

**APPEAL BY MR. & MRS SZALONTAY**

**UNDER SECTION 174 OF THE TOWN AND COUNTRY PLANNING ACT 1990  
(AS AMENDED)**

**AGAINST THE DECISION OF THE LONDON BOROUGH OF CAMDEN  
TO ISSUE AND ENFORCEMENT NOTICE**

**FLAT 5, 9-11 BELSIZE GROVE, LONDON, NW3 4UU**

**LPA ENFORCEMENT NOTICE REF: EN23/0915  
DATE OF ENFORCEMENT NOTICE: 23/05/2024  
DATE OF EFFECT: 07/08/2024**

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## APPENDICES

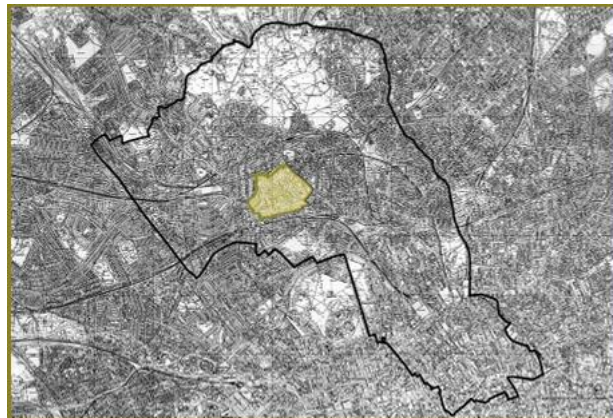
**APPENDIX 1a:** Arboricultural submissions associated with original submission

**APPENDIX 1b:** Updated arboricultural submissions

**APPENDIX 2:** Revised application submission details

## 1.0 SITE & SURROUNDINGS

- 1.1 In terms of context the appeal site is located within the administrative area of the London Borough of Camden, a Borough in north-west London (partly within inner London) divided into 20 three-member wards. The appeal site is located within the administrative ward of Belsize.
- 1.2 The ward of Belsize is a suburban area of north London, primarily residential in character but with a mix of commerce and industry. The ward is well connected, benefiting from several bus routes as well as underground and overground rail services into and out of central London. Accordingly, the site has a Public Transport Accessibility Level (PTAL) rating of 3 which is equivalent to 'good' accessibility, highlighting the sustainable location of the appeal site. The site is a short walking distance to Haverstock Hill and Belsize Park Underground Station.
- 1.3 The area is mainly residential and includes an abundance of distinctive architecture, particularly from the Victorian period, in wide tree lined roads. Most of the residents live in flats, either converted or purpose built. Most of Belsize is within the Belsize Conservation Area (CA), the Parkhill and Upper Park Conservation Area and parts of the Fitzjohns-Netherhall Conservation Area. The streets are predominantly residential, characterised by the repeated forms of the stucco villas, whose design gives a strong identity and unity of appearance to the area.
- 1.4 The Belsize Park Conservation Area was designated in 1973. The area is centred on Belsize Park, Belsize Park Gardens and Belsize Village. The Designation report to Committee stated: Belsize Park is an area of large scale, imposing semi-detached Victorian Villas of distinct yet uniform appearance. They show elaborate and consistent architectural detail and within the designated boundary there is little to detract from the unity of appearance. Belsize Village is also an area of considerable charm, the particular character of the village being one of the main justifications for designation.



- 1.5 The site is located centrally within the Belsize Park Conservation Area, highlighted by the image above which shows the site in the context of the Belsize Conservation Areas (yellow fill).

- 1.6 The appeal site is located on the west side of Belsize Grove and comprises a substantial paired villa which is typical of this part of the Belsize Conservation Area of which the site is a part (sub-area 1).
- 1.7 Belsize Grove slopes down gently from north-east to south-west towards Belsize Park Gardens providing a view along the street to villas on Belsize Park Gardens and mature trees in front of most properties are identified as important elements in the street. The host building is identified by the Belsize Conservation Area Statement as one that makes a positive contribution to the character of the area although the property is not statutorily listed.
- 1.8 The site is located at the rear of the rear garden, which was previously disused garden space. In that regard there is a significant difference in architectural and historic value between built development within the conservation area and that of the appeal site and its immediate surroundings.
- 1.9 In terms of the rear garden setting, it is firstly noted that this area is not visible in the public domain by virtue of the built presence fronting Belsize Grove as well as the contained nature of all built form to the north, south and west.
- 1.10 The rear garden comprises an attractive array of landscaped features that enhance the rear garden setting. There are however examples of other garden rooms that have recently been approved by the local planning authority.
- 1.11 On 08 April 2024. Full planning permission was granted for a single storey timber garden studio for ancillary residential purposes at flat 6 in part of the sub-divided garden. It is noted that the approved garden room is located in a directly comparable location to that proposed in this appeal – see extract below:



Extract from planning permission 2022/2863/P at Flat 6

- 1.12 In addition to the above, full planning permission was granted on 30 April 2004 for the erection of a timber outbuilding in the rear garden of flat 4. This has been built out and is located centrally, and therefore more prominently within the rear garden setting – see below:

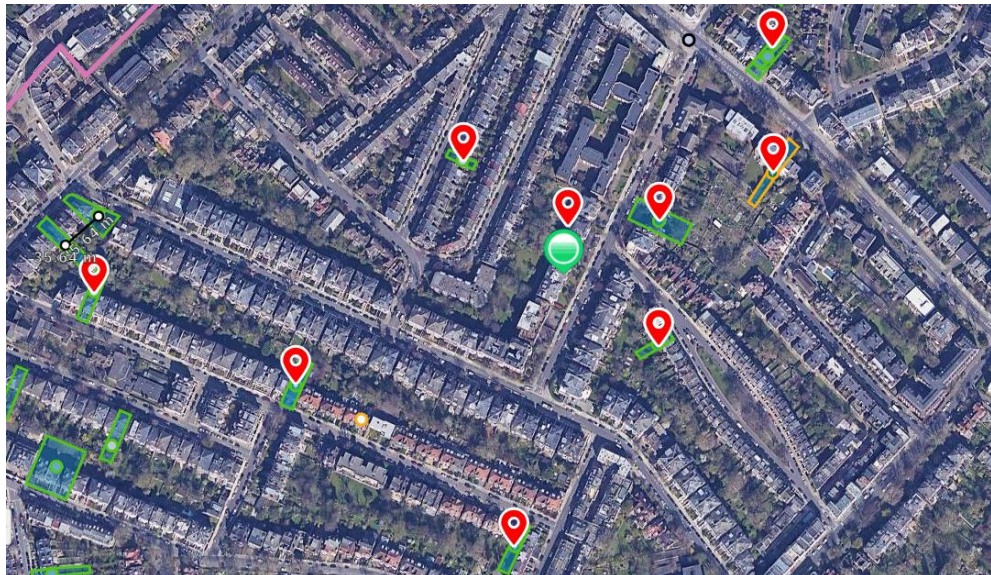


Extract from planning permission 2003/3023/P at Flat 4

- 1.13 The presence of outbuildings and similar garden structures in the neighbouring surroundings with planning consent is relevant to the consideration of the appeal proposals and therefore, further attention is drawn to the following examples:

- Flat 4. 2013/6600/P; Extension to existing rear building, timber frame, single storey. Granted 30.04.2004.
- Garden Flat 17 Belsize Park Gardens. 2019/6023/P; Erection of single storey outbuilding. Granted 14.04.2019.
- Flat 1, 41 Glenmore Road. 2020/5110/P Erection of a single storey outbuilding. Granted 17.08.2021.
- 4 Lambolle Road. 2020/3292/P; Erection of single storey outbuilding and installation of associated air source heat pump in rear garden to replace existing play equipment, for use ancillary to lower ground floor flat. Granted 27.05.2021.
- 48 Belsize Square. 2021/3033/P; Erection of an outbuilding in the rear garden.
- Flat 1 2 Belsize Square. 2021/3035/P; Erection of a single storey rear extension with associated roof terrace and the erection of a single storey outbuilding. Granted 19.10.2021.

- 31 Lambolle Road. 2022/1652/P; Erection of a rear garden outbuilding including gym, sauna, outdoor shower and green roof. Granted 17.11.2022.
- 51 Flat A Primrose Gardens. 2022/4842/P; Installation of a detached timber outbuilding. Granted 20.02.2023.
- 164 Haverstock Hill. 2022/0456/P; Erection of single storey timber-clad outbuilding in rear garden. Granted 28.04.2022.
- Flat 6, 9-11 Belsize Grove 2022/2863/P; Erection of single storey garden studio for ancillary residential purposes. Granted 19.04.2024.
- 26 Belsize Grove. 2023/1109/P; Erection of single storey rear outbuilding. Granted 03.08.2023.



## 2.0 THE ENFORCEMENT NOTICE

2.1 An enforcement notice, referenced EN23/0915, has been served by the Local Planning Authority (LPA).

2.2 The notice is dated 23 May 2024 and takes effect on 07 August 2024. The time for compliance is one month after the notice takes effect (so by 07 September 2024).

2.3 The notice alleges: -

***Without planning permission: the erection of a wooden structure in the rear garden.***

2.4 The stated reasons for issuing the notice are that: -

- a) *The development has occurred within the last 4 years.*
- b) *The proposed development, by reason of its size, height, position and bulk, would appear as an incongruous development that would have an adverse impact on the character and appearance of the host building, its neighbours and garden setting, and the Belsize Conservation Area. As such, the proposed development is contrary to Policies A1 (Managing the impact of development), D1 (Design) and Policy D2 (Heritage) of the London Borough of Camden Local Plan 2017.*
- c) *The development, by reason of construction methods and lack of protection, has resulted in unacceptable harm to trees contrary to the aims of policies A2(Open space) and A3(Biodiversity) of the Camden Local Plan 2017.*

2.5 The stated requirements to remedy the breach of planning control are:

- 1. *Completely remove the wooden structure, including the frame and concrete slab with tree protection measures in place for adjacent trees in accordance with British Standard 5837:2012.*
- 2. *Remove associated debris from the site.*
- 3. *Make good any damage caused.*

### **3.0 GROUNDS OF APPEAL**

- 3.1 This appeal is made in response to the enforcement notice on the following grounds:

***Ground (a): That planning permission should be granted for the alleged breach stated in the notice.***

The appellant acknowledges that the stated breaches of planning control require planning permission. Section 4 of this statement will set out why planning permission should have been granted for the appeal development.

***Ground (f): That the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or to remedy any injury to amenity which has been caused by any such breach.***

The appeal is made on ground (f) in relation to the complete removal of the wooden structure given that only partial removal would remedy the perceived injury to amenity. This is addressed in Section 5 of this statement.

***Ground (g): That the time given to comply with the notice is too short.***

The appeal is made on ground (g) in relation to points 1 - 3 of the notice. Section 6 of this statement will set out why the prescribed one-month period is unreasonable and will set out an alternative time period for compliance and the reasonableness of that alternative.



## 4.0 GROUND (A) – THE APPELLANTS CASE

### NATIONAL PLANNING POLICY/LEGISLATION

#### LEGISLATION

- 4.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

#### ***The National Planning Policy Framework (NPPF)***

- 4.2 The following paragraphs of the National Planning Policy Framework (NPPF) should be considered in relation to this case.

#### ***The presumption in favour of sustainable development:***

- 4.3 Paragraphs 7-14 introduce a presumption in favour of sustainable development. Paragraphs 8, 9 & 11 are helpful in applying this presumption.

- 4.4 Paragraph 11 sets out how this is to be applied. It states that, *for decision-taking, this means:*

- *Approving development proposals that accord with an up-to-date development plan without delay; or*
- *Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless*
  - *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 4.5 The NPPF introduces 3 dimensions to ‘Sustainable development’ (Economic, Environmental & Social - paragraph 8), and advises that they are interdependent and need to be pursued in mutually supportive ways.

- 4.6 In applying this approach, firstly, development must be considered to be sustainable taking into account all three of the dimensions of sustainable development; a development that is sustainable in only one dimension would not be considered sustainable for the purposes of the presumption. The appellant considers that the development meets all three threads of sustainable development.

- 4.7 Secondly, the decision-taker is required to consider whether the development accords with an up-to-date development plan – and if it does permission should

be granted unless material considerations indicate otherwise. The appellant considers that the development accords with the development plan.

- 4.8 Thirdly, the decision-taker is required to determine whether there are any relevant development plan policies, or the policies which are most important for determining the application, that are out-of-date, and thereafter grant permission, caveated as per the above quoted paragraphs.
- 4.9 Section 11 refers to the effective use of land and states at paragraph 123 that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 4.10 Section 12 refers to well-designed places. Paragraph 135(a) states that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development whilst paragraph 135(b) states that developments should be *visually attractive as a result of good architecture, layout and appropriate and effective landscaping*. Further, paragraph 135(c) states that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 4.11 Paragraph 135(f) states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

## **THE DEVELOPMENT PLAN**

- 4.12 The Camden Local Plan 2017 and Camden's Supplementary Planning Documents, together with the Mayor's London Plan, form the statutory development plan for the Borough.

### ***Camden Local Plan 2017***

- 4.13 The Camden Local Plan sets out the Council's planning policies and covers the period from 2016-2031. It was adopted on 3 July 2017 following examination by an independent planning inspector.
- 4.14 The Enforcement Notice refers to Policies A1, A2, A3, D1, D2 of the Local Plan which relate to managing the impact of development and the general impacts on open spaces, biodiversity and neighbour amenity. As required by the appeal process, the policies will be forwarded to the Planning Inspectorate by the LPA and so for brevity, will not be repeated verbatim here.

## PLANNING ANALYSIS

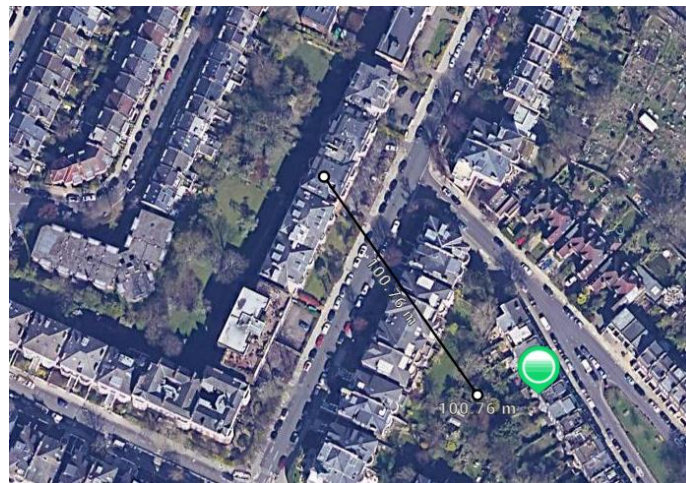
### *Reason for issuing the notice:*

*The proposed development, by reason of its size, height, position and bulk, would appear as an incongruous development that would have an adverse impact on the character and appearance of the host building, its neighbours and garden setting, and the Belsize Conservation Area. As such, the proposed development is contrary to Policies A1 (Managing the impact of development), D1 (Design) and Policy D2 (Heritage) of the London Borough of Camden Local Plan 2017.*

- 4.15 Firstly, it is acknowledged that the appeal site is comprised of an attractive building and that attractiveness is principally derived from its neo-classical architectural composition with clean, crisp detailing with an element of poise and dignity. The built form emphasises a strong street frontage that is common across the immediate and wider surroundings. The Council have held, on several occasions, that garden buildings on a domestic scale in the immediate and wider surroundings (but all within the same conservation area), do not adversely affect the character of the area.
- 4.16 Many properties throughout have installed outbuildings and garden structures in their rear gardens, of different sizes, heights and designs throughout the neighbourhood and Belsize Conservation Area. Some of these have been detailed below:

### **51A Primrose Gardens, NW3 4UL**

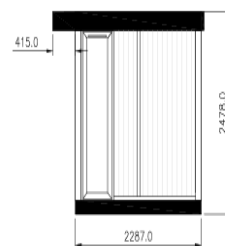
- 4.17 51A Primrose Gardens, London, NW3 4UL is located 100m southeast of the appeal site and comprises a detached timber outbuilding. **Planning reference 2222/4842/P.**



Contextual relationship between 51A Primrose gardens and the appeal site



FRONT ELEVATION F-F  
SCALE 1:50

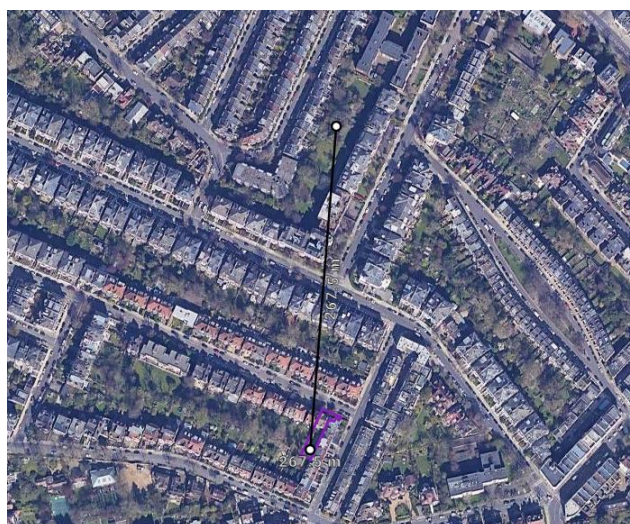


SIDE ELEVATION R-R  
SCALE 1:50

Garden Studios to rear elevation of 51A Primrose Gardens

### 31 Lambolle Road, NW3 4HS

- 4.18 31 Lambolle Road is located to the southwest of the appeal site and comprises a garden studio. **Planning reference 2022/1652/P.**



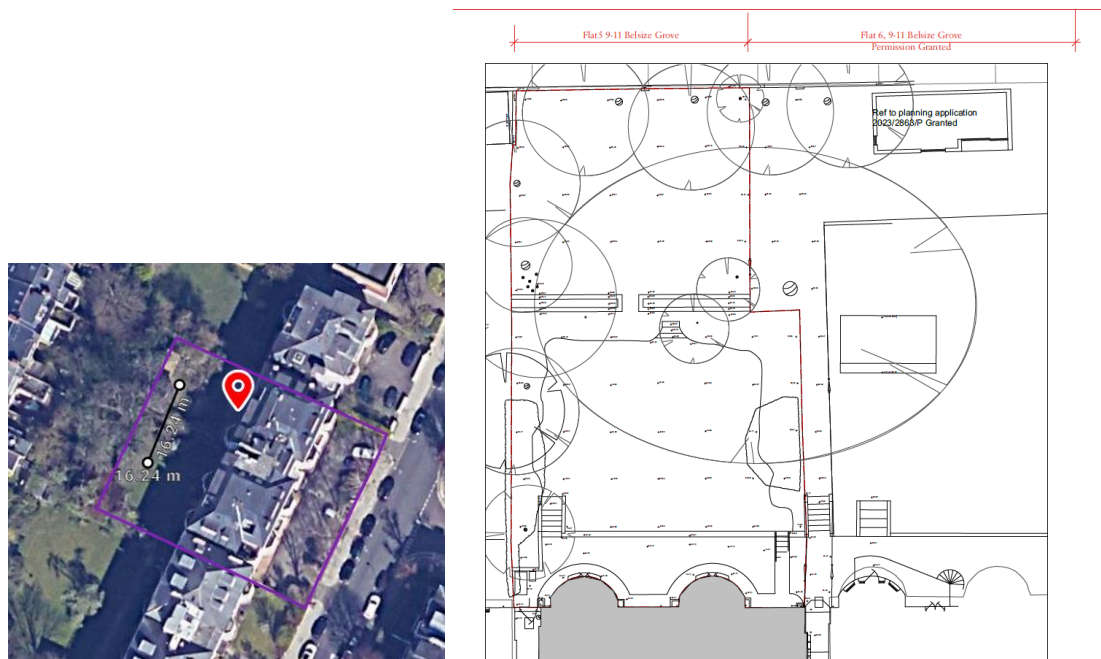
Contextual relationship between 31 Lambolle Rd and the appeal site



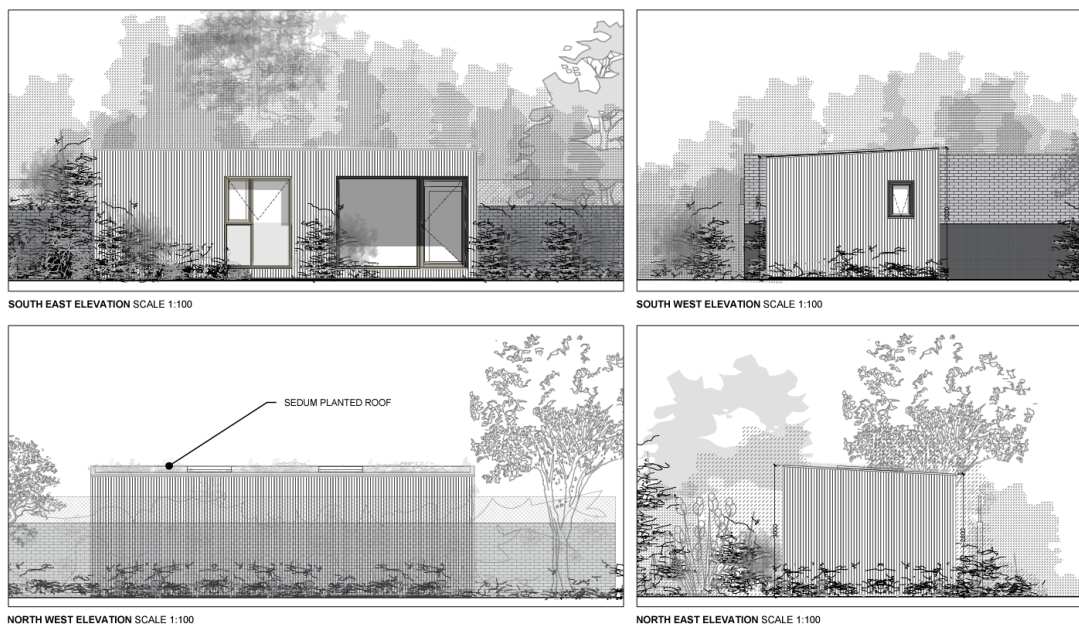
Garden studio to rear elevation of garden

## Flat 6, 9-11 Belsize Grove, NW3 4UU

- 4.19 The neighbouring property at Flat 6 of the same address (as the appeal site) with adjoining garden plot to the north-east had a timber-cladded outbuilding granted permission on the 19 April 2024. **Planning reference 2022/2863/P.**



Contextual relationship between Flat 6, 9-11 Belsize Grove and the appeal site



Flat 6, 9-11 Belsize Grove with similar proposal in the neighbouring garden plot to the north east.



- 4.20 It is clear therefore, that garden buildings, in various formats are by proxy, a key defining characteristic of the area.
- 4.21 The rear garden scene clearly provides an attractive, verdant context, albeit this is not visible from any public vantage points within the conservation area itself. As above, while largely green in character, the rear garden scene over the immediate and wider surroundings is contextualised further by the presence of outbuildings, either centrally and more prominently located or towards the rear boundary where they benefit from natural screening. In any case, the presence of outbuildings do not adversely affect or overwhelm the overriding green and landscaped characteristics of the wider garden context.
- 4.22 Notwithstanding the above, dealing with the proposal in isolation, a single storey garden building at the western most point of the site would not compete with the hierarchy of built form and by its very nature therefore, would be akin to a domesticated garden structure.
- 4.23 In terms of density, this is best read through the existing and proposed plot ratios. The proposed structure would represent only modest incursion into the readable garden space (at a ratio of approximately 15%). A large extent of the garden would be maintained and the existing under-utilised space developed in order to make the best use of the land available; a key driver of sustainable development as defined by the NPPF. On this basis, the proposed development would not therefore lead to an overdevelopment of the plot and therefore would respect both the existing characteristics of the site and the surrounding ratios of built development.
- 4.24 The scale of the building is entirely appropriate in this context. It is not visually prominent, or at the very most, from the private areas of the surroundings, views would be largely transient as a result of the presence of built form and intervening structures, boundary treatments and natural landscaping that would largely screen any elements that would otherwise be visible. The hierarchy of built form would be maintained because the proposed development would not be discernibly more prominent than the existing boundary wall and the sense of spaciousness from private vantage points would therefore be maintained. Its scale and massing is therefore considered to contextually align with the site and surroundings.
- 4.25 In terms of design and appearance, the building has been sited to sit comfortably and inconspicuously within the landscaped setting of the rear garden. Existing trees have been retained to ensure the building aligns naturally in the space.
- 4.26 The architecture is simple in appearance, with a series of columns linking to a pitched roof. A large expanse of glazing, with traditional glazing bars is proposed to the southeast elevation and this serves to create a degree of transparency, further reducing any perception of mass.

- 4.27 The entire composition successfully transitions between the larger-scale development either side, so as to create a subservient structure akin to residential curtilage buildings.
- 4.28 To conclude on matters of character therefore, the development is considered to sympathetically adjoin neighbouring development, would not be overly prominent in the wider surroundings and would provide for a simple and elegant form of development that both respects and responds to its context. The development is therefore considered to accord with the principles of the development plan and national planning policy guidance in this regard.
- 4.29 In terms of residential amenity, Policy A1 of the Local Plan seeks to ensure that standards of amenity are protected. This requires the highest standards of design to ensure the amenities of existing and future occupiers are safeguarded and this is echoed in guidance contained within the NPPF and the London Plan. Further guidance is provided in CPG Amenity which sets specific standards of development.
- 4.30 The outbuilding comprises openings only on its southeast and northeast elevations which face into the appeal site. As such, the proposed building will not create vantage points to directly overlook neighbouring properties or gardens to the northwest. Similarly, overlooking to other properties or garden areas to the northeast and/or southeast would not be possible as a result of the single storey proportions of the structure in combination with extensive landscaped screening.
- 4.31 The outbuilding is located adjacent to the rear boundary of the site which is shared with properties on Howitt Road. It is acknowledged that the properties on Howitt Road benefit from only a modest rear garden area. However, the eaves height of the proposed building extends only marginally over the existing brick boundary wall and the pitched roof thereafter extends away from the shared boundary. This, in conjunction with significant boundary landscaping, ensures that the perception of the building from properties on Howitt Road would be minimal.

***The development, by reason of construction methods and lack of protection, has resulted in unacceptable harm to trees contrary to the aims of policies A2 (Open space) and A3 (Biodiversity) of the Camden Local Plan 2017.***

- 4.32 It is noted that Tree Surveys and an Impact Assessment were provided as part of the planning application but these were never considered. For this reason, updated surveys have since been provided to Camden which conclude that the overall quality and longevity of the amenity contribution provided for by the trees and groups of trees within and adjacent to the site will not be adversely affected as a result of the proposed development.

- 4.33 It is considered that any issues raised in the report, or beyond the scope of it could be controlled by condition. Please refer to the Arboricultural Impact Assessment and Tree Survey Plans attached at Appendix 1.

## **5.0 GROUND (F) – THE APPELLANTS CASE**

- 5.1 Should the ground (a) appeal fail, the appellant contends that the steps to totally remove the garden room/outbuilding represents over enforcement.
- 5.2 It is noted that a revised application has been lodged with the Local Planning Authority following positive discussions with Planning Officer's. The revised application proposes a reduction in the scale of the proposed outbuilding.
- 5.3 Notwithstanding the appellants position with regard to the Ground (a) appeal, the revised scale of the building ensures that the structure would not be harmful to the character and appearance of the area or on neighbour amenity and the updated Arboricultural information confirms there would be no unacceptable harm to existing trees.
- 5.4 A more proportionate approach in the circumstances would be to permit the retention of works highlighted in the fresh submission. These drawings are included at Appendix 2. This would removal all cited amenity harm.

## **6.0 GROUND (G) – THE APPELLANTS CASE**

- 6.1 Section 173(9) of the Town and Country Planning Act requires that an enforcement notice specifies the time period for compliance with an enforcement notice. In this case, the LPA have specified a time period of 1 month in relation to the removal of the entire structure.
- 6.2 In the event that the ground (a) and (f) appeal is dismissed, a plead is made under Ground (g) in that the time period of 1 month is an unreasonable time for compliance.
- 6.3 The key point in terms of a ground (g) plead is that the possibility of an application for a revised proposal to overcome the alleged harm can be a material factor in an inspector's decision, as demonstrated in Sefton 21/10/2009 DCS No 100-065-022 which involved an unauthorised tree house in a residential garden. While upholding the notice an inspector noted that there was an alternative solution that might overcome the alleged harm, to which the appellant had indicated his general agreement. He therefore extended the period of compliance to give the appellant time to submit revised proposals.
- 6.4 Similarly, in upholding an enforcement notice requiring the removal of a single storey rear extension to a dwelling occupied by a member of the Jewish community an inspector extended the compliance period to allow for religious holidays, to minimise disruption and to allow for further negotiations to take



place with the local authority over an alternative scheme (Hackney 22/04/2009 DCS No 100-061-831).

- 6.5 In this case, a revised application has already been submitted to the Local Planning Authority following positive discussions with Planning Officers (details attached at Appendix 3). The application is referenced 2024/3028/P and the target determination date is 17/09/2024.
- 6.6 In the circumstances therefore, it is therefore considered that a 1 month compliance period falls short of what should reasonably be allowed.
- 6.7 Where the ground (a) and ground (f) appeals are unsuccessful it is therefore requested that the compliance period is extended to 5 months in order to allow for further negotiations to take place with the LPA over an alternative scheme.

## **7.0 SUMMARY AND CONCLUSION**

- 7.1 An enforcement notice, referenced EN23/0915, has been served by the Local Planning Authority, alleging a breach of planning control. The notice is dated 23 May 2024 and takes effect on 07 August 2024.
- 7.2 It is considered that planning permission should be granted for the alleged breach of planning control and this appeal is therefore made on Ground (a). A fee has been paid to the local authority as part of the appeal process for the '*deemed application*'.
- 7.3 The LPA considers that the appeal proposal would appear as an incongruous development that would have an adverse impact on the character and appearance of the host building, its neighbours and garden setting, and the Belsize Conservation Area.
- 7.4 As set out in this statement, it is considered that it has been demonstrated that the proposed development will have little impact on the host dwelling, the character of the area or on neighbour amenity.
- 7.5 In light of these comments, the proposed development is considered to accord with the NPPF and the development plan. The Inspector is therefore respectfully requested to allow the appeal under Ground (a) and grant planning permission.
- 7.6 Should the Inspector consider to the contrary, it is considered that the stated steps to remedy the breach are disproportionate and the time period for compliance is unreasonably short. This appeal is therefore also made on Grounds (f) and (g), particularly in the context of a revised application which reduces the scale of the proposed building, in terms of both length and height (eaves and ridge).