

Comment on planning application - 2023/2401/P: OBJECTION

Retrospective planning permission for enlarged/additional external decking area to lower ground floor flat (enlarged/additional to planning permission 2018/2977/P granted 09/04/2019)

We, Dr Anna Hurley and Dr Ioakim Raftopoulos, are the owners of the flat directly above Flat 1, 9 Belsize Square. We have serious concerns about the effect on our quality of life of the proposed development, particularly in relation to our privacy and enjoyment of our property, and also the amenity of the area.

We believe that the development proposals in this retrospective application are not compliant with national or local planning policy and we are writing to object in the strongest terms to the latest application relating to Flat 1, 9 Belsize Square, registered on 17th April 2024. The Council's website states that comments can be submitted until 19th May 2024.

The original application was submitted in 2018 and granted in 2019. We purchased our flat in 2021, prior to the commencement of the extension at this property. At that time, the applicant told us to "check the plans" on the Council's website and we (quite reasonably) believed that the planning permission obtained via the Council in 2019 would be adhered to.

The original planning application (2018/2977/P) sought permission for a "*garden house....with zinc cladded walls [which] will have minimal effect on neighbouring properties, as it will be located at the very end of the garden and its height will not exceed 3 meters.*" Peculiarly, we note that this description did not in fact match the 'Floor Plan and Elevations' document submitted at that time, which related to a single-storey rear extension. A photo of the rear of the house that was submitted before planning was approved showed a mature garden with grass and shrubbery, with decking comprised of two full steps above the level of the ground/grass. The 'Floor Plan and Elevations' document (Amended version) indicated plans to create a dining room extending outwards below the bow window of our property, along with timber decking at a height of two steps. Permission was granted in April 2019.

Unfortunately, the planning application was altered and breached in a number of ways, which have a detrimental impact on our property and the amenity of the area: 1) Installation of two large intrusive floodlights (previously objected to and now withdrawn); 2) Creation of a raised/elevated platform of decking (approximately 60.5cm high); 3) Enlargement of the elevated decking area; 4) Alteration of the agreed internal layout of the extension, with placement of the kitchen under the bow window (where the dining room was planned); 5) Failure to install zinc cladding. We also wish to note that the applicant has only recently commenced installing a green roof, over two years after the completion of this building project.

The applicant seeks to justify the current application by reference to a 3-year-old child and a mother who uses a wheelchair. The latter individual does not appear to reside at the property. As we will set out below, these justifications neither make sense nor do they in any way justify the amendments sought in this application, which have a significant impact on our privacy and quality of life.

Elevated decking height

As noted above, the original 2019 application sought to install decking at a height of 2 steps (as per the drawings submitted). The decking as constructed is at a height of 60.5 cm from the ground, which is double the national guidance (i.e. 30cm). Decking constructed at this height is considered

to be an elevated platform, according to the Timber Decking and Cladding Association (Code of Practice). At this height, the constructed decking may in fact warrant a balustrade for safety. As such, the applicant's rationale for extended decking in the Design and Access Statement (DAS) at this height makes no sense, as in fact increases risk for wheelchair use/access. In addition, there is of course no logic in the argument that a child needs decking to play. (Decking does not support the play, social, or emotional development of a child).

Furthermore, when constructed immediately beneath another residential property, as in this case, decking at this elevated height effectively becomes a 'viewing platform'. Where there is a difference in ground level between two properties, the separation distance between the two is critical in mitigating any overlooking caused by the elevation of one property relative to the other. With the extension of the decking now at a height of over 60.5 cm from the ground, this has a direct impact on our privacy as immediate neighbours. We have observed the top of the neighbour's head when he is standing/walking around on the decking while we are inside our living room, which feels highly intrusive. We have a fundamental right to privacy in our home, which the Council has a responsibility to protect, and the erection of this significantly elevated decking beneath us effectively creates a 'viewing platform' straight into our living space. This is untenable and the applicant's DAS in no way justifies this adverse impact on our privacy.

The Home Improvement Camden Document states that it is essential to *"Ensure any opportunities for overlooking into or from your neighbour's property are removed and privacy for all properties is maintained."* It also states that design should *"not infringe on your neighbour's outlook from their windows and garden."* The document further states *"You should particularly take into consideration what room the potential impacted windows/service. The impact on habitable rooms (bedrooms, living rooms) is of greater concern than non-habitable rooms."*

A cursory glance at pre-development and post-development photographs clearly illustrates the overdeveloped nature of the extended decking. The elevated platform is overbearing, like a monolith. Having lived in Belsize Square for many years, we are aware that elevated and extensive decking such as this is totally inconsistent with other gardens and decking elsewhere in the area. Camden Local Plan/Protecting Amenity (6.3) states that *"Protecting amenity is a key part of successfully managing Camden's growth and ensuring its benefits are properly harnessed. The Council will expect development to avoid harmful effects of the amenity of existing and future occupiers and **nearby properties** or, where this is not possible, to take appropriate measures to minimize potential negative impacts."*

Camden Local Plan/Protecting Amenity document (6.36) also states that *"Any development should be the minimum necessary to address the identified need. We will resist proposals which would be detrimental to the amenity and character of the space. Extensions and alterations to existing buildings on open space should be proportionate to the size, including the volume of the original building. Proposals seeking to change of use of an existing building should also be sensitive to the role and function performed by the open space."* One of the reasons for us purchasing our flat was to be able to enjoy the Juliet/round balcony. The increased height of the decking means that, when our doors are open, we have been exposed to private conversations of the applicants, who either have little regard for our/their own privacy or they do not understand the impact of their design on our/their property. In addition, when we use our balcony space, we have felt intruded upon, verbally and physically, within our private space, in part because of the added height and extended area of decking. The decking feels overbearing due to its scale as wherever you look, from left to right, you see composite, elevated decking. The result of this development is that it creates an oppressive and intrusive feeling.

The fact that the kitchen was moved is also critical here. Rather than being a ground-level extension, the kitchen extends beneath us and at an extended height. When the owners open their sliding doors, we can hear their conversations quite clearly. Any kitchen activity, including clattering of pots/pans, seems to be heightened in the echo chamber created by the raised platform. We are not satisfied that the applicant or their party-wall surveyor/draftsperson (Ms Whitfield) took these

factors into account when: 1) creating heightened decking and 2) moving the placement of the kitchen.

Returning to the outdoor space, the original application sought and was granted permission to use timber decking. However, the updated application seeks permission for composite, apparently to match decking at the end of the garden. We respectfully point out that we were told by the applicant that they obtained their decking second-hand, for free. The information contained in the DAS seems, to us at least, to be a post-hoc justification for use of different materials, without appropriate consideration of the agreed plans, the impact on property as a whole, including our flat, and the local area.

We also note that, following the submission of the original application in 2018, the garden was entirely re-landscaped, involving the removal of grass, which was replaced by plastic/synthetic material, and stonework. The elevated (and extended decking - see below), coupled with wider changes in the garden resulted in a space that is overdeveloped, and which lacks the natural beauty of other adjoining properties. According to National Planning Policy Framework (2019, Review 2023, 135) *“Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion because of changes being made to the permitted scheme (for example through changes to approved details such as the materials used.”* Use of composite instead of timber should be rejected - there is no appropriate justification for the change in materials used.

In addition, we note that applicant has not acknowledged that the extended height decking now contains blue LED strip lighting (photo submitted), for which there is also no permission nor any justification. This should be removed.

In summary, given the significant and detrimental impact on our privacy and the amenity of the area, we strongly urge that the request for extended height decking/an elevated platform is rejected.

Extended decking area

In addition to creating an elevated/raised platform, the applicant is now seeking to retrospectively apply for an extended triangular area of decking, also at a height of 60.5cm, covering an area of 9.4 square metres. The applicant seeks to justify this in terms of “simply allow[ing] sufficient space for a wheelchair to safely [sic] turn around - which otherwise is not possible without removing the dining table from the decked area.”

As outlined above, decking at this height constitutes a risk and it does not make sense to suggest that a wheelchair should be safely turned around in this space. If the outdoor space was genuinely designed to facilitate wheelchair access, then the entire decking area should be level with the ground, instead of creating an elevated platform. Furthermore, we have never witnessed any wheelchair user on the decking and instead the areas simply hold 2-3 large terracotta pots. If a wheelchair user requires access, then the applicant should revisit the entire scheme with an architect.

At a national and at local policy level, good design is integral to all planning and development. Chapter 12 of the National Planning Policy Framework: Achieving well-designed places says that *“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design”* (paragraph 134). The extended area of decking serves no real purpose and the justification proffered is illogical. The extended decking serves only to diminish our view and the outlook from our property (photo submitted). In addition, as this area of extended decking is constructed at the same height as the elevated platform, our

concerns relating to privacy and feeling overlooked also apply to this aspect of the application. Camden Policy notes that private outdoor amenity space including gardens, balconies, and roof terraces, can add significantly to residents' quality of life and applicants are therefore encouraged to explore all options relating to new outdoor spaces. The Council also requires that the residential amenity of neighbours be considered in accordance with Policy A1 Managing the impact of development. We would draw a comparison between the proposed/constructed development in this case and the development at 5A Belsize Square, where decking was created in front of the rear extension, and not directly under the flat above (i.e. protecting the privacy of both flats).

The DAS states that *"The landscape of garden has not been altered apart for the decking mentioned above....the garden has several mature bushes and trees, none of which have been removed since the current owners purchased the property."* Unfortunately, this is not consistent with images that we have submitted to the Council, which show that the outlook from our bay window and the greenery below have been altered. This serves to diminish our amenity as well as extending the aforementioned viewing platform. Now we overlook composite decking, synthetic plastic grass, and concrete slabs. The main sources of greenery come from adjoining gardens. Apart from some shrubs in the garden, everything is synthetic or concrete or glass. Gardens are described in the Home Improvements Guidance as *"an extremely important asset to the Borough's attractiveness and character."* The same document highlighted the importance of retaining *"reasonably sized garden" and "retaining the open character of existing natural landscaping and garden amenity, including that of neighbouring properties, proportionate to that of the surrounding area."*

The same Guidance sets out that homeowners should consider maximising the areas for soft landscaping over hard landscaping. It also says that new materials should be complimentary to the host building and should be permeable. We do not have sufficient information relating to the composite decking proposed/used to confirm that it is in fact permeable, but we are concerned that natural timber is not being used. Together with the large areas of artificial grass, concrete slabs we take the view that the enlargement of the decking does not enhance the sustainability of the garden in terms of biodiversity or support wildlife. The applicant's justification is merely that the enlarged area provides room for a dining table on the decked area.

The Home Improvements Guidance Camden Document states (2.1.1 Rear Extension): *"Allow for the retention of a reasonably sized garden....Retain the open character of existing natural landscaping and garden amenity, including that of neighbouring properties, proportionate to that of the surrounding area."*

Compared with the significant adverse impact on our privacy, the amenity of our flat and of the wider conservation area, we take the view that this proposal should be refused. Our privacy and amenity cannot come second to the poorly conceived design and/or post-hoc justifications of the owners. We strongly urge that the request to extend the area of decking is also rejected.

Other issues: Kitchen

The original planning application indicated that a dining room would be created below/adjacent to our bow window. It is unclear why but plans changed but the applicant instead installed a kitchen, where a dining room was proposed. Our observations and experiences within our flat suggest that the new kitchen space does not have appropriate ventilation systems in place. In addition, as photographs submitted show, the applicant has not installed any form of blinds or curtains, meaning that we can effectively see into their kitchen area, including the sink, island unit, washing machine, clothes line, etc. We have also shown in photographs already submitted that, in addition to not having any blinds/curtains, the applicant tends to leave 'full-lights' on until quite late at night. As half of the extension is glass, this creates a bright 'light-box' effect.

While some say that this is not a planning concern (and it belongs instead with environmental protection) it is clear from the National Planning Policy Guidance (NPPG) that lighting/light pollution must be considered a material planning consideration in these circumstances. This is

because the NPPG states that where there is a proposed change to an existing site that will materially alter lighting levels, consideration must be given to managing the effects of light pollution. With regard to this development, the question of how much light is shining is a significant factor (see NPPG, Paragraph: 002 Reference ID: 31-002-20191101. The National Planning Policy Framework, Ground conditions and pollution (185) states that *"Planning policies and decisions should ensure that new development is appropriate for the location taking into account the likely effects (including cumulative effect) of pollution or leak, living conditions and the natural environment."* We consider that the kitchen should be moved to the place in which permission was granted.

Conservation area

The Belsize Conservation Area statement mentions that it is a feature of the area that there are views from adjoining streets, including, *"from Belsize Park Gardens to the rear of Nos. 9-17 Belsize Park and Belsize Square. Rear extensions and dormers are prominent from such locations"*. This emphasises the fact that minor alterations can have wider significance in this conservation area.

This is a highly sensitive area, as the applicant acknowledges in their reference to the Article 4 direction in force in the Belsize Conservation Area, which seeks to ensure that even changes that are considered "minor" will require planning permission. This confirms that *"Even minor changes to the appearance of residential properties can significantly detract from the character and appearance" of the area.*

Conclusion

The cumulative effect of all of the changes to the original planning application is that we are overlooked within our internal living space, as well as being overlooked and overheard in our outdoor space. In addition, the placement of the kitchen, where there are no curtains/blinds, and where sliding doors open directly onto the extended, heightened decking, means that there is effectively no 'break' in our outlook - we see composite, plastic, and concrete. The impact of all of these issues is detrimental to our peaceful enjoyment of our property and our right to privacy. The applicant has made no attempt to mitigate against loss of privacy or being overlooked.

The adverse impact of the enlarged, heightened decking is unacceptable on near neighbours and has an immediate impact to our privacy and outlook. Therefore, we respectfully request that the entire retrospective planning application should be refused.

The National Planning framework law makes it clear that decisions on planning applications should be made in accordance with the policies and proposals within the development plan (which includes local development plans) unless there are strong material considerations. We hope national and local planning guidelines will be followed.

If the Council agrees with this objection and refuses the application, we respectfully request, too, that the property is kept under review to ensure that the development is restored to its authorised state, i.e. the condition before these developments took place.