

Appellant's Statement of Case

Appeal against the refusal of application ref:
2023/4698/P which relates to 38 Belsize
Avenue, London NW3 4AH
On behalf of Klaus Hessberger



London



Harrogate



Bristol

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1. Introduction

- 1.1. This Statement of Case ('SoC') is prepared and submitted by Planning Potential Ltd in support of an appeal against the decision by Camden Council to refuse planning permission for the following, "*Retrospective application for the erection of a pergola.*"
- 1.2. The application was refused under delegated powers on the 14th of May 2024 on the grounds of two reasons, which are set out in Section 5 of this SoC. A copy of the formal Decision Notice is appended at Appendix 1. The Officer's Report is appended at Appendix 2.
- 1.3. This SoC is divided into 6 sections, the subject of which are as follows.
- Introduction
 - Appeal Site Location and Description
 - Appeal Proposals
 - Planning Policy Context
 - Main Issues in Dispute
 - Summary and Conclusions

2. Appeal Site Location and Description

- 2.1. The Appeal Site is comprised of 38 Belsize Avenue, a three-storey terraced townhouse, which comprises a substantial property with a basement flat used in conjunction with the main house. The flat only covers the front half of the house and there is no access nor connection to the back garden. There is a large garden to the rear which is enclosed by fencing, hedging and trees.
- 2.2. Although the property is not listed, it is situated within the Belsize Park Conservation Area and is designated as a Positive Contributor. The site is situated in flood zone 1, low risk of flooding and it is not constrained by any other planning or environmental designations.

Figure 2.1 Site Location



Source: Google Maps

- 2.3. The rear garden of 38 Belsize Avenue is the area of the site of which this Appeal is subject of. The house and garden are part of a terrace of similar size properties and the garden is adjacent to similar rear gardens, and backs onto the gardens of Tudor Close, albeit screened by fencing and trees.

3. Appeal Proposals

3.1. The Appeal proposal comprises an as built pergola in the rear garden of the property situated against the side and rear boundary of the garden, tucked away in a secluded spot away from the dwellings as evident in the picture below.

Figure 3.1 Pergola in rear garden

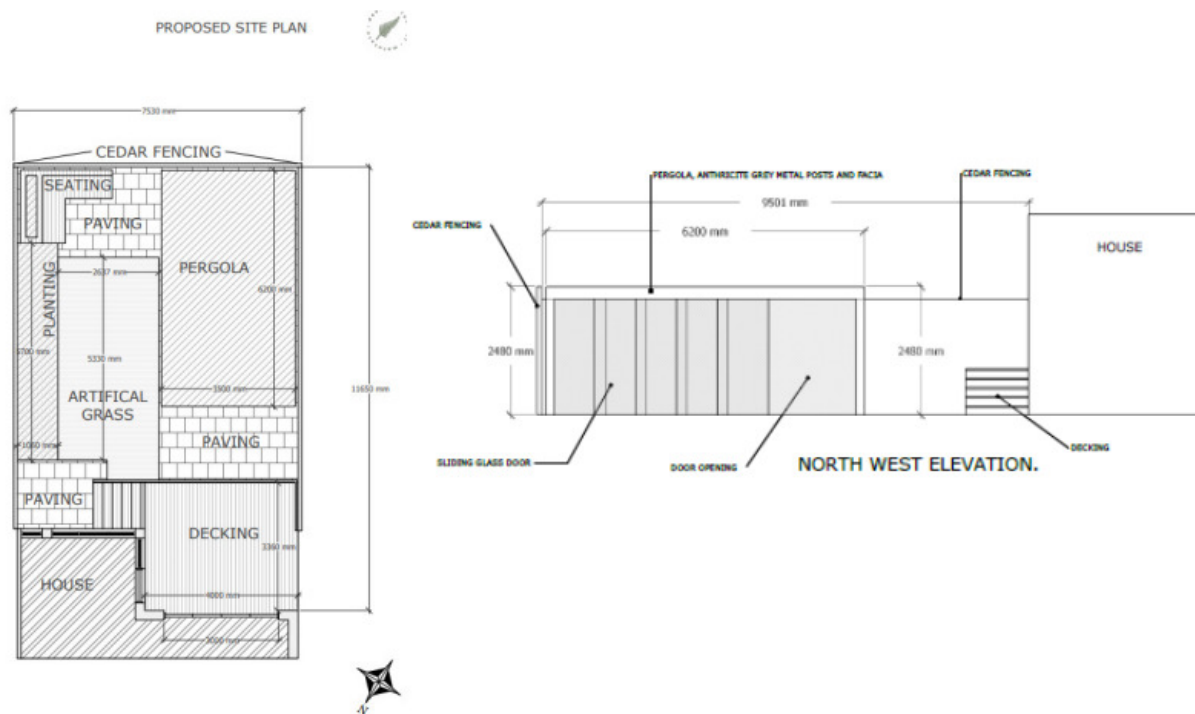


Source: Planning Potential Research

3.2. The pergola is single storey in height and does not exceed the height of the existing boundary fence. The pergola dimensions are 2.48m height/ 620cm length/ 350 cm width and can be demonstrated through the plans below.

3.3. The pergola is below the threshold of 250cm and covers less than 50% of the back garden in line with the limits of householder permitted development rights. They do not apply in this instance because the property is not considered a 'house' but a 'flat' as there is a flat in the basement.

Figure 3.2 Pergola Plans



Source: Garden Aspect

Recent Planning History

3.4. Since the associated planning application was refused, another application at the property has been granted.

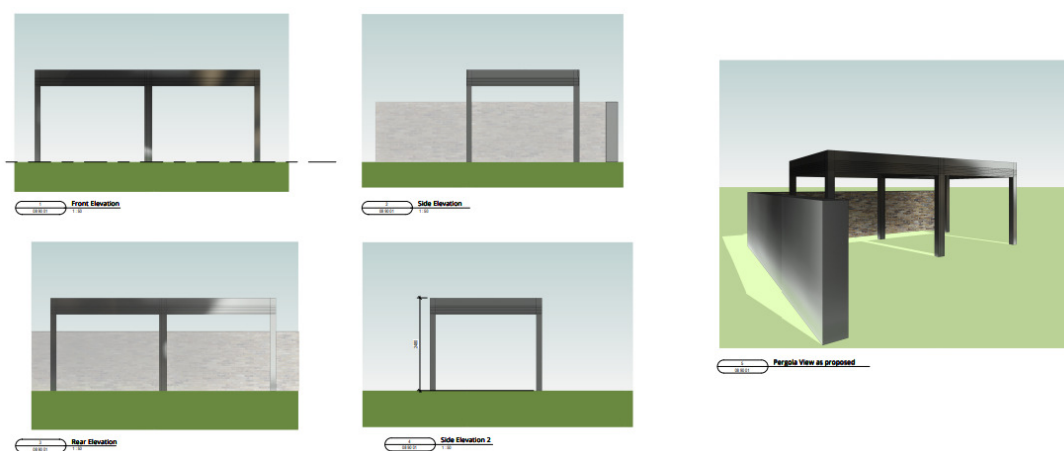
- 2024/0896/P | Conversion of two flats into a single family dwelling house. Approved 18th June 2024.

3.5. An application for the amalgamation of the two flats was approved. Permitted Development (PD), under Part 1 Class E are therefore relevant to the appeal proposals, and the pergola would fall within the thresholds set out within this PD Right, that are in place for homes, rather than flats.

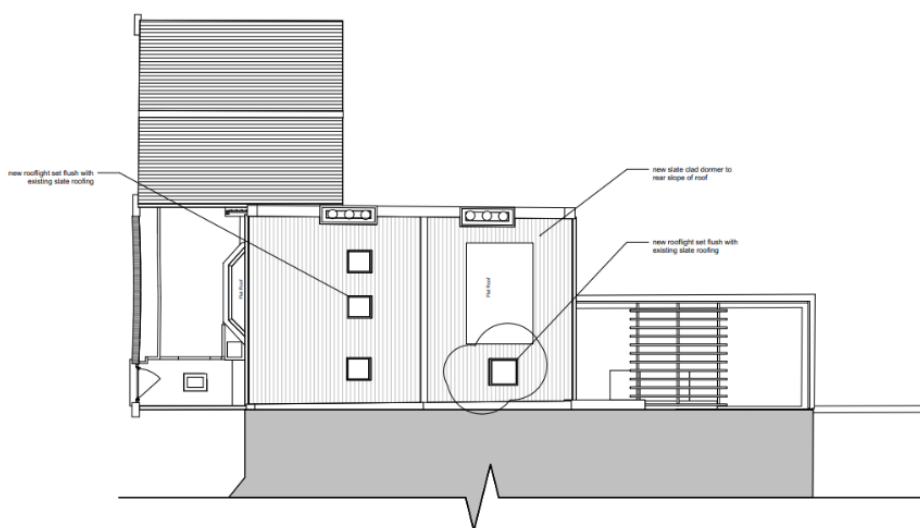
Planning Precedent

3.6. Several applications have been identified in the surrounding area for similar pergola proposals. The following applications demonstrate similar sized and materiality of pergolas in a similar position in the rear garden.

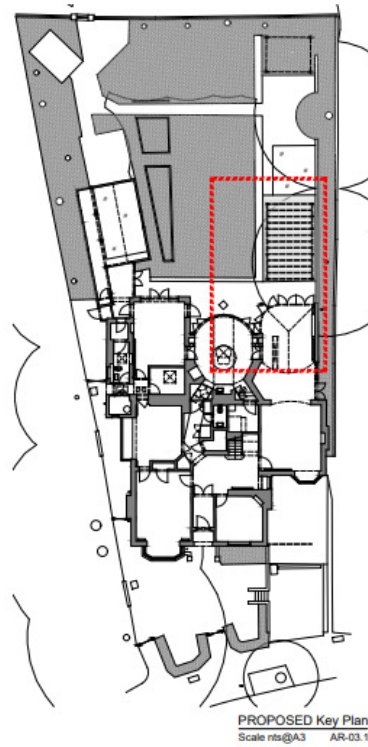
1. **2023/0017/P** | Flat 1 86 Greencroft Gardens London NW6 3JQ | Erection of single-storey rear extension and pergola in rear garden. Granted July 2023.



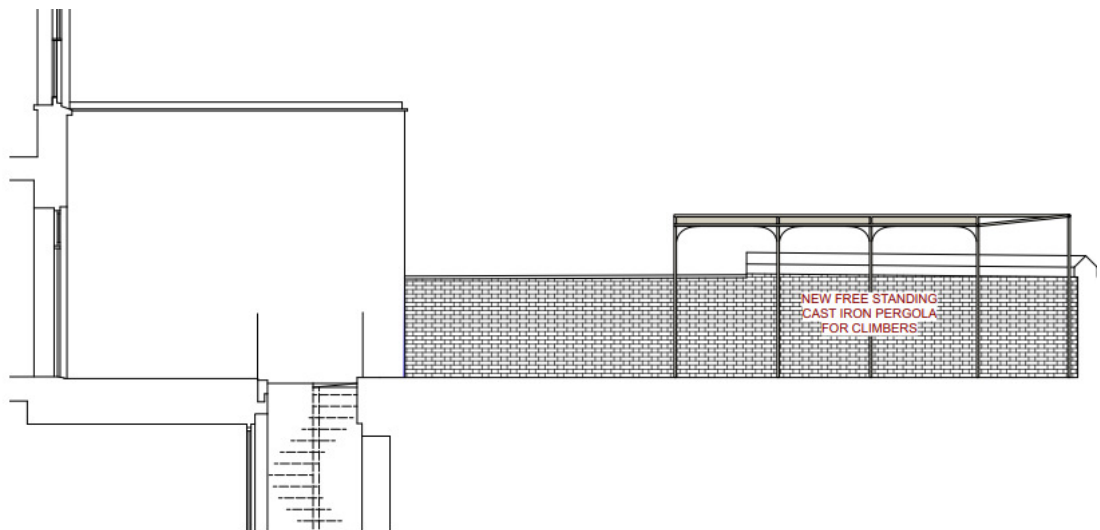
2. **2023/1673/P** | 1 Courthope Road London NW3 2LE | Erection of a ground floor side infill and rear extension with associated pergola, replacement of rear dormer with karger dormer, installation of replacement pergola and balustrade to second floor rear roof terrace, and minor associated works. Granted October 2023.



3. **2022/3138/P** | 5 Wadham Gardens London NW3 3DN | Erection of a timber pergola in the rear garden of the dwelling house (Class C3). Granted November 2022.



4. **2022/3277/L** | 35 John Street London Camden WC1N 2AT | Soft Landscaping and Pergola to the rear garden. Granted September 2022



SECTION AAAS PROPOSED

4. Planning Policy Context

4.1. The UK Planning System has a plan-led approach. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

National Planning Policy Framework

4.2. The overarching National Planning Policies comprise the National Planning Policy Framework (NPPF) (2023), supported by the National Planning Practice Guidance.

Development Plan Policies

4.3. For the purpose of any area in Greater London the development plan is:

- The London Plan (2021) which sets out the spatial development strategy for the city.

4.4. The Development Plan documents for Camden Council are:

- The Local Plan (2017)

4.5. The relevant Supplementary Planning Documents (SPD) include:

- Amenity SPD (2021)
- Design SPD (2021)
- Belsize Park Conservation Area Statement (2003)

4.6. Camden Council are in the early stages of a local plan review. The council consulted on a draft New Local Plan (Regulation 18) from 17th January to 13th March 2024. A further Regulation 19 Plan is expected later this year, with further timelines to follow.

5. Main Issues in Dispute

Reasons for Refusal 1:

5.1. Reason for Refusal 1 states that:

“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.”

Reason for Refusal 2:

5.2. Reason for Refusal 2 states that:

“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”.

Appeal Response

- 5.3. It is important to note that the proposed pergola would be acceptable under Part 1 Class E of the General Permitted Development Order as it would not exceed 50% of the total area of curtilage of the property and would not be taller than 2.5m.
- 5.4. As the property has been divided horizontally by a small flat at the front of the property which does not have access to the garden, we are aware these rights do not apply, but it is important to be aware that the principle of development is established as acceptable by central government and therefore should have a bearing on the determination of acceptability of this Appeal.
- 5.5. Since the associated planning application was refused, planning permission was granted, ref 2024/0896/P, allowing for the amalgamation of the two flats into one house. Permitted Development Rights are therefore applicable in this instance and the proposals now benefit from permitted development rights as the amalgamation is in progress.
- 5.6. Nevertheless, we demonstrate that the proposals are acceptable from a design, heritage and amenity perspective and therefore should be approved.
- 5.7. It is considered the erected pergola is of a considerate size and design that ensures that neighbouring amenity is protected, and to ensure the character and appearance of the conservation area is not harmed, in response to the first reason for refusal.
- 5.8. Policy D1, Design of the Local Plan states that the Council will seek to secure high quality design in development. Proposals must respect local context and character and preserve or enhance the historic environment. Materials must be of high quality and complement the local character.
- 5.9. The pergola is located discreetly in the corner of the rear garden of the property and is considered to be of high-quality design, utilising materiality which is sympathetic, and which does not adversely impact the character of the surrounding area. The pergola can be closed with sliding glass elements, so its contents are maintained and so it can be used all year round, whilst giving the impression the structure is transparent.
- 5.10. The roof itself opens, again creating a more open feel to the structure and so it can be used all year round. The matte steel colour of the pergola creates a high quality, durable finish which is appropriate to the character and appearance of the conservation area. The pergola is screened well by existing trees and also fencing, which ensures the pergola is hardly visible at ground level.
- 5.11. In addition to this, the structure is a temporary one and it is not to be a permanent fixture in the rear garden. The impacts to the character of the Belsize Park Conservation Area are therefore not perceived to be adverse.
- 5.12. Policy D2, Heritage of the Local Plan states that the Council will preserve and, where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas.
- 5.13. Although the proposal is situated within the Belsize Park Conservation Area, it is not deemed that the pergola will harm the character of the Conservation Area due to its location in a private garden and can hardly be seen from public vantage points due to being screened by vegetation at the rear.

- 5.14. Policy A1 Amenity of the Local Plan seeks to protect the quality of life of occupiers and neighbours bearing mind visual privacy.
- 5.15. The rear garden is screened naturally by trees to the rear, and due to the terracing of the property, is not visible from the road. The pergola is only partly visible from the adjacent properties, however due to existing trees and high line fence, the pergola is hardly visible from ground floor and does not impact on neighbouring amenity as it faces away from the boundary. Fairly mature trees from adjacent properties are covering most of the pergola, evident from the pictures enclosed.
- 5.16. In response to the second reason for refusal, it is not expected that the pergola itself will create any light spill. Any light spill will be no worse than the existing garden lighting. Nevertheless, the owners would be happy to agree a condition which limits the light lux levels if this is considered acceptable.

6. Summary and Conclusions

- 6.1. This Appeal comes forward in response to Camden Council's refusal of the following application, "*Retrospective application for the erection of a pergola*", in May 2024.
- 6.2. The Appeal demonstrates the case for the temporary pergola situated in the rear garden of the site, against the two reasons for refusal. The pergola is below the threshold of 250cm and covers less than 50% of the back garden in line with the limits of Permitted Development.
- 6.3. However, as the property has been divided horizontally by a small flat at the front of the property which does not have access to the garden, the rights do not apply, but it is important to be aware that the principle of development is established as acceptable by central government and therefore should have a bearing on the determination of acceptability of this Appeal.
- 6.4. It is considered that the design and form of the pergola is one that will not adversely impact on the wider character of the Belsize Park Conservation Area and is situated appropriately in the rear garden to ensure screening provided by existing fencing and trees protects neighbouring amenity.
- 6.5. For the reasons set out in this SoC, it is respectfully requested that the Appeal is upheld.

Appendices

Appendix 1 – Decision Notice

Application ref: 2023/4698/P
Contact: Obote Hope
Tel: 020 7974 2555
Email: Obote.Hope@camden.gov.uk
Date: 14 May 2024

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

Planning Potential Ltd.
Magdalen House
148 Tooley Street
London
SE1 2TU
United Kingdom

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Refused and Warning of Enforcement Action to be Taken

Address:
38 Belsize Avenue
London
NW3 4AH

Proposal: Retrospective application for the erection of a pergola

Drawing Nos: Pergola roof plan; Proposed site plan; Proposed elevation; Existing site plan; Location plan by Terra Quest and Cover letter by Planning Potential (23/7229).

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):

Reason(s) for Refusal

- 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

Informative(s):

1 ENFORCEMENT ACTION TO BE TAKEN

The Director of Culture and Environment will instruct the Borough Solicitor to issue an Enforcement Notice alleging a breach of planning control.

- 2 If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

ENFORCEMENT ACTION TO BE TAKEN

The Council has authorised the Planning Department to instruct the Borough Solicitor to issue an Enforcement Notice alleging breach of planning control.

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.

If you submit an appeal against this decision you are now eligible to use the new [submission form](#) (Before you start - Appeal a planning decision - GOV.UK).

Yours faithfully



Daniel Pope
Chief Planning Officer

Appendix 2 – Officer’s Report

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.