustrade to second floor rear roof terrace, and minor

associated works. The officer concluded that given both of the pergolas are slim in profile, lightweight and the new pergola at second floor level has been moved from the western end of the terrace towards the rear of the existing building, so as to reduce its visibility from the street. The proposed works are considered acceptable.

3.4 Another reference was made for planning permission at 5 Wadham Gardens reference 2022/3138/P for the erection of a timber pergola in the rear garden of the dwelling house (Class C3). The proposal bears little resemblance to what is being proposed here which overall would have a cumulative impact on the host building and wider area which would fail to retain the verdant garden space. The officer concluded that the application at 5 Wadham Gardens would be acceptable in terms of scale, design, and materials. Whilst, the structure would be slightly larger than the typical pergola, the frame would be formed of timber beams and columns and would remain open to the elements. As such, it would be a lightweight addition complementary to the character and appearance of the host property, retain verdant garden space and would preserve the character or appearance of the Elsworthy Conservation Area.

3.5. The proposed garden structure would not be self-contained and is intended for use as a space ancillary to the main dwelling house and if the proposal was otherwise acceptable a condition would be attached to any permission to ensure that this would be the case.

3.6 It is therefore considered that the siting, location, scale, and design of the proposal would have a detrimental visual impact and be subordinate within the setting of the host garden, given the site context. The materials used would not be characteristic with the nature of gardens within this location. As such, the proposal not considered to preserve the character and appearance of the host building, neighbouring buildings, and wider Belsize Park Conservation Area. Thus the proposal fails to comply with D1 (Design) and D2 (Heritage) of the 2017 Local Plan 2017.



Image 1. Showing the proposed garden Structure

Sustainability and Biodiversity

3.7 Policy CC1 requires new development to protect existing green spaces and promote new appropriate green infrastructure, not increasing, and wherever possible reducing, surface water run off through increasing permeable surfaces. The planning policy document also requires new development to incorporate bio-diverse roofs, combination green and blue roofs and green walls where appropriate. Whilst planning policy guidance (CPG) Biodiversity requires all proposals to demonstrate opportunities to enhance or create new benefits for wildlife.

3.8 It's important to recognise that not only front gardens but rear gardens also make an important contribution to the townscape of the Borough and contribute to the distinctive character and appearance of individual buildings and their surroundings. Gardens can be prone to development pressure and their loss can result in the erosion of local character, amenity and biodiversity and affect their function in reducing local storm water run-off. Whilst the proposal offers no sustainability and biodiversity benefits much of the changes are works that can be done without planning permission and therefore do not form a reason for refusal.

Amenity

3.9 Local Plan Policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting planning permission to development that would not harm the amenity of residents. This includes factors such as privacy, outlook, and implications to natural light, artificial light spill, odour and fumes as well as impacts caused from the construction phase of development. Policy A4 seeks to ensure that residents are not adversely affected by virtue of noise or vibrations.

3.10 As stated above, the proposed structure is constructed very close to the rear boundary of the neighbouring properties 36 Belsize Avenue which is built along the majority of the length of the boundary fence with the neighbouring garden. Given the scale of the structure combined with the height of the rear boundary fence which the additional height along the rear boundary (albeit single storey) in this instance the proposal would not result in an unacceptable sense of enclosure and give rise to an overbearing physical impact that would cause loss of outlook for the occupants.

3.11 The fully glazed doors and the open roof design of the pergola structure in the rear garden is considered unneighbourly and whilst there is no information to indicate how the large garden structure would manage light pollution from the structure which may have an impact that would be detrimental to neighbouring residents . Therefore, this would also form a reason for refusal.

Recommendation

1. The garden structure, by reason of its size, form, and design results in an excessive and incongruous addition which has a detrimental impact on the character and appearance of the host building and the wider Belsize Park Conservation area. The proposal is therefore contrary to policy D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.
2. The development by reason of its scale and design resulting in harmful light spill would have a detrimental impact on the amenity of neighbours contrary to Policy A1 (Managing the impact of growth and development) of the London Borough of Camden Local Plan 2017 of the Camden Local Plan 2017.

6.0 Refused and Warning of Enforcement Notice to be issued:

6.1 That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 as amended to remove the Pergola Structure and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

6.2 The notice shall allege the following breaches of planning control:

1. Installation of garden pergola/structure in the rear garden;

WHAT ARE YOU REQUIRED TO DO:

1. Completely remove the Pergola structure
2. Remove any resulting debris and make good any resulting damage.

PERIOD OF COMPLIANCE:

- 6.3 3 months

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

1 The garden structure, by reason of its size, form, and design results in an excessive and incongruous addition which has a detrimental impact on the character and appearance of the host building and the wider Belsize Park Conservation area. The proposal is therefore contrary to policy D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

2 The development by reason of its scale and design resulting in harmful lightspill would have a detrimental impact on the amenity of neighbours contrary to Policy A1 (Managing the impact of growth and development) of the London Borough of Camden Local Plan 2017 of the Camden Local Plan 2017.