

Delegated Report		Analysis sheet	Expiry Date:	11/06/2013
		N/A	Consultation Expiry Date:	23/05/2013
Officer			Application Number(s)	
Christopher Heather			2013/1297/P	
Application Address			Drawing Numbers	
46 Howitt Road London NW3 4LJ			See draft decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Excavation of a new basement with a lightwell to the front and the rear of the property, to create 3 additional HMO units (Class C4). Alteration to the existing rear single storey extension.				
Recommendation(s):	Refuse planning permission			
Application Type:	Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	32	No. of responses	02	No. of objections	02
			No. electronic	00		
Summary of consultation responses:	<p><i>Quality of the resulting residential accommodation</i></p> <ul style="list-style-type: none"> • Space at basement is not suitable with limited light. • The house is already very crowded. There are already 10 buzzers at the property and this would add 3 more rooms (which could be occupied by more than one person each). <p><i>Basement</i></p> <ul style="list-style-type: none"> • There is subsidence in the area, and the proposed basement will not assist this. • Disruption would be caused during construction. <p><i>Neighbouring amenity</i></p> <ul style="list-style-type: none"> • The house generates a great deal of refuse. • There has been noise in the past generated by residents. <p><i>Highways and transportation</i></p> <ul style="list-style-type: none"> • There is already a good deal of parking on a crowded street. 					
CAAC	<p>Belsize</p> <ul style="list-style-type: none"> • Object to the front and rear lightwells and rear extension which is detrimental to the area and would lead to overdevelopment / overcrowding. 					

Site Description

The site is a property on the northern side of Howitt Road. It is not listed but is within the Belsize Conservation Area, and is noted as being a positive contributor within the associated conservation area statement. The building is described by the applicant as being a HMO. However, this is disputed and this is detailed further in the land use section.

Relevant History

January 2008: Certificate of lawfulness (Ref: 2007/6309/P) refused for “proposed use as a single family dwelling-house”. The reason for refusal was:

Insufficient evidence has been submitted to demonstrate the current lawful use of the property. Either: 1. the lawful use of the property is as two self-contained flats, in which case the use of the whole property as a single dwellinghouse constitutes a change of use for which planning permission is required; or 2. the lawful use is as an HMO [or possibly a combination of a self-contained flat and an HMO], in which case the use of the whole property as a single dwellinghouse constitutes a change of use for which planning permission is required.

February 2008: Enforcement case (Ref: EN08/0119) opened into “unlawful use of property”. This was subsequently closed in **March 2008** with no action taken as no breach was found.

Relevant policies

CORE STRATEGY

CS1 (Distribution of growth)
CS4 (Areas of more limited change)
CS5 (Managing the impact of growth and development)
CS6 (Providing quality homes)
CS11 (Promoting sustainable and efficient travel)
CS13 (Tackling climate change through promoting higher environmental standards)
CS14 (Promoting high quality places and conserving our heritage)
CS15 (Protecting and improving our parks and open spaces and encouraging Biodiversity)
CS18 (Dealing with our waste and encouraging recycling)
CS19 (Delivering and monitoring the Core Strategy)

DEVELOPMENT POLICIES

DP2 (Making full use of Camden’s capacity for housing)
DP5 (Homes of different sizes)
DP6 (Lifetime homes and wheelchair homes)
DP9 (Student housing, bedsits and other housing with shared facilities)
DP16 (The transport implications of development)
DP17 (Walking, cycling and public transport)
DP18 (Parking standards and limiting the availability of car parking)
DP22 (Promoting sustainable design and construction)
DP23 (Water)
DP24 (Securing high quality design)
DP25 (Conserving Camden’s heritage)
DP26 (Managing the impact of development on occupiers and neighbours)
DP27 (Basements and lightwells)
DP28 (Noise and vibration)

Camden Planning Guidance

CPG 1 Design (Pages 89-94)
CPG 2 Housing (53-62)
CPG 3 Sustainability
CPG 4 Basements and lightwells (26-27)

CPG 6 Amenity (37-45)
CPG 7 Transport (25-28, 47-55)
CPG 8 Planning obligations (15-17, 56-59)

Belsize Conservation Area Statement

Assessment

Proposal

The proposal is to enlarge the existing property through excavating to enlarge the existing small basement, and altering the rear of the property to provide additional floorspace. A large lightwell would be created to the rear to provide an outdoor seating area and light to two of the rooms/units. Above this would be a bridge to allow access from a ground floor unit/room to a portion of the rear garden. To the front would be a lightwell with a grill and the erection of railings.

A key issue is that the drawings indicate that what is proposed is not the addition of rooms to an existing HMO, in contrast to the description of development put forward by the applicant. The site visit also indicated that the existing unit is not a HMO, but small self-contained units. The rooms proposed would have the same characteristics. This is explored further below.

Land Use

The proposal affects the basement and ground floors leaving the upper floors unchanged. It is put forward as an extension to an existing HMO, however, many of the existing rooms have a number of characteristics which suggest that they are self-contained units. This includes a toilet and shower room, and kitchen facilities behind a front door. There is no communal sitting area with any facilities. There is a bathroom in the basement which is theoretically communal, although in practice it would only be used by the one room which does not have its own bathroom, and that is the room nearest to it on the ground floor. There is no indication that the occupiers on the ground floor live together as a single household and as such they are considered to be self-contained units.

Drawings submitted to Environmental Health in 2006 show the current layout at ground floor level. This suggests that it may have been like this for over 4 years, although this cannot be categorically confirmed and it is only if a certificate of lawfulness were to be submitted that a judgement could be made. What is clear is that what is now proposed would result in self-contained units at both basement and ground floor, with some internal alterations which would change the size of the existing units at ground floor, and result in the unit to the rear being completely self-contained. At basement level 3 flats would be provided, each with bathrooms, kitchens and seating areas behind their own front doors.

Having referred to the planning history, as well as what has been viewed on site, there is some confusion over what the lawful use is. However, there does not appear to be an objection to the principle of creating flats within the property, subject to the detailed design and mix of unit sizes (which is assessed below).

Conservation and design

Policies CS14, DP25 and DP25 are relevant, and are supplemented by the Belsize Conservation Area Statement (CAS). New development should respond positively to its surroundings. Policy BE2 of the CAS notes that the creation of new front basement areas will generally be resisted for traffic and design reasons. It also notes that excavation works can have a detrimental effect on the character and appearance of a building and the conservation area, and that they will normally only be permitted if the building will be restored to its original condition, or it will contribute to the established character of the street scene.

The main way that the basement manifests itself to the front is the lightwell and grill. The lightwell would be quite large but would not completely fill the front area. Although BE2 suggests that such developments should not be supported there is evidence elsewhere in the street (on both sides) of existing lightwells. Therefore, there is considered to be a justification for not objecting in this instance: the context is such that to allow it would not be so out of character as to be problematic. This also applies to the grill over the top which would assist to lessen the lightwell's impact. The railings to the front would be traditional and not objected to.

To the rear the existing closet wing extension would be enlarged, although this would be done by squaring off

what is there now than extending it. There is a good deal of variation in the terrace and that to the rear and there is no particular design reason to preserve the rear in its current form. Therefore, there is no objection to this. There would be a large lightwell which would have railings around it, and a bridge to allow access from the ground floor to a section of the rear garden. The bridge and railings would slightly conceal the lightwell below but it would remain a substantial feature within a garden which is not deep. The lightwell is intended to provide light and an amenity space to two of the units at ground floor level, which is presumably why it has been designed this large. However, this is not considered to make it acceptable in design terms. There is concern that it would appear as an incongruous feature in the rear garden (even if trees and vegetation would provide some screening). There would be enough vantage points of it for it to be problematic.

Quality of the resulting residential accommodation (including lifetime homes and housing mix)

Policies CS5, DP2, DP5, and DP6 concern the quality of the accommodation. Following on from the advice above the existing and proposed units would all be studio units. The proposal would slightly enlarge two of the existing units at ground level by internalising some of the communal space. The resulting units would be 22.3sqm. The alterations to self-contain the unit to the rear would result in a unit measuring 20.3sqm. At basement level the layout would be almost identical to the ground floor, and the size of the newly created units is almost identical. The guidance within CPG2 is that a 1 person unit is 32sqm. The layout proposes suggests a double bed in each unit, for which the standard would be 48sqm. Therefore, the units proposed would be way below even the smallest standard, which cannot be supported. Each would be single aspect with very poor outlook at basement level. The unit to the front would look out into the front lightwell with a grill over the top, so reducing light. To the rear two units would look into the rear lightwell which is a full storey below the ground, and the bridge and railings would reduce further the light and vantage received by the units. In addition, there would be mutual overlooking between the two units to the rear which would compromise the quality further. Although the lightwell is intended to provide amenity space this is shared but with one occupier using it there would be potential for noise and overlooking to the other. Finally, there would be opportunities to look down from the ground floor into these two units at basement level which would affect privacy.

The table accompanying DP5 indicates that studios are the lowest priority and to have a development which would be exclusively studios is not considered in accordance with this policy, not least because this is not the result of specific site circumstances.

There is no indication of cycle and refuse storage facilities. It is not unusual for it to be difficult to provide such facilities when properties such as this are sub-divided. However, the level of sub-division in this instance is such that to add additional units is likely to create problems, either inside or outside of the property. Therefore, this is also objected to.

The proposed units would not accord with the principles of lifetime homes. Even though the units at basement level are new build the nature of the adding units in this part of the building which need to be accessed via the main building makes it very difficult to achieve even basic compliance. To require, for example, the bathrooms to be lifetime home compliant would result in even less space for the rest of the units and so this is considered symptomatic of the problems of the scheme. It is disappointing that the agent has made very little attempt to even detail the relevant criteria, but it is on balance not considered appropriate to refuse the application on this basis.

Neighbouring amenity

Policies CS5 and DP26 are of relevance. The comments above on the lack of refuse storage are considered relevant, and so the comments of the objector are agreed with. The objection notes that there is already a problem with refuse, and given how many units are in the property already this is understood. To add more units without dedicated refuse storage would exacerbate the problem. There is physically not enough space on the site itself for each unit to have its own bin in a usable location. Therefore, refuse that is not stored within the properties would inevitably end up cluttering the front area of the property and/or the street.

There has also been an objection to the noise created by a significant number of occupants. Whilst there is sympathy with this it is not considered possible to refuse the application on this basis. The use proposed is residential, in a residential area, and any specific noise concerns could be addressed through other legislation.

There would be no impact on neighbours caused by the lightwells as they sit below the ground level. The rear extension would not have an additional impact on neighbours as it would square off what is there than

extending further out.

Highways and transportation

The proposal would result in additional residential units, which could potentially increase pressure on the highways network. The site is very near to Belsize Park station, and there are bus routes along Haverstock Hill. Therefore, there is considered to be justification for removing the rights of future occupiers to be able to obtain on-street parking permits. In the absence of an otherwise acceptable scheme this would become a reason for refusal, contrary to policies CS11 and DP18.

The comments above on cycle provision are also of relevance.

Trees and landscaping

Although there are trees nearby it is not considered that the impact of the basement would be detrimental to them. Therefore, this is considered acceptable.

Basement

Policy DP27 concerns basements and their impacts, and is supplemented by CPG4 which provides detail on how to assess such applications. The applicant has submitted some information on this but it is not in the form suggested by CPG4, which divides the issues into 3: subterranean (groundwater) flow, surface flow and flooding, and land stability. There are a series of questions for each, and where they are answered "Yes" they need to be explored further. Part of the process is for there to be a site investigation, which has not taken place.

Under groundwater flow there are questions which should be answered "Yes". They are that the basement will result in a change in the proportion of hard standing and that as a result more water will be discharged to the ground. Without the site investigation it cannot be categorically confirmed that there is no aquifer directly beneath the site, or that the basement will extend beneath the water table. The basement is proposed to be 3.8m below the existing ground level. The increased amount of hard standing is potentially an issue for surface flow and flooding as well, and the size of the lightwells could result in changes to the way in which water flows across the site and potentially into the neighbouring sites. For land stability it does appear that London Clay is the shallowest strata at the site. The applicant has indicated that there is a history of seasonal shrink at the site, but this is not explored further. The front lightwell would be within 5m of the highway, and it would increase the differential depth of foundations relative to neighbouring properties.

Unfortunately, of those questions which are clearly "Yes" there is very little exploration of them, and not enough to be satisfied that the construction of the basement would not cause problems were it to go ahead. There are other questions which it is not clear what the answer is and this is largely a function of the site investigation not having taken place. Therefore, it is concluded that the proposal is not currently in accordance with policy DP27 and CPG4. It is noted that the revised CPG4 includes a requirement for basement impact assessments to be independently assessed when an objection is received that relates to their impact. Although now adopted policy it is concluded that there is a reasonable exception to be made due to when the original application was made. Therefore, this specific point is not considered to form part of this overall reason for refusal.

Sustainability

Policy DP22 requires that new build units should achieve Level 4 for Code for Sustainable Homes and that for changes of use to 5 or more residential units that they achieve a rating of "very good" for Ecohomes (now superseded by BREEAM Refurbishment). Whilst there is some confusion over whether all of the existing units are lawful, it is clear that at least one of those at ground floor would be created through a change of use and that those units at basement level would be new-build. However, a more significant issue appears to be what, if anything, could be achieved in this particular instance. The units are all so small that to incorporate sustainability measures would be practically impossible, and would further reduce the usable space. Also, constructing units at basement level makes it more difficult to influence the particular form of construction. Therefore, it is concluded that there are likely to be such limited gains when compared to building regulations that to refuse the application because it does not accord with Ecohomes or BREEAM is not considered feasible.

Construction impacts

The basement would be of a reasonable size and in close proximity to neighbouring properties on a relatively

narrow road. Therefore, a Construction Management Plan (CMP) is considered necessary. Were the scheme to be acceptable in all other regards this would be secured through a section 106 agreement, but in the absence of this it becomes a reason for refusal.

Section 106

There are no additional obligations other than those referred to above. The exclusive provision of studios means that there would be no educational requirement.

CIL

The proposal would create additional units of accommodation measuring in excess of 88sqm, and would be liable for a contribution towards the Mayor's CIL. Based on the charging schedule the charge (which is £50 per sqm of floorspace) the amount due would be at least £4,400. However, due to the confusion over the lawfulness of the units it could be more.

Other matters

Affordable housing is not considered to be a specific issue in this instance. Although there is some doubt about the number of units which are lawful, it is clear that at basement and ground floor level there is less than 10 proposed.

Conclusion

The key issue is that the existing use and the proposed development are not / would not be a HMO. The characteristics suggests that they are self-contained units. This means that the proposed units would be severely sub-standard. The outlook at basements level would be limited, and this is exacerbated by overlooking of the rear units from the garden above. There is no cycle or refuse provision proposed and the mix of units is sub-standard. There is also concern about the size of the rear lightwell and it being out of character with the area. The information submitted in relation to the basement is not considered sufficient. There are other more minor issues but they are considered to be insufficient to be reasons for refusal or can be controlled through conditions, or section 106. However, in the absence of an otherwise acceptable scheme the latter would be reasons for refusal.

Recommendation: Refuse planning permission.