

Delegated Report		Analysis sheet		Expiry Date:	20/09/2018
		N/A		Consultation Expiry Date:	15/07/2018
Officer			Application Number(s)		
Ben Farrant			1. 2018/1905/P 2. 2018/2707/L		
Application Address			Drawing Numbers		
Flat 1, 10 Lyndhurst Gardens London NW3 5NR			See draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
1. Erection of outbuilding, incidental to the use of the host property; excavation of basement beneath proposed outbuilding and rear curtilage; formation of sedum roof on existing single storey rear extension 2. Erection of outbuilding, incidental to the use of the host property; excavation of basement beneath proposed outbuilding and rear curtilage; formation of sedum roof on existing single storey rear extension					
Recommendation(s):		Refuse planning permission and listed building consent			
Application Type:		1. Full Planning Permission 2. Listed Building Consent			

Conditions or Reasons for Refusal:	Refuse Consent					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	00	No. of objections	04
			No. electronic	00		
Summary of consultation responses:	<p>A site notice was displayed between 15/06/2018 and 09/07/2018. The application was advertised in the Ham and High between 21/06/2018 and 15/07/2018.</p> <p>Four objections were received, summarised as below:</p> <p><u>Flat 4, 10 Lyndhurst Gardens</u></p> <ul style="list-style-type: none"> • Loss of privacy from access to the outbuilding roof • Noise impact as a result of the outdoor pool <p><u>Flat 2, 8 Lyndhurst Gardens</u></p> <ul style="list-style-type: none"> • Loss of privacy as a result of the terrace • Poor design of the proposal • Noise pollution during construction <p><u>Flat 3, 8 Lyndhurst Gardens</u></p> <ul style="list-style-type: none"> • Loss of privacy • Inappropriate design • Impact on noise • Detriment to the conservation area • Dangerous precedent for garden development which are an important habitat <p><u>Flat 3, Clarecourt</u></p> <ul style="list-style-type: none"> • Loss of outlook • Loss of privacy <p>Officer Comment:</p> <ul style="list-style-type: none"> • <i>The proposal has been amended since the original submission to remove the roof terrace from the proposed outbuilding, and therefore causes no harm to neighbouring in terms of privacy/overlooking from the existing situation</i> • <i>The use of the swimming pool is unlikely to result in unduly harmful levels of noise and refusal is not warranted on this basis</i> • <i>The noise during construction is not a material consideration in the determination of this application and would be covered by Environmental Health legislation</i> • <i>The design of the proposal and impact on the listed building/conservation area is assessed within sections 4 and 5 of the report</i> • <i>The impact of development within the garden area is assessed within section 4 of the report</i> 					

<p>Belsize Residents Association</p>	<p>“The proposal is entirely out of character with the Listed Building and the Conservation Area. Its impact is harmful not only to the host buildings on Lyndhurst Gardens, but also to the Mews buildings on Belsize Court Garages which back onto it with the significant level change and impact on the retaining wall which forms part of houses on Belsize Court Garages. The enormity of the undertaking associated with building a subterranean indoor pool at the back of, what amounts to semi-detached property given the limited access to public highway is ill-considered and objectionable with regard to noise levels and the general air-pollution”</p> <p>Officer Comment:</p> <ul style="list-style-type: none"> • <i>The scale and design of the proposal and impact on the listed building/conservation area is assessed within sections 4 and 5 of the report</i>
<p>Heath and Hampstead Society</p>	<p>“This glass box sitting in the rear garden of this listed house bears no architectural relationship to this important house, and would occupy a disproportionately large and intrusive part of the site. It is too large, and would harm the character of the area. It also incorporates on its flat roof a sun-bathing terrace, which would overlook and lead to loss of privacy both to No. 10 and adjoining houses. Please refuse.”</p> <p>Officer Comment:</p> <ul style="list-style-type: none"> • <i>The proposal has been amended since the original submission to remove the roof terrace from the proposed outbuilding, and therefore causes no harm to neighbouring in terms of privacy/overlooking from the existing situation</i> • <i>The scale and design of the proposal and impact on the listed building/conservation area is assessed within sections 4 and 5 of the report</i>
<p>Hampstead Conservation Area Advisory Committee</p>	<p>“We Object to the proposals on the following grounds:</p> <ol style="list-style-type: none"> 1. Size of the proposed outbuilding above ground is in excess of that permitted by Camden policy. 2. As it serves only the existing house, it does not class as ‘site maximisation’ for additional dwellings envisaged in the Draft New London Plan. 3. The proposed basement we consider not to be an allowance under a new outbuilding – intended as an allowance in relation to an existing house; it appears to be less in area than that permitted under a garden but excessive nonetheless. 4. The BIA would have to be carefully examined in relation to ground slope and proximity to the Belsize tunnel (level correctly shown on section?) for groundwater damming and pressure risk. 5. The drawing plans appear inconsistent showing different lengths of garden and relation between the house and the garden end wall. This could result in the new building being even longer than shown in the basement plan. The unwelcome and ground-risky extent of the proposal is more clearly shown in the existing/proposed comparison plan drawing. 6. The Belsize tunnel line appears to be drawn in error on the basement plan, the proposed outbuilding basement straddles the tunnel line. Is its depth shown correctly in the section?”

Officer Comment:

- *The scale and design of the proposal and impact on the listed building/conservation area is assessed within section 4 of the report*
- *The BIA has been independently audited by Campbell Reith and has been found to be acceptable; see section 3 of the report*
- *The plans appear to be sufficiently accurate for the determination of the application*

Site Description

10 Lyndhurst Gardens is a Grade II Listed detached 3 storey house with roof dormers, dating from 1886, situated in the Fitzjohns/Netherhall Conservation Area. This conservation area sits on the Southern slopes of Hampstead and is dominated by Fitzjohns Avenue running through the centre; overall the urban grain shows large houses with generous gardens surrounded by the denser areas of Hampstead Village, Belsize Village and Finchley Road. The neighbouring properties on this side of Lyndhurst Gardens (nos.4-16 (even)) are similarly Grade II Listed.

Relevant History

10 Lyndhurst Gardens (application site)

2015/6043/PRE – Reconfiguration of internal layout at lower ground floor level; partial demolition of existing side extension; erection of outbuilding in rear garden with basement that links to extension on main building – **Pre-app advice issued 01/12/2015** – *Officer Comment: Whilst the plans presented at this time were similar to those presented within this application, and the advice given was generally positive, this advice was issued prior to the adoption of Camden's Local Plan (2017) and CPG Basements (2018) and CPG 1 (Design) (2018) which provide further policy guidance than was adopted at the time this advice was issued.*

2009/3358/P - Erection of single storey rear extension to ground floor flat (Class C3) – **Granted 23/11/2009**

2009/3359/L - Alterations in association with the erection of single storey rear extension to ground floor flat (Class C3) – **Granted 23/11/2009**

2007/4851/P - Erection of single storey rear extension to ground floor flat – **Granted 29/01/2008**

2007/6047/L - Internal and external alterations including erection of single storey rear extension to ground floor flat – **Granted 29/01/2008**

2011/1379/P - Alterations to rear lower ground floor elevation including new doors to replace existing windows to flat (Class C3) – **Granted 17/05/2011**

2011/1386/L - Alterations to rear lower ground floor elevation including new doors to replace existing windows to flat (Class C3) – **Granted 17/05/2011**

2016/0362/P - New rooflights above existing single storey side extension to replace existing skylights – **Granted 25/02/2016**

2016/0378/L - New rooflights above existing single storey side extension to replace existing skylights; reconfiguration of internal layout at lower ground floor level – **Granted 25/02/2016**

12 Lyndhurst Gardens

2014/4740/P - Erection of single storey timber clad garden room in the rear garden in connection with existing use as a flat (Class C3) – **Refused and Appeal Dismissed 03/07/2015** – Reason for refusal: *“The proposed outbuilding by reason of its excessive size and scale, position, and proximity to the main listed building would dominate the rear garden would dominate the lower tier of the rear garden, detracting from its green and verdant nature, thus causing harm to the setting of the grade II listed building and the character and appearance of this part of the Fitzjohn's/Netherhall Conservation Area”*

Relevant policies

National Planning Policy Framework (2018)

London Plan (2016)

Camden Local Plan (2017)

A1 Managing the impact of development

A5 Basements

D1 Design

D2 Heritage

Camden Planning Guidance

CPG1 Design (2018)

CPG Amenity (2018)

CPG 6 Amenity (2018)

CPG Basements (2018)

Fitzjohns Netherhall Conservation Area Statement (2001)

Assessment

1. The Proposal

1.1 This application seeks planning permission for the following works:

- Erection of outbuilding in the rear garden of the property (7.4m width, 7.4m length (54.76sq. m) and 3.1m height) which would have glazed walls and a flat roof. The addition would be sited 13m from the existing rear extension of the property towards the end of the garden, a minimum of 0.55m from the rear boundary wall. This would house an indoor swimming pool and access stair to the proposed basement below.
- Excavation of a basement beneath the proposed outbuilding and the central garden area (8.9m (max.) width, 25.3m (max.) length, and 4.3m depth). The basement would be almost entirely subterranean with 2no. walkover glazed skylights (one housed within the proposed outbuilding, and one at the patio of the property, adjacent to the previous rear extension). Internal staircases at either end would access the basement, one leading from the rear extension of the host property, and one leading from the outbuilding. The basement element would form a gym, cinema/games room, store, changing room and ancillary plant room.
- Replacement of the flat roof of the existing single storey rear extension with a sedum roof.

2. Revisions

2.1 The following revisions were received during the course of the application:

- Removal of the roof terrace and associated balustrade above the proposed outbuilding

3. Basement Impact Assessment (BIA)

3.1 Parts a & b of Policy A5 of Camden Council's Local Plan require basement applications to demonstrate to the satisfaction of the local planning authority that the proposal would not cause harm to neighbouring properties, or the structural, ground, or water conditions of the area. A BIA was submitted with the scheme assessing the proposed works and its impacts on hydrology and hydrogeology, drainage, ground movement, and structural impacts. This document was independently assessed by Campbell Reith, Camden Council's BIA Auditor. Upon review of the information provided, Campbell Reith is satisfied that the proposed works are compliant with policy and current regulations.

3.2 Parts c-e of Policy A5 of Camden Council's Local Plan require basements to have an acceptable impact on the character and amenity of the area, the architectural character of the building and significance of heritage assets. The only externally visible alteration of the basement itself would be the insertion of a glazed skylight. This is contrary to para. 2.7 of CPG Basements which states: "*the inclusion of skylights designed within the landscaping of a garden will not usually be acceptable, as illumination and light spill from a skylight can harm the appearance of a garden setting*".

3.3 It is considered that whilst the works are almost entirely subterranean, they would nonetheless be inappropriate to the host property (contrary to subsections d of Policy A5) by reason of its over-dominant scale, extending the full depth of the rear curtilage.

3.4 The remaining subsections f-u of Policy A5 of Camden Council's Local Plan provide more specific guidance for developing basements. Notably subsections j and k state that basement development should:

j: extend into the garden no further than 50% of the depth of the host building measured from the principal rear elevation;

k: not extend into or underneath the garden further than 50% of the depth of the garden;

(CPG Basements (2018) provides further clarification on these points)

3.5 The depth of the original (un-extended) property is 17.2m, meaning subsection j would limit a basement extension to project a maximum depth of 8.6m from its rear elevation. Proposed is a projection into the rear garden of 25.3m at a distance of 3.3m from the rear elevation, meaning the addition would project a total of 28.6m from the original rear elevation of the main property. The addition would also finish just 0.6m from the rear boundary, thereby extending far in excess of the 50% limit imposed by subsection k of Policy A5. It is considered that the proposed basement development is of an over-dominant scale which would serve to form an overdevelopment of this site.

3.6 Even given the large footprint of the host property, the development proposed here, with a basement footprint (GIA) of 170sq. m (GEA of 202sq. m) would be tantamount to a new dwelling within the garden of this Grade II Listed Building within a conservation area, and refusal is warranted on this basis.

4. Design

4.1 Local Plan Policy D1 (Design) states that The Council will require that development: Respects local context and character; preserves or enhances the historic environment and heritage assets in accordance with Policy D2 (Heritage); comprises details and materials that are of high quality and complement the local character; promotes health; responds to natural features and preserves gardens and other open space; and, preserves strategic and local views.

4.2 Local Plan Policy D2 (Heritage) states that the Council will: e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area; k. resist development that would cause harm to significance of a listed building through an effect on its setting.

4.3 Para. 6.37 states: "Gardens help shape their local area, provide a setting for buildings, provide visual interest and may support natural habitats. Therefore they can be an important element in the character and identity of an area (its 'sense of place'). We will resist development that occupies an excessive part of the garden, and the loss of garden space which contributes to the character of the townscape."

- 4.4 Para. 4.22 states: “The construction of garden buildings, including sheds, stand-alone green houses and other structures in rear gardens and other undeveloped areas, can often have a significant impact upon the amenity, biodiversity and character of an area. 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.”
- 4.5 Para 4.23 states: “Large garden buildings may also affect the amenity value of neighbours' gardens, and if used for purposes other than storage or gardening, may intensify the use of garden spaces.”
- 4.6 Para 4.24 states: “Development in rear gardens should: ensure the siting, location, scale and design of the proposed development has a minimal visual impact on, and is visually subordinate to, the host garden; not detract from the open character and garden amenity of the neighbouring gardens and the wider surrounding area; use suitable soft landscaping to reduce the impact of the proposed development; ensure building heights will retain visibility over garden walls and fences; use materials which complement the host property and the overall character of the surrounding area. The construction method should minimise any impact on trees (also see Landscape design and trees chapter in this CPG), or adjacent structures; address any impacts of extensions and alterations upon water run-off.”
- 4.7 The basement area would be accessed via an entrance through the existing modern extension (granted permission in 2007) and would be clearly separate from the listed building. The fabric and floorplan of the listed building are unaffected by the proposals. Due to the subterranean nature of this part of the proposals, the setting of the listed building is also unaffected, in compliance with Local Plan Policy D2.
- 4.8 The proposed outbuilding is set at a significant distance from the main house. It does have a significantly large footprint however at 54.76sq. m), reading more as a pavilion than a shed structure as currently exists on site. As set out in the Fitzjohns/Netherhall Conservation Area Statement, the urban grain of this part of the conservation area is defined by large houses in generous gardens. As set out in para.6.37 of the Local Plan, gardens can be an important element in the character and identity of an area. Whilst the principle of an outbuilding in this position may be acceptable, it should be designed at a scale which ensures minimal visual impact on the host garden. It is similarly noted that the neighbouring property (no.12) was refused planning permission (ref: 2014/4740/P) which was subsequently dismissed at appeal (ref: 2014/4740/P dated 03/07/2015) for a much smaller outbuilding (20.3sq. m) on the basis of scale and impact on the garden area. At present, the footprint of the proposed structure is excessively large, resulting in an over-dominant appearance, adversely impacting on the spatial quality of the rear garden which is an important part of its character. A building of the size proposed would subsequently also fail to preserve or enhance the character and appearance of the wider conservation area, contrary to Local Plan Policies D1 and D2.
- 4.9 There are no concerns arising from the formation of a sedum roof to the existing single storey rear extension of the host property. Further details of this would be required by way of condition should the application be recommended for approval.

5. Impact on Grade II Listed Building and Conservation Area

- 5.1 Considerable importance and weight has been attached to the harm and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the listed building within a conservation area, under s.16, 66 & 72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

5.2 Para 196 of the NPPF (2018) states that 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

5.3 Given the subterranean nature of the proposed basement, this is considered not to impact on the significance of the Listed Building. The outbuilding however would unduly impact on the host property, the application is therefore being refused on the outbuilding only and not the visual impact of the proposed basement.

5.4 As noted above in the design section, it is considered that the proposed outbuilding would create an unwelcome and overly dominant outbuilding within the garden area, of an excessive scale serving to detract from the garden which forms an important part of this listed building and surrounding properties within the conservation area. It is considered that the outbuilding by virtue of its dominant scale, would harm the characteristics identified for this listed building and thus the contribution made to the character and appearance of the conservation area. It would result in 'less than substantial harm' to the character, appearance and historic interest of the conservation area as well as to the host property. There is no demonstrable public benefit created as a result of the proposed addition to this private residential unit.

5.5 The proposal is thereby considered to constitute 'less than substantial harm' to this Grade II Listed Building within the Fitzjohns Netherhall Conservation Area, with no demonstrable public benefit derived from the scheme. In the absence of any demonstrable public benefit, the proposal is considered to be contrary to Section 16 of the NPPF (2018) which seeks to preserve and enhance heritage assets.

6. Impact on Neighbours

6.1 Policy A1 of the Local Plan seeks to protect the quality of life of neighbouring occupiers. The factors to consider include: visual privacy and outlook; sunlight, daylight and overshadowing; artificial light levels; noise and vibration.

6.2 The design of the proposal has been amended since the original submission to remove the roof terrace element. It is also noted that the basement works are almost entirely subterranean and the outbuilding has a good separation distance from neighbouring properties. On this basis, the proposal is considered not to impact unduly on neighbours in terms of overlooking/loss of privacy or daylight/sunlight.

6.3 The proposal, given its residential nature is unlikely to result in undue harm to neighbours in terms of noise impacts. Being entirely glazed, and utilising skylights, the proposed outbuilding could result in a significant level of light overspill, however it is acknowledged that the outbuilding is set well within the grounds of the property and towards the end of the garden, away from neighbouring windows, and the skylight given its scale and siting, is considered not to represent undue harm and refusal is not warranted on this basis.

6.4 Overall, the proposal is considered to be acceptable in terms of its impact on privacy, outlook, sunlight, daylight, overshadowing, artificial light levels, noise, and vibration, in accordance with Policy A1 of the Camden Local Plan (2017).

7. Conclusion

7.1 Given the above assessment, the scale of the proposed outbuilding is considered to dominate the garden area of this Grade II Listed Building detracting from its green and verdant nature, serving to cause less than substantial harm to the heritage asset without any demonstrable

public benefit. The basement addition is also considered to be of an inappropriately large scale, serving to form a dominant and disproportionate addition to the host property. As such, the proposal is contrary to policies D1, D2 and A5 of the London Borough of Camden Local Plan 2017, the London Plan 2016, and the National Planning Policy Framework 2018.

Recommendation

1. Refuse planning permission
2. Refuse Listed Building Consent