

Delegated Report		Analysis sheet		Expiry Date:	16/07/2019
		N/A		Consultation Expiry Date:	N/A
Officer			Application Number(s)		
Adam Greenhalgh			2019/2630/P		
Application Address			Drawing Numbers		
6 Lindfield Gardens London NW3 6PU			See decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Erection of a single storey building within the rear garden area of existing dwelling house, incidental to the enjoyment of the existing dwelling house					
Recommendation(s):		Grant Certificate of Lawfulness for Proposed Development			
Application Types:		Certificate of Lawfulness (Proposed Development)			

Conditions/Reasons for Refusal:	N/A			
Informatives:				
Consultations				
Adjoining Occupiers:	No. of responses	0	No. of objections	0
Statutory consultation:	No consultation undertaken other than e-alerts and the weekly list.			
Heath & Hampstead Society	<p>Objection:</p> <ol style="list-style-type: none"> 1. Harm to character and appearance of Conservation Area 2. Potential future use as a separate dwelling 3. Loss of green, sustainable garden space <p><i>Officer response:</i> <i>The application is for a Certificate of Lawfulness for permitted development under the Town and Country (General Permitted Development) Order. The above objections, which are based on the planning merits of the proposal, cannot be taken into consideration in the determination of the application, which must be undertaken in accordance with the legislation and the criteria within it (which is assessed within the report below). The terms of reference for Member's Briefing require there to be a relevant material objection to the application from an amenity group, Ward Councillor or three or more respondents from different addresses. In this instance the objections are not considered to be relevant material objections in the decision making process. As the outbuilding only needs to conform to criteria within legislation its harm to the character and appearance cannot be taken into consideration; permitted development precludes using the building as a separate dwelling (this would require planning permission) and the loss of garden space is not a relevant consideration over and above criteria E.1(a) of which this development complies.</i></p>			
Site Description and Proposal				
<p>The application relates to the rear garden of a single dwellinghouse.</p> <p>The proposal is for the erection of an outbuilding within the rear garden area. The outbuilding would be for purposes incidental to the enjoyment of the main existing dwelling house (i.e. a garden room, gym and store).</p>				

The proposed outbuilding would be single storey building in height, it would have a dual pitched roof to a maximum height of 4.0m. The eaves would be at a maximum height of 2.5m. No part of the building will be located within 2.0m of the boundary of the curtilage of the property.

The ground level is not uniform with modest level changes within the area of the garden where the building is to be erected. On this basis, full reference has been had to the guidance within the DCLG document "Permitted development rights for householders :Technical Guidance", which states that:

"Where ground level is not uniform (for example if the ground is sloping), then the ground level is the highest part of the surface of the ground next to the building."

Assessment

The proposed development is assessed against the criteria within Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015:-

Class E

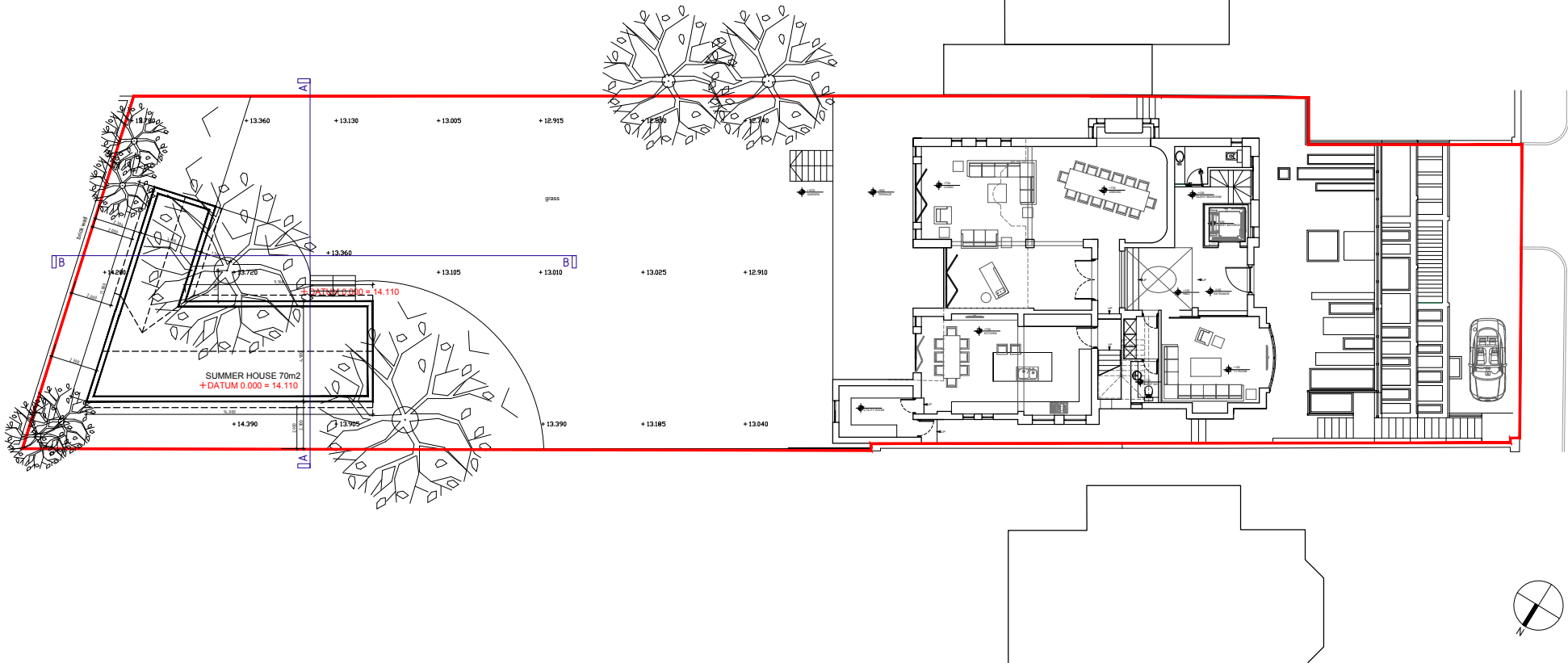
The provision within the curtilage of the dwellinghouse of:—

- 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
- b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas

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— i. 4 metres in the case of a building with a dual-pitched roof, 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 iii. 3 metres in any other case?	No
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

Conclusion:

The proposal complies with the criteria for permitted development under Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

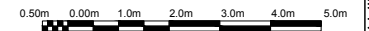
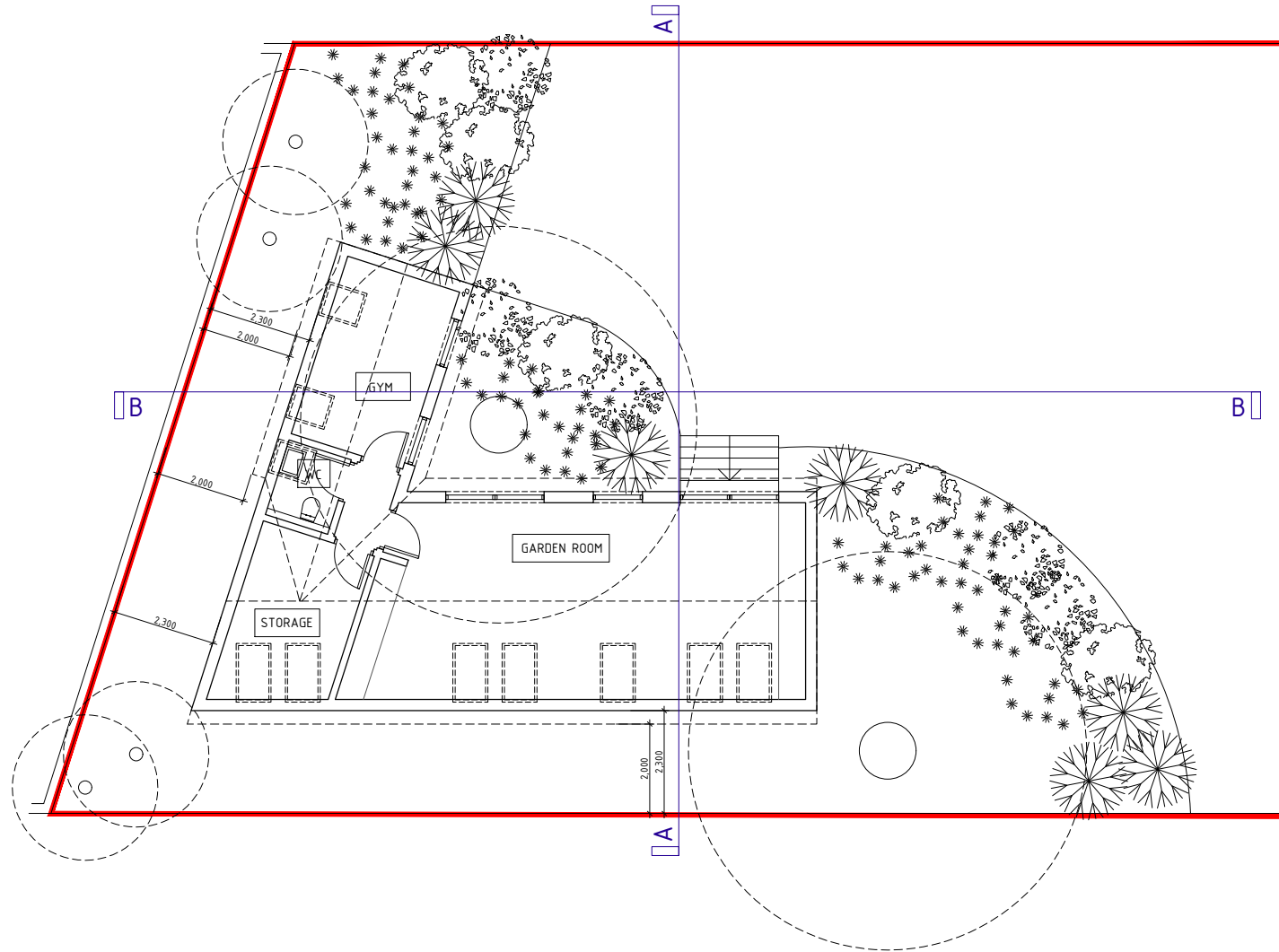


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PROJECT ADDRESS: 6 LINDFIELD GARDENS NW3	PROPOSED SITE PLAN		A	
	DRAWING NO: 1006(PD)03	DWG FILE: 1006(PD)100-300		
	CLIENT NAME:	DRAWN: TK		
	PROJECT STAGE: PD	SCALE: 1:200	SIZE: A3	DATE: APRIL 2019
	VERSION:			



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PROJECT ADDRESS:
6 LINDFIELD GARDENS
NW3

CLIENT NAME:

PROPOSED FLOOR PLAN

DRAWING NO: 1006(PD)110

PROJECT STAGE: PD

VERSION:

DWG FILE: 1006(PD)100-300

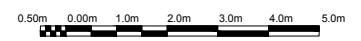
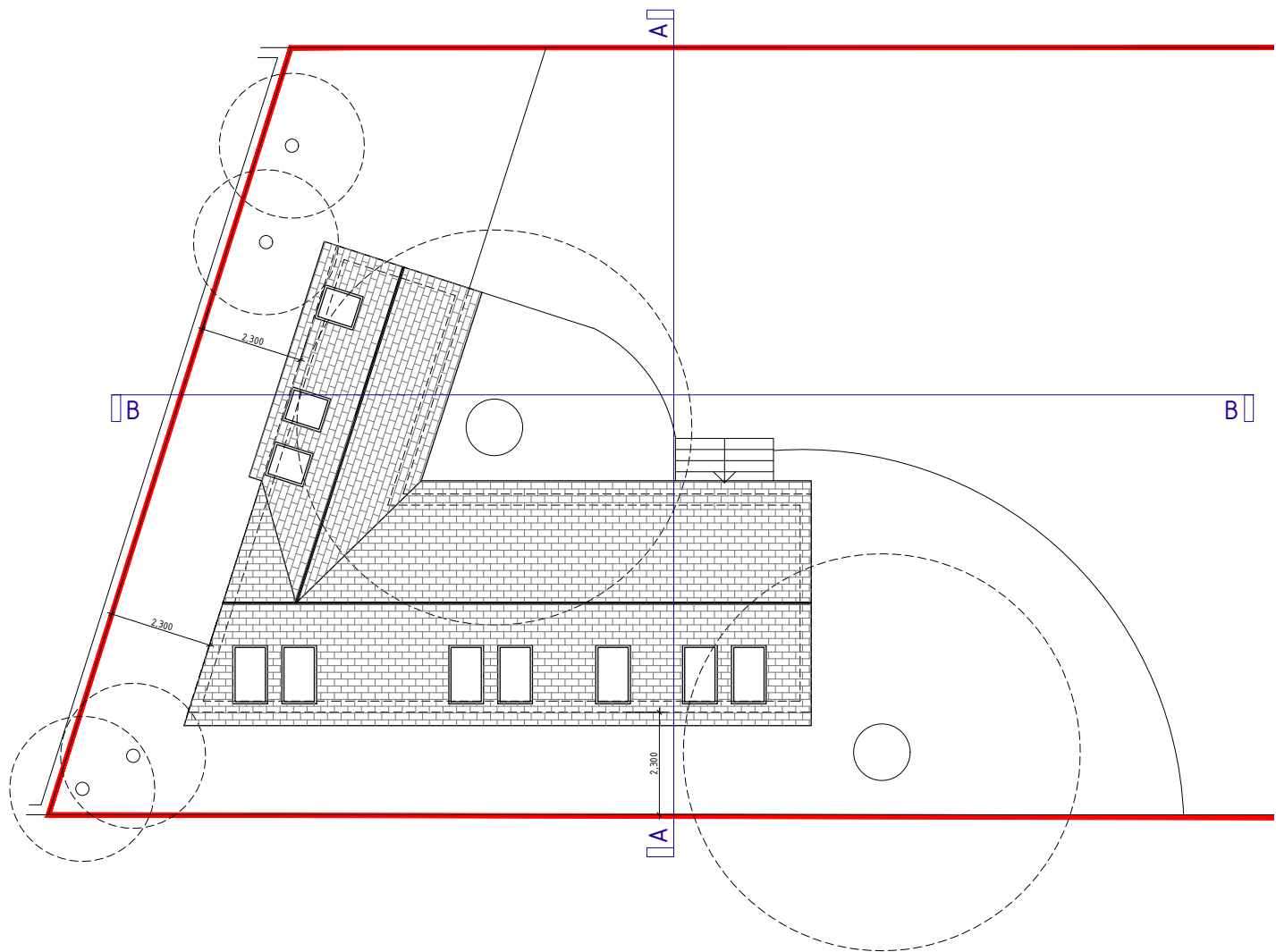
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SCALE: 1:100

SIZE: A3

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DATE: APRIL 2019



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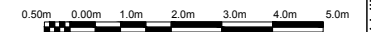
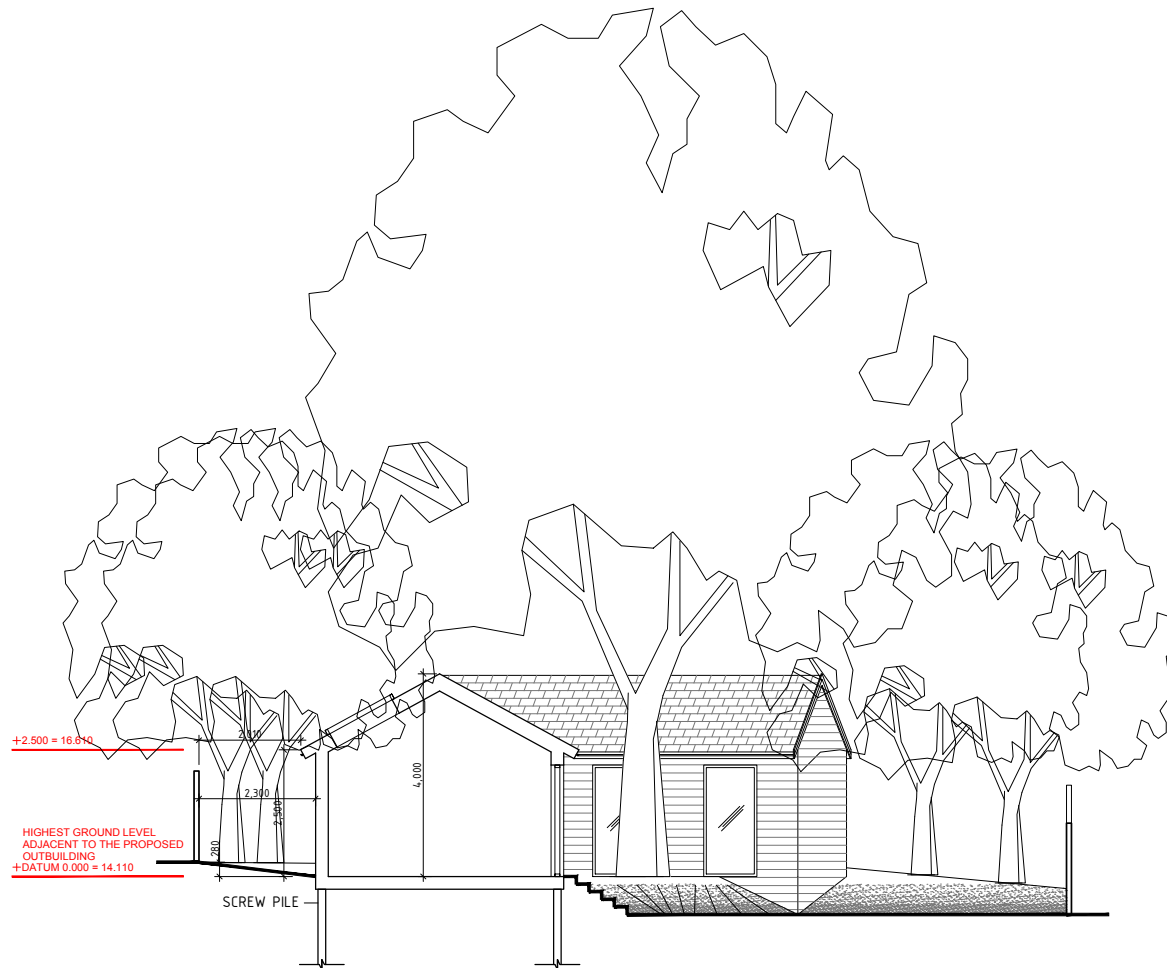
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PROJECT ADDRESS:
6 LINDFIELD GARDENS
NW3
CLIENT NAME:

PROPOSED ROOF PLAN		
DRAWING NO: 1006(PD)111	DWG FILE: 1006(PD)100-300	
PROJECT STAGE: PD	DRAWN: TK	
VERSION:	SCALE: 1:100	SIZE: A3

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DATE: APRIL 2019



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PROJECT ADDRESS:
6 LINDFIELD GARDENS
NW3

CLIENT NAME:

PROPOSED SECTION AA

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PROJECT STAGE: PD

VERSION:

DWG FILE: 1006(PD)100-300

DRAWN: TK

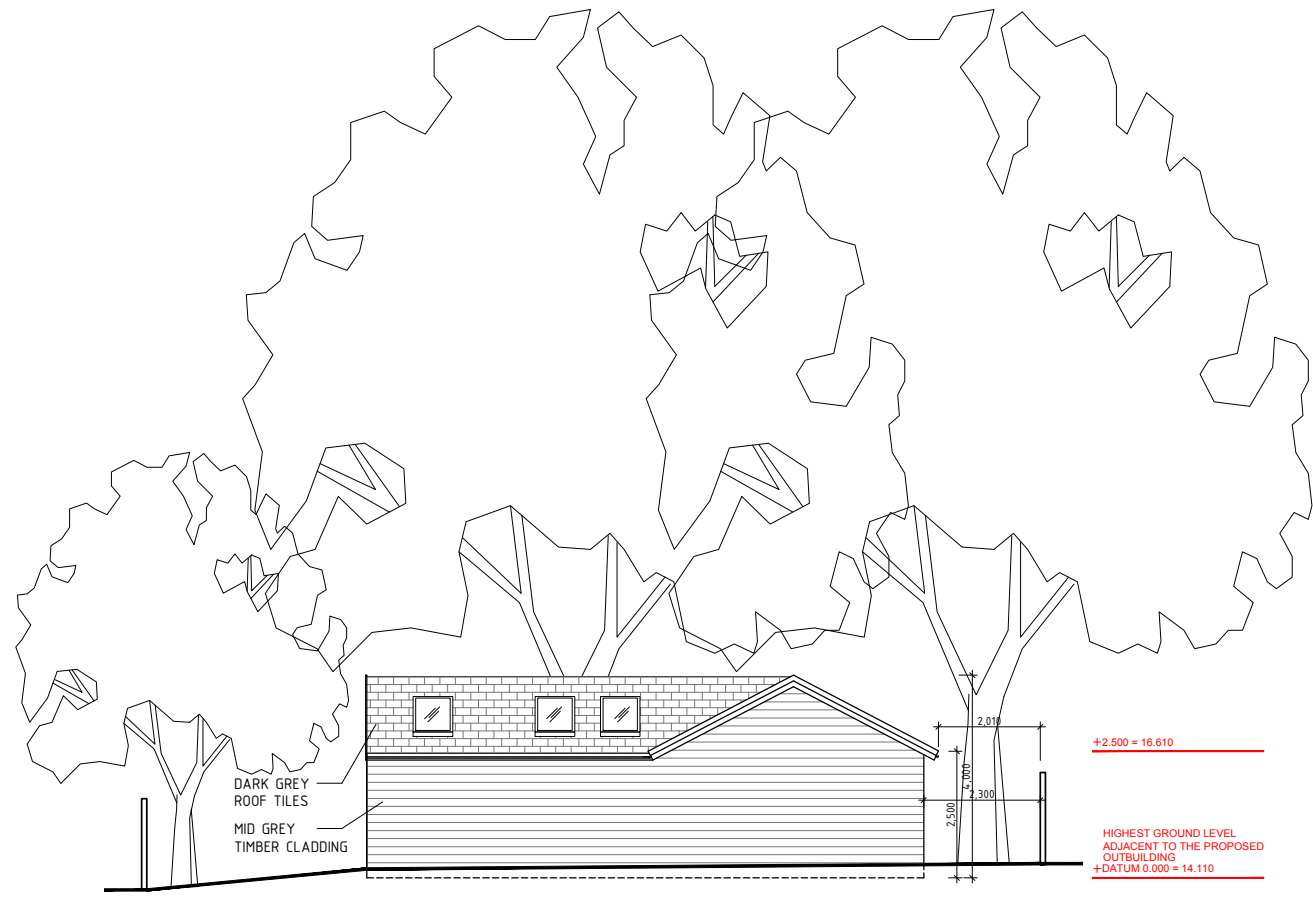
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DATE: APRIL 2019

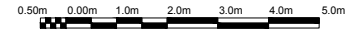
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DARK GREY
ROOF TILES
MID GREY
TIMBER CLADDING

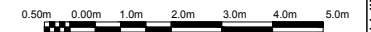
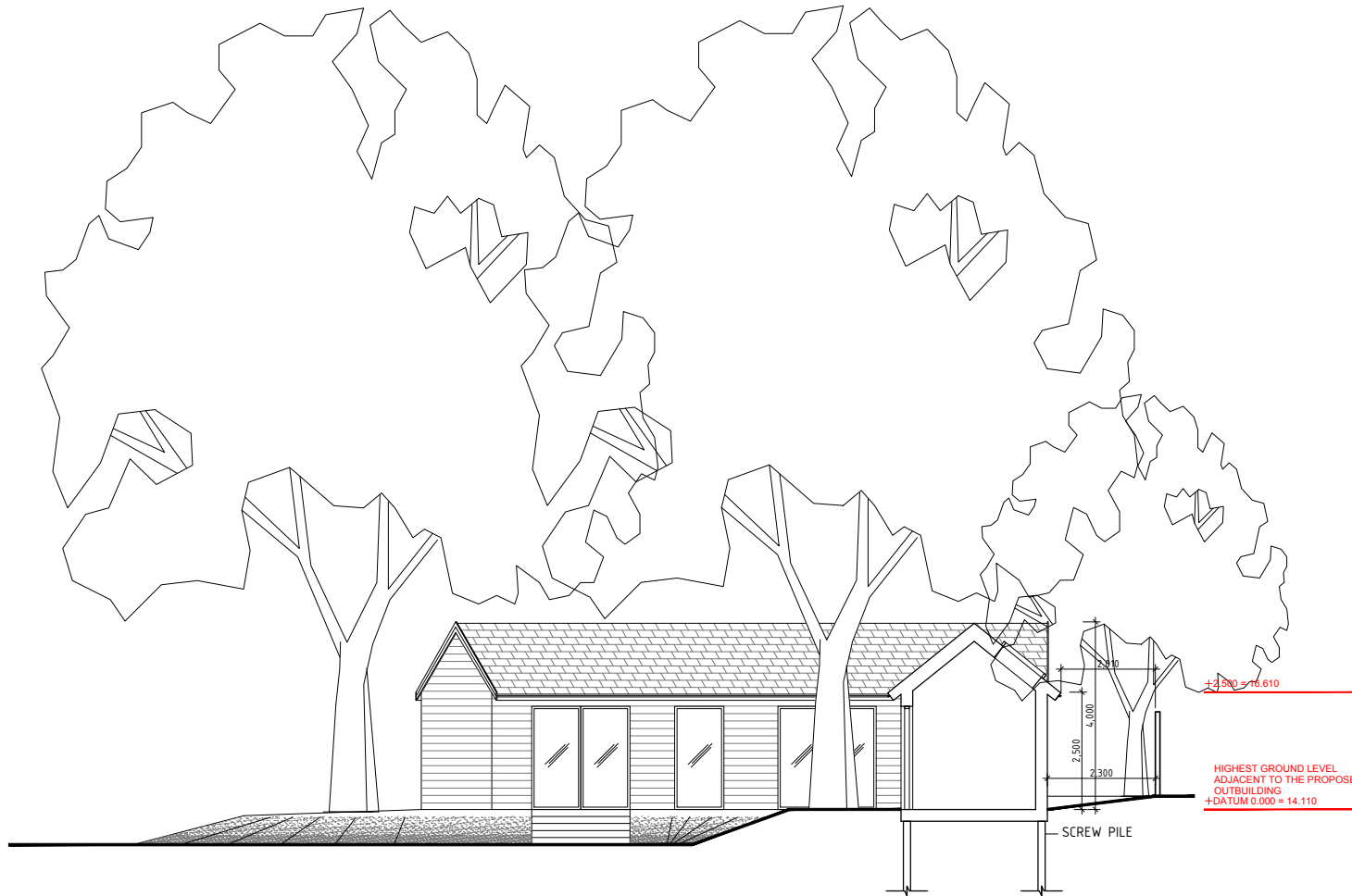
+2.500 = 16.610

HIGHEST GROUND LEVEL
ADJACENT TO THE PROPOSED
OUTBUILDING
+ DATUM 0.000 = 14.110



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PROJECT ADDRESS: 6 LINDFIELD GARDENS NW3	PROPOSED EAST ELEVATION		A
	DRAWING NO: 1006(PD)213	DWG FILE: 1006(PD)100-300	
CLIENT NAME:	PROJECT STAGE: PD	DRAWN: TK	
	VERSION:	SCALE: 1:100 SIZE: A3	
			DATE: APRIL 2019



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PROJECT ADDRESS:
6 LINDFIELD GARDENS
NW3

CLIENT NAME:

PROPOSED SECTION BB

DRAWING NO: 1006(PD)311

PROJECT STAGE: PD

VERSION:

DWG FILE: 1006(PD)100-300

DRAWN: TK

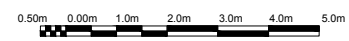
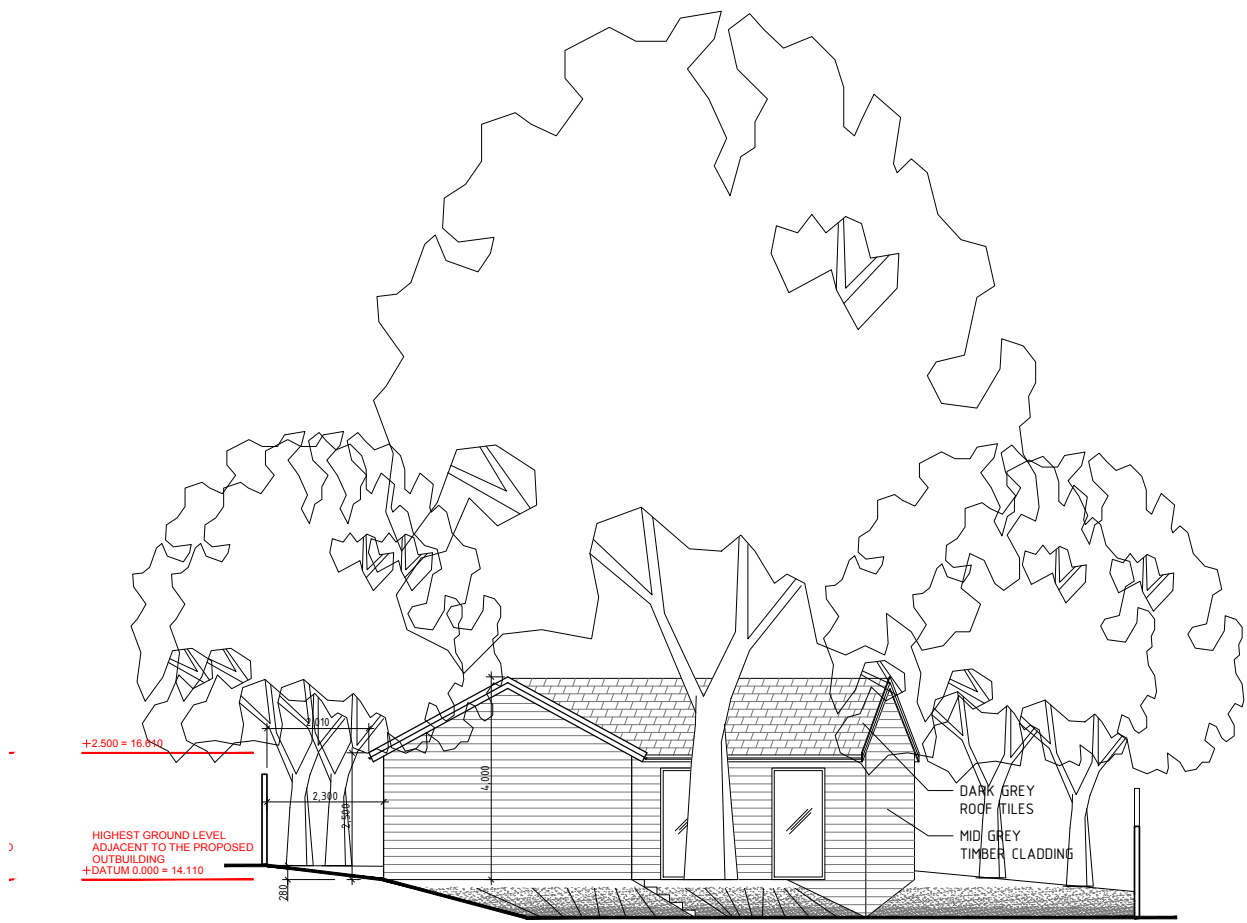
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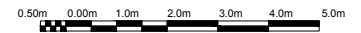
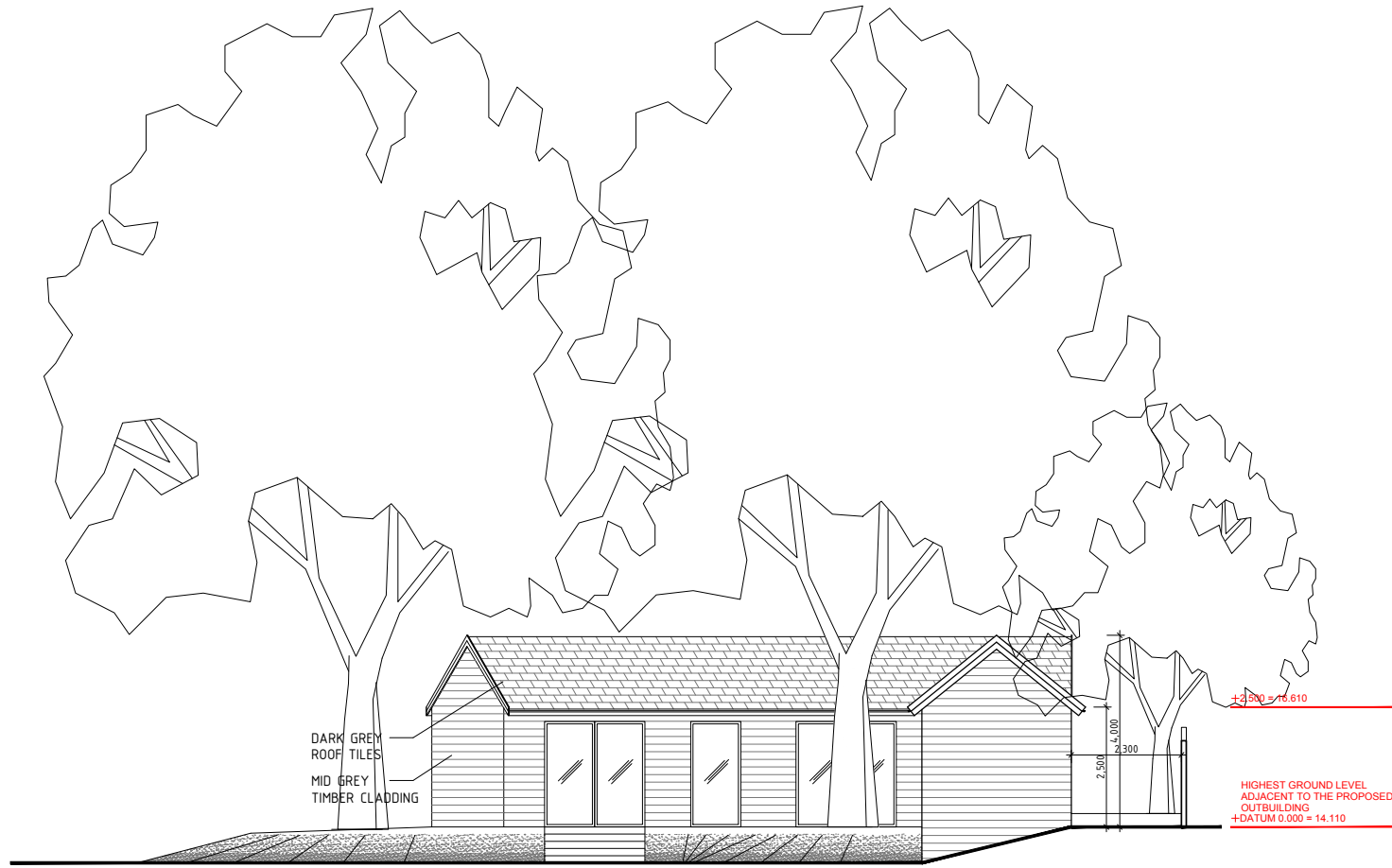
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PROJECT ADDRESS: 6 LINDFIELD GARDENS NW3	PROPOSED WEST ELEVATION		A
	DRAWING NO: 1006(PD)211	DWG FILE: 1006(PD)100-300	
CLIENT NAME:	PROJECT STAGE: PD	DRAWN: TK	
	VERSION:	SCALE: 1:100 SIZE: A3	
			DATE: APRIL 2019



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PROJECT ADDRESS: 6 LINDFIELD GARDENS NW3		PROPOSED SOUTH ELEVATION		A
CLIENT NAME:		DRAWING NO: 1006(PD)210	DWG FILE: 1006(PD)100-300	
		PROJECT STAGE: PD	DRAWN: TK	
		VERSION:	SCALE: 1:100 SIZE: A3	
				DATE: APRIL 2019

7 Rosecroft Avenue - 2019/1113/P



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Site photographs and site plans



1. View towards front elevation of property



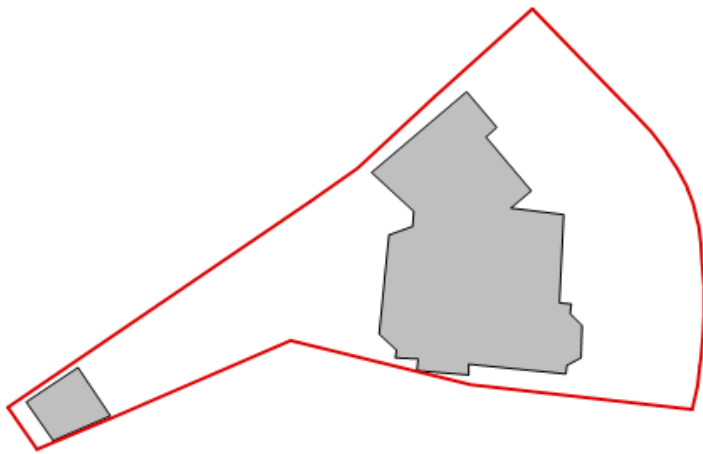
2. View towards rear of garden with top of existing shed just visible above existing vegetation



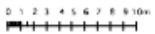
3. View towards existing shed (outbuilding in rear garden of No.9 to the right of photograph)



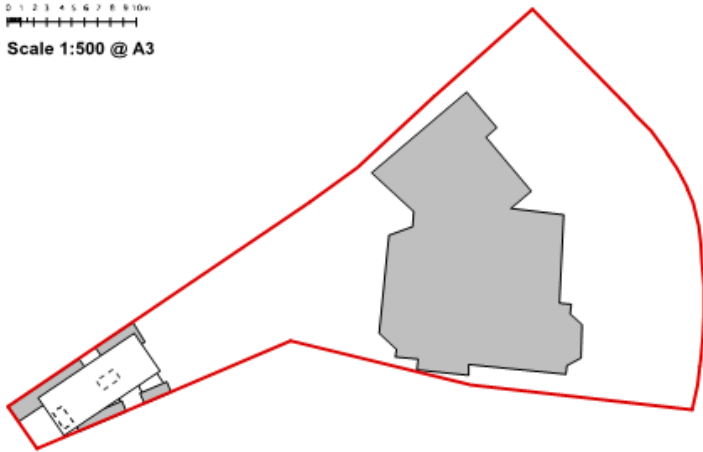
4. View towards 9 Rosecroft Avenue and existing outbuildings to neighbouring properties



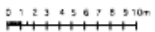
existing site plan



Scale 1:500 @ A3

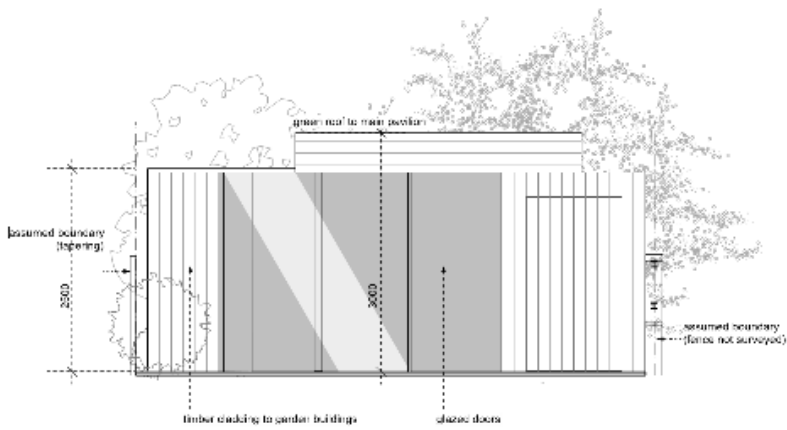


proposed site plan



Scale 1:500 @ A3

5. Existing and proposed site plans



6. Proposed NE elevation of garden outbuilding (facing towards garden of host property)

Delegated Report (Members Briefing)		Analysis sheet	Expiry Date:	23/04/2019
		N/A	Consultation Expiry Date:	21/04/2019
Officer			Application Number(s)	
David Peres Da Costa			2019/1113/P	
Application Address			Drawing Numbers	
7 Rosecroft Avenue London NW3 7QA			See draft decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Replacement of existing garden outbuilding with new pavilion for office, garden room and storage.				
Recommendation(s):		Grant conditional planning permission		
Application Type:		Full planning permission		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	00	No. of objections	2
Summary of consultation responses:	<p>A site notice was displayed from 27/03/19 to 20/04/19 and the application was advertised in the local paper on 28/03/19 (expiring 21/04/19).</p> <p>Objections were received from 15 and 17 Hollycroft Avenue. The issues raised mirrored those of the Redington Froggnal Neighbourhood Forum and were as follows:</p> <ol style="list-style-type: none"> 1. harmful to the character of the conservation area and its gardens 2. excessive size 3. concern that the building will be used as a self-contained dwelling 4. impact of hard surfacing on drainage - flood water is likely to be directed to lower ground and properties on Hollycroft Avenue 5. too close to the boundary with properties in Hollycroft Avenue and is likely to have a damaging effect on two trees 6. impact from light spill on biodiversity and to the outlook from properties on lower ground in Hollycroft. 7. No biodiversity enhancing measures have been set out <p><i>Officer's comments:</i></p> <ol style="list-style-type: none"> 1. <i>Given its unobtrusive location and sympathetic design, the proposed outbuilding would not detract from the character and appearance of the Conservation Area.</i> 2. <i>The size of the outbuilding is considered to be proportionate to the size of the garden. The rear garden has an area of 249sqm and the proposed outbuilding (with a floorspace of 45.17sqm) would take up 18% of the garden. The outbuilding would replace an existing shed (9m by 4.6m and with a floorspace 19.45sqm).</i> 3. <i>A condition would ensure the outbuilding was not be used as a separate self-contained dwelling.</i> 4. <i>According to Camden's Strategic Flood Risk Assessment, the area has a very low risk of flooding from surface water and in addition the outbuilding would have a green roof.</i> 5. <i>The Council's tree officer has reviewed the submitted arboricultural report and no harm has been identified to the trees within the neighbouring garden to the rear (15 Hollycroft Av).</i> 6. <i>Most of the outbuilding is set back from the rear boundary by approximately 3.7m. The recessed rear glazing would not impact on the outlook from 15 Hollycroft Av as the rear elevation of this property is 20m away and there is a boundary face in between.</i> 7. <i>The scheme was revised to incorporate a green roof which is welcomed for its biodiversity benefits.</i> 					

Redington Froggnal Neighbourhood Forum - object

Redington Froggnal Neighbourhood Forum wish to object to the introduction of a habitable room with toilet into the rear garden at 7 Rosecroft Avenue.

“This would be harmful to the character of the conservation area and its gardens and contrary to Camden policies A3 6.37 and 6.44, D1 7.20 and D2 7.45, 7.46, 7.53 and 7.54.

The proposal is for a building three times the size of the existing shed. With a proposed footprint measuring 3.4 metres by 10 metres the building is excessively large. It compares with a Camden maximum garden building size of 5 metres x 4 metres x 3 metres high. It is likely that the “study” with toilet will be used as a self-contained dwelling and the design and access statement implies that the proposed building will have its own occupants.

The Forum also have considerable concerns about the introduction of yet more hard surface into an area with many springs and a large body of underground water. This is especially relevant in the light of Camden’s status as a “lead flood local authority”. In the event of extreme weather, flood water is likely to be directed to lower ground, with considerable implications for properties into Hollycroft Avenue.

The proposed building is also too close to the boundary with properties in Hollycroft Avenue and is likely to have a damaging effect on two trees (contrary to policy A3 6.74 and 6.75 and D1 7.22). Trees in other gardens do not appear to have been marked on the plans.

Glazing on the side and the rooflight will direct artificial light into the rear garden tree corridor and have a harmful impact on biodiversity and to the outlook from properties on lower ground in Hollycroft. No biodiversity enhancing measures have been set out (as required by policy A3 6.67 and 6.80)). We suggest that trees and hedges should be required as mitigation to absorb additional runoff.

With the loss of several important mature trees in the vicinity (eg 3 limes illegally felled by the previous owner of 13 Hollycroft and an ash felled at 7 Rosecroft), the Forum requests TPOs are placed on the remaining trees in the tree corridor here between Rosecroft and Hollycroft”.

Officer’s comments: The neighbourhood forum have objected as they state the development would be contrary to Policies D1, D2 and A3 of the Camden Local Plan. Officers consider that the development is in accordance with these policies. See previous comments above and the assessment of land use (para. 2.7), design (paragraphs 2.9-2.14) trees (paras. 2.20-2.22), biodiversity (paras. 2.23-2.25) and drainage (para. 2.29) in the report below. The Neighbourhood Forum also refer to specific paragraphs in the Camden Local Plan 2017. These will be dealt with individually below in the order they are presented above.

Paragraph 6.37 relates to ‘Protection of gardens’. The size of the outbuilding is considered to be proportionate to the size of the garden and would not take up an excessive part of the garden. The rear garden has an area of

**CAAC/Local groups*
comments:**
*Please Specify

249sqm and the proposed outbuilding (with a floorspace of 45.17sqm) would take up 18% of the garden.

Paragraph 6.44 relates to 'Key open spaces in Camden' and relates to Hampstead Heath and Regent's Canal. Therefore, it is not relevant to this application.

Paragraph 7.20 relates to 'preserving gardens and open space'. As stated above the outbuilding would not take up an excessive part of the garden and there would not be a loss of green space which contributes to the character of the townscape.

Paragraph 7.45 relates to 'Designated heritage assets'. The outbuilding would preserve the character and appearance of the Redington Froggnal Conservation Area (CA).

Paragraph 7.46 relates to 'Conservation areas'. The development has been reviewed by a conservation officer. As state above, the proposed development would preserve and enhance the character and appearance of the CA.

Paragraph 7.53 relates to patterns of use in conservation areas. Most of the garden would be retained (82%) and so the character of the conservation area would not be eroded.

Paragraph 7.54 relates to loss of traditional architectural details such as historic windows and doors, characteristic rooftops, garden settings and boundary treatments. It is considered the garden setting of the host property would be retained.

Paragraph 6.74 relates to Policy A3h "Use of management plans to protect and sustain habitats". It does not relate to trees as suggested by the Neighbourhood Forum.

Paragraph 6.75 relates to trees. All trees with the exception of a holly tree would be retained and details of foundations and tree protection would be secured by condition.

Paragraph 7.22 relates to "Landscape design and greening". The scheme was revised to incorporate a green roof which would be in accordance with the Council's expectations set out in paragraph 7.22.

Site Description

The site is a large two storey detached building (with accommodation at roof level) on the west side of Rosecroft Avenue. The building is divided into nine flats. The building has a garden which is approximately 30m long.

The site falls within the Redington Frogna Conservation Area and within the area of the Redington Frogna Neighbourhood Area and Forum.

Relevant History

9500003: Erection of a roof extension and dormer windows to create a new residential flat and the introduction of windows at basement level and a first floor balcony. Refused 13/04/1995 Appeal part allowed in so far as it relates to the extension of the existing ground floor flat in to the basement. 6/03/96

PW9702232: The conversion of existing storage areas, including partial excavation, to form a self-contained flat at basement level. Refused 06/08/1997

TP18654/14214: The formation of an additional flat in the basement at No. 7 Rosecroft Avenue, Hampstead. Granted 14/01/1957

Relevant policies

NPPF 2019

The London Plan March 2016, consolidated with alterations since 2011

Draft London Plan consolidated suggested changes version (July 2019)

Camden Local Plan 2017

Policy A1 Managing the impact of development

Policy A3 Biodiversity

Policy D1 Design

Policy D2 Heritage

Policy CC1 Water and flooding

Camden Planning Guidance

Altering and extending your home March 2019

Amenity March 2018

Biodiversity March 2018

Design March 2019

Trees March 2019

Redington Frogna Conservation Area Statement January 2003

Redington Frogna Neighbourhood Forum: The Council approved the re-designation of the Neighbourhood Forum on 25th October 2019. The Forum carried out formal consultation on a Draft Plan (reg 14) in Spring 2017 - so the plan is a material consideration in decision making however the weight is currently limited. The Forum is now making changes to the Plan and is aiming to submit a draft to the Council for consultation and examination.

Assessment

1. Proposal

- 1.1. The application seeks to erect an outbuilding in the rear garden following the demolition of the existing shed. The proposed outbuilding would provide office space for the landlords of 7 Rosecroft Avenue, as well as separate garden storage areas for the tenants of the flats. The office would be used by the applicant and his father for their landlord company which manages the nine flats in 7 Rosecroft Avenue as well as one other property. They would relocate the existing office, which currently occupies floorspace within the main building (7 Rosecroft Avenue), to the garden.
- 1.2. The proposed outbuilding would have a floorspace of 45.17sqm and its shape would follow the taper of the garden. It would be the full width of the garden and would be 6.28m wide at the end facing toward the garden and 4.74m close to the rear boundary.

2. Assessment

- 2.1. The main issues raised by the proposed development are: land use; design and impact on conservation area; amenity; trees and biodiversity.
- 2.2. **Land Use**
- 2.3. The development would involve the demolition of the existing shed and the erection of a larger outbuilding.
- 2.4. The proposed outbuilding would provide office space for the applicant and his father who are the landlords of the flats at 7 Rosecroft Avenue. They manage the nine flats in this property as well as one other flat. They would relocate the existing office, which currently occupies floorspace within the main building (7 Rosecroft Avenue), to the garden. The office space would be used a few days a week during working hours to carry out administrative tasks in relation to the tenants and residential units (correspondence, bills etc.) and for the landlords to be on hand to discuss any maintenance requirements that the tenants may have. There would be a maximum of two people (the applicant and his father) working in the office (aside from occasional meetings with tenants and maintenance workers).
- 2.5. The main use of 7 Rosecroft Avenue is as residential flats. The proposed outbuilding would provide office space for the landlords of 7 Rosecroft Avenue to manage these flats (and one other flat nearby). The use would be for a purpose directly related to the main use. Therefore the use as an office for the administration and management of the residential flats would be ancillary to the main purpose of the site which is residential flats (Use Class C3). While the landlords do not live at 7 Rosecroft Avenue, this does not alter the assessment that the office use would be ancillary to the residential use.
- 2.6. Concern has been raised that the outbuilding could be used as a self-contained dwelling. A condition would be included to ensure that the development was not used as a separate dwelling or for sleeping in.
- 2.7. An existing apartment within 7 Rosecroft Avenue is currently used as the landlord's office. As stated above, this office use would be relocated to the garden outbuilding. The possibility of converting the existing apartment back to a dwelling was investigated. The floorspace of the existing office only measures 29sqm and is split over two floors and so would fall significantly below the London Plan space standards of 39sqm for a studio flat. Given the significant shortfall in floorspace, the conversion of the existing office floorspace to residential could not be supported and such a conversion does not form part of this

application.

2.8. **Design and impact on Conservation Area**

- 2.9. The application property is a substantial late Victorian red brick detached house deemed to make a positive contribution to the Redington and Froggnal Conservation area. This conservation area occupies an area of sloping land to the west and south west of the historic centre of Hampstead village. It forms a well-preserved example of a prosperous late 19th Century and Edwardian residential suburb. The houses are predominantly large detached and semi-detached and display a range of formal and free architectural styles typical of the last years of the 19th Century and early years of the 20th Century.
- 2.10. The rear garden of the host property measures approximately 30m. The plot of the site tapers significantly at the rear and contains a shed structure (9m by 4.6m and with a floorspace 19.45sqm) which occupies almost the full width of this tapered part of the garden. Increasing the size of the structure as proposed would not diminish the spatial quality of the plot. Aside from the existing structure on site, it is noted that there are large outbuildings/workshops directly adjoining the site in the adjacent garden (9 Rosecroft Avenue).
- 2.11. The size of the outbuilding is considered to be proportionate to the size of the garden. The rear garden has an area of 249sqm and the proposed outbuilding (with a floorspace of 45.17sqm) would take up 18% of the garden. The existing garden is tapered and divided by hedge. The bottom end of the garden (with the shed) has a different character to the remainder of the garden which is more open. The proposed structure would not encroach upon the setting of the main house and would be located in a narrow and visually unobtrusive location.
- 2.12. The proposed structure has been designed as three distinct, separate timber 'volumes', akin to small garden sheds. These provide areas of storage and accommodation for the garden pavilion, and enclose the main area of floorspace. A horizontal plane of roof would partially sit over these volumes, partially extending beyond, to form the enclosure for the structure and would create private, covered, terrace areas to the front and rear. The architect's intention is for the proposed structure to read as a group of small outbuildings with a flat roof providing the enclosure of the main space. The height of the proposal has been minimised and the timber clad volumes would be 2.5m high and main pavilion roof would be 3m high. The proposed sliding glass doors would allow views and light through the development to the rear boundary. The garden structure would be finished in timber cladding. The choice of material is considered sympathetic to its surroundings and in keeping with traditional garden structures.
- 2.13. Given its unobtrusive location, the proposed outbuilding would not detract from the generally 'soft' and green nature of the existing garden. The outbuilding would incorporate a green roof which is welcomed. It is considered that the outbuilding would preserve the character and appearance of the Redington Froggnal Conservation Area.
- 2.14. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas Act) 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.
- 2.15. **Amenity**
- 2.16. There is significant vegetation on the boundary with 5 Rosecroft Avenue. This vegetation

would screen the outbuilding from the occupiers of 5 Rosecroft Avenue. The other neighbouring garden (9 Rosecroft Avenue) contains a shed set within a large open sided store with a brick structure in front. Within this context, the proposed outbuilding would not detract from the garden amenity of this neighbouring garden.

- 2.17. Concern has been raised about light spill and harm to the outlook of properties on Hollycroft Avenue. The rear elevation of 15 Hollycroft Avenue is 20m away from the rear boundary with the subject property. The boundary fence that separates these properties and the significant distance between No.15 and the outbuilding, would ensure that light from the rear recessed glazed doors of the outbuilding would have minimal impact on the outlook of the occupiers of this property.
- 2.18. The outbuilding would not result in harmful overlooking or overshadowing of neighbouring gardens. The proposed glazing in the side elevation is set back behind a small garden. This glazing would face towards the workshops and brick structures of 9 Rosecroft Avenue. The rear glazed doors would face towards a boundary fence and the front glazed doors face onto the rear garden which is separated by planting from the main part of the garden.
- 2.19. As stated above, the office space would be used for several days a week during working hours to carry out administrative tasks in relation to the tenants and residential units (correspondence, bills etc.) and for the landlords to be on hand to discuss any maintenance requirements that the tenants may have. There would be a maximum of two people (the applicant and his father) working in the office (aside from occasional meetings with tenants and maintenance workers). The use would have minimal impact on neighbouring amenity. The existing garden is divided in to two sections, with the proposed office outbuilding to the rear of the garden, in the landlord's part of the garden. The area of the garden closest to the main house would continue to be provided for the tenants' enjoyment. The proposed use of the garden outbuilding as an office for the landlords of 7 Rosecroft Avenue would have minimal effect on the existing tenant's enjoyment of the main part of the garden closest to the host property.
- 2.20. **Trees**
- 2.21. During the course of the assessment an arboricultural report was submitted to assess the impact of the development on neighbouring trees. The proposed development would require the removal of a Holly tree (T5). This is a category B tree which is considered to provide a low landscape contribution. The Council's tree officer has reviewed the report and considers the loss of T5 acceptable as it would not impact on the character of the area.
- 2.22. There are 3 lime trees growing in the rear garden of 15 Hollycroft Avenue. The ground level is approximately 1m lower than that of the rear garden of no.7 Rosecroft Av. therefore the roots of these trees would not be impacted via compaction or excavation during the proposed development.
- 2.23. The trees that grow along the southern boundary (with 5 Rosecroft Avenue) have been identified as the main constraint. The arboricultural report recommends screw pile foundations and hand dug trial pits to identify locations for the piles as the majority of the proposed development would be within the root protection areas of these trees. The report also recommends that the base of the garden office should float a few centimetres off ground level to allow for drainage and airflow to the roots beneath the soil surface. Details of foundations and tree protection would be secured by condition.
- 2.24. The neighbourhood forum has requested that TPOs are placed on the remaining trees in the tree corridor here between Rosecroft and Hollycroft Avenues. Trees in Conservation

Areas are protected under Section 211 of the Town and Country Planning Act 1990. Through Section 211, any proposal to cut down or carry out work on a tree in a conservation area, must be submitted to the Council through a prior notification in writing. A Section 211 notification gives the Council an opportunity to consider whether a TPO should be made in respect of the tree.

2.25. Biodiversity

- 2.26. Policy A3 Biodiversity seek the retention of other areas with nature conservation value, such as gardens. Development will be resisted where it would result in the loss of an excessive part of the garden or garden space which contributes to the character of the townscape. In this case the loss of garden space would not be excessive given the size of the existing garden (249sqm) and the size of the existing shed (c.19.45sqm) that would be replaced.
- 2.27. The outbuilding would incorporate a green roof. This is welcomed for its biodiversity benefits and its contribution to sustainable drainage.
- 2.28. A concern has been raised about light spill from the outbuilding. The front and rear glazed doors are set back from the main elevations and the overhanging roof would help to contain any light spill. In addition the development proposes a fern garden adjacent to the boundary and the inset glazing on the side elevation (with 9 Rosecroft Avenue). The proposed rooflight could result in light spill. A condition would therefore be recommended requiring details of mitigation to reduce light spill from the rooflight and other glazing.

2.29. Other matters

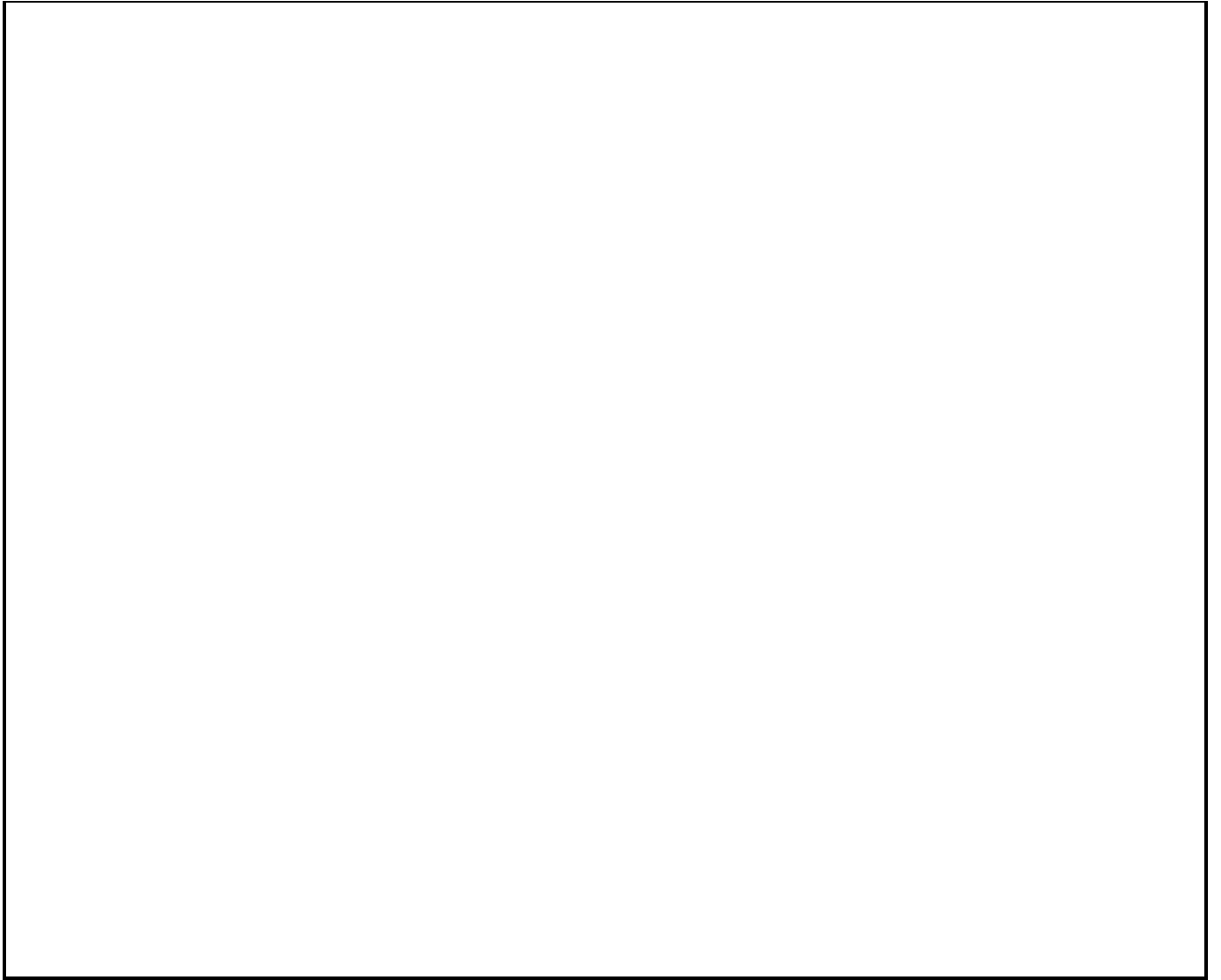
- 2.30. Concern has been raised about drainage and flooding. A SUDS strategy is only required for major applications. Likewise a drainage report is only required for basements or other vulnerable development in areas at risk of flooding. The office outbuilding is not considered to be vulnerable development. The site is not located in a critical drainage area and Rosecroft Avenue and Hollycroft Avenue were not flooded in either of the two surface water flooding events (1975 and 2002). Both of these roads have been assessed to have a very low risk of flooding from surface water (less than 1 in 1000 year) in Camden's Strategic Flood Risk Assessment. Nevertheless it is noted that the outbuilding would have a green roof and the submitted Arboricultural report recommends that the base of the garden office should float a few centimetres off ground level to allow for drainage and airflow to the roots beneath the soil surface. Given this context, it is not considered that the proposed outbuilding would have a harmful effect on drainage.

2.31. Conclusion

2.32. Grant conditional planning permission

DISCLAIMER

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 25th November 2019, 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'.



Application ref: 2019/1113/P
Contact: David Peres Da Costa
Tel: 020 7974 5262
Date: 20 November 2019

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk

William Tozer Associates
42-44 New House
67-68 Hatton Garden
London
EC1N 8JY
United Kingdom

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:
7 Rosecroft Avenue
London
NW3 7QA

DECISION

Proposal:

Replacement of existing garden outbuilding with new pavilion for office, garden room and storage.

Drawing Nos: A/01/101 A; A/01/102 A; A/01/001 A;
A/02/: 101 H; 102 G; 103 E; 104 F; 501;

Tree protection plan 6/6/19; Tree constraints plan 6/6/19; TMS 6/6/19; Tree survey;
Arboricultural Report prepared by Frank Parsons Arboriculturalist dated 6/6/19' Planning
statement prepared William Tozer associates dated 26/02/2019

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

A/01/101 A; A/01/102 A; A/01/001 A;
A/02/: 101 H; 102 G; 103 E; 104 F; 501;
Tree protection plan 6/6/19; Tree constraints plan 6/6/19; TMS 6/6/19; Tree survey;
Arboricultural Report prepared by Frank Parsons Arboriculturalist dated 6/6/19'
Planning statement prepared William Tozer associates dated 26/02/2019

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved by the local planning authority in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

- 5 Prior to commencement of any works on site, details of the design of building foundations and the layout, with dimensions and levels, of service trenches and other excavations on site in so far as these items may affect trees on or adjoining the site, shall be submitted to and approved in writing by the local planning authority. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

- 6 Prior to the occupation of the outbuilding, details of mitigation to reduce light spill from the rooflight and the glazed doors and windows shall be submitted to and agreed in writing by the Local Planning Authority. The details shall demonstrate how light spill would be reduced to minimise impact on biodiversity by maintaining dark areas and corridors along boundary features. The occupation shall not commence until the relevant approved details have been implemented. These works shall be permanently retained and maintained thereafter.

Reason: To safeguard the appearance of the premises and the character of the immediate area and to conserve biodiversity by minimising light pollution in accordance with the requirements of policy D1, D2, A1 and A3 of the London Borough of Camden Local Plan 2017.

- 7 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any statutory instrument revoking and re-enacting that Order), the ancillary accommodation hereby approved shall not be used for sleeping accommodation and shall only be used for purposes ancillary to the residential use of 7 Rosecroft Avenue and shall not be used as a separate independent Class C3 dwelling or as a separate independent Class B1 business unit or for any other purpose whatsoever.

Reason: To ensure that the future occupation of the outbuilding does not adversely affect the amenity of adjoining residential premises/immediate area by reason of noise, traffic congestion and excessive on-street parking and is not used for unauthorised purposes, in accordance with policies A1 (Managing the impact of development), A4 (Noise and vibration) and T2 (Parking and car-free development) of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 2 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 3 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at <https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319> or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

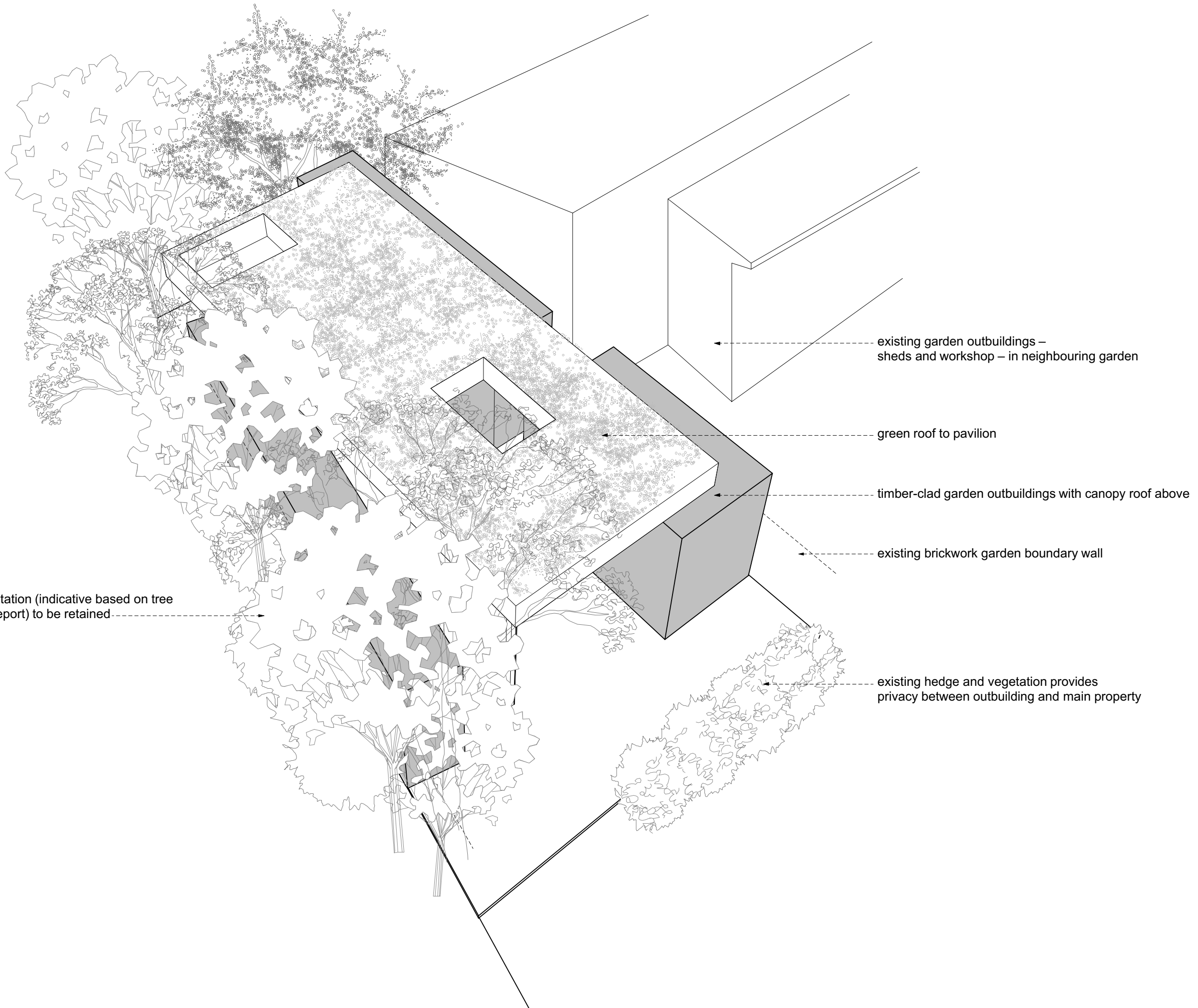
<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Regeneration and Planning

DRAFT

DECISION



existing garden outbuildings –
sheds and workshop – in neighbouring garden

green roof to pavilion

timber-clad garden outbuildings with canopy roof above

existing brickwork garden boundary wall

existing hedge and vegetation provides
privacy between outbuilding and main property

existing vegetation (indicative based on tree
survey and report) to be retained

Rev	Date
C	22.11.19
B	26.02.19
A	10.07.18
-	06.07.18

For Information

Issued only for purpose indicated.
This drawing to be read in conjunction with all consultants information.
All dimensions to be checked on site.
Do not scale, except for planning purposes.
This drawing is protected by copyright.

JOB NUMBER 212

JOB TITLE
Klein 2
7 Rosecroft Avenue, NW3 7QA

DRAWING TITLE
external views
proposed

SCALE: NOT TO SCALE

DATE: July 2018

DRAWING NO.	REV
A/02/801	C

Alex Tart Architects
The Old Boathouse
1A Putney Embankment
London
SW15 1LB

Application Ref: **2018/2362/P**
Please ask for: **Alyce Keen**
Telephone: 020 7974 1400

10 August 2018

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990

Certificate of Lawfulness (Proposed) Granted

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Erection of single storey rear extension to two storey rear projection.
Drawing Nos: E00.0; PD-E01.0; PD-E02.0; PD-E03.0; PD-P02.0; PD-P03.0.
Permitted Development Justification prepared by Alex Tart architects.

Second Schedule:

**29 Hollycroft Avenue
London
W3 7QJ**

Reason for the Decision:

- 1 The single storey rear extension is permitted under Class A of Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Informative(s):

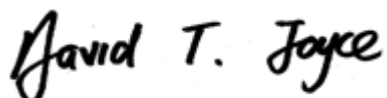
- 1 The materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.



You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink that reads "David T. Joyce". The signature is written in a cursive, slightly slanted style.

David Joyce
Director of Regeneration and Planning

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the operations specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful on the specified date and thus, would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operations which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

Mr. Chris Deeks
DP9 Ltd
100 Pall Mall
London
SW1Y 5NQ

Application Ref: **2016/4558/P**
Please ask for: **Ian Gracie**
Telephone: 020 7974 **2507**

17 May 2017

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Householder Application Granted Subject to a Section 106 Legal Agreement

Address:
**41 Frogna
London
NW3 6YD**

Proposal:

Partial demolition and new build behind retained façade comprising a lower ground floor extension; ground, first and second floor extensions to the front, side and rear; first and second floor rear terraces to provide a 7-bedroom single dwellinghouse.

Drawing Nos: (Prefix 14044-) P001; X100; X110; 315; 316; 317; 318; P090; P100; P101; P110; P120; P130; P202; P310; P311; P312; P313; P800; P801.

Reports: Transport Statement prepared by Motion dated 01/08/2016; Structural Engineering Report and Subterranean Construction Method Statement prepared by ElliottWood dated July 2016; Design & Access Statement prepared by KSR Architects LLP dated August 2016; Construction Management Plan pro-forma; Desk Study and Basement Impact Assessment Report prepared by BTP Group dated 14 March 2016; Heritage Statement prepared by KM Heritage dated August 2016; Arboricultural Method Statement prepared by Landmark Trees dated 29th July 2016; Arboricultural Impact Assessment Report prepared by Landmark Trees dated 29th July 2016. Affordable Housing Statement prepared by DS2 dated August 2016; Ecological Walkover Survey prepared by Peak Ecology Ltd dated 11th November 2016.



The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans (Prefix 14044-) P001; X100; X110; 315; 316; 317; 318; P090; P100; P101; P110; P120; P130; P202; P310; P311; P312; P313; P800; P801.

Reason:

For the avoidance of doubt and in the interest of proper planning.

- 4 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policy CS14, CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 5 Full details in respect of the green roof in the area indicated on the approved roof plan shall be submitted to and approved by the local planning authority before the relevant part of the development commences. The buildings shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies CS13, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 6 For the duration of the development, details of all Tree Protection Monitoring and site supervision visits (where arboricultural expertise is required as detailed in the Arboricultural Method Statement, prepared by Adam Hollis of Landmark Trees, ref: AKN/41F/AMS/01a, dated 29th July 2016) shall be submitted to and approved in writing by the Local Planning Authority. Tree protection measures shall be installed in accordance with approved drawings (Tree Protection Plan dated Jan 2015) and shall remain in place for the duration of works on site, unless otherwise agreed in writing by the local authority.

Reason: To ensure that the Council may be satisfied that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 7 All works to trees, hedgerows, shrubs, scrub or removal of tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation shall not be removed until the fledglings have left the nest.

Reason: All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981 (as amended). And in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 8 The development hereby approved shall achieve a maximum internal water use of 105litres/person/day, allowing 5 litres/person/day for external water use. Prior to occupation, evidence demonstrating that this has been achieved shall be submitted and approved by the Local Planning Authority.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policies CS13 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22 and DP23 of the London Borough of Camden Local Development Framework Development Policies.

- 9 Prior to the commencement of the relevant part of the development, detailed plans showing the location and extent of photovoltaic cells to be installed on the building shall have been submitted to and approved by the Local Planning Authority in writing. The measures shall include the installation of a meter to monitor the energy

output from the approved renewable energy systems. The cells shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate on-site renewable energy facilities in accordance with the requirements of policy CS13 of the London Borough of Camden Local Development Framework Core Strategy and policy DP22 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

1 Reasons for granting permission.

This application is identical to that which was previously granted in 2015 (Ref no. 2015/2026/P). The only change from that previous permission is the removal of the self-contained additional flat which has now become part of the main house as staff quarters. The proposal is for the provision of a 7-bedroom property. This is considered acceptable and is in accordance with policy CS6 and DP2 of Camden's Local Development Framework. The exterior and extent of the building is identical to that which was previously granted. As such, the proposed scale and design is considered acceptable and is considered to preserve and enhance the setting of the Redington/Frognaal Conservation Area. The proposal is also considered acceptable in energy and sustainability, arboricultural and transport grounds. Appropriately worded conditions and planning obligations have been attached to ensure that the relevant requirements are adhered to. Details of the qualified engineer, for the purpose of the basement works, have been previously provided as part of 2015/2026/P. As such, a condition requiring this detail is not attached to this permission.

With regards to affordable housing, a payment in lieu is proposed to the amount of £574,785. Officers have reviewed this and consider the approach acceptable. A payment in lieu was the same method of affordable housing contribution that was provided as part of the previous permission (Ref no. 2015/2026/P). It is considered that this method of contribution is considered acceptable.

As the application, in built form terms, is the same as was previously permitted the same Section 106 obligations have been attached. These include contributions towards highways works, a Construction Management Plan, a Basement Construction Plan and for the development to be "car-capped". The applicant has submitted details that these obligations have already been complied with as part of the previous application. The new legal agreement therefore requires compliance with all of the previously accepted detail to ensure that all of the mitigating impacts of the development have been addressed.

No objections have been received. The site's planning history was taken into account when coming to this decision.

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 conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

As such, the proposed development is in general accordance with policies CS5, CS6, CS11, CS13, CS14, CS15 and CS19 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP2, DP3, DP5, DP6, DP16, DP17, DP18, DP20, DP22, DP23, DP24, DP25, DP26, and DP28 of the London Borough of Camden Local Development Framework Development Policies, the London Plan 2016, the National Planning Policy Framework.

- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 4 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL

payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

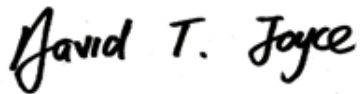
Please send CIL related documents or correspondence to CIL@Camden.gov.uk

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

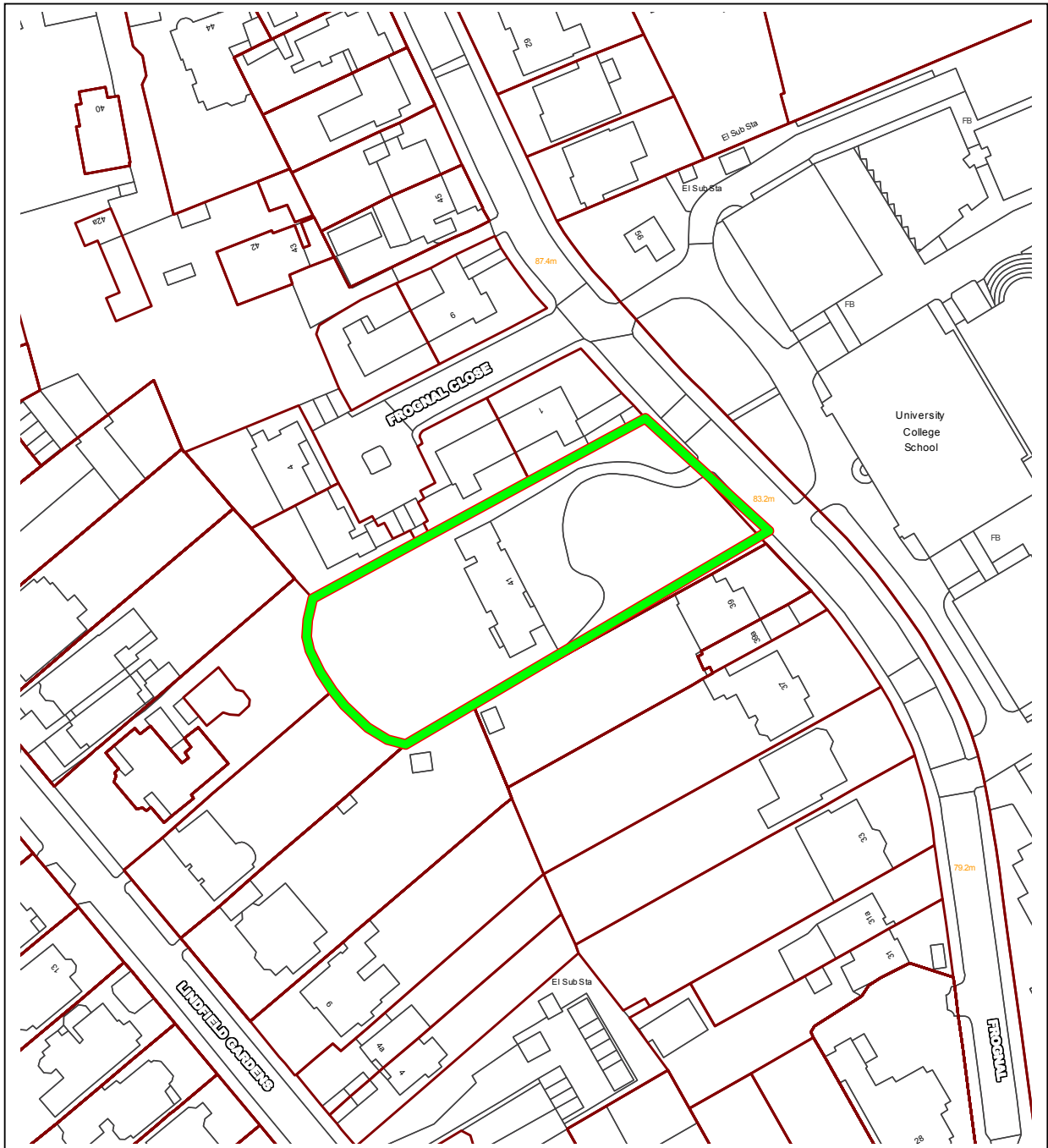
<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink that reads "David T. Joyce". The signature is written in a cursive style and is positioned above a thin horizontal line.

David Joyce
Director of Regeneration and Planning

41 Frognal, NW3- 2019/1979/P



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1. Looking north to southern end of site's frontage



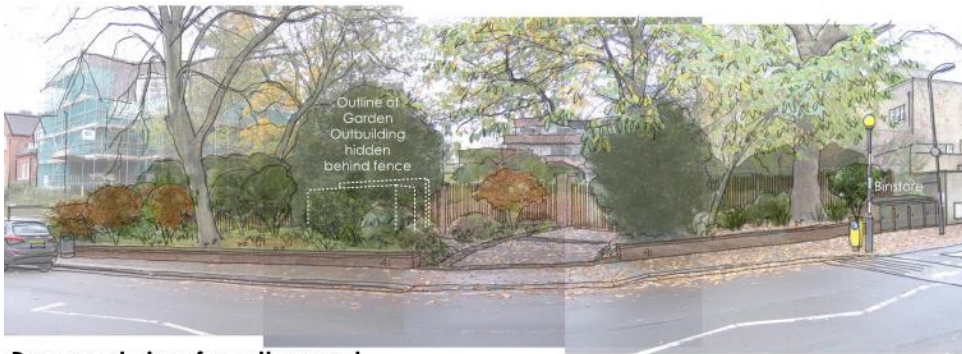
2. Looking north to northern end of site's frontage



3. Looking south to northern end of site's frontage



Existing view from road (prior to construction)



Proposed view from the road

4. Applicant's montage of proposed frontage

Delegated Report		Analysis sheet	Expiry Date:	06/06/2019
(Members Briefing)		N/A / attached	Consultation Expiry Date:	30/06/2019
Officer			Application Number(s)	
Charles Thuaire			2019/1979/P	
Application Address			Drawing Numbers	
41 Frognal London NW3 6YD			See decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Erection of timber-clad outbuilding and bin store in front garden and 4 brick gate piers along front boundary enclosure				
Recommendation(s):	Grant planning permission			
Application Type:	Householder Application			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	00	No. of objections	00
Summary of consultation responses:	<p>Site notice displayed 05/06/2019 to 29/06/2019 Press advert published 06/06/2019 to 30/06/2019</p> <p>No response</p>					
CAAC/Local groups* comments: *Please Specify	<p><u>Hampstead Conservation Area Advisory Committee</u> object-</p> <p>We note lack of site plan explaining landscaping and trees relative to the low boundary wall. The proposed outbuilding appears oddly sited and dominant in the front landscaping, even if hidden from view by fencing (not shown on the street elevation). The bin stores need to be replanned and rationalised. Wheelie bins do not need roofs but discreet enclosure allowing for easy swift moves to the vehicle. Any doors must not open onto the pavement and the proposed siting means residents must access the bins from the public way which should not happen.</p> <p><u>Officer comment-</u> <i>The outbuilding will be screened from street view by the fence and trees. The binstore is discreet and appropriately designed and located; plans are revised to have sliding doors that do not open outwards. See also paras 2.1 and 2.2 below</i> <i>See also para 3.2 regarding the binstore operation.</i></p>					

Site Description

The property is a single family dwelling house set within a large plot with long front and rear gardens. The current front garden has a very low dwarf brick wall behind which is sloping open lawn and mature trees. Neighbouring front gardens on either side have high brick walls behind the pavement.

The building is unlisted and is a positive contributor building in the Redington/Froggnal conservation area.

Relevant History

07/08/2018- planning permission ref 2017/5234/P granted for- Variation of condition 3 (approved plans) of planning permission dated 17.5.17 ref 2016/4558/P (for Partial demolition and new build behind retained façade comprising a lower ground floor extension; ground, first and second floor extensions to the front, side and rear; first and second floor rear terraces to provide a 7-bedroom single dwellinghouse)

10/04/2019- Certificate of Lawfulness for Proposed Development ref 2018/4115/P granted for- Erection of 2m high entrance gates, piers and timber fences in the front garden set back from front boundary.

Relevant policies

National Planning Policy Framework 2019

London Plan 2016

Camden Local Plan 2017

A1 Managing the impact of development
A3 Protection, enhancement and management of biodiversity
D1 Design
D2 Heritage
CC1 Climate change mitigation
CC2 Adapting to climate change
CC3 Water and flooding

Draft Redington Froggnal Neighbourhood Plan 2019- revised draft due to be submitted in 2020.
SD4 Sustainable Design and Redington Froggnal Character
BGI 2 Front and Side Gardens / Front Boundary Treatments

Camden Planning Guidance 2018/2019

CPG Design
CPG Amenity

Redington Froggnal Conservation Area Statement 2000

Assessment

1. Proposal-

1.1 Planning permission is sought for various structures in the front garden consisting of:

- sunken timber-clad outbuilding with green roof; it will be 4x4m square and 1.8m high at front with a 2m high back wall; it will be approx. 1-2m behind a 1.8m high timber front fence (permitted development as explained below), and screened by planting, both new and existing;
- small brick and timber binstore 3.5m long 1.5m high 1.3m wide at the northern end of the front boundary of the site;
- four brick gate piers of 2.062m high at the driveway and pedestrian entrances to the site respectively; the pier caps are 262mm higher than would be otherwise allowed under permitted development (pd) and would be attached to the previously approved front timber fence which was considered lawful as 'pd'.

1.2 The proposals should be assessed in conjunction with the scheme for a front boundary fence here, which was considered lawful in April 2019 ref 2018/4115/P - see history above. This was to erect a 1.8m high timber fence of a bespoke design arranged along a wavy curving line and well set back behind the dwarf wall; in addition there would be pedestrian and vehicular entrance gates flanked by 2m high brick piers. The fence would be 3.2m at its minimum distance from the pavement and 7.1m at its maximum. Existing trees would be retained in front and new trees and shrubs planted there to mask much of the new fence.

1.3 Revisions- binstore doors to be sliding rather than opening onto pavement; gate piers reduced in height to 2.06m high. Additional section provided through front garden showing sightlines from street.

2. Design

2.1 The outbuilding is modest in size at 16m in area, compared to the overall size of the large garden. Due to its partially sunken nature, its height at 1.8m above ground level is typical for such structures and will be hidden behind the approved front garden fence. The submitted sections shows that it should be invisible from street views due to the angle of sightlines, such that even the back wall, which is somewhat higher at 2m, will be still hidden from view. The materials of timber and green roof are appropriate and sympathetic to garden setting. The existing holly trees and substantial proposed landscaping with more trees and shrubs will significantly add to the screening of both the lawful fence and other proposed new structures so that the shed will be even further hidden from view. Thus although it is accepted that the location of an outbuilding in a front garden is unusual and not normally acceptable, it is considered that in this case, due to its total screening from views by a fence and vegetation, there will be no harm caused to the character of the streetscene and conservation area.

2.2 The binstore is small and modest in size and appropriate in location as a street-side structure, no different from many other similar binstores in Hampstead. It adjoins a high brick front wall of a neighbouring house and does not appear as a bulky or incongruous feature in the streetscape.

2.3 The gate piers are now marginally above the approved timber fence by 3 brick courses and are appropriate as architectural features flanking both access gates.

2.4 The landscaping with tree planting and green roof of the garden outbuilding is welcomed and will maintain the soft verdant appearance of the front garden and enhance its biodiversity; it will help retain the soft landscaped frontage character of this part of the streetscene and conservation area. More details are reserved for approval by condition. No trees are proposed for removal in order to facilitate development. Provided the works are undertaken in accordance with BS5837:2012, the impact of the scheme on trees will be of an acceptable level. The foundations of the binstore and gate piers are proposed to be designed to minimise any harm to the Root Protection Areas of existing mature trees. More details of foundations design and tree protection measures are reserved for approval by condition.

2.5 The various structures are considered appropriate in design, size and location in this front garden. More details of the materials are reserved for approval by condition. They will not harm the verdant character and appearance of the property, streetscene and conservation area.

2.6 Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

3. Amenity

3.1 It is considered that the various structures do not harm any neighbours in terms of loss of amenity such as light, outlook, privacy, noise or light pollution.

3.2 In relation to the operation of the binstore and comments by the CAAC, it will be used on bin

collection days only. The bins will be stored up at the house for most of the week until refuse collection day when they will be wheeled down to the drive and stored in the roadside binstore ready for collection, thus keeping the pavement clear of obstruction. This is in line with the waste collection arrangements detailed in the original planning permission for the remodelled house. The binstore cannot be accessed from inside the site due to the difference in levels between the garden and the pavement.

4. Recommendation

Grant planning permission

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 13th January 2020, 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'.

Application ref: 2019/1979/P
Contact: Charles Thuairé
Tel: 020 7974 5867
Date: 6 January 2020

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk

DP9 Ltd
100 Pall Mall
London
SW1Y 5NQ

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Householder Application Granted

Address:
41 Frognal
London
NW3 6YD

DECISION

Proposal:

Erection of timber-clad outbuilding and bin store in front garden and 4 brick gate piers along front boundary enclosure

Drawing Nos: site location plan; Proposed garden structures by Bowles and Wyer dated 14 February 2019; 14044-SK36, SK43; images of onstreet binstore with sliding doors dated 6.12.19; schematic design of gate piers at 2.06m high

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans- site location plan; Proposed garden structures by Bowles and Wyer dated 14 February 2019; 14044-SK36, SK43; images of onstreet binstore with sliding doors dated 6.12.19; schematic design of gate piers at 2.06m high.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 Before the relevant part of the work is begun, details or samples of brick and timber materials of the outbuilding, binstore and gate piers shall be submitted to and approved in writing by the local planning authority:

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 5 No development shall take place until full details of hard and soft landscaping of all un-built, open areas have been submitted to and approved by the local planning authority in writing. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policies A2, A3, D1 and D2 of the London Borough of Camden Local Plan 2017.

- 6 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details, prior to the occupation for the permitted use of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting (including trees existing at the outset of the development other than those indicated to be removed) which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies A2, A3, D1 and D2 of the London Borough of Camden Local Plan 2017.

- 7 Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved by the local planning authority in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

- 8 Prior to commencement of any works on site, details of the design of building foundations and the layout, with dimensions and levels, of service trenches and other excavations on site in so far as these items may affect trees on or adjoining the site, shall be submitted to and approved in writing by the local planning authority. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

- 9 Prior to commencement of development, full details in respect of the living roof in the area indicated on the approved roof plan shall be submitted to and approved by the local planning authority. The details shall include-
- i. a detailed scheme of maintenance;
 - ii. sections at a scale of 1:20 with manufacturers details demonstrating the construction and materials used;
 - iii. full details of planting species and density.

The living roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies CC1, CC2, CC3, D1, D2 and A3 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 2 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 3 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at <https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319> or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Regeneration and Planning

LDC (Proposed) Report		Application number	2019/5456/P
Officer		Expiry date	
Ramesh Depala		30/06/2020	
Application Address		Authorised Officer Signature	
41 Frognal London NW3 6YD			
Conservation Area		Article 4	
Redington Frognal		Basement Developments	
Proposal			
Erection of an ancillary tea house outbuilding within the dwelling's rear garden			
Recommendation:		Grant Certificate of Lawfulness	

The application site contains a detached single family dwellinghouse within the Redington Frognal Conservation Area.

The proposed tea house would be 17sqm in size, have 2.5m high eaves above the highest part of the existing ground level, and would cover much less than 50% of the rear garden.

The building is considered to comply with the following criteria in the GPDO.

Class E		
The provision within the curtilage of the dwellinghouse of—		
(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		
(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas		
If yes to any of the questions below the proposal is not permitted development		Yes/no
E.1 (a)	Has permission to use the dwellinghouse as a dwellinghouse been granted only by virtue of [Class M, N, P, PA or Q of Part 3] of this Schedule (changes of use)	No
E.1 (b)	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 (c)	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 (d)	Would the building have more than one storey?	No
E.1 (e)	Would the height of the building, enclosure or container exceed— (i) 4 metres in the case of a building with a dual-pitched roof, (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 (iii) 3 metres in any other case?	No
E.1 (f)	Would the height of the eaves of the building exceed 2.5 metres?	No
E.1 (g)	Would the building, enclosure, pool or container be situated within the curtilage of a listed building?	No
E.1 (h)	Would it include the construction or provision of a veranda, balcony or raised platform?	No
E.1 (i)	Does it relate to a dwelling or a microwave antenna?	No
E.1 (j)	Would the capacity of the container exceed 3,500 litres?	No
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

* The land referred to as article 2(3) land is the land described in Part 1 of Schedule 1 to Town and Country Planning (General Permitted Development) (England) Order 2015/596 (National Parks, areas of outstanding natural beauty and conservation areas etc).

Photo 1 – application site (with red line boundary)



Photo 2 – view from rear garden towards house at no.4A



Photo 3 – view from house (no.4A) towards rear garden (inc. existing outbuilding)

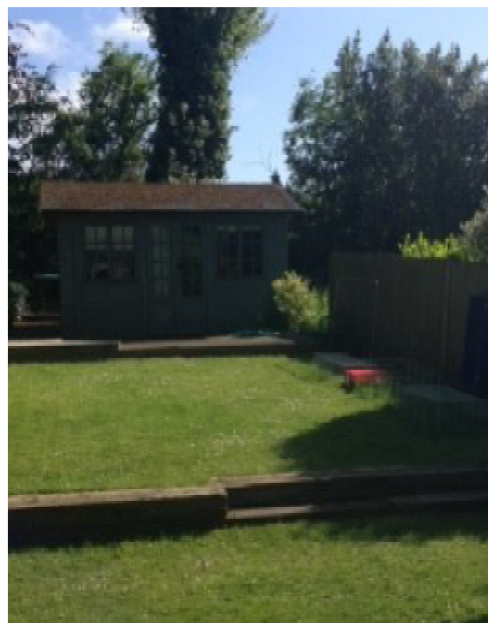


Photo 4 – junction of ‘L-shaped’ boundary fence (facing house at no.4a)

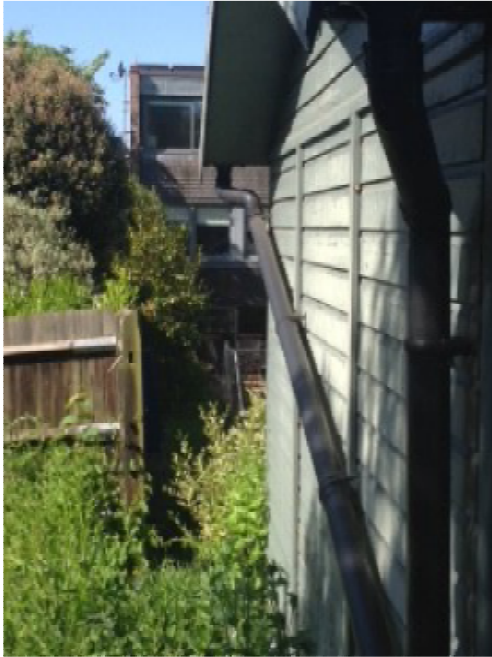


Photo 5 – view of boundary fence from within rear garden of no.4



Photo 6 – existing outbuilding in rear (no.4a)



Photo 7 – land within ‘L-shaped’ rear garden (no.4a) also showing boundary fence with no.4



2018/4206/P – 4A Lindfield Gardens



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Delegated Report (Members Briefing)		Analysis sheet	Expiry Date:	26/10/2018
		N/A	Consultation Expiry Date:	10/10/2018
Officer			Application Number(s)	
Tony Young			2018/4206/P	
Application Address			Drawing Numbers	
4a Lindfield Gardens LONDON NW3 6PU			Refer to draft decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Erection of single storey outbuilding in rear garden.				
Recommendation(s):		Grant Certificate of Lawfulness		
Application Type(s):		Certificate of Lawfulness (Proposed)		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	3	No. of responses	27	No. of objections	27
			No. Electronic	27		
Summary of consultation responses from local residents	<p><u>Given the nature of certificate of lawfulness applications, and in particular that purely matters of legal fact are involved its' determination, the Council does not engage in a formal consultation process. However, given the known level of local interest, a full consultation period of 21 days was advanced to allow the opportunity for responses to be received.</u></p> <p>The responses from local residents are summarised as follows:</p> <ol style="list-style-type: none"> <i>Proposed development is not incidental enjoyment of the dwelling house given the existence of washing facilities, toilet, study rooms, sitting area, plumbing, etc. Appears to establish framework for offices or separate living quarters which could be used as bedrooms and living room. No proof or evidence given as to how the proposed structure is incidental to the existing structure;</i> <i>Proposal is over-development and is against Camden's policies;</i> <i>Any approval under permitted development regulations would set a precedent for further applications of this type.</i> <i>Proposed removal of tree(s) is not acceptable.</i> <p><u>Officer response:</u></p> <ol style="list-style-type: none"> <i>See paragraphs 4.1 to 4.3 below that refers to the use of the outbuilding;</i> <i>An assessment of the planning merits of the proposal as to its acceptability under current Council policies or guidelines is not relevant or possible here, as it is purely a legal determination (and not an application for full planning permission). As such, the Council must only consider the proposal against criteria as defined under 'Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015.' Please also see paragraph 2.2 below.</i> <i>Any future applications of this type must be assessed separately against the criteria referred to in the Officer's response to point 2 above;</i> <i>See paragraphs 4.4 to 4.6 below with regard to tree protection.</i> 					

CAAC/Local groups
comments

Redington Frognal Association objected to the proposals summarised as follows:

5. *Application does not provide any evidence that the proposed building with its washing room, sitting room and studies / living rooms cannot be provided within the main house, nor any explanation of how the rear garden building would be incidental to the main building;*
6. *Proposal would result in the loss of rear garden space contrary to Guideline RF1 of the Redington Frognal Conservation Area Statement 2003: 'Backland/rear gardens.'*

Officer response:

5. *There is no requirement under Class E of the above regulations to provide any evidence of this kind. Please also see paragraphs 4.1 to 4.3 below that refers to the use of the outbuilding;*
6. *Please see the Officer's response point 2 above with regard to the criteria by which the proposal must be assessed.*

Redington Frognal Neighbourhood Forum objected to the proposals summarised as follows:

7. *The size of the proposed outbuilding, spanning the rear gardens of nos.4 and 4A is not eligible for classification as permitted development;*
8. *Development of rear gardens is contrary to policies BGI and BD of the emerging Redington Frognal Neighbourhood Plan. It would cause substantial harm to the setting of the Conservation Area, without any commensurate public benefit.*

Officer response:

7. *Please see the Officer's response to point 2 above with regard to the criteria by which the proposal must be assessed and paragraphs 2.4 to 2.11 below with regard to curtilage considerations;*
8. *Please see the Officer's response to point 2 above with regard to the criteria by which the proposal must be assessed.*

Heath & Hampstead Society objected to the proposals summarised as follows:

9. *Building could be used separately as a "Granny Flat", or office, or as rentable accommodation, either by the residents of No 4, or by those of No 4a; access from either or both is readily available. It is not therefore an extension or annexe to No 4/4a, and does not fall within the context of permitted development regulations;*
10. *Objection to the removal of a significant tree.*

Officer response:

9. See paragraphs 4.1 to 4.3 below that refers to the use of the outbuilding;

10. See paragraphs 4.4 to 4.6 below with regard to tree protection.

Site Description

The application property is a semi-detached dwelling house on the north east side of Lindfield Gardens close the the junction with Arkwright Road.

The site is 'L-shaped' in plan form with the garden widening at the rear; the rear section of the adjacent garden at no.4 being incorporated into the garden of the host property in this current form for a significant number of years.

The building is not listed and sits within the Redington/Frognaal Conservation Area.

Relevant History

2007/4788/P - Application for certificate of lawfulness for proposed rendering to the brick facades to front, side and rear; and to add lateral cedar to part of the front façade. Planning permission refused 20/11/2007

2007/0616/P - Creation of roof terrace at front 2nd floor roof level with associated erection of perimeter glass balustrades. Appeal allowed 04/05/2007

2005/4219/P - Amendment to planning permission dated 12th April 1999 (ref PW9802616/R2) for the erection of a single-storey side extension, a 2-storey rear extension and a single-storey extension at roof level, relating to alterations to the proposed roof extension. Planning permission granted 06/01/2006

2004/2596/P - Part removal of condition 03 of planning permission granted on 12/4/1999 [ref: PW9802616R2] for the erection of single storey extension to the side, two storey rear extension and roof extension, in order to use the flat roof at front second floor level as roof terrace and associated installation of balustrade and sliding glass doors. Planning permission granted 30/11/2005

2004/2599/P - Removal of additional condition 4 of planning permission (ref: PW9802616R2) to restrict the construction of an approved roof extension unless this was erected simultaneously with an identical roof extension approved for the adjoining building at No. 4 Lindfield Gardens. Planning permission granted 20/08/2004

2004/1534/P - The erection of a single storey extension at roof level to provide additional accommodation for the existing residential dwelling house. Certificate of lawfulness (proposed) granted 05/07/2004

PW9802616R2 - The erection of a single storey extension to the side, a two storey extension to the rear and a single storey extension at roof level to provide additional accommodation for the existing residential dwelling house. Planning permission granted 12/04/1999

PW9802489R1 - Erection of a two storey rear extension and a single storey side extension and infill to the front porch. Planning permission granted 17/09/1998

Relevant Policies

The scheme 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”).

This lawful development certificate application is to determine whether the proposed development is ‘permitted development’ and hence, can go ahead without the specific grant of planning permission from the local planning authority. An assessment of its planning merits as to its acceptability under current policies is therefore not relevant or possible here, as it is purely a legal determination.

Assessment

1. Introduction

1.1 A Lawful Development Certificate has been submitted to the Council for the erection of a detached outbuilding in the rear garden of the application site. The proposed outbuilding or garden room would replace an existing smaller outbuilding. It would be a single storey enclosure with a flat roof and glazed sliding doors, and provide additional storage and utility space ancillary to the main house, including study space for the residents of no.4a Lindfield Gardens. As such, a toilet, washing area, sitting and study area, and various storage spaces would be included.

1.2 The overall site area at the property is approximately 700m² and the footprint area of the proposed outbuilding would be approximately 80m². The enclosure would be positioned on sloping ground with its’ height rising no higher than 2.5m above the highest ground level adjacent to the proposed outbuilding, and have a depth and width of approximately 10m and 11.3m respectively.

2. Assessment

2.1 The determination of the application can only be made after an assessment based on the following:

- whether the proposal constitutes “development” under Part III, Section 55 of the Town and Country Planning Act 1990 which sets out the meaning of “development”;
- whether the land in question comprises part of the ‘curtilage’ of no. 4a Lindfield Gardens; and
- whether the proposal is lawful and constitutes permitted development as defined by the criteria set out under ‘Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015.’

2.2 It is emphasised that this is a legal determination; no account can be taken of policy or advice within the Council’s Local Development Framework or the planning merits of the scheme in terms of issues, such as, its’ impact on neighbour amenity, the character of the conservation area, trees, sustainable urban design (SUDs), transport, etc.

Definition of “Development”

2.3 With regard to external alterations, Part III, Section 55 of the Town and Country Planning Act 1990, ‘Meaning of “development” and “new development”’, includes the carrying out of building operations (e.g. structural alterations, construction, etc.), and as such, the proposed external alterations involving the erection of a detached outbuilding in the rear garden are considered to constitute development.

Curtilage considerations

- 2.4 The matter then turns to whether the land in question comprises part of the 'curtilage' of no. 4a Lindfield Gardens for which permitted development rights under 'Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015', would apply. This question arises because the 'L-shaped' curtilage as it appears on the existing site location plan (edged in red) and relied upon within the application submission differs from the 'curtilage' as shown on current and historic Council records.
- 2.5 It is firstly noted that the amalgamation of residential garden land itself does not comprise 'development' for the purposes of Section 55 of the Town and Country Planning Act 1990 for which planning permission would be required as the 'curtilage' of a building (such as a dwelling house) does not represent a use of the land within planning legislation. Thus, it is not possible to obtain a Lawful Development Certificate that would confirm that part (or the whole) of a particular piece of land is within the 'curtilage' of a dwelling house.
- 2.6 Whilst no statutory definition is available for the term 'curtilage', the definition most usually referred to is that given in (*Sinclair-Lockhart's Trustees v Central Land Board, 1950*): "*The ground which is used for the comfortable enjoyment of a house or other building may be regarded in law as being within the curtilage of that house or building and thereby as an integral part of the same although it has not been marked off or enclosed in any way. It is enough that it serves the purpose of the house or building in some necessary or useful way.*"
- 2.7 Additionally, (*Sumption v Greenwich LBC, 2007*) established that land can very easily be incorporated into the 'curtilage' and any assessment should be based on the situation at the present time. As such, whether the land in question comprises the domestic curtilage of no. 4a Lindfield Gardens is a matter of fact and degree, based on the situation existing at the present time and recognising that its' physical extent is not fixed in time but is capable of altering.
- 2.8 During a site visit, the case officer noted an existing outbuilding, a grass lawn and cultivated garden space, an unkempt area with weeds and vegetation, and children's play area (with trampoline still in situ at the time of the visit), all located within the rear garden. The existing nature and layout of this 'L-shaped' garden (which includes the land in question) appeared to be well-established and consistent with a domestic garden intimately associated with the use of, and serving the purpose of, the main dwelling house in a reasonably useful manner. The whole of the 'L-shaped' plot appeared as a single garden space with no physical separation or intervening non-garden land between the rear land in question and the host property. Furthermore, the supporting evidence provided by the applicant is considered on balance of probability to be sufficiently precise and unambiguous in support of this conclusion.
- 2.9 The key tests for determining whether the land comes in the curtilage of the building (as established in the *Sutcliffe v Calderdale (1982)* and reiterated in *Burford v SoS for Communities and Local Government & Anor (2017)*) are: 1) the physical 'layout' of the land and building; (2) the ownership of the land and building, past and present; and (3) the use or function of the land and building, past and present.
- 2.10 This is a matter of fact and degree in each case. In terms of layout, the small piece of land to the rear of 4 is connected directly to the land to the rear of 4A, and within the same enclosure. It has the physical appearance of a single garden space accessible from the main building at 4A. The small piece of land to the rear of 4 is under the same ownership as the land to the rear of 4A. Finally the small piece of land to the rear of 4 is connected directly to the land to the rear of 4A and used as part of the whole garden, ancillary to the main dwelling at 4A.
- 2.11 Therefore, in this particular case, it is considered that the whole of the area identified in the

application, and edged in red on the submitted site location plan, is within the curtilage of 4A.

Class E – Single storey outbuilding

2.12 Accordingly, the matter now turns to consideration of whether permitted development rights would apply as defined by criteria set out under ‘Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015.’

2.13 Class E gives provision for an outbuilding to be constructed within the curtilage of a dwelling house, with restrictions. The section below sets out this criteria in full with officer comments added in bold to denote how the proposal accords with each point:

Class E		
The provision within the curtilage of the dwellinghouse of—		
(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		
(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas		
If YES to any of the questions below, the proposal is not permitted development:		Yes/no
E.1 (a)	Is permission granted to use the dwellinghouse as a dwellinghouse only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use)?	No
The use of the existing dwelling house as a dwelling house is not as a result of permission granted for a change of use as set out under Classes M, N, P, PA or Q of Part 3 of this Schedule.		
E.1 (b)	As a result of the works, will the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)?	No
The overall site area at the property is approximately 700m² and the footprint area of the proposed outbuilding would be approximately 80m². The proposed enclosure would therefore not exceed 50% of the total area of the curtilage.		
E.1 (c)	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
The outbuilding is located within the rear garden.		
E.1 (d)	Would the building have more than a single storey?	No
The outbuilding has a single storey.		
E.1 (e)	Would the height of the building, enclosure or container exceed— (i) 4 metres in the case of a building with a dual-pitched roof; (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 (iii) 3 metres in any other case?	No
The enclosure would be positioned within 2m of the boundary of the dwelling house and on sloping ground with its’ height rising no higher than 2.5m above the highest ground level adjacent to the proposed outbuilding.		
E.1 (f)	Would the height of the eaves of the building exceed 2.5 metres?	No
The eaves height of the enclosure height would rise no higher than 2.5m above the highest ground level adjacent to the proposed outbuilding.		

E.1 (g)	Would the building, enclosure, pool or container be situated within the curtilage of a listed building?	No
The host property is not listed.		
E.1 (h)	Would it include the construction or provision of a verandah, balcony or raised platform?	No
The construction or provision of a verandah, balcony or raised platform are not included as part of the application proposal. Any decking included as part of the proposal would not exceed 0.3m in height, and as such, would be permitted development under Class E.		
E.1 (i)	Does it relate to a dwelling or a microwave antenna?	No
The proposals do not relate to a dwelling or a microwave antenna.		
E.1 (j)	Would the capacity of the container exceed 3,500 litres?	n/a
A container is not included as part of the application proposal.		
E.2	In the case where any land is within the curtilage of the dwellinghouse which is within— (a) an area of outstanding natural beauty; (b) the Broads; (c) a National Park; or (d) a World Heritage Site Would the total area of ground covered by buildings, enclosures, pools and containers be situated more than 20 metres from any wall of the dwellinghouse exceed 10 square metres?	n/a
No part of the land sits within the curtilage of either an area of outstanding natural beauty, the Broads, a National Park, or a World Heritage Site.		
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
The site is located within the Redington/Frognaal Conservation Area. The outbuilding is located within the rear garden, and as such, would not be situated on land between a wall forming a side elevation of the dwelling house and the boundary of the curtilage of the dwelling house.		

2.14 The proposal is considered to satisfy all criteria as set out under 'Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015,' and as such, would be permitted development and lawful.

3. Consultation responses

3.1 Given the nature of Certificate of Lawfulness applications, the planning merits of the use are not relevant in determining an application; purely matters of legal fact are involved. All consultation responses received have therefore been assessed on this basis (see the 'Consultations' section above). Having fully assessed the responses, it is considered that no evidence has been provided to contradict or undermine the applicant's proposal or assertions.

3.2 Nevertheless, 2 common concerns were raised amongst the consultation responses received which are addressed in Section 4 ('Other matters') below.

4. Other matters

Use of outbuilding

- 4.1 Concerns were raised by local residents that the proposed outbuilding might be used as an additional dwelling house or office space. This would be contrary to Class E which clearly stipulates that any building should only be for a purpose incidental to the enjoyment of the dwelling house.
- 4.2 The applicant has stated in the submitted Planning Statement that the outbuilding is for the domestic needs and personal enjoyment of the occupants of the dwelling house; a purpose incidental to the enjoyment of the dwelling house. This is supported by the submitted drawings and reaffirmed in a letter dated 02/11/2018 (from Square Feet Architects) which clearly states that no self-contained or primary living accommodation for cooking, sleeping or eating will be provided (for instance, there are no bathroom, bedroom or kitchen facilities included in the proposal).
- 4.3 Notwithstanding this, a condition will be added to any certificate granted requiring that the proposed outbuilding shall only be used for purposes incidental to the residential use of the existing dwelling house and shall not be used as either a separate independent Class C3 dwelling house or for Class B1 business. This is in response to local concerns raised and so as to ensure that the outbuilding does not adversely affect the amenity of adjoining residential premises and is not used for unauthorised purposes.

Impact upon trees

- 4.4 Concerns were also raised by local residents with regard to how the proposal might impact on any trees both within the property and in neighbouring gardens.
- 4.5 The application site doesn't contain any trees within the rear garden with Tree Preservation Orders (TPOs) placed upon them (there is a TPO associated with a Hawthorn at the front of the site). Notwithstanding this, some trees are situated within the rear garden and in neighbouring properties that are protected by the provisions under section 211 of the Town and Country Planning Act 1990 by virtue of being situated within the Redington/Frognaal Conservation Area. These provisions require the applicant to notify the local planning authority 6 weeks before carrying out works to any affected trees (unless an exception applies).
- 4.6 While it is noted that no objection was raised for the removal of a Sycamore from the rear garden of no.4a (2017/5412/T) in 2017, the applicant would be required to submit a separate notification to the Council for any other proposed works associated with the proposal being considered here that could impact adversely upon any trees or their root structures. As such, an informative will be added to any approval reminding the applicant of this obligation.

5. Recommendation

- 5.1 Approve certificate of lawfulness.

DISCLAIMER

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 3rd December 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'.

Square Feet Architects
95 Bell Street
London
NW1 6TL

Application Ref: **2018/4206/P**
Please ask for: **Tony Young**
Telephone: 020 7974 **2687**

28 November 2018

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990

Certificate of Lawfulness (Proposed) Granted

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Erection of single storey outbuilding in rear garden.

Drawing Nos: (1721_L_)001B, 005A, 010A, 020A, 021A, 022A, 023A, 030A, 031A, 042A, 107B, 112C, 113B, 121C, 122B, 123A, 124A, 130B, 131C, 142A; Planning statement (Rev B) dated April 2018; Cover Letter from Firstplan (ref. 15258/CJ/gm) dated 21/05/2018; Statutory Declaration (with appendices 1-7) from Lesley Strawbridge dated 24/08/2018; Letter from Square Feet Architects dated 02/11/2018.

Second Schedule:

4a Lindfield Gardens
LONDON
NW3 6PU

Reason for the Decision:

- 1 The proposed outbuilding is permitted under Class E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended April 2016).

Executive Director Supporting Communities



- 2 The outbuilding hereby approved shall only be used for purposes incidental to the residential use of 4a Lindfield Gardens and shall not be used as a separate independent Class C3 dwelling or Class B1 business use.

Reason: To ensure that the outbuilding does not adversely affect the amenity of adjoining residential premises and is not used for unauthorised purposes, in accordance with policies A1 and H6 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 You are reminded of the need to notify the Council by means of an application for any proposed tree works in connection with this approval and to receive written approval prior to starting the works. Further information, advice and necessary forms can be obtained by writing to: London Borough of Camden Tree Section (Private Trees), 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE; or emailing planning@camden.gov.uk.
- 2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 4 You are reminded that this decision only grants permission for an outbuilding used for purposes incidental to the existing residential use of the dwelling house. Any alternative use of the outbuilding for temporary accommodation, i.e. for periods of less than 90 days for tourist or short term lets etc, would constitute a material change of use and would require the grant of planning permission.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2018.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Regeneration and Planning

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use*/operations*/matter* specified in the First Schedule taking place on the land described in the Second Schedule was*/would have been* lawful on the specified date and thus, was not*/would not have been* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use*/operations*/matter* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use*/operations*/matter* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

DECISION

ISSUES OF CERTIFICATE OF LAWFULNESS & PLANNING DEVELOPMENT

Re: 4/4A LINDFIELD GARDENS, NW3 6PU.

CURRENT APPLICATION REF **(2018/4206/P)** of 18 Sept. 2018.

Please also see;-

PREVIOUS APPLICATION REF **(2018/0512/P)** of 5 March 2018.

Dear Councillor Parkinson,

Our Lindfield and Langland Gardens Neighbourhood Association (LLNA), would be grateful for your expert advice on this issue.

I refer to the current application ref. 2018/4206/P which is for a "Certificate of Lawfulness (Proposed)" and erection of an outbuilding "Garden Room", spanning the width of two rear gardens.

We are concerned that this proposed application, in our Conservation Area, goes against many of the planning and conservation aspects which are there to protect our precious open spaces and large, long, rear gardens from extensive developments.

It involves what we believe is an attempt to circumvent planning regulations in a conservation area.

The applicant wants to build a very large structure spanning the width of two gardens.

The application was originally under **Ref.2018/0512/P**, but this was withdrawn and replaced with an almost identical application.

We have compared the two applications and can note only two differences:-

1). In the new application the words: "***the main living area,***" has been removed from section 3.0 of the cover statement of the previous application Ref **(2018/0512/P)**.

2). This new application **(2018/4206/P)**, simply added a letter from a company, "Firstplan", that argues that joining of two gardens is permitted and lawful.

Our concern is that this proposed development is too large to be a simple "garden room" for storage of sports equipment" and offices.

(I have lettered the following paragraphs for easier access and reference to the text).

It would appear to have all the facilities and space for a separate dwelling which we believe is outside the remit of a "Certificate of Lawfulness", having a *toilet*, space for a kitchen, *washing facilities* and two very large "*study rooms*".

A. The application appears to us to be suspiciously vague and lacking in essential information. No details are given regarding the building materials to be used. The architectural drawings indicate a much more substantial structure than the inadequate description given in the cover statement of the new application which states: "*The Garden Room would be made of light weight materials, and timber clad, as appropriate for such garden rooms*".

B. Addresses 4a and 4 are two separate homes, both are owned by the same applicant, [REDACTED]. In answer to specific questions, she confirmed that they are totally separate. She also confirmed there was a boundary wall between the

two dwellings, and there was no access between the two sides. How does this work in planning terms if in fact she wants one outbuilding to span the two gardens?

C. The aerial site photograph of the rear gardens, shows a large clump of trees covering the garden area of no. 4, across which half of the proposed building would be placed. As two gardens are involved here we would expect to see photographs of both existing gardens. However, the application appears to enclose two photographs of the two sections of the garden belonging just to number 4a Lindfield Gardens, (of the old garden shed and beyond it the patio and Trampoline).

A photograph of the garden belonging to the adjoining No. 4, Lindfield Gardens, with its cluster of trees, appears to be missing from this application.

We believe that this may partly be because our Lindfield and Langland Gardens Neighbourhood Association (LLNA), itself a conservation area, is vehemently opposed to the huge loss of trees, open spaces, and gardens.

D. We understand that the use of outbuildings under Section E of Permitted Development should be 'incidental' to that of the main dwelling, and cannot incorporate bedrooms, or facilities that would permit it to be used for residential accommodation.

E. However, the scale of this development spanning the width of two gardens makes us suspicious that this is intended to be more than a "garden room". What is to say that "two study rooms" cannot be bedrooms or that the enormous "storage space for sports equipment" alongside the stated "washing facilities", and "toilet", could not be a kitchen or bathroom?

F. It would appear to us that this outbuilding is not within the remit of Permitted Development and that it violates the criteria for a "Certificate of Lawfulness" .

G. The LLNA is most concerned that were this development to be permitted to proceed under a "Certificate of Lawfulness", it would set a precedent for all the long, rear gardens, in Lindfield Gardens, with their many mature trees. Hampstead is steadily losing its long gardens to over zealous development.

The unique aspect of Lindfield Gardens is their long gardens, which permit trees to grow to their full potential, (their natural shape and size), without posing a threat to nearby buildings. Moreover, the trees are home to Owls, (a species currently decreasing in numbers through loss of their habitat).

H. Camden Planning Dept. indicated that this application for a Certificate of Lawfulness was outside their terms of reference.

We would therefore be most grateful for your support in helping us to oppose this application. As we are not experts in "Certificates of Lawfulness" we would greatly appreciate your expertise and any suggestions you could provide which would strengthen our case.

Please feel free to contact me by email [REDACTED] or by 'phone on [REDACTED]. I would also be happy to meet at your convenience, but it is urgent as the deadline for opposing this application is 9 October 2018.

Yours sincerely,

[REDACTED] (LLNA Committee member).

[REDACTED]