| Delegated Report (Members Briefing) | Analysis sheet | Expiry Date: | 31/08/2018 |
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| | N/A / attached | Consultation Expiry Date: | N/A |

| Officer | Application Number(s) |
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| Leela Muthoora | 2018/3198/P |
| **Application Address** | **Drawing Numbers** |
| 17 Boscastle Road<br>London<br>NW5 1EE | See draft decision |

| PO 3/4 | Area Team Signature | C&UD | Authorised Officer Signature |
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**Proposal(s)**

Erection of single storey outbuilding in rear garden of dwelling house (Class C3).

| Recommendation(s): | Grant Certificate of Lawfulness |
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| Application Type: | Certificate of Lawfulness (Proposed) |

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| **Conditions or Reasons for Refusal:** | **Refer to Draft Decision Notice** | | | | | |
| **Informatives:** | | | | | | |
| **Consultations** | | | | | | |
| **Adjoining Occupiers:** | No. notified | **00** | No. of responses | **03** | No. of objections | **03** |
| **Summary of consultation responses:** | NOTE- There is no statutory requirement to consult on this application as it cannot be assessed as a normal planning application and can only have a legal determination of its lawfulness (see policy section below).<br><br>No responses from neighbours | | | | | |

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| **CAAC/Local groups comments:** | **Grove Terrace Association – Co-chair Gus Gazzard**<br>I am the co-chair of the Grove Terrace Association and am responding on behalf of the residents of Grove Terrace. Grove Terrace lies immediately behind Boscastle Road, with only the gardens of the two streets and Grove Terrace Mews between them. Nos 6-27 Grove Terrace is a Grade II* listed property, and the gardens to the Terrace form an important aspect of its setting, as is reflected in the Dartmouth Park Conservation Area Appraisal and Management Statement. The rear gardens of Grove Terrace and Boscastle Road, together with the Mews itself, are at the heart of the Dartmouth Park Conservation Area and together form a large open green space with a rural character.<br><br>We **object** to the application for the following reasons:<br><br>1. Although single storey, the scale of the proposed development is excessive for the location. The footprint of the existing buildings is 46 square metres, while that of the proposed development is 54 square metres. This is an increase by nearly a fifth over the footprint of the existing garages and garden store. By contrast, the existing garages lining both the Grove Terrace and Boscastle Road sides of Grove Terrace Mews are single storey buildings of low profile, modest scale and generally rural appearance. Moreover, the development would unnecessarily reduce the area of garden, which contributes to the green character of the Dartmouth Park Conservation Area. The proposed development thus would not only be excessive in scale, but it would detract from the rural character of this part of the Conservation Area.<br><br>2 We object strongly to the inclusion of a WC in this outbuilding. It is not required for a building 'ancillary' to the main residence, and the existence of such a facility would easily allow the use of the building for residential purposes. We are aware that developments in other gardens in Grove Terrace and Boscastle Road have been permitted only on condition that there be no water supply to the outbuilding.<br><br>3 We have serious concerns about potential light pollution from the proposed development. In addition to large glass doors at ground level, there seem to be a variety of rooflights proposed. We believe that cumulatively these features would introduce an extensive area of glass which would create night-time illumination and significantly increase the risk of light pollution visible from Grove Terrace.<br><br>The Dartmouth Park Conservation Area Appraisal and Management Strategy specifically notes the 'quality of darkness at night' that characterises the conservation area. The Grove Terrace and Boscastle Road gardens contribute significantly to that quality. At present, they constitute a large area of darkness with minimal external lighting; this is extremely rare in London. The extensive areas of new glass in this proposed extension would erode the character of this dark area. There are no enforceable means of preventing this.<br><br>The proposed development would therefore not only create the opportunity for negative impacts on amenity of other residents in Grove Terrace and Boscastle Road, but would have a negative impact on the wildlife that flourishes in the rural greenery of Grove Terrace Mews. |

4 The applicant states that the proposed development will be accessed from the garden on number 17 Boscastle Road. However, the applicant is proposing three new entrances onto Grove Terrace Mews. The applicants have no ownership interest in Grove Terrace Mews. Grove Terrace Mews is and always has been privately owned. It is currently owned by Grove Terrace Mews Limited. It is not clear that the applicant has a right to create additional entrances onto the Mews.

For the reasons outlined above, the proposed development would:

- by reason of its location, scale and design have an adverse impact on the quality of life and amenity of neighbours, particularly in respect of outlook and artificial light levels;
- impact adversely on the visual amenity of the Dartmouth Park Conservation Area and neither preserve nor enhance the character or appearance of the Dartmouth Park Conservation Area;
- not preserve garden spaces which contribute to the character of the Dartmouth Park Conservation Area and which provide a setting for Camden's architectural heritage;
- lead to the loss of open space and harm the appearance or setting of the property or the established character of the surrounding area.

For these reasons, we believe the proposed development would be materially detrimental to the character of the Dartmouth Park Conservation Area. If approved, the development would also set a precedent for further development in the gardens facing the Mews, which will lead to even greater harm to the character of the Conservation Area.

**Grove Terrace Mews Association Ltd**
I am the Secretary of Grove Terrace Mews Association Ltd a company specifically formed with the stated objective "to manage, for the benefit of its members (and only in a manner consistent with the protection and enhancement of its historic character) the freehold property described as Grove Terrace Mews."
The privately owned Mews lying behind Boscastle Road divides the gardens of Grove Terrace from certain of those in Boscastle Road including no 17.
Grove Terrace Mews Ltd was specifically formed to help ensure the rural character of the Mews, which represents an important contribution to the Conservation Area and the setting of the Grade II* houses in Grove Terrace itself. And, critically, to protect it from future development.

Gus Gazzard, co-Chair of the Grove Terrace Association has already lodged objections to this application.

Grove Terrace Mews Ltd: specific concerns

1) Grove Terrace Mews has historically been a rare area of dark skies, acknowledged in the Conservation Area Appraisal and Management Strategy. The long gardens of Boscastle Road and Grove Terrace provide an unusually large area of darkness, with minimal external lighting.

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| | We are therefore concerned about the effects of light spillage from the extension and also from proposed skylights in the roof of the playroom/gym outbuilding which would significantly add to light in the Mews.<br><br>2) We are also concerned about the proposed inclusion of a WC since the proposed building is "ancillary" to the main house. Developments in other gardens both in Boscastle Road and Grove Terrace, have been approved only without water supplies to the outbuildings. This is to eliminate the possibility of development and any future use for residential purposes.<br><br>3) Gus Gazzard has already highlighted the question of access "The applicant states that the proposed development will be accessed from the garden on number 17 Boscastle Road. However, the applicant is proposing three new entrances onto Grove Terrace Mews. The applicants have no ownership interest in Grove Terrace Mews. Grove Terrace Mews is and always has been privately owned. It is currently owned by Grove Terrace Mews Limited"<br><br>**Dartmouth Park Conservation Area Advisory Committee (DPCAAC)**<br><br>Same as Grove Terrace Association<br><br>***Officer response***<br><br>1. *There is no statutory requirement to consult on this application as it cannot be assessed against national and local policy as it is a legal determination. As outlined in the policy section, this assessment is a factual test against the wording of the relevant legislation, in this case, the criteria set out within the GPDO 2015 only and the Council is not afforded the right to include its design or conservation policies as material considerations.*<br>2. *The decision notice includes an informative that grant of this certificate does not allow the building to be used as a self-contained dwelling and must remain as an ancillary structure.*<br>3. *The decision notice includes an informative advising against any part of the structure to overhang a highway (including footway).*<br>4. *Outbuildings are acceptable for a variety of uses ancillary to the enjoyment of the main dwellinghouse. The proposal states the building will be used as a gym/playroom/bike store.*<br>5. *The design of the scheme cannot be taken into account as long as it complies with permitted development rights.*<br>6. *Whilst the proposal includes a WC, however, this would not be sufficient to be considered a self-contained unit.*<br>7. *The proposed structure is small in scale in comparison to the garden and host building would not result in a significant reduction of green space than already exists. A certificate was previously granted for a larger garden outbuilding (see relevant history below).*<br>8. *The existing elevation to Grove Terrace Mews has two existing garage doors. The alteration to these doors are proposed to be enlarged for access to a bike store, store and side access. As such, they are an* |

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| | *alteration to the current access arrangement, which would be permitted development under Schedule 2, Part 2, Class A of the GPDO. In addition, they remove the access for vehicles to the site.*<br>9. *The rights of access from the private road are not a material planning consideration.* |

## Site Description

The application site is a three storey house on the south west side of Boscastle Road. The site benefits from a rear garden of approximately 30m long with an existing single storey garage situated at the rear boundary across the width of the garden. The existing garage covers approximately 42sqm and has vehicle and pedestrian access from the rear of the property from Grove Terrace Mews. Grove Terrace Mews at the rear boundary is a private mews (approximately 4m wide) providing access to the rear of the properties along Boscastle Road and Grove Terrace. A number of properties along Boscastle Road and Grove Terrace feature single storey garages along the rear boundaries akin to the application site.

The site is located within the Dartmouth Park Conservation Area. No.17 Boscastle Road is identified as making a positive contribution to the conservation area which includes Nos.1-33(odd).

## Relevant History

**2016/0758/P** - Construction of a single storey 1 bedroom dwellinghouse (Class C3) following demolition of garages and a garden store. **Planning Permission Refused 08/07/2016**. **Appeal Dismissed 07/04/2017**

**Reasons for refusal**

1. The proposed single storey dwelling, by virtue of its use, size, massing, location and layout, would be out of keeping with the prevailing pattern of development and detrimental to the character and appearance of the Dartmouth Park Conservation Area.
2. The proposed development, by virtue of the increased level of associated residential activity within this quiet rear garden setting, would be an intrusive form of development that would harm the living conditions of neighbouring residential occupiers.
3. The proposed development, by virtue of the poor level of outlook from the proposed dwelling, would result in sub-standard accommodation and be harmful to the amenities of future occupiers.
4. The proposed development, in the absence of a legal agreement to secure car-free housing for the residential units would be likely to contribute unacceptably to parking stress and congestion in the surrounding area.
5. The proposed development, in the absence of a legal agreement to secure a Construction Management Plan, would fail to secure adequate provision for and safety of pedestrians and protect their amenity.

**Appeal Conclusion**

1. The proposed dwelling would cause significant harm to the character and appearance of Dartmouth Park Conservation Area
2. The proposed development would have a harmful effect on the living conditions of neighbouring residents, with particular regard to noise and disturbance.
3. The proposed dwelling would provide for acceptable living conditions for its future occupiers, with particular regard to outlook.

**2016/5916/P** - Certificate of Lawfulness (Proposed) - Erection of single storey outbuilding in rear garden. **Refused 13/12/2016**

Reason for refusal - The proposal is not considered incidental to the enjoyment of the dwellinghouse and therefore fails to accord with condition E.(a) of Class E of Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

**2017/0703/**P - Certificate of Lawfulness (Proposed) - Erection of single storey outbuilding in rear garden. **Granted 08/02/2017**

**2018/2408/P** - Erection of replacement infill extension following removal of existing; erection of 2nd floor extension to rear closet wing; and installation of 4 x rooflights. **Granted 14/09/2018**

**Relevant policies**

**Town and Country Planning (General Permitted Development) (England) Order 2015.**

The proposals can only be assessed against the relevant planning legislation which is The Town and Country Planning Act 1990 and The Town and Country Planning (General Permitted Development) (England) Order 2015 ("GPDO").

The application is to determine whether the proposal is permitted development and can go ahead without the grant of planning permission from the planning authority. This is made by assessing whether the scheme is lawful as defined by criteria set out in the GPDO.

As this is a process of legal determination against the GPDO, an assessment of the planning merits of the proposal under current policies or guidance within the Camden development plans (LDF) such as impact on neighbour amenity and design, cannot be taken into account.

The proposed outbuilding is permitted under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The house was not created under permitted development rights to change use, set out in Classes M, N, P, PA, and Q of Schedule 2 to the Order.

**Assessment**

1. **Proposal**

1.1 The application is to erect a single storey outbuilding within the rear garden of the house. The proposed outbuilding would be located at the rear south west boundary of the rear garden.

1.2 It would have a width of 7.9m, a depth of 7m and 5.4m and a maximum height of 2.5m. The overall footprint would be 54sqm.

1.4 The outbuilding would be built against the boundary walls to the north and rear adjacent to the access road to Grove Terrace Mews and against the south boundary wall with the adjacent garden building at 15 Boscastle Road.

**2. Assessment**

2.1 The garden building is assessed against Class E of Part 1 of Schedule 2 of the GPDO, which permits any building for a purpose incidental to the enjoyment of the dwelling house. The condition and limitations are set out in the following table.

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| **Class E**<br>The provision within the curtilage of the dwellinghouse of—<br>(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or<br>(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas |

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| If yes to any of the questions below the proposal is not permitted development | | Yes /no |
| E.1 (a) | As a result of the works, will the total area of ground covered by buildings, enclosures and containers within the curtilage of the dwellinghouse (other than the original dwellinghouse) exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)? | No |
| E.1 (b) | Would any part of the building, enclosure, pool or container be situated on land forward of a wall forming the principal elevation of the original dwellinghouse? | No |
| E.1 (c) | Would the building have more than one storey? | No |
| E.1 (d) | Would the height of the building, enclosure or container exceed—<br>(i) 4 metres in the case of a building with a dual-pitched roof,<br>(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or<br>(iii) 3 metres in any other case? | <br>N/A<br>No<br><br>N/A |
| E.1 (e) | Would the height of the eaves of the building exceed 2.5 metres? | No |
| E.1 (f) | Would the building, enclosure, pool or container be situated within the curtilage of a listed building? | No |
| E.1 (g) | Would it include the construction or provision of a veranda, balcony or raised platform? | No |
| E.1 (h) | Does it relate to a dwelling or a microwave antenna? | No |
| E.1 (i) | Would the capacity of the container exceed 3,500 litres? | N/A |
| Is the property in a conservation area? If yes to the question below then the proposal is not permitted development | | |
| E.3 | Would any part of the building, enclosure, pool or container be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse? | No |

**2. Conclusion**

2.1. The host dwelling is a single family dwelling house which benefits from permitted development rights afforded under the GPDO. The proposed outbuilding would be in accordance with the criteria outlined by Class E, Part 1 of Schedule 2 of the GPDO and are therefore lawful, not requiring planning permission.

**3. Recommendation: Grant Lawful Development Certificate**

***The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 8th October 2018, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'.***