

GROUNDS OF APPEAL

Section 78 Town and Country Planning Act 1990

Relating to Refusal of Planning Permission by London Borough of Camden

in respect of Planning Application Number 2018/5202/P

Flat A, 124 Greencroft Gardens, London, NW6 3PJ

Appeal by Iain Wilson

AGAINST REFUSAL OF PLANNING PERMISSION



BLANDY & BLANDY

solicitors

1. Introduction and Background

1.1 The appeal property is located at 124 Greencroft Gardens London NW6 3PJ (“the Property”) shown edged red on the plan attached at **Appendix 1**. Greencroft Gardens is a residential street within the South Hampstead Conservation Area.

1.2 This appeal is against the decision of the London Borough of Camden to refuse planning permission for erection of a single storey rear extension with green roof, following demolition of existing rear extension at Flat A 124, Greencroft Gardens, London NW6 3PJ (“the Development”)

1.3 The refusal of Camden is dated 29 April 2019 and cites three reasons for refusal (albeit that reasons 2 and 3 are both erroneously numbered 2). The reasons for refusal are set out below for ease of reference.

1.3.1 Reason 1

The proposed rear extension, by reason of its design and resulting scale would constitute a dominant rear addition that would harm the character and appearance of the host building and its garden setting, as well as the character and appearance of the South Hampstead Conservation Area, contrary to policies D1 (design) and D2 (heritage) of the Camden Local Plan (2017).

1.3.2 Reason 2

Insufficient information has been provided to demonstrate there would not be an impact on the levels of daylight or sunlight received by neighbouring properties numbers 122 and 126 Greencroft Gardens, contrary to policy A1 (managing the impact of development) of the London Borough of Camden Local Plan (2017).

1.3.3 Reason 3

By reason of its detailed design, scale, and siting the proposed development would result in an harmful level of light pollution and an unneighbourly sense of enclosure to neighbouring properties at numbers 122 and 126 Greencroft Gardens, contrary to policy A1 (Amenity) of the Camden Local Plan (2017)).

1.4 A copy of the refusal notice is attached at **Appendix 2**.

1.5 The Delegated Report in respect of the application is attached at **Appendix 3**.

1.6 The Appellant in these appeal grounds will address each of these reasons for refusal in turn and will demonstrate that the proposals do not conflict with the Camden Local Plan, the NPPF and other relevant policies. The Appellant will show that the design and scale of the Development will not constitute a dominant rear addition as the Council claim and there is no adverse impact from the development to daylight and sunlight of neighbouring dwellings nor will any un-neighbourly sense of enclosure result if the Development were permitted.

1.7 The Property at Flat A 124 Greencroft Gardens is individually relatively unremarkable within the existing street scene, albeit the conservation area is a distinctive and worthy heritage asset. There are no proposals for any development that would impact the publicly visible conservation area. A garden of approximately 25 metres long currently exists at the property and the proposal would not significantly decrease the size of the remainder. The Appellant's occupation and ownership is entirely at ground floor with 3 floors laid out as 3 separate flats above. An existing authorised extension of relatively poor quality is in existence at the property. The current living accommodation consists of 2 bedrooms and a combined living room/kitchen measuring 4.5 x 4 metres living space and 3.5 x 3 metres kitchen space and there is no family accommodation available. The proposal seeks to address this deficiency.

2. **Relevant Planning Policy**

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be considered in accordance with the development plan unless material considerations indicate otherwise.

2.2 The development Plan for the London Borough of Camden includes The London Plan 2016 and The Camden Local Plan 2017. The Council also has Planning Guidance it refers to, CPG1 (Design) and CPG6 (Amenity) and a Character Appraisal and Management Strategy for South Hampstead (2011). The planning guidance and management strategy are not part of the statutory development plan documents but are material considerations in reaching planning decisions to be weighed in the balance.

2.3 In addition, the Government's policies in the form of the National Planning Policy Framework ("NPPF") and National Planning Policy Guidance ("NPPG") are material considerations relevant to the determination of this appeal.

2.4 **Policy D1 (Design)**

2.4.1 Policy D1 of the London Borough of Camden Local Plan (Design) states that the Council will seek to secure high quality design in development. Policy D1 states that the Council will require that development:

- (a) Respects local context and character.
- (b) Preserves or enhances the historic environment and heritage assets in accordance with Policy D2 (Heritage). Local plan Policy D2 states that the Council will require the development within conservation areas preserves or, where possible enhances the character or appearance of the area.
- (c) is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;
- (d) is of sustainable and durable construction and adaptable to different activities and land uses;
- (e) comprises details and materials that are of high quality and complement the local character;
- (f) integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;

- (g) is inclusive and accessible for all;
- (h) promotes health;
- (i) is secure and designed to minimise crime and antisocial behaviour;
- (j) responds to natural features and preserves gardens and other open space;
- (k) incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping;
- (l) incorporates outdoor amenity space;
- (m) preserves strategic and local views;
- (n) for housing, provides a high standard of accommodation; and
- (o) carefully integrates building services equipment.

2.4.2 The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

2.4.3 It is the Appellant's case as set out below that the Development complies in all respects with this policy.

2.5 **Policy D2 (Heritage)**

2.5.1 The council relies on Policy D2 to support its refusal of this application. Policy D2 is set out below. The majority of this policies detailed requirements do not extend to the Development and the Appellant will show that in the planning balance and as a matter of planning judgement where the Development does not fall square within this policy there are considerations which when weighed in the balance can allow the grant of planning consent. The provisions of Policy D2 relating to Conservation Areas will apply directly to the Development.

2.6 **Policy D2**

2.6.1 The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.

2.7 **Designated heritage assets**

2.7.1 Designed heritage assets include conservation areas and listed buildings. The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- (a) the nature of the heritage asset prevents all reasonable uses of the site;

- (b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;
- (c) conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- (d) the harm or loss is outweighed by the benefit of bringing the site back into use.

2.7.2 The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.

2.8 Conservation areas

2.8.1 Conservation areas are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. In order to maintain the character of Camden's conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within conservation areas.

2.8.2 The Council will:

- (a) require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;
- (b) resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;
- (c) resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and
- (d) preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden's architectural heritage.

2.9 Policy A1 (Managing the Impact of Development)

2.9.1 The Council cites policy A1 in reason for refusal 2 and 3 (erroneously numbered 2). Policy A1 deals with managing the impact of development and states that;

2.9.1.1 The Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity.

We will:

- (a) seek to ensure that the amenity of communities, occupiers and neighbours is protected;
- (b) seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities;

- (c) resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network; and
- (d) require mitigation measures where necessary.

The factors we will consider include:

- (a) visual privacy, outlook;
- (b) sunlight, daylight and overshadowing;
- (c) artificial lighting levels;
- (d) transport impacts, including the use of Transport Assessments, Travel Plans and Delivery and Servicing Management Plans;
- (e) impacts of the construction phase, including the use of Construction Management Plans;
- (f) noise and vibration levels;
- (g) odour, fumes and dust;
- (h) microclimate;
- (i) contaminated land; and
- (j) impact upon water and wastewater infrastructure.

2.9.2 The Appellant will show that policy A1 is wholly satisfied and the Development is in compliance with its aims and objectives.

2.10 **Planning Guidance**

2.10.1 The Council has issued planning guidance on Design (March 2019), Altering and Extending your Home (March 2019) and Amenity (March 2018) which elaborates on the Council's policies and provides guidance on interpretation of those policies and the Council's preferred approach to development.

2.10.2 The relevant provisions of these document are Design Chapter 2 paragraphs 2.1 – 2.11, Heritage Chapter 3 paragraphs 3.1, 3.3, 3.4, 3.5-3.10, Altering and Extending your Home Chapter 1 Chapter 2 2.1-2.4, Chapter 3 3.1, 3.2, 3.3-3.5 and 3.9, and Chapter 4, 4.1 and 4.15, 4.16 and Chapter 5 5.1-5.3.

2.10.3 They are not repeated in detail in these grounds of appeal but the inspector will be referred to the specific provisions where necessary.

2.11 **NPPF**

2.11.1 The NPPF requires Local Planning Authorities should approach decisions in a positive and creative way. The Appellant does not consider the Council have adopted this approach.

2.11.2 The NPPF is a material consideration in the determination of planning applications. The emphasis in the NPPF is to support “sustainable development”. Paragraph 8 provides that one objective to support “sustainable development” is a social one. That is to *“support strong, vibrant and healthy communities by ensuring that a...range of homes can be provided to meet the needs of present and future generations*

2.11.3 This proposal supports that objective as elaborated on in 2.1.6 below (house fit for family living)

2.11.4 Paragraph 196 of the NPPF is cited by the Council in the officer report, but the true extent of the applicability of this provision is not properly represented in the report. The appellant suggests that its applicability has been overemphasised and it has not been properly balanced with paragraph 197 as the property itself is a non-designated heritage asset weighed against the entire conservation area, which is a proper consideration as a designated asset. These arguments are elaborated on in this appeal

2.12 **Appellant’s Submissions**

2.12.1 The extension proposed seeks a modest increase to the living space within the existing property of approximately 20 m². It represents a considerable design improvement on the existing unsympathetic extension to the building which was granted planning permission in 2006. It represents an opportunity to ensure the accommodation is fit for modern family life as the current living space is insufficient to allow any family room facilities within the kitchen area. The proposed extension would effectively turn the current property, which is suitable for occupation by a couple, to accommodation suitable for a small family. The property consists of three individual flats over four storeys and is a mid-terraced property within a street of similar dwelling houses within the South Hampstead Conservation area. The proposals would not impact on the front aspect of the building in any way.

2.12.2 The proposal is objected to on the grounds of its design and resulting scale constituting a dominant rear addition. In fact, the proposal represents a high-quality architectural design, which would provide a considerable improvement to the existing extended ground floor. The relatively minor scale of the extension encompasses the existing extended property and the size of the rear garden plot means that the proposed extension would be negligible in impact. The large amenity area presents an opportunity for the proposal to be implemented without the proportions of garden space to built space being perceived as inappropriate. As will be obvious on any site visit to the property the proposal, being relatively low and with a proposed green roof, would be unobtrusive in the local environment. The green roof proposal would result in upper floors and neighbouring dwellings having an uninterrupted green view from higher viewing points.

2.12.3 The proposal would extend the building line at 126A to be in-line with an existing studio building in the neighbouring property at 126 Greencroft Gardens. Any impact on the studio itself would be negligible as is demonstrated in these grounds of appeal.

2.13 Reasons for Refusal Numbered 1

- 2.13.1 The first reason for refusal contains a planning judgement that the extension would be dominant, harming the character and appearance of the host building and its garden setting. That planning judgement is not considered to be sustainable on an in depth and thorough examination of the of the circumstances of this proposal.
- 2.13.2 The architectural design of the building is modern, of high quality and has no greater impact from many viewpoints than the existing extension. The extension would protrude further into the existing amenity space but this is not significant given the scale of the rear garden that would remain. The proposal does not impact to any greater extent than the existing extension on the host building. Its modern juxtaposition to the traditional building will give depth and interest to the rear elevation and the green roof would add to the garden setting viewed from adjacent higher vistas.
- 2.13.3 It is difficult to evaluate the Planning officer's finding that the proposal would as a result of its design and scale constitute a dominant rear addition as there does not appear to be any reasoned justification as to why the dimensions proposed dominate the rear of the property. The officer's assertion that the proposal would "extend far into the rear curtilage" is simply not true given the dimensions of the rear garden. Even accepting that the conservation area is characterised by long undeveloped rear gardens, and further, accepting that this feature is an asset that should justifiably be maintained to safeguard the character and appearance of the Conservation area, the garden remaining would still constitute this feature. This point is made all the more forcefully given that the garden remaining following the proposal will far outstrip the immediate neighbours private open space and in addition to the fact that there are no "long views" other than the immediate upper floor neighbours who are in fact going to be viewing a green roof and then the existing garden. The view will be improved as the addition of the green roof which will cover the existing roof area as well as the proposed extension will introduce additional green scape from the upper views. The overall impact will consequently be considerably mitigated by the green roof.
- 2.13.4 It is difficult to see how the proposal is overly dominant as the attractive garden setting of the host building would not be diminished or compromised by the proposal nor would it harm the character and appearance of the host building or its garden setting which would remain as a considerable feature of the property. This will be apparent on a site visit when the extent of the proposal is clear (to the existing patio line) and the remaining garden space becomes clear to the observer. As the proposal follows to a large extent (but with considerable design improvements) the existing pattern of the current extension it is hard to see how the finding that it fails to be sympathetic to the scale and proportions of the host property is made. The officer accepts that "the modern design is not objectionable in principle but states that given the overall scale it is considered to cause harm to the character and appearance of the host property. As that property would benefit from the enhanced design elements of the proposal as against the existing position this objection cannot be justified. The scale is depth only and the size of the existing garden means that the depth of the proposed extension is entirely proportionate. It should be weighed in the balance of the fact that the existing arrangement straddles the whole of the width of the rear of the original property.

2.13.5 The officer states in the delegated report that “the proposal would be at odds with the architectural character of the host building” (having already accepted the modern design is not objectionable in principle) and goes on to state that it would “disrupt the distinct harmonious composition of the terrace” without any elaboration of what the “distinct harmonious composition” is. With respect, there is no effect on the composition of the terrace from any viewpoint at the rear as the single storey extension is low in the line of buildings and the only long viewpoint will be from the occupants of the host property itself. In any event this view will be considerably improved by the quality design.

2.13.6 The appellant has considered each of the policies cited in RFR 1 and in respect of Policy D1 would comment as follows;

- (a) this proposal is intended to be a modern juxtaposition to the host building and as a quality modern design does respect the local context by adding an additional dimension of interest to the rear elevation.
- (b) the modern design will in the appellant’s view enhance the historic environment. in accordance with policy D2. Any pastiche design would be damaging. The modern juxtaposition is an interesting dimension that adds to the area.
- (c) the sustainability of the design is without question given the green roof and other sustainable incorporations into the proposed build
- (d) this extension would allow the adaptation of this dwelling to different activities by rendering it suitable as a small family home. The current living arrangements are not sufficient for a family as the kitchen facilities allow only space for cooking and the integral living room is not sufficiently spacious for any uses other than a small living amenity area. This means that the potential for family accommodation is not available. There can be no small dining table or facility for a family to eat together within the existing space. The extension proposed would allow this dwelling to accommodate a small family with 2 bedrooms and more importantly a garden of considerable size to allow any children to play. As existing, there is no space for family accommodation, particularly to eat a meal with only a small breakfast bar suitable for two adults. The proposed development would allow a transformation of amenities available to the occupier of this property and for it to become a fully functioning family dwelling with a large garden, an exceptional benefit for a family living in London.
- (e) the details and materials can be controlled by appropriate conditions to meet this aspect of policy D1 and it would be appropriate to do so to allow the grant of planning permission.
- (f) is not directly relevant to this Development as it is wholly at the rear.
- (g) is not directly relevant to this Development as it is wholly at the rear.
- (h) the proposed development would promote a healthy environment for a young family with more appropriate family accommodation and a large garden.

- (i) the proposal will be of high quality design and designed to prevent crime opportunities such as burglary
- (j) it is accepted the Development will slightly reduce the overall size of the garden area but the proposal does preserve a garden of considerable proportions suitable for recreational use and still over 21] metres long.
- (k) the Development maximises opportunities for screening with the position of a green roof considerably improving the outlook for neighbouring properties on upper floors.
- (l) the Development has sufficient outdoor amenity space remaining to comply with this part of the policy requirement.
- (m) there is no strategic or local view of the site
- (n) the proposed development, if it proceeds, will provide high quality accommodation considerably improving the existing arrangements
- (o) is not directly relevant to this Development

2.13.7 As can be seen from the careful consideration of each individual aspect of policy D1 this proposal largely complies and in the balance of considerations appears to the Appellant to satisfy the Councils requirements. . Where it does not fully comply the non-compliance is so minor when weighed in the planning balance as to be negligible.

2.13.8 It is accepted that the South Hampstead Conservation Area Character Appraisal and Management Strategy refers (at 7.13) to the long, undeveloped rear gardens and private open spaces being central to the character and appearance of the South Hampstead Conservation area and that their preservation is important. The Appraisal cautions that particular care should be taken to ensure that the attractive garden setting of the host building is not compromised by overly large extensions. The judgement of the planning officer in his finding on this is with respect, questionable, as the proposal would be no more intrusive than the existing arrangement and the improvement to design and quality including the proposal for the green roof should, when weighed in the planning balance, contribute to the factors in favour of this proposal. There will be no objectively viewed loss of long garden space from elsewhere in the vicinity. No adverse effect can be attributed to the proposal in this respect.

2.13.9 The officer comments in his report that the proposal would reduce the level of soft landscaping within the rear curtilage but rights already available to the Appellant could mean that soft landscaping could be reduced significantly in any event. Landscaping can and should be controlled by a condition imposed on any permission granted.

2.13.10 The Appellant submits that the proposal comprises details of high quality that will complement local character with a modern design. The materials and finish can in any event be controlled by conditions to ensure the requisite standard is met. The proposal also maximises an opportunity for greening in accordance with policy D1. There is no apparent basis on which a judgement could be made that this proposal, within the rear garden occupies excessive space, and would be the loss of a part of a garden space that contributes to the character of the townscape. The long garden would still be very much in evidence, particularly when viewed against the

immediate neighbours studio building (which occupies a large proportion of their garden). This is the case even with the existing garden room building at 124 currently utilised as a small gym ancillary to the dwelling (labelled incorrectly on the plans submitted with the Application as a “Garden Shed” rather than a “Garden Room” which is the correct description).

2.13.11 In respect of Policy D2 the Appellant accepts and recognises the need to protect designated heritage assets. The proposal has in the Appellant’s submission a nil effect on the character and appearance of the conservation area. It preserves the status quo of development at the rear of the property but enhances the design weighed against the loss of a small area of hardstanding within the garden land which is currently in use as a small patio. There is no tangible contribution to the conservation area of this individual garden and the green roof space would seek to mitigate the loss of green area from the viewpoints that it may impact. Consequently, it would be unreasonable to give great weight to this consideration in reaching a decision.

2.13.12 The officer report at paragraph 2 refers to the considerable importance and weight attached to “preserving the character and appearance of the listed building”. The building itself is not listed despite it being within the conservation area. The officer appears to have misled himself on this issue.

2.13.13 The officer refers to paragraph 196 of the NPPF which does not appear to be as relevant to this proposal as paragraph 197 NPPF which refers to the effect on a non-designated heritage asset and to “a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.” The scale of harm as against the significance of the asset in this circumstance (at the rear of the property which has been designated for the front symmetry and value) is minimal in the context of the proposals.

2.13.14 Although the officer in his report at 2.4 refers to his view that the proposal by virtue of its “cumulatively dominant scale, would harm the characteristics identified within the South Hampstead Character Appraisal and Strategy” there is no real analysis of how this harm arises or justification for the conclusion that it does. The Appellant does not accept the Officer has reached the correct conclusion on the harm caused. The Appellant also notes as above that there is a public benefit in this proposal by bringing the property into use for a young family by improvement in the living accommodation offered and consequently securing its optimum viable use for family accommodation, a commodity lacking within the myriad of converted flats in the area and surrounds.

2.13.15 The small existing patio does not get sunshine due to the orientation of the property and an existing terrace area further within the garden is the area utilised for sitting. Should the Inspector be concerned to ensure no further hard landscaping is installed he can regulate this by condition to require a landscaping scheme. It is the case that the Development would only use for built development the area currently occupied by hardstanding patio. If necessary further rear hardstanding (permitting only a minimal amount sufficient to serve the Development) can be controlled by a suitable landscaping condition.

2.14 Reason for Refusal 2

2.14.1 Reason for Refusal numbered 2 cites insufficient information being available to the Council to demonstrate there would not be an impact on the levels of daylight or sunlight received by neighbouring properties No 122 and 126 Greencroft Gardens contrary to Policy A1.

- 2.14.2 The Appellant has commissioned and attaches to these grounds of appeal at **Appendix 4** a Daylight and Sunlight Report prepared by specialist consultants RSK. Policy A1 states that the Council **will** grant permission for development unless this causes unacceptable harm to amenity and will consider daylight sunlight and overshadowing in assessment of this policy.
- 2.14.3 As is clearly demonstrated in the report the proposed development will have a minimal effect on existing potential sensitive receptors, including the neighbouring studio building. The impact on the studio building was perceived by neighbours at 126 as a potential issue but this will not be the case.
- 2.14.4 The report is prepared in accordance with BRE guidance as required by Camden Planning Guidance 6 Amenity (chapter 3) and satisfies the requirements of that CPG and of policy A1. Following the findings of the assessment refusal is not warranted on this basis and reason for refusal numbered 2 falls away.
- 2.14.5 For the avoidance of doubt the inspector should know that this report was not formally requested by the Council during the application process. The Officer did not raise any issues of sunlight or daylight at any stage (including during the site visit at which the Appellant was present) and this reason for refusal was entirely unexpected and in fact, as common sense would dictate, has proved to be unjustified. If it had been raised at an earlier stage the relevant report would have been commissioned.
- 2.15 **Reason for Refusal 3 (erroneously numbered 2)**
- 2.15.1 The third reason for refusal refers to harmful levels of light pollution and an unneighbourly sense of enclosure to neighbouring properties at nos 122 and 126 Greencroft Gardens. This assessment is disputed. The officer will have been influenced in the planning judgement he made by the inaccuracies taken into account in the refusal decision reasoning already pointed out above. The neighbouring property at 126 Greencroft Gardens objected to the proposals on various grounds chiefly daylight and sunlight loss. This has not proved a correct perception given the Daylight and Sunlight Reports findings. The occupants of number 122 have not objected.
- 2.15.2 The objections submitted by 126 to the proposals were in fact largely addressed in a letter from the Appellant's architects addressed to the planning officer dated 28 February 2019 which is attached at **Appendix 5**. This letter, addressing a number of inaccuracies and misleading statements made in the objection does not appear to have been taken into consideration in the officer's conclusions on the matter. There is no reference to this letter in the officer's delegated report. The objection submission itself appears to have been given exaggerated weight without a check on the accuracy of a number of the assertions which are simply incorrect. The Inspector is referred to the detail of the response to the objection and the illustrations within that letter which (coupled with the site visit) will adequately show the position and illustrates the over blown and exaggerated nature of the objection.
- 2.15.3 Dealing first with the allegation of light pollution, no external lighting is proposed and that can in any event be dealt with by condition. With no external lighting under consideration in this proposal potential light spill will be minimal. As is noted by the specialist consultant at RSK if blinds or curtains are used at night (which is usual in any domestic property) then this will be reduced further. The specialist consultant at RSK has addressed this point specifically in an email a copy of which is attached to these Grounds of Appeal at **Appendix 6**.

- 2.15.4 His findings are that the courtyard design and proposed metal doors are unlikely to result in any significant additional light spillage from the property. The officer refers in 3.6 of his report to an entirely glazed rear but the current position is an entirely glazed rear. Any effects from the small courtyard window proposed would be minimised by the fact that there is no external lighting proposed and the likelihood of blinds or curtains being used which would minimise light spillage. The Appellant submits that light spillage will only very marginally increase as a result of the proposals and given the design would not adversely affect the upper floor flats. The Inspector is referred to the findings of the specialist consultant at RSK within **Appendix 6** who considered the matter following preparation of the Daylight and Sunlight Report.
- 2.15.5 The officer asserts an unneighbourly sense of enclosure from the proposal. It is assumed that the officer aligns this with the objection to the scale of the proposal and its alleged dominance. The Appellant has addressed these points in some detail above. The proposal for this domestic extension is modest. The photographs marked up by the objector are not an accurate representation of the position. They are exaggerated in attempting to show scale and unless the measurements are verified, should not be relied on. The objector may claim to have raised legitimate concerns, but the representation submitted is a complete misinterpretation of the plans and development proposals and is presumably a reaction to what the objector perceives the harm to be. Marking up photographs which do not show accurately the scale of the proposals and show the garden of 124 Greencroft Gardens some years prior to the current application does not assist in assessment of the current proposals.
- 2.15.6 It appears that the objection was lodged to put forward a submission in respect of the neighbouring studio building, ironically a building that *is* undeniably dominant and incongruous in the setting. This building could not be adversely affected by the proposals, as there would be no views from it that would be substantially different. The raised window in this studio building facing 126 is not of an upper floor but designed to allow light into the building (which it is assumed is open plan within) and this is frosted which the Appellant assumes is for privacy from the upper storeys of 126. The objector states that permission to join their house and studio outbuilding was refused and appears to suggest that that fact justifies refusal of this proposal, when each proposal must be considered on its merits. The objector also refers to irrelevant considerations which should not form part of the planning judgement including the garden room building at 124, situated at the far end of the garden.
- 2.15.7 The inspector will undertake a site visit and can assess for himself the judgement to justify this reason for refusal. It is the Appellant's firm view that the officer, having been intellectually sloppy in considering the proposals, has formed an incorrect view of the scale of the proposal without properly testing the measurements and objectively assessing the objection submitted.
- 2.15.8 To assist the inspector in advance of the site visit the Appellant submits as **Appendix 7** some additional photographs showing the general arrangement of the rear garden and neighbouring studio building. The Appellant also submits a photograph marked to show the extent of the increase in brickwork that would result from the proposal. The entire area is already covered by vegetation for privacy purposes and the proposal would represent an improvement to privacy. It is understood the occupiers of 126 have previously increased screening to improve privacy at the rear of the garden and this is in evidence as is shown on the marked photograph within **Appendix 7**. The Appellant submits that in fact the overall impact of the Development will improve the privacy at number 126 without resulting in the

sense of enclosure alleged. The precise details will be observed on a site visit when the proportions and scale will be apparent.

2.16 **Conclusion**

2.16.1 With careful consideration, the refusal of planning permission for this proposal appears to be unjustified. There is no absolute policy non-compliance for this proposal and there do not appear to be material considerations to outweigh the general presumption that planning permission should be granted. Where a proposal accords with the development plan planning law requires that permission should be granted.

2.16.2 The justification for refusal is intellectually inadequate; it contains broad generalisations without positive consideration of whether conditions could be used to overcome certain of the perceived unacceptable elements of the proposal. The refusal appears to have been unduly influenced by one neighbour objection that, upon examination, is largely irrelevant to the planning issues requiring consideration, asserts consequences for the development that cannot be justified on analysis and has not demonstrated a proper understanding of the plans and proposals submitted. The reasons for refusal appear to be largely based on the assertions within this objection that are strongly refuted as an accurate representation of the proposals. The unsoundness of the majority of the objection is overwhelmingly demonstrated in this appeal, and Reason for Refusal 2 and 3 are overcome by the expert evidence of RSK submitted to demonstrate the correct interpretation of the position. On this basis the only remaining objection is the officer's judgement of the scale and dominance of the proposal. This has clearly been influenced by erroneous considerations and the reasoning does not appear to the Appellant to hold up to examination. It does not appear to correctly apply policy to the proposal under consideration and with respect to the Officer the decision is not sound in its conclusions. The Inspector is respectfully requested to allow the appeal and grant planning permission for a rear ground floor extension with green roof as applied for.

Blandy & Blandy LLP
23 October 2019