

Delegated Report		Analysis sheet		Expiry Date:	25/12/2024	
		N/A		Consultation Expiry Date:	09/12/2024	
Officer			Application Number(s)			
Adam Greenhalgh			2024/2960/P			
Application Address			Drawing Numbers			
12 Sarre Road London NW2 3SL			See decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature			
Proposal(s)						
Erection of a detached 2 storey 2 bed dwellinghouse						
Recommendation(s):		Refuse Planning Permission				
Application Type:		Full Planning Permission				
Conditions or Reasons for Refusal:		Refer to Decision Notice				
Informatives:						
Consultations						
Adjoining Occupiers:		Responses	01	Objections	0	Supports 1
Summary of consultation responses:		<p>Site notices were displayed within the vicinity of the site on Sarre Road and Gondar Gardens from 15/11/2024 to 09/12/2024</p> <p>One letter of support received: - <i>'I am generally in favour of the proposals - it will improve the frontage to Gondar Gardens and improve the security for the gardens of 10,12 and 14 Sarre Road'</i></p>				
Local Amenity and Conservation Groups		No responses received				

Site Description

12 Sarre Road is a two storey semi-detached building (in use as two flats). The site encompasses half of the rear garden (the northern half, adjacent to no. 14). It is approximately 5.5m wide and 23m in length. It adjoins Gondar Gardens to the rear with two off-street car parking spaces and a crossover on the highway (Gondar Gardens).

There are two storey modern infill houses at the rear of the houses at the southern end of Sarre Road, on Gondar Gardens, while the houses to the north have garages at the rear of their sites, onto Gondar Gardens.

There is a TPO (Tree Preservation Order) Ash tree on the site. The tree was cut down to ground level without consent shortly before previous applications for the erection of a house on the site were submitted (see 'Recent Planning History' below). The applicant was successfully prosecuted in May 2021.

The site does not comprise a Listed Building and it is not in a Conservation Area. The site, and Gondar Gardens, slopes up from south to north.

Recent Planning History

12 Sarre Road:

2020/2688/P – Erection of a two storey dwellinghouse - refused 20/04/2021

2020/2689/P - Erection of a three storey dwellinghouse with front terrace – refused 20/04/2021

(Note: - The siting of both dwellings under 2020/2688/P and 2020/2689/P included land where the TPO Ash tree had been located and where the TRN requires a replacement tree. The refusal reasons included reference to the proposed development occupying the site of a previously protected Ash tree, perpetuating the loss of a significant tree of amenity value and preventing adequate replanting.

Reason for refusal 1 (2020/2688/P and 2020/2689/): *The proposed development, due to its siting, would occupy the site of a previously protected TPO Ash tree (which has been removed without consent from the site). The proposal therefore perpetuates the loss of a significant tree of amenity value, and would prevent adequate replanting, contrary to policy A3 of the Camden Local Plan and policy 18 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.*

2021/4468/P - Erection of two storey two bedroom dwelling with rear garden – withdrawn

2024/3478/P - Erection of a two-storey dwelling house fronting Gondar Gardens to the rear of 12 Sarre Road. Provision of external amenity space, cycle storage and refuse facilities – granted subject to a legal agreement 18/12/2024 (**Note: This house is proposed on the southern side of the rear garden, adjacent to the house at 5 Gondar Gardens to the south).**

EN20/0632 – Removal of TPO tree – created 12/08/2020 and subject to ongoing action. Following the successful prosecution (ref: 2100201079) for the removal of the TPO Ash tree in May 2021 a tree replacement notice was issued on the 12 May 2022. The requirements of the notice are: 'You are required to plant 1x Ulmus Lutece, measuring 14-16cm in circumference at 1m above the root flare at the location shown encircled on the T1' The appeal was dismissed on 6 December 2023, and the TRN was upheld requiring compliance by the 06 June 2024. The TRN has not been complied with.

Relevant policies

The National Planning Policy Framework 2024

London Plan 2021

Camden Local Plan 2017

Policy G1 Delivery and location of growth
Policy H1 Maximising housing supply
Policy H4 Maximising the supply of affordable housing
Policy H6 Housing choice and mix
Policy H7 Large and small homes
Policy C6 Access for all
Policy A1 Managing the impact of development
Policy A3 Biodiversity
Policy A4 Noise and vibration
Policy D1 Design
Policy CC1 Climate change mitigation
Policy CC2 Adapting to climate change
Policy CC3 Water and Flooding
Policy CC4 Air quality
Policy CC5 Waste
Policy T1 Prioritising walking, cycling and public transport
Policy T2 Parking and car free development
Policy T3 Transport infrastructure
Policy T4 Sustainable movement of goods and materials
Policy DM1 Delivery and monitoring

Camden Planning Guidance (CPG)

CPG Access for all (2019)
CPG Amenity (2021)
CPG Biodiversity (2018)
CPG Design (2021)
CPG Developer contributions (2019)
CPG Energy efficiency and adaptation (2021)
CPG Housing (2021)
CPG Transport (2021)
CPG Trees (2019)
CPG Water and flooding (2019)

Fortune Green and West Hampstead Neighbourhood Plan 2015

Policy 1 Housing
Policy 2 Design & Character
Policy 7 Sustainable Transport
Policy 8 Cycling
Policy 13 West Hampstead Town Centre
Policy 17 Green/Open Space
Policy 18 Trees

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

Assessment

1. The proposal

- 1.1. Planning permission is sought for the erection of an L-shaped 70 sq m, two storey, two bedroom detached house. Fronting onto Gondar Gardens (and abutting the highway) the 'full width' house would be 6.5m in depth with a 2 – 4m part single storey/part two storey rear wing next to 5 Gondar Gardens. It would have a moderately pitched roof (i.e. pitched side roof slopes) with a front gable. It would be 6.8m in height (to ridge level). A 21 sq m rear garden would be formed for the new house and a 36 sq m rear garden retained for 12 Sarre Road.
- 1.2. The new dwelling will be sited in the location of the TPO Ash tree, which was felled to the ground in 2020. It is proposed to plant 1 x Ulmus Lutece measuring 14-16 cms in circumference behind the new dwelling, approx. 1m from the location of the TPO tree. This would be 650mm from the proposed new house. The crown is shown as touching the house.
- 1.3. The house would be of a contemporary appearance with a front gable and windows of varying sizes and proportions. The walls would be of grey charcoal brick. The rear elevation would feature sizeable windows; they would be part obscurely glazed on the first floor. The new house would have 1 double and 1 single bedroom. On the ground floor it would have an open plan kitchen/living room. The recessed entrance would incorporate space for bins.
- 1.4. No on-site car parking would be provided.

2. Assessment

- 2.1. The principal considerations material to the determination of this application are as follows:
 - Principle of development
 - Design
 - Affordable housing
 - Amenity of neighbouring residential occupiers
 - Quality of accommodation
 - Trees and Biodiversity
 - Transport/highway issues
 - Sustainability
 - Flooding/Drainage

Principle of development

- 2.2. The site lies in a built-up area residential area and there are no policies in the LB Camden Local Plan which preclude the erection of new dwellings within residential gardens. Policy 17 of the Fortune Green and West Hampstead Neighbourhood Plan seeks to protect green space. However, given that there have been several houses granted planning permission and erected at the rear of neighbouring sites in Sarre Road/Gondar Gardens, there would ordinarily be no objection in principle to the erection of a house at the rear of the application site.
- 2.3. However, in this case, a tree the subject of a Tree Preservation Order has been removed (without consent) and while a replacement tree is shown on the proposed ground floor plan it

would not be of sufficient value as the former TPO tree in terms of appearance, amenity and biodiversity value and the proposal is therefore unacceptable under Policy A3 of the Camden Local Plan. Further comments on the objection on grounds of the loss of the TPO tree are in Section 2.7 of this report.

3. Design and Heritage

3.1. Local Plan Policies D1 (Design) is aimed at achieving the highest standard of design in all developments. Policy D1 requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area.

3.2. The Camden Planning Guidance (CPG) on Design calls for Design Excellence and advises how new development should consider the context of the development and its surrounding area, the design of the building itself and opportunities for improving the character and quality of the area.

3.3. Policy D2 (Design) of the Fortune Green and West Hampstead Neighbourhood Plan 2015 requires (amongst others): 'All development shall be of a high quality of design, which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead. This shall be achieved by:

- i. Development which positively interfaces with the street and streetscape in which it is located.
- ii. Development which maintains the positive contributions to character of existing buildings and structures.
- iii. Development which is human in scale, in order to maintain and create a positive relationship between buildings and street level activity.
- iv. Development which has regard to the form, function, structure and heritage of its context - including the scale, mass, orientation, pattern and grain of surrounding buildings, streets and spaces.
- v. v. A presumption in favour of a colour palate which reflects, or is in harmony with, the materials of its context.
- vi. New buildings and extensions that respect and are sensitive to the height of existing buildings in their vicinity and setting

3.4. Purely in architectural terms, the proposed house itself would be of an appropriate size, scale, siting and appearance. The form and architectural design would be in keeping with the character and context of the built environment and therefore the house by itself would accord with the Local Plan and Neighbourhood Plan policies for design and character.

3.5. The unauthorised removal of the former TPO Ash tree and its proposed replacement impacts upon the urban design characteristics of the site and the surrounding area. Further consideration of the effects of the loss of the TPO tree and its proposed replacement are considered under 'Trees' below.

4. Affordable Housing

4.1. Policy H4 requires a proportion of new housing provided to be affordable in accordance with a sliding scale. The threshold for the provision of affordable housing is one new dwelling with a gross internal area (GIA) of 100 sq m or more. The proposed dwelling would have a GIA of 70 sq m and it would therefore not exceed the threshold for contribution to the provision of

affordable housing in the borough

5. Amenity of neighbouring residential occupiers

- 5.1. Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. It seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. This includes privacy, overlooking, outlook and implications on daylight and sunlight. CPG - Amenity provides specific guidance with regards to privacy, overlooking and outlook.
- 5.2. There are currently no windows to habitable rooms in the side elevations at the adjoining sites and the new two storey house which has been granted, subject to a legal agreement, on the other half of the rear garden (see 'Planning History' above) has no windows proposed in its facing (side) elevation and its siting and design would be such that there would be no loss of light, privacy or outlook for the future occupiers.
- 5.3. The new house would be a similar distance away from the Sarre Road properties as the existing houses which have been built on adjoining plots. It would be 11m from the rear elevation of 12 Sarre Road and 3m from the garden. The 6.8m high house would not result in undue overshadowing of any rooms or the garden of 12 Sarre Road. The Daylight, Sunlight and Overshadowing Assessment which has been submitted indicates that the daylight (Vertical Sky Component), sunlight (Annual and Winter Probable Sunlight Hours) and garden conditions would meet the requirements of BRE guidelines and would therefore be acceptable. The proposal has been considered (by Officers) in relation to the house that has been granted subject to a legal agreement on the other half of the garden at the rear of 12 Sarre Road (see 'Planning History' above). It is not considered to project significantly beyond this house in depth or height and it would not be unduly overshadowing or overbearing upon the rear windows or the limited external amenity space at the rear of this proposed house.
- 5.4. The first floor windows in the rear elevation of the proposed house are shown as being obscure glazed up to and above eye level so no undue overlooking of adjoining rooms or gardens should result. The scale of development would not result in excessive activity or noise at the site or in the surrounding area.
- 5.5. In summary, the proposal would not result in any undue loss of visual or residential amenity for the occupiers of any neighbouring properties contrary to policy A1 of the Camden Local Plan.

6. Quality of accommodation

- 6.1. The proposal exceeds the minimum size requirement in the nationally described space standards for a 2 bedroom 3 person house on two storeys (i.e. 70 sq m.). The bedrooms would exceed the size requirements (i.e. 11.5 sq m for a double bedroom and 7.5 sq m for a single) and all the habitable rooms are considered to be of sufficient size with adequate natural daylight. The proposed garden space would be sufficient. 2.6.2 An adequate provision of garden space would remain for the existing property (12 Sarre Road).

7. Trees and Biodiversity

- 7.1. Policy A5 (Biodiversity) of the Local Plan states that the Council will: 'resist the loss of trees and vegetation of significant amenity, historic, cultural or ecological value including proposals which may threaten the continued wellbeing of such trees and vegetation' and 'expect replacement trees or vegetation to be provided where the loss of significant trees or vegetation or harm to the wellbeing of these trees and vegetation has been justified in the context of the proposed

development’.

7.2. Neighbourhood Plan policy 18 – Trees states that ‘Development shall protect trees in good health that contribute to the character of the Area, individual streetscapes, and green spaces’. This shall be achieved by development that protects existing trees and provides for their maintenance, makes provision for the planting of equivalent numbers of new trees where trees are cut down, makes provision for the appropriate planting of additional trees, relative to the size of the development.

7.3. As indicated in ‘Planning History’ above, planning applications 2020/2688/P and 2020/2689/P were refused due to the proposals occupying the site of the TPO Ash tree, the TPO Ash tree having been substantially felled and a replacement tree of a commensurate size, siting and species not proposed:-

‘The proposed development would occupy the site of a previously protected TPO Ash tree (which has been removed without consent from the site). The proposal therefore perpetuates the loss of a significant tree of amenity value, and would prevent adequate replanting, contrary to policy A3 of the Camden Local Plan and policy 18 of the Fortune Green and West Hampstead Neighbourhood Plan 2015’.

7.4. An appeal against the Tree Replacement Notice served following the failure of the owner to re-plant the tree was dismissed. In the Inspector’s decision it was stated that:

‘The former ash tree was located towards the end of the back garden close to the garage at the rear of 14 Sarre Road. The evidence before me indicates that the ash tree had been pollarded on several occasions. It would nonetheless have been visible over the back garden fence from various positions along Gondar Gardens. The dwellings along Sarre Road are closely spaced with only a narrow gap between nos. 12 and 14; the tree may have been glimpsed through this gap, but its public amenity value would have been primarily from Gondar Gardens to the rear of the site.

However, under S.206 of the Town and Country Planning Act (1990), a landowner is placed under a duty to replace a protected tree that has been felled in contravention of a TPO, and where it appears to the Council that this duty has not been complied with, S.207 of the Act enables it to seek a replacement tree to be planted.

I consider that the TRN is required in the interest of the amenity of the area and that no sufficient reason has been advanced as to why the replacement tree should be located other than as proposed. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed, and the TRN upheld, save for the date on which it takes effect.’

7.5. The application includes a Tree Survey by Central London Tree Surveys which was undertaken in July 2024. The Tree Survey states that ‘The survey site comprises the rear garden/parking area of the house, which contains no trees. Trees within this report are located within adjacent properties and on the street.’ This report fails to consider the history of the site.

7.6. An Ash tree the subject to a Tree Preservation Order (ref: H29) was substantially felled in August 2020. There was an enforcement case (EN20/0632) in relation to the unauthorised removal of this TPO tree. This resulted in a successful prosecution and a tree replacement notice (TRN) being served on the land, which was appealed and dismissed. The TRN was due for compliance on 06 June 2024.

7.7. This remains a material consideration in this application. The TPO tree was substantially felled prior to the submission of the 2020 applications for a new house on the site (see ‘Planning

History' above) and the fact that a replacement tree has not yet been provided, and is not proposed in the current application, renders the proposal contrary to Policy A3 (Biodiversity) of the Camden Local Plan which states the Council's aim to resist the loss of trees of significant amenity, historic, cultural or ecological value.

- 7.8. The proposed replacement tree, in the current application, is located behind the house. So it will not be visible from the public realm nor would it be afforded the space required to achieve its potential in terms of ultimate height and spread. As such, the proposed replacement tree would fail to mitigate the loss of the Ash tree in terms of public amenity and contribution to the streetscene on Gondar Gardens (which was cited in the Inspector's decision in the appeal against the Tree Replacement Notice).
- 7.9. As such the proposal, which would occupy the site the previously protected Ash tree and would not allow for an adequate replacement tree, would result in the loss of amenity and biodiversity contrary to policy A3 of the Camden Local Plan.
- 7.10. While the applicant has indicated that the proposal would not be liable for Biodiversity Net Gain (primarily due to the size and nature of the site) no information has been submitted with regard to the biodiversity credentials of the removed TPO tree (to know if BNG would be required). Should planning permission be granted then further information would be needed on the tree which has been removed (to establish whether Biodiversity Net Gain may be needed) and a Biodiversity Net Gain condition may be applicable.

8. Transport/highway issues

- 8.1. The provision of the 2 space cycle store in the rear garden should be secured by condition, in line with London Plan standards and Policy T1 of the Camden Local Plan.
- 8.2. Policy T2 of the Camden Local Plan states that the Council will limit the availability of parking and require all new developments in the borough to be car-free. The council will not issue on-street parking permits in connection with new development and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits.
- 8.3. A CMP and associated Implementation Support Contribution of £4,194 and Impact Bond of £8,000 should be secured by means of the S106, in line with policies T3 and A1.
- 8.4. A S106 highways contribution of £7,000 is required for repaving the adjacent footway and crossover on Gondar Gardens, which may become damaged as a result of the proposed construction works.
- 8.5. In the absence of a legal agreement to prevent future occupiers from obtaining car parking permits, to secure a CMP, CMP contribution and Impact Bond and to secure the replacement of the existing crossover with an on-street car parking bay and undertake associated highway works the proposal is contrary to policies T1, T2 and T3 of the LB Camden Local Plan.

9. Sustainability

- 9.1. Policy CC1 of the Camden Local Plan requires all development to minimise the effects of climate change and to meet the highest environmental standards during construction and operation. The policy states the Council's aim for all development to promote zero carbon development and to reduce carbon
- 9.2. The application includes an Energy Statement which indicates that development would incorporate energy efficiency measures to reduce carbon emissions above the Building Regulations targets by 21.28 %. For a new house the requirement in the Council's Energy & Efficiency Planning Guidance is for carbon emission reductions 19% below Part L of 2013

Building Regulations.

9.3. Should planning permission be granted a planning obligation would be sought to ensure that the development met the Council's carbon emission reduction target.

10. Flooding / Drainage

10.1. The site is located in the 'Low Risk' Zone on the Environment Agency Flood Risk Map and due to its size, a Flood Risk Assessment is not required. Policy CC3 of the Camden Local Plan requires development to incorporate water efficiency measures and sustainable urban drainage (SUDS). The Energy Statement confirms that water efficient fittings will be used. Water efficiency measures and sustainable urban drainage measures can be secured by planning conditions if planning permission should be granted

11. Recommendation

11.1 Refuse planning permission for the below reason:

1. The proposed development fails to include a replacement tree of a sufficient species, size and siting to replace the formerly protected TPO Ash tree (which has been removed without consent from the site). The proposal therefore fails to compensate for the loss of a significant tree of amenity value to the area contrary to policy A3 of the Camden Local Plan and policy 18 of the Fortune Green and West Hampstead Neighbourhood Plan 2015. It is also contrary to the London Plan 2021 and NPPF 2024.
2. The proposed development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and fail to encourage the use of sustainable modes of transport, contrary to policies T1 (Prioritising walking, cycling and public transport) and T2 (parking and car-free development) of the London Borough of Camden Local Plan 2017. It is also contrary to the London Plan 2021 and NPPF 2024.
3. The proposed development, in the absence of a legal agreement to secure a Construction Management Plan and associated Implementation Support Contribution and Impact Bond financial contribution would fail to mitigate against the highway safety/efficiency and amenity impacts of the works on the adjacent public highway and in the surrounding area contrary to policies A1 (Managing the impact of development), T3 (Transport Infrastructure) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017. It is also contrary to the London Plan 2021 and NPPF 2024.
4. The proposed development, in the absence of a legal agreement to secure a financial contribution towards the requisite highway works, would fail to mitigate the impact of the construction works on the adjacent public highway, contrary to policies A1 (Managing the impact of development), T3 (Transport Infrastructure) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017. It is also contrary to the London Plan 2021 and NPPF 2024.

