

# 2023/0397/P - Flat B, 39 Belsize Avenue, NW3 4BN



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright.



1. Aerial photo of site (source: Google)



2. View towards property from street (source: Google)





3. View towards property from pavement (source: Officer photo)



4. (Left) Approach toward LGF flat entrance (source: Officer photo) and (right) photo of the steps by applicant (source: Applicant photo)





5. Approach toward LGF flat entrance, planter and bin area (source: Officer photo)



6. View over the black fence/gate showing boundary (source: Officer photo)



<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	<b>27/03/2023</b>
<b>(Members Briefing)</b>		N/A / attached	<b>Consultation Expiry Date:</b>	<b>09/04/2023</b>
<b>Officer</b>			<b>Application Number(s)</b>	
Miriam Baptist			2023/0397/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
Flat B 39 Belsize Avenue London NW3 4BN			See Draft Decision Notice	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>				
Front boundary changes, replacement of external side staircase, fenestration changes to side elevation and relocation of main access door (part retrospective).				
<b>Recommendation(s):</b>	<b>Grant Conditional Planning Permission and Warning of Enforcement Action</b>			
<b>Application Type:</b>	<b>Full Planning Permission</b>			



Conditions or Reasons for Refusal:	Refer to Draft Decision Notice				
Informatives:					
<b>Consultations</b>					
Adjoining Occupiers:		No. of responses	01	No. of objections	01
Summary of consultation responses:	<p>Site notices were displayed near to the site on the 08/03/2023 (consultation end date 01/04/2023). The development was also advertised in the local press on the 16/03/2023 (consultation end date 09/04/2023).</p> <p>Although not officially raised as a consultation response in relation to this application, a complaint from a resident at 41-43 Belsize Avenue was received by the Council that relates to this application in regard to the works encroaching on the land at 41-43 to facilitate a bin storage area. The above concerns were relayed and supported by Councillor Simon.</p> <p><u>Officer response:</u></p> <p><i>This has been noted and has been passed on the Planning Enforcement Team and the Housing Team (No.41-43 is Council owned) for further investigation. It is noted that this encroachment is not shown on the drawings and therefore is not approved or regularised as part of this application. If approved, the recommendation would include warning of enforcement action in relation to the land grab not shown on the drawings.</i></p>				
Belsize CAAC comments:	<p>The Belsize CAAC have <b>objected</b> on the following grounds:</p> <p>We note that this building makes a positive contribution to the conservation area. The one new window instead of two should match the new small windows. The front garden wall should match No.45 with metal railings on the existing low wall. The black side gate, which is not shown on the drawings, is inappropriate. The new paving should be porous.</p> <p><u>Officer response:</u></p> <p><i>Please see section 2.0 for concerns relating to design and heritage. It is noted that the black side gate has now been added to the drawings.</i></p>				



## Site Description

The site comprises the lower ground flat of a semi-detached 3.5 storey house located on the northwest side of Belsize Avenue. The road is primarily residential and located within the Belsize Conservation Area where the properties are set back from the walkway by an area of grass.

## Relevant History

Application site

**2023/0118/P** - *Installation of a new pipework to the side elevation and a new gas meter box (retrospective)*. – **Granted 21/04/2024**

## Relevant policies

**National Planning Policy Framework 2024**

**London Plan 2021**

**Camden Local Plan 2017**

Policy A1 – Managing the impact of development

Policy D1 – Design

Policy D2 – Heritage

**Camden Planning Guidance**

Design (2021)

Amenity (2021)

Home improvements (2021)

**Belsize Conservation Area Statement 2003**

**Draft Camden Local Plan**

The council has published a new [Draft Camden Local Plan](#) (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account in the determination of planning applications, but has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).

## Assessment

### 1.0. Proposal

1.1 The application seeks part-retrospective permission for: front garden boundary changes, replacement steps to lower ground floor flat, fenestration changes to the side elevation, relocation of main access door and erection of a black wooden fence/gate to the lower ground floor flat.

### 2.0. Assessment

2.1 Key planning issues are as follows:

- Design & Heritage
- Neighbour Amenity
- Biodiversity Net Gain

### 3.0. Design & Heritage

3.1 The application seeks part-retrospective permission for: front garden boundary changes,



- replacement steps to lower ground floor flat, fenestration changes to the side elevation, relocation of main access door, and erection of a black wooden fence/gate to the lower ground floor flat.
- 3.2 Local Plan policy D1 seeks to achieve high quality design in all developments. Policy D1 (Design) requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area. Policy D2 (Heritage) seeks to preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings.
- 3.3 As it is understood, the majority of the proposal is retrospective. Works already carried out include: the re-levelling of front garden and side passage, fenestration changes, the relocation of main access door on side elevation, new black fence/door to side passage and changes to the front garden boundaries.
- 3.4 The re-levelling of front garden and side passage/steps to the lower ground flat is considered acceptable in principle but the work carried out does not match the proposed drawings in terms of width of plot/boundary and flowerbed. It is noted that the boundary has been moved and a portion of land belonging to the Council has been incorporated into the front garden, contrary to the drawings which show no change.
- 3.5 The fenestration changes proposed to the side elevation are considered acceptable, as is the relocation of the main access door. The door and windows concerned are all to the side elevation and are not considered to make a significant impact on the host property or the wider conservation area, especially at this low level on a flank wall. The entrance door is being relocated but remains on the side elevation. Whereas previously it was further down the side passage on the main side elevation, now it has replaced an existing door on the staircase side wall, whilst a new window would be installed in the old position of the entrance, which would match the existing windows in appearance and design and is therefore acceptable.
- 3.6 The black fence and gate proposed create an additional boundary before the entrance of the lower ground flat. Although the structure is modern in design, due to the set back and height difference its low visibility from the public realm means it has minimal impact. For this reason, the addition is not considered to cause material harm.
- 3.7 The boundary changes in the front garden are considered acceptable. Horizontal, slatted, timber fencing was proposed to the front and side boundaries of the garden, but the scheme has now been revised to maintain a more traditional front boundary treatment – retention of the low wall and railings atop. This is the most visible boundary from the front of the property and is considered more in-keeping with the character of the street and wider Conservation Area.
- 3.8 Officers have visited the site and overall, many of the changes are considered not to be especially visible from the surrounding public realm, due to the nature of the street layout (with stepped back areas of grass separating the pavement from the properties) and the positioning of the works, to the right hand-side of the main entrance staircase, at a lower level. For this reason, the application is considered to cause no harm to the Conservation Area.
- 3.9 Despite this, it is noted that some of the work seen on site is not shown on the drawings and extends beyond the property boundary and onto land belonging to 41-43 Belsize Avenue. This permission solely approves the details as shown on the submitted drawings. The matter relating to works extending beyond the property boundary has been referred to the Planning Enforcement Team and the Housing Team to investigate further.
- 3.10 The proposal would preserve the character and appearance of the conservation area overall.

The Council has had special regard to the desirability of preserving the character and appearance of the Conservation Area.

#### **4.0. Neighbour Amenity**

4.1 Policy A1 seeks to ensure that the amenity of neighbouring properties is protected. It states that planning permission will not be granted for development that causes harm to the amenity of occupiers and neighbours in terms of loss of daylight, sunlight, outlook and privacy. Policy A4 seeks to ensure that development does not generate unacceptable noise impacts.

4.2 The development proposed is not considered to cause any material harm to neighbours in terms of the loss of natural light, outlook or light spill given its scale, siting and nature.

#### **5. Biodiversity Net Gain**

5.1 It is noted that the Biodiversity Net Gain (BNG) requirement came into effect for major applications on 12th February 2024, and for small sites on 2nd April 2024. However, there are a number of statutory exemptions and transitional arrangements which mean that the BNG condition does not always apply. These are summarised by way of an informative attached to this decision.

5.2 This application is below the de minimis threshold (because it does not impact an onsite priority habitat AND impacts less than 25 square metres of onsite habitat with biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat).and so is exempt from BNG. The applicant is reminded of this by way of an informative attached to this decision.

#### **6.0. Conclusion**

6.1 The proposed development is in general accordance with Policies A1, D1, and D2 of the London Borough of Camden Local Plan 2017. The proposed development also accords with the London Plan 2021; and the provisions of the National Planning Policy Framework 2024.

#### **7.0. Recommendation**

7.1 It is therefore recommended that planning permission be granted with a warning of enforcement action to be taken.

#### **8.0. ENFORCEMENT ACTION TO BE TAKEN:**

8.1 If the works on site relating to the extended side boundary with nos. 41-43 Belsize Avenue have not been agreed with the Housing Team in writing or the scheme amended to comply with the drawings hereby approved (and all constituent materials removed and damages made good) within THREE (3) months from the date of this decision, it is recommended that the Director of Supporting Communities will instruct the Borough Solicitor to issue an Enforcement Notice alleging a breach of planning control.

***The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 24<sup>th</sup> February 2025, 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](http://www.camden.gov.uk) and search for 'Members Briefing'.***



Application ref: 2023/0397/P  
Contact: Miriam Baptist  
Tel: 020 7974 8147  
Email: [Miriam.Baptist@camden.gov.uk](mailto:Miriam.Baptist@camden.gov.uk)  
Date: 19 February 2025

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

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk](http://www.camden.gov.uk)

SM Planning  
80-83 Long Lane  
London  
EC1A 9ET

# DRAFT

**DECISION**

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)

## **Full Planning Permission Granted and Warning of Enforcement Action**

Address:

**Flat B**  
**39 Belsize Avenue**  
**London**  
**NW3 4BN**

# DECISION

Proposal:

Front garden boundary changes, re-leveling of front garden and side passage, new black fence and door to side passage, relocation of main access door on side elevation and fenestration changes (part retrospective).

Drawing Nos: 39 Belsize Avenue London NW3 5AS site location plan, Lower Ground Floor Layout Pre-Existing & As-Built dated 05/02/2025, Side Elevation Pre-Existing & As Built dated 08/08/2022, Front elevation existing & proposed dated 05/02/2025, Cover letter/Design and Access Statement dated 27/01/2023.

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 The development hereby permitted shall be carried out in accordance with the following approved plans: 39 Belsize Avenue London NW3 5AS site location plan, Lower Ground Floor Layout Pre-Existing & As-Built dated 05/02/2025, Side Elevation Pre-Existing & As Built dated 08/08/2022, Front elevation existing & proposed dated 05/02/2025, Cover letter/Design and Access Statement dated 27/01/2023.

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

- 3 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.

Informative(s):

- 1 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, 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.
- 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 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.



- 4 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at [www.camden.gov.uk](http://www.camden.gov.uk)) 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.

- 5 Biodiversity Net Gain (BNG) Informative (1/2):

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 ("1990 Act") is that planning permission granted in England is subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and  
(b) the planning authority has approved the plan.

The local planning authority (LPA) that would approve any Biodiversity Gain Plan (BGP) (if required) is London Borough of Camden.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are summarised below, but you should check the legislation yourself and ensure you meet the statutory requirements.

Based on the information provided, this will not require the approval of a BGP before development is begun because the planning application was made before 12 February 2024, it is part retrospective, and it is below the de minimis threshold (because it does not impact an onsite priority habitat AND impacts less than 25 square metres of onsite habitat with biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat).

++ Summary of transitional arrangements and exemptions for biodiversity gain condition

The following are provided for information and may not apply to this permission:

1. The planning application was made before 12 February 2024.
2. The planning permission is retrospective.
3. The planning permission was granted under section 73 of the Town and Country Planning Act 1990 and the original (parent) planning permission was made or granted before 12 February 2024.
4. The permission is exempt because of one or more of the reasons below:
  - It is not "major development" and the application was made or granted before 2 April 2024, or planning permission is granted under section 73 and the original (parent) permission was made or granted before 2 April 2024.

- It is below the de minimis threshold (because it does not impact an onsite priority habitat AND impacts less than 25 square metres of onsite habitat with biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat).
- The application is a Householder Application.
- It is for development of a 'Biodiversity Gain Site'.
- It is Self and Custom Build Development (for no more than 9 dwellings on a site no larger than 0.5 hectares and consists exclusively of dwellings which are Self-Build or Custom Housebuilding).
- It forms part of, or is ancillary to, the high-speed railway transport network (High Speed 2).

6 Biodiversity Net Gain (BNG) Informatives (2/2):

+ Irreplaceable habitat:

If the onsite habitat includes Irreplaceable Habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements. In addition to information about minimising adverse impacts on the habitat, the BGP must include information on compensation for any impact on the biodiversity of the irreplaceable habitat. The LPA can only approve a BGP if satisfied that the impact on the irreplaceable habitat is minimised and appropriate arrangements have been made for compensating for any impact which do not include the use of biodiversity credits.

++ The effect of section 73(2D) of the Town and Country Planning Act 1990

If planning permission is granted under section 73, and a BGP was approved in relation to the previous planning permission ("the earlier BGP"), the earlier BGP may be regarded as approved for the purpose of discharging the biodiversity gain condition on this permission. It will be regarded as approved if the conditions attached (and so the permission granted) do not affect both the post-development value of the onsite habitat and any arrangements made to compensate irreplaceable habitat as specified in the earlier BGP.

++ Phased development

In the case of phased development, the BGP will be required to be submitted to and approved by the LPA before development can begin (the overall plan), and before each phase of development can begin (phase plans). The modifications in respect of the biodiversity gain condition in phased development are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with the National Planning Policy Framework. The council publishes its adopted policies online, along with detailed Camden Planning Guidance. It also provides advice on the website for submitting applications and offers a pre-application advice service.

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.



Yours faithfully

Chief Planning Officer

**DRAFT**

**DECISION**