

Delegated Report		Analysis sheet		Expiry Date:		12/12/2022	
		N/A		Consultation Expiry Date:		17/12/2022	
Officer				Application Number(s)			
Sarah White				2022/4478/P			
Application Address				Drawing Numbers			
Flat 2 80 Greencroft Gardens NW6 3JQ				See decision notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Installation of a pergola within the rear garden (retrospective).							
Recommendation(s):		Refuse Planning Permission and Warning of Enforcement Action to be taken					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining occupiers and/or local residents/groups				No. of responses	4	No. of objections	4
Summary of consultation responses:		<p>A Site Notice was displayed from 23/11/2022 to 17/12/2022 and 25/09/2024 to 19/10/2024.</p> <p>A Press Notice was published from 03/10/2024 to 27/10/2024.</p> <p>Four objections were received comprising the following comments:</p> <ul style="list-style-type: none"> • The pergola erected is a substantial structure with electric cabling suggesting another use to just a traditional pergola • The scale of the pergola on site does not match the submitted plans. • The foundations may cause flooding problems in the area • The design and materials of the structure are not in keeping with the conservation area. • The structure was put up in August 2022 not September 2021 as stated within the application. • The roof appears solid rather than open slats • The shutters on the side elevations look like walls, enclosing the structure • The structure is not a pergola but rather an enclosed cabin • The structure results in a loss of garden space and green space, 					

	<p>setting a precedent for loss of gardens in the area.</p> <ul style="list-style-type: none"> • The structure is overbearing for neighbouring properties • There are two trees either side of the structure • The structure extends 1m higher than the neighbouring fence <p><u>Officer's response:</u></p> <ul style="list-style-type: none"> • The application is being treated as a retrospective application • Design and heritage impacts are assessed in section 3 of this report • Neighbouring amenity impacts are assessed in section 4 of this report • Flooding and drainage impacts are assessed in section 5 of this report
--	--

<p>Combined Residents' Associations of South Hampstead (CRASH)</p>	<p>A letter of objection on behalf of the CRASH was received on 20/11/2022.</p> <p><i>It is generally recognized that a pergola is a wood framed structure of uprights and cross beams for the provision of shade and for the support of climbing plants. The structure that is the subject of this application - as can be seen from the attached photographs - is not a pergola as understood by most people. It is, basically, a large shed. It should never have been erected without prior planning approval.</i></p> <p><i>CRASH objects to the application and requests that Camden refuse approval and enforces removal of the structure.</i></p> <p><u>Officers Response:</u></p> <ul style="list-style-type: none"> • Design and heritage impacts are assessed in section 3 of this report
---	---

Site Description

The subject site is a two-level maisonette, which occupies part of the ground floor and the entirety of lower ground floor of the five-level building. A one-bedroom flat is also located on the ground floor. however, this flat does not extend to the building's rear elevation. The building accommodates seven flats in total. The maisonette has three bedrooms; two of these being on the lower ground floor, with the third bedroom and open plan living, kitchen and dining area occupying the ground floor.

The ground floor has access to/ownership over the ground level garden located to the rear of the building. An outdoor staircase provides access between the lower garden and ground level garden.

It is understood side passages to the side elevations of the building are gated to restrict general access to the rear garden.

The property has been significantly extended to the rear with a series of ground floor level extensions, roof extensions, a basement extension and lower basement level garden.

A pergola (which is currently being considered for retrospective planning permission under this application) is located at the rear of garden, adjacent to the site's rear boundary with properties on Canfield Gardens.

The application site sits within the South Hampstead Conservation Area and the application property is identified as a positive contributor to the conservation area.

The site is also located in a Local Flood Risk Zone (Goldhurst).

Relevant History

The planning history for the application site is summarised as follows:

2024/1174/P - Alterations and additions to rear elevation at ground and lower ground floors, including addition of 2 x rear bay window extensions and new French doors; erection of bridge over basement void. **Granted 21/05/2024.**

2023/1998/P - New timber storage enclosure with 2 x Sheffield stands for 4 cycles, infill an open section of the front boundary with bricks to match the existing boundary wall, with new hedging set behind the wall. **Granted 23/06/2023.**

2022/5431/P - Installation of roller shutters and single-pane bi-folding doors to rear elevation of the lower maisonette, and installation of glass balustrades around the lower floor rear sunken garden (retrospective) – **Refused 28/02/2023. Appeal APP/X5210/C/23/3326337 allowed 26/03/2024.**

2018/3103/P - Variation to conditions 3 (approved plans) and 11 (cycle parking spaces) of planning permission 2016/2822/P dated 17/04/2018 for the 'Extensions to the property at basement, ground and roof levels including the provision of rear terraces to facilitate sub-division from 4x into 7x self-contained residential units (C3)'; namely, to reduce the scale of the proposed basement, omit approved front lightwells and reduce size of one unit from a 3bed into a 1bed unit (resulting mix 2x3 bed 2x2bed and 3x1 bed). **Granted 29/11/2018.**

2016/2822/P - Extensions to the property at basement, ground and roof levels including the provision of no.2 front lightwells, rear sunken garden and rear terraces to facilitate sub-division from 4x into 7x self-contained residential units (C3). **Granted 17/04/2018.**

2013/5966/P - Erection of single storey rear extension at ground floor level, two dormer roof extensions and inset terrace at roof level and new entrance door on side elevation at ground floor level to create 2 x self-contained flats to ground floor and roof space (Class C3). **Granted 03/12/2013.**

2012/6195/P - Erection of single storey rear extension, roof extension, and new entrance door on side elevation at ground floor level to create additional 2 x self-contained flats (Class C3) – **Refused 03/05/2012. Appeal APP/X5210/A/13/2194775 dismissed 11/09/2013.**

Relevant Policies

National Planning Policy Framework (NPPF) 2023

London Plan 2021

Camden local Plan 2017

D1 Design

D2 Heritage

A1 Managing the impact of development

A3 Biodiversity

CC3 Water and flooding

Camden Planning Guidance

CPG Amenity (2021)

CPG Design (2021)

CPG Home Improvements (2021)

South Hampstead Conservation Area Character Appraisal and Management Strategy (2011)

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 but 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. The proposal

- 1.1. Retrospective planning permission is sought for the installation of a pergola structure within the rear garden. The pergola is situated in the northwestern corner of the site and is 3m wide, 4m deep, and 2.3m high, and sits on a 0.18m high platform. The structure is grey aluminium with mesh blinds that can be dropped down on all side and an opening slate roof. The pergola base is porcelain tile laid on a concrete platform.

2. Assessment

- 2.1. The principal considerations material to the determination of this application are as follows:
 - Design and Heritage
 - The impacts caused upon the residential amenities of any neighbouring occupier (Residential Amenity)
 - Flooding/ drainage

3. Design and Heritage

Summary of relevant policy and planning guidance

- 3.1. The Council's design policies are aimed at achieving the highest standard of design in all developments. Policy D1 outlines that development should respect local context and character; comprise details and materials that are of high quality and complement the local character; and respond to natural features.
- 3.2. Policy D2 states that in order to maintain the character of Camden's conservation areas, the Council will not permit development that fails to preserve or enhance the character and appearance of that conservation area.
- 3.3. The Design CPG outlines that rear gardens make an important contribution to the townscape of the Borough and contribute to the distinctive character and appearance of individual buildings and their surroundings. It recognises that 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. Paragraph 4.40 states that planning permission is unlikely to be granted for development whether in the form of extensions, conservatories, garden studios, basements or new development which significantly erode the character of existing garden spaces. Furthermore, in accordance with Policy A3, the Council will resist development that occupies an excessive part of a garden, and the loss of garden space which contributes to the character of the townscape.
- 3.4. The Home Improvements CPG provides further guidance on development in rear gardens, stating that the size and design of garden buildings must consider their impact on the character of the wider area, so they do not detract from the generally 'soft' and green nature of gardens and other open spaces. Garden buildings should (among other things):
 - Ensure the siting, location, scale and design has a minimal visual impact on, and is visually subordinate within, the host garden;
 - The works should preserve or enhance the existing qualities and context of the site, and character of the Conservation Area;
 - Ensure the height will retain visibility over garden walls and fences;

- Ensure the size will maximise retention of garden and amenity space;
- Use materials which complement the host property and the overall character of the surrounding garden area.

- 3.5. Paragraph 7.13 of the South Hampstead Conservation Area Character Appraisal and Management Strategy (2011) (CAA) identifies that rear extensions and loss of rear garden space to hard landscaping is a key issue within the conservation area. It notes that the long, undeveloped rear gardens and private open spaces are central to the character and appearance of South Hampstead Conservation Area, and their preservation is of paramount importance. When assessing planning applications, care should be taken to ensure that the attractive garden setting of the host building, neighbouring gardens and any private open spaces is not compromised by overly large extensions and areas of hard landscaping.
- 3.6. Paragraph 13.42 of the CAA goes further to state that development which results in the loss of private open spaces is unlikely to be acceptable due to the positive contribution of these spaces to the character and appearance of the conservation area. Any development of rear garden spaces should not detract from the general feeling of openness and should ensure that most of the existing garden space is retained.

Assessment

- 3.7. The properties along Greencroft Gardens and Canfield Gardens to the rear are arranged in a perimeter block with large, open gardens to the rear. The majority of these gardens contain a number of mature trees which contribute to the green character of the area. The same perimeter block pattern with large, open and green rear gardens can be seen repeated on the adjoining streets and is a key characteristic of the South Hampstead Conservation Area.
- 3.8. Along Greencroft Gardens, almost all of the properties have been extended to the rear in some form, however in general, they still retain large garden spaces to the rear.
- 3.9. The application property has been significantly extended to the rear as demonstrated by the planning history above. Over time, with these incremental rear additions, the garden space has been significantly reduced. The depth of the original rear garden prior to the extensions was approximately 21m, which has since been reduced to approximately 10.6m. As such, almost half of the original rear garden space has already been lost to rear extension; though it is recognised that this was approved under previous planning permissions. Looking at recent aerial imagery of the properties on Greencroft Gardens, it is evident that the application property has already been extended significantly further to the rear than any other property within this perimeter block.
- 3.10. The pergola structure, for which retrospective planning permission is sought under the current application, is situated in the northwestern corner of the site and is 3m wide and 4m deep, further occupying the remaining rear garden space.
- 3.11. Whilst it is acknowledged that the significant loss of garden space has already been approved under a series of previous planning permissions, the additional loss of already limited rear garden space cannot be supported in this instance. This additional reduction of garden space caused by the erection of the pergola further erodes the large, open and green character of the garden, which makes an important contribution to the character and appearance of the host property, surrounding properties and wider conservation area.
- 3.12. In addition to this, the pergola has been constructed with an aluminium frame, grey mesh blinds that can be dropped down on all sides, and an opening slate roof. These are not typical materials which would be expected in the garden setting, as they have an industrial-style appearance. The aluminium frame and grey colour of the blinds, which are typically lowered when the pergola is not in use, detract from the generally 'soft' and green nature of

the gardens within this area. Notwithstanding the comments above regarding the loss of garden space, had the pergola been deemed acceptable in this respect, a traditional timber pergola structure would be more appropriate as it would have a finishing material that would appear in keeping with the garden setting and character of the conservation area.

- 3.13. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) directs that in the exercise of various functions under the Planning Acts in relation to land in conservation areas (including determination of planning applications) the Council is required to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area.
- 3.14. In light of the assessment above, it is concluded that the proposal would fail to preserve the character and appearance of the host property and wider conservation area due to the additional loss of garden space. Officers consider that the proposal results in a minor level of less than substantial harm to the South Hampstead Conservation Area.
- 3.15. Paragraph 208 of the NPPF states that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*
- 3.16. The Applicant has not provided any evidence of public benefits of the proposal which would outweigh this harm.
- 3.17. As such, this failure to preserve the character and appearance of the host property and wider conservation area, due to inappropriate and out of keeping materiality and over development of the rear garden resulting in a loss of open space, is a reason for refusal (RFR 1).

4. Amenity

- 4.1. Policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of residents. This includes factors such as privacy, outlook, implications to natural light, and noise and disturbance.
- 4.2. The pergola is located at the end of the garden approximately 0.7m from the shared boundaries with 82 Greencroft Gardens to the west and 81 Canfield Gardens to the north. The total height of the structure, including the platform, is 2.48m. Given its location at the bottom of the garden, its setback from the site boundaries and its modest height and scale, the pergola would not appear overbearing or cause a harmful loss of light or outlook for adjoining properties. The pergola would not provide any views into adjoining properties additional to those already available from the rear garden, thus it would not result in harmful privacy impacts to neighbouring properties.
- 4.3. It is noted that several objectors observed that the pergola has electric cabling, and they were concerned that it would be used for other activities. Had the proposal been otherwise acceptable, a condition would have been imposed limiting the use of the pergola as ancillary to the main dwelling.
- 4.4. Overall, the pergola would not result in significant harmful impacts to neighbouring amenity.

5. Flooding/drainage

- 5.1. Policy CC3 seeks to ensure that development does not increase flood risk and reduces risk of flood where possible. Proposals are required to consider the impact of development in areas at risk of flooding (including drainage). As noted above, the application site is located within a Local Flood Risk Zone.

- 5.2. The pergola sits on a 4.5m wide, 3.9m deep raised platform which has a concrete based with a porcelain tile finish. Given the location of the site within a flood risk zone, impermeable surfaces should be minimised to manage impacts on surface water flows. The proposal results in an increase in impermeable surfaces at the site and the applicant has not provided evidence to demonstrate that this would not result in an unacceptable increase in flooding and drainage issues at the site or on adjoining sites.
- 5.3. In the absence of this information, Officers cannot be satisfied that the proposal would not increase flood risk at the site or on adjoining site within an identified Local Flood Risk Zone in accordance with policy CC3 and as such this is an additional reason for refusal (RFR 2).

6. Summary and conclusion

- 6.1. The pergola structure results in the additional loss of already limited rear garden space and cannot be supported in this instance. This loss of garden space further erodes the large, open and green character of the garden, which makes an important contribution to the character and appearance of the host property, surrounding properties and wider conservation area.
- 6.2. In addition to this, the materiality of the structure, is out of keeping with the garden setting and detracts from the generally 'soft' and green nature of the gardens within this area.
- 6.3. As such, the proposal would fail to preserve the character and appearance of the host property and wider conservation area due to the additional loss of garden space. Officers consider that the proposal results in a minor level of less than substantial harm to the South Hampstead Conservation Area and this harm is not outweighed by any public benefits.
- 6.4. Additionally, the Applicant has failed to demonstrate that that proposal would not increase flood risk at the site or on adjoining site within an identified Local Flood Risk Zone.
- 6.5. Therefore, it is recommended that planning permission is refused, and enforcement action is taken to require the removal of the pergola structure.

7. Recommendation: Refuse and Enforce

- 7.1. **Recommendation 1:** Refuse planning permission for the following reasons:
- 7.2. **Recommendation 2:** That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning act 1990 as amended **seeking removal of the unauthorised pergola structure within the rear garden**, 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.

The notice shall allege the following breaches of planning control:

The installation of a pergola within the rear garden.

WHAT ARE YOU REQUIRED TO DO:

Totally remove the pergola structure.

PERIOD OF COMPLIANCE: One Month.

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

1. The proposed development, by virtue of the loss of rear garden space, results in the over development of the rear garden and a loss openness to the rear of the dwelling, and in

combination with inappropriate and out of keeping materiality for its garden setting, causes harm to the character and appearance of the host property, adjoining properties and the South Hampstead Conservation Area, contrary to policy D1 (Design), D2 (Heritage), and A3 (Biodiversity) of the Camden Local Plan 2017.

2. In the absence of a Flood Risk and Drainage Assessment, required due to the increase of impermeable surfacing within a Local Flood Risk Zone, the Applicant has failed to demonstrate that the proposal would not increase flood risk at the site or on adjoining site within an identified Local Flood Risk Zone, contrary to policy CC3 (Water and Flooding) of the Camden Local Plan 2017.