



Date: 11th April 2025
Your Ref: APP/X5210/C/25/3359337
Our Refs: EN22/0701
Contact: Angela Ryan
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Dear Ms Rogers,

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

Appeal against the enforcement notice dated 12th December 2024 (Ref: EN22/0701) for the installation of a pergola in the rear garden (retrospective).

APPEAL BY: Mrs Sarah Abergel on grounds a) and g).

I write in connection to the above appeal.

The Council's case is set out in detail in the Officer's Delegated Report (sent with the questionnaire), and it will be relied on as the principal Statement of Case. In addition to the information sent with the questionnaire, I would be pleased if the Inspector could also consider the following information and comments before deciding this appeal.

1.0 Details of the Enforcement Notice:

1.1 An enforcement notice was issued on 12/12/24 that would have taken effect on 24/01/2025 had the appeal not been lodged. The reasons for serving the notice **EN22/0701** are as follows:

- a) The development has occurred within the last 4 years.
- b) 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, of the Camden Local Plan 2017.

- c) 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. **(See Appendix 1)**

2.0 Site description:

- 2.1 This building comprises a three-storey detached building located on the north-side of Greencroft Gardens. The building accommodates seven flats in total and the appeal site relates to a two-level maisonette, which occupies part of the ground floor and the entirety of the lower ground floor. 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.
- 2.2 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.
- 2.3 It is understood side passages to the side elevations of the building are gated to restrict general access to the rear garden.
- 2.4 The building is not listed but lies within the South Hampstead Conservation area and is identified as making a positive contribution to the character and appearance of the area.

3.0 Planning history:

Relevant planning application:

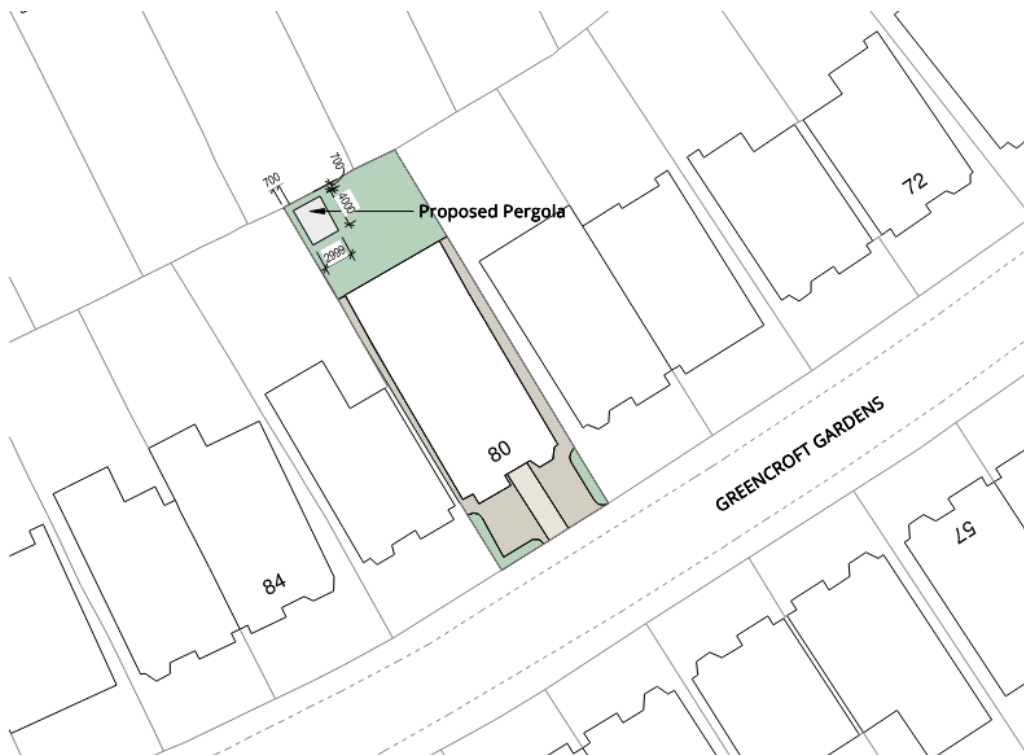
- 3.1 2022/4478/P- Planning Permission was refused on 5th November 2024 for installation of a pergola in the rear garden (retrospective). The application was refused for the same reasons as b) and c) in the EN, **(See Appendix 2)**

The image below shows the unauthorised Pergola that was refused planning permission on 05/01/25:



5 Pergola View as proposed
08.00.01

Block Plan showing location of pergola in the rear garden:



Other planning applications relating to the appeal site:

- 3.2** Various permissions have been granted and refused for alterations and extensions since 2013 as set out in the officer delegated report.
- 3.3** Of note, conversion of the property to its current use as 7 flats was granted permission on 17/4/2018 for 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) (Ref: 2016/2822/P)

Variations to the above referenced permission were granted consent on 29/11/2018 (Ref: 2018/3103/P)

4.0 Planning Policy Framework:

- 4.1** In arriving at its current position the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the circumstances of the case. The development subject to this appeal was considered in the light of the following policies: -

National policy documents: -

- 4.2** The latest National Planning Policy Framework (NPPF) is the 2024 version published in December 2023, although it was slightly amended in February 2025. The officer delegated report refers to the NPPF 2023, The 2024 version has not altered to such an extent that would have altered the Council's decision. London Plan 2021 - The Council's policies within the Officer's Delegated Report are recent and up to date. The Camden Local Plan was adopted in 2017, and the Camden Planning Guidance on Design, Home Improvements and Amenity were adopted in 2021 after extensive consultation.

4.3 Development Plan: -

1. The relevant policy contained in Camden's Local Plan 2017 is listed below:

A1- Managing the impact of development
A3- Biodiversity
D1- Design
D2- Heritage
CC3- Water and Flooding

2. The full text of each of the policies was sent with the questionnaire documents.

Draft Local Plan:

- 4.4** 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 considered 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). It is not considered that there would be alterations to policy that would be material to this case
- 4.5** **Supplementary Planning Guidance:**
CPG Amenity 2021 – chapter 6
CPG Design 2021- Chapters 1 &2
CPG Home Improvements 2012- section 5
- 4.6** **South Hampstead Conservation Area Appraisal and Management Strategy 2011**

As such, there are no new material considerations in this instance.

5.0 **Comments on the grounds of appeal:**

Summary of appellant's statement

- 5.1** The Appellant has appealed on grounds (a) and (g).
- 5.2** Ground (a)- four key points have been made by the Appellant:
- That the pergola's lightweight construction, modern appearance, and relatively low height preserves the character and appearance of the South Hampstead Conservation Area and is not harmful
 - Inconsistency in the Council's decision as a comparable pergola at No.86 Greencroft Gardens was deemed acceptable while the Appellant's smaller pergola was rejected
 - The Council's assertion that the pergola increases flood risk due to 12m² of hard surfacing which the pergola sits upon and is unlikely to exacerbate flood risk.
 - Refutes the claim that the pergola constitutes overdevelopment, as it occupies a small portion of the rear garden.
- 5.3** Ground (g)- the Appellant argues that the period specified to comply with the notice is too short due to time for the work to be tendered and the availability of builders and requests a longer duration in meeting the original deadline.

Ground A- that planning permission should be granted:

- 5.4 The ground (a) appeal cannot be addressed in this enforcement appeal given that a ground a appeal has been barred.
- 5.5 This has been confirmed by PINS via e-mail sent 10/03/25 (**See Appendix 3**)
- 5.6 As such, the Council reserves commenting on paragraphs 4.1–4.12 of the Appellant's statement.

Ground G- The time given to comply with the notice is too short:

Appellant:

- 5.7 The Appellant argues that a month compliance period 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).

Council's response:

- 5.8 The Appellant has provided no supporting evidence to substantiate their claim that the compliance period is too short due to time for the work to be tendered and the availability of builders. However, should the Inspector consider it reasonable for the one-month compliance period to be extended then the Council would not object to the compliance period being extended to two months.

6.0 Conclusion:

- 6.1 The Council maintains that the pergola installed in the rear garden is unauthorised and therefore the enforcement notice was legitimately served. As an appeal on ground (a) is barred the merits of the case has not been fully discussed and should not prejudice this appeal.
- 6.2 For the reasons give above, the Council respectfully requests that this appeal is dismissed.

If you require any further information or clarification on any matters associated with this case, then please contact Angela Ryan on the above direct dial number.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'A Ryan'.

Angela Ryan
Planning Officer
Culture and Environment Department