

Delegated Report		Analysis sheet	Expiry Date:	20/06/2017
		N/A / attached	Consultation Expiry Date:	24/05/2017
Officer			Application Number(s)	
John Diver			2017/0896/P	
Application Address			Drawing Numbers	
11 Mansion Gardens London NW3 7NG			<i>See decision notice</i>	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Alteration to landscaping of side garden to provide no.1 off street parking space and erection of timber fence to boundary of dwellinghouse (Use Class C3)				
Recommendation:		Refuse and Warning of Enforcement Action to be Taken		
Application Type:		Householder Application		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				
Consultations				
Consultation Summary:	A site notice was displayed at the property on the 03 May 2017 (consultation end date 24 May 2017)			
Adjoining Occupiers:	No. of responses	02	No. of objections	02
Summary of consultation responses:	<p>Letters of objection were received from the occupiers of nos.3 and 10 Mansion Gardens. Their comments can be summarised as follows:</p> <ul style="list-style-type: none"> - Concerned that works have been continuous at the property for 4 years; resulting in significant impact in terms of noise and disturbance. - Works have been implemented prior to determination - Loss of garden space detrimental to visual amenity of estate, siting of parking space exacerbates visual impact - Parking space results in air pollution / loss of wellbeing - Works would negatively impact upon the open/green nature of the site / Erosion to rural feel of estate - Disregard of protected trees / evidence of damage during construction - Siting of parking space is such that access and egress will be made over the driveway of no.3 - Parking space overly prominent for residents - Owner of property has no regard for due process and has implemented works without permission again - Erected fencing does not visually accord with the rest of the estate - Owner of property already benefits from no.1 parking space near entrance to the estate and therefore additional space unnecessary 			
CAAC/Local groups comments:	N/A			

Site Description

The application relates to a two storey, detached, single family dwelling house located within the private, gated residential estate of Mansion Gardens. The estate was built as a singular development in the 1980's, designed by Ted Levy, Benjamin & Partners (prominent architects in the Hampstead and Highgate area in this period) with all properties within the estate featuring a strongly cohesive architectural vernacular and being set within generous open and green plots. This architectural language is highly uniform throughout the estate with forms, materials and detailing all corresponding. Overall dwellings within the estate have previously had very minimal intervention and as such retain their original characteristics, although the application property itself has been extended a number of times (see below). The open gardens and mature vegetation is of particular importance for the character of the estate; reflecting the nature of Hampstead Heath (Metropolitan Open Land & protected Park) which is located directly opposite the host dwelling.

The application site features a long and narrow plot which abuts the entrance road through the estate to the west, West Heath Road which is situated at a considerably lower level to the east and the adjacent no.10 Mansion Gardens to the north.

The application property is not statutorily listed, nor located within a conservation area. The Hampstead Conservation area boundary wraps around to exclude the estate as well as other twentieth century developments to the South (Saint Regis Heights) and West (Grange Gardens). Notwithstanding this, due to the aforementioned retained design integrity and clear aesthetic, the estate is considered to be of noteworthy design and character. The estate is covered by an Area Tree Preservation Order (C98/15H) which protects all mature trees within the estate. The application site has a PTAL rating of 2 (low). No Article 4 Directives have been applied to the application site.

Relevant History

The relevant site history for the site is as follows:

D5/4/7/32935(R1) – Conditional planning permission was granted on the site of the former 'Grange Site, West Heath Road' for the '*The redevelopment of the site by the erection of 22 houses and one lodge, the extension of the existing lodge and the laying out of roads and landscaping of the site*' on the 02 February 1982. The original plans for this approval show no.11 (labelled as D.23) as well as the adjacent no.10 (labelled D.22) with modest, square plan forms.

8500392 – Planning permission for the '*Erection of a two storey side extension to provide a garage on the ground floor and a bedroom and bathroom on the first floor*' was granted permission at no.11 Mansion Gardens on the 29 October 1985.

PWX0002176 – Planning permission was granted for the '*The erection of a single storey rear extension incorporating a terrace on the flat roof*' at no.11 Mansion Gardens on the 28 February 2000.

2016/2614/P – Planning application to '*Convert garage to ground floor accommodation, erect conservatory to the side, hard standing area for car parking, alterations to fencing and front door*' was withdrawn on the 29 July 2016 following discussions with the Council's Planning officers. Prior to the withdrawal, the applicant was advised that the erection of a conservatory to the side of the dwelling and creation of off-street parking spaces within the garden of the dwelling was unlikely to be supported.

2016/4976/P – Planning permission was granted on the 20/12/2016 for the '*Alterations to dwellinghouse including the erection of raised decking / fencing to rear ground floor and installation of Jacuzzi; extension to 1st floor rear terrace and replacement balustrade; recladding section of rear elevation; installation of 2 rear rooflights (retrospective).*'

2016/4977/P – Planning permission was granted on the 29/11/2016 for the '*Conversion of garage into habitable room; erection of boundary fence; alterations to fenestrations at ground floor level and installation of rear dormer window to dwelling (C3) (part retrospective)*'

2016/4978/P – Permission was refused (11/11/2016) for the '*Erection of single storey conservatory to side of dwellinghouse (C3)*'. This application was submitted at the same time as those hereby assessed.

Reason for refusal:

(1) The proposed conservatory, by reason of its siting, scale and design, would result in a detrimental impact upon the character and appearance of the host dwelling and local area, as well as disrupting and degrading the established grain and architectural style of Mansion Gardens, harming the character and appearance of wider estate.

The site is also currently under investigation following a number of enforcement complaints:

EN16/0774 – Investigation into works commenced on site prior to the determination of planning application 2016/2614/P. Complaint received 28 July 2016, investigation is ongoing.

EN16/0775 – Investigation into claims that a mature tree has been removed from the front garden of the dwelling despite the presents of an Area Tree Preservation Order. Complaint received 28 July 2016.

EN17/0330 – Investigation into claims that temporary structures not removed, lost TPO trees not replanted and unauthorised AC units installed. Complaint received 28 March 2017.

Relevant policies

National Planning Policy Framework (2012)

The London Plan March 2016

Camden Local Plan (2017)

The following policies are considered to be relevant:

- Policy A1 Managing the impact of development
- Policy A2 Provision and enhancement of open space
- Policy A3 Protection, enhancement and management of biodiversity
- Policy A4 Noise and vibration
- Policy D1 Design
- Policy D2 Heritage
- Policy CC4 Air quality
- Policy T1 Prioritising walking, cycling and public transport
- Policy T2 Car-free development and limiting the availability of parking

Camden Planning Guidance

CPG1: Design (2015) Chapters:

- 2 - Design excellence;
- 6 - Landscape design and trees

CPG6: Amenity (2011) Chapters:

- 4 - Noise and vibration;
- 5 - Artificial light;
- 6 - Daylight and sunlight; &
- 7 - Overlooking, privacy and outlook

CPG7: Transport (2011) Chapters:

- 6 - On-site car parking
- 7 - Vehicle access
- 8 - Streets and public spaces

Assessment

1. Introduction

1.1. Planning permission is sought for the creation of no.1 off street parking space/hardstanding within the side garden of the host property as well as the erection of a wooden fence to this side boundary. Following the submission of the application, works have commenced onsite and at the time of writing the proposed development had been substantially completed. As such retrospective permission is now sought for the

changes outlined in submitted plans.

1.2. As outlined in the planning history of this report, the host property has been subject to extensive works over the past few years and a number of permissions have agreed to these alterations. Because several alterations have been made without prior express permission, the property is also subject to ongoing enforcement investigations. This application seeks to address a number of these outstanding issues including the replacement of lost mature trees.

2. Assessment

2.1. The principal considerations material to the determination of this application are as follows:

- The visual impact upon the character and appearance of the host property, streetscene and local area including the setting of adjacent conservation area and Metropolitan Open Land (Design and Conservation)
- The impacts caused upon the residential amenities of any neighbouring occupier (Residential Amenity)
- Transport / Highways issues

Design and Conservation

2.2. The Council's design policies are aimed at achieving the highest standard of design in all developments. Policy D1 (Design) states that in order to ensure this, development should consider and respect the local context and character, integrates well with the surrounding streets and open spaces, as well as maximising opportunities for greening for example through planting of trees and other soft landscaping. Policy D2 (Heritage) states that the Council will resist development outside of a conservation area that causes harm to the character and appearance of that conservation area.

2.3. Policy A2 (Open Spaces (e)) states that the Council will seek to protect open spaces and other green infrastructure by protecting non-designated spaces with nature conservation, townscape and amenity value, including gardens, where possible. The accompanying text for this policy advises that gardens help to shape their local area, provide a setting for buildings, provide visual interest, may support natural habitats and can be an important element in the character and identity of an area (its 'sense of place'). Development within private gardens can therefore have a significant impact upon the amenity and character of the area and as such, the Council will resist development that occupies an excessive part of the garden, and where there is a loss of garden space, which contributes to the character of the townscape. Policy A3 (Biodiversity (c)) states that the Council will seek to protect open spaces with nature conservation value, including gardens, wherever possible.

2.4. CPG1 design guidance advises that 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 also states that gardens are particularly prone to development pressure in the Borough with their loss resulting in the erosion of local character and amenity, biodiversity and their function in reducing local storm water run off. Development within gardens can have a significant impact upon the amenity, biodiversity and character of an area. If unsympathetic, they may detract from the generally soft and green nature of gardens and other open space, contributing to the loss of amenity for existing and future residents of the property. The CPG1 guidance therefore states that the design of front gardens / forecourt parking should ensure:

- a balance between hard and soft landscaping. Where changes take place no more than 50% of the frontage area should become hard landscape. Where parking areas form part of the forecourt enough of the front boundary enclosure should be retained to retain the spatial definition of the forecourt to the street and provide screening;
- retain trees and vegetation which contribute to the character of the site and surrounding area;
- retain or re-introduce original surface materials and boundary features, especially in Conservation Areas such as walls, railings and hedges where they have been removed. If new materials are to be introduced they should be complementary to the setting;

2.5. As aforementioned, the host dwelling is situated within a residential estate which was developed as a singular architectural piece and which features a strong and defined character via the forms, materials and detailing on dwellings within the estate as well as plot size, spacing and landscaping. Properties within the estate benefit from generous gardens and green setting and consequently the estate is characterised by its verdant and open nature, reflective of its setting adjacent to the designated Metropolitan Open Land of

Hampstead Heath. The only entrance into the estate is via the gated private driveway running alongside the dwelling, meaning that the property, and in particular its eastern garden, is visually prominent within the estate.

- 2.6. As outlined in section 3 of this report, there is an extensive planning history associated with the application site. Of particular pertinence, is application 2016/4977/P dated 29/11/2016, which approved the principle of a timber fence to be erected along the side boundary of the site (amongst other elements). The officer's report for this application states that most properties within the estate feature gardens which are enclosed by wooden fences for safety and privacy reasons. Of these existing fences on the estate, the most distinctive feature are fences of regular slatted vertical boarding which allows some views and light through, but maintains a sense of enclosure for the occupiers. The principle of the fencing was thus considered acceptable however in order to ensure that the detailed design of this fence was sympathetic to the character of the estate and the implementation of this structure did not disrupt the root network of adjacent mature trees, conditions were attached requiring the submission of further details. These conditions were not discharge and remain outstanding (a copy of this report and decision notice is included within appendix one and two of this report).
- 2.7. The fencing erected along the side boundary of the property is of stained timber boards which create a solid boundary and does not allow views through to the remaining open garden/vegetation. This has resulted in reduced views through to the dwelling (sited at a lower level than the communal drive), characteristic border vegetation / towards the adjacent MOL and woodland but has also resulted in a significant loss of 'an open feel' as well as creating a visual tunnelling effect along the communal driveway into the estate. The fencing as installed has been designed to match that which was previously installed along the rear boundary of the property (also installed without prior permission) however this does not relate to the other means of enclosure found across the estate. Consequently, the installed fencing by virtue of its solid panelling appears visually incongruous within the otherwise predominantly uniform estate and has acted to significantly detract from the verdant, open feel of the local area. The fact that this fencing is particularly prominent for all occupiers within the estate acts to exacerbate this harmful impact upon local character, eroding the integrity of estates aesthetic and character.
- 2.8. At the time of writing this report the hardstandings for vehicular parking had not commenced although it was noted that the fencing had been installed to provide access to this area of the garden (officer's last visit to the site in May 2017). As aforementioned, this eastern garden of the property is particularly prominent within the estate and plays an important role in the contribution towards the verdant and open character of the estate. The proposed vehicular parking, combined with the side patio area adjacent to the dwelling (not shown in proposed drawings) as well as the installed decking to the rear and western side would cumulative lead to a substantial loss of soft landscaping / garden space within the curtilage of the site. Although the area hard surfacing required to form the parking space would individually require the loss of only 13sqm of garden area, the proposed positioning in the centre of the garden means that the entire garden would be compromised by the development. As previously discussed, the generous setting of dwellings within sizable gardens is an important element of the character and identity of the host dwelling and estate. By effectively removing a section of open garden for hard surfacing, enclosed by imposing boundary treatment, the proposed development would therefore have a significant impact upon the amenity and character of the area. Although it is accepted that the hardstandings have been positioned in this location due to the mature trees within the garden, this is not considered to provide sufficient justification for the development and its associated harm upon the local area.
- 2.9. Overall it is considered that the proposed hard-surfacing and boundary fencing would cumulatively result in a detrimental impact upon the setting and character of the host dwelling and wider estate by virtue of the loss of green open space, visually intrusive boundary fencing as well as the fact that these alterations would appear incongruous within the otherwise uniform appearance of the estate.
- 2.10. As the application site is situated along a gated, private road and is at a higher level than West Heath Way, only limited views of the application site are afforded from outside of the estate. This includes from the adjacent conservation area as well as from within the Heath directly to the east of the site. Although the proposed works would be highly prominent from within the estate, it is not considered that these works would affect the setting of the nearby conservation area or affect the openness of the nearby Metropolitan Open Space.

Transport / Highways

- 2.11. T2 (Parking and car-free development) states that in order to lead to reductions in air pollution and congestion and improve the attractiveness of an area for local walking and cycling the Council will limit the availability of parking within the Borough. Specifically, this policy states that in order to achieve this, the Council will limit on-site parking to spaces designated for disabled people where necessary, and/or essential operational or servicing needs. The policy also states that development of boundary treatments and gardens to provide vehicle crossovers and on-site parking will be resisted.
- 2.12. The application site is within a gated, private estate towards the north of the Borough. Because of this, the PTAL level of the application site is unusually low (2) compared to the wider Borough. Notwithstanding this, as outlined above the Council would generally resist the creation of on-site parking spaces unless they would address a specific need or would enable access for a disabled resident. As outlined within the previous section, the proposed parking space by virtue of its siting, means of enclosure and loss of visual amenity would be considered to significantly undermine the setting of the host dwelling as well as the character of the local area and no evidence has been submitted which would justify a specific requirement for the space. Furthermore submitted third party comments make reference to the applicants already benefitting from access to existing off street parking spaces, further weakening the justification for the proposed works.
- 2.13. Submitted comments have also referred to the proposed parking space as featuring contrived access and that its use could pose a hazard due to the narrow nature of the communal drive and the limited space for manoeuvring. In the absence of supporting evidence to address this concern (i.e. swept path analysis) officers share this concern, as the adjacent communal driveway is the only means of access for surrounding dwellings (vehicular and pedestrian). Without this evidence, officers cannot be confident that vehicles manoeuvring into this space would not cause a hazard, particularly for pedestrians walking along the driveway where views to the parking space as well as sightlines from it are obscured due to the fencing that has been erected.
- 2.14. The development is therefore considered to remain contrary to policy T2.

Trees / Enforcement

- 2.15. Mansion Gardens is covered by two separate Area Tree Preservation Orders (TPOs) (C98 & 15H) which cumulatively protect all mature trees within the estate. Specifically, sub area A2 of Area TPO 15H covers the entire plot of no.11 as well as some adjacent properties. As mentioned during the site visit for the previous application, damage to a number of trees as well as the full removal of one tree was noted. As the previous application did not provide sufficient justification regarding the removal of this tree, or outlined remedial works to those remaining; there is an enforcement investigation against the loss of the tree. Measures for tree retention and re-provision have now been outlined as part of this application within supporting submitted reports. If the proposed development were considered otherwise acceptable, conditions could have been attached to secure details of tree replacement in order to address the issues being investigated as part of the on going enforcement investigation.

Residential Amenity

- 2.16. Policy A1 seeks to protect the amenity of Camden's residents by ensuring 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.
- 2.17. CPG6 (Amenity) expands upon the requirements of this policy, stating that: "Development should be designed to protect the privacy of both new and existing dwellings to a reasonable degree" and that, as spaces that are overlooked lack privacy, "new buildings, extensions, roof terraces, balconies and the location of new windows should be carefully designed to avoid overlooking".
- 2.18. As the application property is detached and the siting of the proposed fencing would not adjoin any other residential property; by virtue of its siting and height it is not considered that the proposed fencing would result in any negative impact upon the residential amenities of any neighbouring residents in terms of privacy, overlooking, light or noise and disturbance. The proposed parking space would facilitate the creation of additional capacity for off-street parking within the estate, however as the hardstandings would feature enough space to park only one vehicle; the resulting impacts in terms of noise and pollution from parking vehicles would not be considered to substantiate a reason for refusal.

2.19. A number of objections received from local residents raise concerns regarding the on-going works at the site and the resulting impacts upon residential amenities. As internal works to the dwelling would not require planning permission, it is outside the scope of planning control to limit construction programmes. Notwithstanding this, issues regarding noise and disturbance or dust and pollution are covered by the provisions of the Environmental Protection Act 1990 and the Control of Pollution Act 1974. As such details of the complaints received have been forwarded onto the Council's Environmental Health department who will arrange for separate inquiries into these complaints.

3. Recommendation

3.1. A) Refuse planning permission

3.2. B) Authorise enforcement action

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The Notice shall allege the following breach of planning control:

The unauthorised erection of boundary fence located adjacent to communal driveway and works to implement hardstandings for the purposes of vehicular parking within the side garden of the property.

The Notice shall require within a period of 3 calendar months of the Notice taking effect:

- 1) Remove the unauthorised boundary fence and any works to implement vehicular hardstandings located adjacent to communal driveway; and either
- 2) - Reinstate brick dwarf wall along boundary of garden adjacent to communal driveway as existing prior to development; or
 - Submit details to discharge planning condition 4 of planning permission 2016/4977/P dated 29/11/2016 so that appropriate means of enclosure can be agreed by the Council.

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

(1) The proposed on-site vehicular parking space and solid timber panelled garden fence would, by virtue of their design and location be visually prominent and harmful to the uniform townscape of the surrounding estate as well as the local green open character, garden amenity and views towards mature vegetation, cumulatively this will harm the character and appearance of the host dwelling as well as the wider estate. The development would therefore contrary to policies D1 and T2 of the Camden Local Plan 2017.

(2) The creation of an additional onsite parking space would promote the use of private motor vehicles, fail to encourage the use of sustainable modes of transport and exacerbate local traffic conditions contrary to policies T1 and T2 of the Camden Local Plan 2017.

(3) In the absence of supporting evidence (e.g. swept path analysis), the proposed on-site parking space is considered to be detrimental to pedestrian and highway safety by reason of inadequate sightlines for vehicles leaving the site and lack of space for manoeuvring. The proposal is therefore contrary to policy T1 of the Camden Local Plan 2017.