

Appeal Statement

Site: Flat 2, 80 Greencroft Gardens, London, NW6 3JQ

Alleged breach of planning control:

“Installation of a pergola within the rear garden”

Reasons for issuing 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.

Requirements of the Notice.

Remove the pergola structure.

Period of Compliance

1 Month after the notice takes effect.

The appeal is made under grounds (a) & (g)

1.0 Appeal Site and Location

1.1 The appeal site is a two-level maisonette, which occupies part of the ground floor and the entirety of lower ground floors 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.

1.2 The appeal property is located within the South Hampstead Conservation Area.

2.0 Relevant History

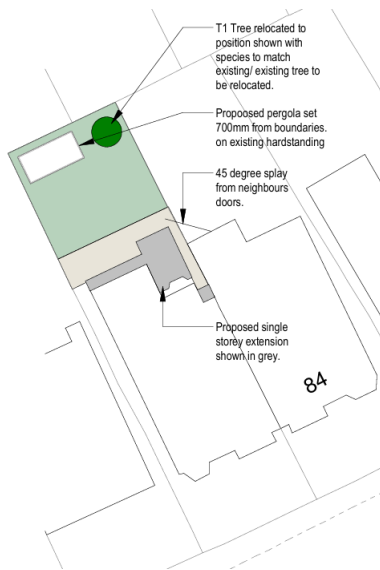
2.1 An appeal against an Enforcement Notice was allowed 11 April 2024 (Appeal ref: 3326337) – planning permission was granted under a ground (a) appeal. The alleged breach of planning control was: *"The installation of roller shutters and single-pane bi-folding doors to rear elevation of the lower maisonette, and installation of glass balustrades around the lower floor rear sunken garden."* The appeal decision has been submitted as appendix 1.

2.2 Planning permission was refused 5 November 2024 (planning ref: 2022/4478/P), for: *"Installation of pergola to rear garden (retrospective)."*

2.3 Planning permission was granted 28 July 2023 (planning ref: 2023/0017/P) at Flat 1, No.86 Greencroft Gardens, for: *"Erection of single-storey rear extension and pergola in rear garden."* The approved block plan and elevations of the approved pergola have been submitted as appendices 2 & 3.

2.4 Images of the approved block plan and elevations are shown below.





2.5 The planning report justifying approval for the proposed pergola at No.86 stated: “It is considered that the pergola is a lightweight in construction, modern in appearance, features a relatively low height of 2.48m, and will therefore not have an effect on the character of the host property or wider conservation area. Further, the structure will have permeable walls with mesh drop down panels, which will result in the structure being used solely in warmer months of the year.”

3.0 Planning Policy Context

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) provides: *‘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.’*

4.0 Ground (a) appeal – planning permission is sought for what is alleged in the Notice

4.1 The appeal site is located within a Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the CA.

4.2 Camden Local Plan (adopted 2017) Policy D1 seeks to secure high quality design in all development and ensure development responds to local context. It also explains that the Council will resist development that would cause harm to the appearance of the area.

4.3 Policy D2 seeks to preserve and enhance heritage assets and their settings, including conservation areas.

4.4 Planning permission is sought for the retention of a pergola structure within the rear garden. The pergola is situated in the northwestern corner of the rear garden and is 3m wide, 4m deep, and 2.3m high. The structure is grey aluminium and an opening slate roof.

4.5 The pergola sits on a 0.18 metre platform, but this is not part of the alleged breach of planning control.

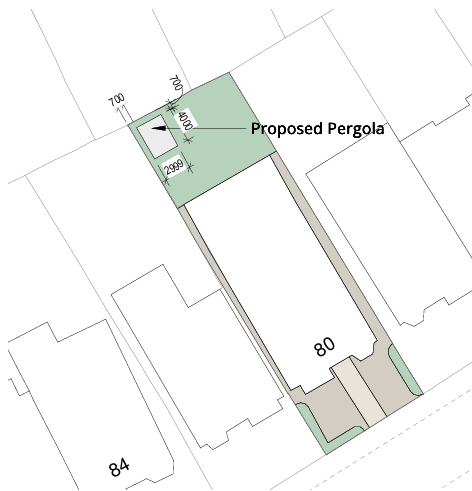
4.6 Views of ground floor rear elevations, including that of the appeal building, in this part of the CA are restricted by thick boundary planting between large gardens. Notwithstanding the restricted views, there are examples of modern finishes, including windows and extensions, to ground floor rear elevations at other buildings within the CA. There are also glass balustrades within the CA, and more importantly there is a similar designed larger pergola structure at No.86 (granted planning permission in 2023).

4.7 The appeal site building at the rear includes roller shutters, single-pane bi-folding and glass balustrades around the lower floor rear sunken garden (these were granted planning permission on appeal). The significance of the CA does not therefore rely on a complete absence of modern building features.

4.8 Like the approved pergola structure at No.86 (refer to relevant planning history section), the existing pergola structure is lightweight in construction, modern in appearance and features a relatively low height of 2.3m. Therefore, it is the appellants case that the existing pergola structure preserves the character and appearance of this part of the CA.

4.9 The Appellant is seriously concerned about the inconsistent approach the Council have taken when deciding the existing pergola structure was unacceptable on its planning merits. The Council were aware of the planning permission at No.86 for a pergola structure of similar design to the pergola subject of this appeal (refer to relevant planning history section). In that case the Council's planning report stated: "It is considered that the pergola is a lightweight in construction, modern in appearance, features a relatively low height of 2.48m, and will therefore not have an effect on the character of the host property or wider conservation area. Further, the structure will have permeable walls with mesh drop down panels, which will result in the structure being used solely in warmer months of the year." This approved pergola has a depth of 3 metres and width of 6 metres, which is significantly larger than the pergola subject of this appeal which measures 3m wide, 4m deep and 2.3m high.

4.10 The Notice alleges the existing pergola is an overdevelopment of the site. However, the block plan shown below outlines the siting of the existing pergola and demonstrates the pergola only covers a small portion of the rear garden, ensuring it preserves the character and appearance of the CA.



4.11 The Notice refers to; *“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.”*

4.12 The pergola does not increase surface water run off to any greater degree than the hard surfacing (not subject of the Notice) the pergola sits upon. In any case, the pergola only covers an area of 12sqm, which is highly unlikely to result in any increase in flood risk.

4.13 The Inspector is therefore respectfully asked to allow the ground (a) appeal.

5.0 Ground (g) appeal.

5.1 The period of compliance stated in the Notice is 1 month.

5.2 It is the appellants case the period of compliance is too short because it takes time for the work to be tendered for and builders to be available (in times when builders are in short supply).

5.3 The appellant therefore requests 2 months to comply with the Enforcement Notice.