

<b>Address:</b>	Land at rear of 43-45 Fitzjohns Avenue London NW3 5JU	
<b>Application Number:</b>	2012/1692/P	<b>Officer: Conor McDonagh</b>
<b>Ward:</b>	Frognaal & Fitzjohns	
<b>Date Received:</b>	23/03/2012	
<b>Proposal: Erection of building comprising basement and ground floor with green roof for use as 3-bedroom single-family dwellinghouse (Class C3) (following demolition of existing garage building).</b>		
<b>Drawing Numbers:</b> Site Location Plan; Architectural Drawings pack by Kyson dated February 2011 (no.s 34-54); Integrated Planning Statement by Kyson dated February 2012; draft Construction Site Traffic Management Plan by Jake Puddy dated 21/02/12 (Rev C); Tree Survey by MWA Arboriculture Ltd dated 20/03/12 including supplementary report following trial trench investigations dated 13/06/12; and Basement Impact Assessment by Peter Brett Associates LLP dated February 2012 (R002/Rev 00).		
<b>RECOMMENDATION SUMMARY: Grant conditional permission subject to s106 Legal Agreement</b>		
<b>Related Application Date of Application:</b>	<b>Yes</b>	23/03/2012
<b>Application Number:</b>	2012/1814/C	
<b>Proposal: Demolition of existing garage and out buildings.</b>		
Drawing numbers: (As above)		
<b>RECOMMENDATION SUMMARY: Grant conditional conservation area consent</b>		
<b>Applicant:</b>	<b>Agent:</b>	
Loham (UK) Ltd 43-45 Fitzjohns Avenue Hampstead NW3 5JU	Kyson Studio Kyson Ground Floor 28 Scrutton Street London EC2A 4RP	

### ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	<i>Garages</i>	<i>Caretakers shed (sui generis)</i>	133m <sup>2</sup>
			34 m <sup>2</sup>
Proposed	<i>Dwelling House (Class C3)</i>		330m <sup>2</sup>

Residential Use Details:		
	Residential Type	No. of Bedrooms per Unit

		1	2	3	4	5	6	7	8	9+
Existing	<i>Flat/Maisonette</i>									
Proposed	<i>Flat/Maisonette</i>			1						

<b>Parking Details:</b>		
	Parking Spaces (General)	Parking Spaces (Disabled)
Existing	4	0
Proposed	5	1

## **OFFICERS' REPORT**

**Reason for Referral to Committee:** **3 (v) involving any demolition (other than minor demolition) of any listed building and the total or substantial demolition of any building in a conservation area.**

### **1.0 SITE**

1.1 The application relates to two properties known as 43 - 45 Fitzjohns Avenue dating from the late 1890s on the west side of Fitzjohns Avenue, close to the junction with Nutley Terrace in the Fitzjohns/Netherhall Conservation Area. The properties were originally built, likely as single-family dwelling houses, as a pair of red brick four storey Gothic villas that in plan and elevation mirrored each other. The properties have been significantly altered and extended and currently provide residential accommodation in the form of 27 self-contained flats and 21 bed-sits with shared facilities. In addition there is a small ground floor office which is used by the managing agent of the building and 5 employees.

1.2 The site includes a forecourt used for off-street parking with dual crossovers from the public highway. The southern crossover provides access to an existing garage block which runs parallel to the southern boundary and is situated to the rear of the host buildings. Consisting of 11 garage units (each unit comprising floor area of 2.6m x 4.6m approx) the garage block is clad in timber and render with metal sheet doors and roof. The application documents indicate that the garages are currently leased out for storage and are not associated with management of the flats. To the north of the garage, located centrally within the application site's rear garden area there is a timber clad outbuilding which provides ancillary accommodation. Other notable features on the site include a number of mature trees which are situated on or adjacent to the site boundaries and within neighbouring properties.

1.3 The surrounding locality is predominantly residential and characterised by large period dwellings many which are of notable design and subject to listed building status. The large size of these properties has resulted in many being converted to flats and maisonettes of varying sizes. The application site is located within the Fitzjohns / Netherhall Conservation Area, with No.45 recognised as a positive contributor.

### **2.0 THE PROPOSAL**

2.1 Conservation area consent and planning permission is sought to demolish the existing garages and redevelop this previously developed back land site in the form of a single storey plus basement for use as single family dwellinghouse (Class C3). The dwelling would be predominately located on the existing hardstanding area and site of garages, with a 5.5m x 25.5m extension into the existing rear garden area. The building would be faced with strips of Welsh Slate cladding and include a green roof and a two storey high green wall to face an internal courtyard area at basement and ground level.

### 3.0 RELEVANT HISTORY

3.1 **2011/3324/P & 2011/3332/C** - Planning permission and conservation area consent were **refused** on 14/10/2010 for the erection of building comprising basement and ground floor with green roof for use as 3-bedroom single-family dwellinghouse (Class C3) (following demolition of existing garage building).

- 1. The proposed dwelling by reason its siting and depth of basement excavation would have a harmful impact upon the health of two significant tree specimens located at 39 Fitzjohns Avenue identified as an Ash Tree (T18) and Chestnut Tree (T20), which make a positive visual contribution to the character and appearance of this part of the Fitzjohns Netherhall Conservation Area and biodiversity generally.*
- 2. The proposed basement, by reason of its close proximity to the existing Belsize New Tunnel underground rail infrastructure, and in the absence of a detailed technical investigation of the potential impact upon this infrastructure, may cause harm to its structural integrity and consequently the surrounding ground stability to the detriment of transport infrastructure and neighbouring amenity generally.*

3.2 **2010/6824/P - Appeal allowed** on 14/09/2011 against non determination in respect of planning application for additions and alterations including a two storey rear extension at lower ground and ground floor level, two storey glazed infill extension, alterations to both front and rear fenestration and facades to existing residential building that provides a combination of self-contained (Class C3) and non self-contained flats (Sui Generis) and ancillary manager's office.

3.3 **2010/4446/P** - Planning permission was **refused** on 14/10/2010 for additions and alterations including a two storey rear extension at lower ground and ground floor levels, three storey glazed infill extension, alterations to both front and rear fenestration and facades to existing residential buildings that provide a combination of self-contained (Class C3) and non self-contained (sui generis) flats.

3.4 **2010/0095/P** - Planning permission was **refused** on 29/04/2010 for additions and alterations including a two storey rear extension at lower ground and ground floor levels, three storey glazed infill extension, alterations to both front and rear fenestration and facades to existing residential buildings that provide a combination of self-contained Class C3) and non self-contained (sui generis) flats.

- 3.5 **2009/4332/P** - Planning permission was **granted** on 08/12/2009 for the erection of a new garden wall and gates to the front boundary of a residential (Class C3) building.
- 3.6 **2008/1451/P** - Planning permission was **granted** for removal of condition 2 attached to planning permission dated 13/12/2006 (2006/3262/P). An informative attached to this permission notes the following – “You are advised that the removal of condition 2 does not enable you to use the approved garden room as a self contained flat. This is because the use of the garden room as a self contained flat cannot be considered to be an ancillary use. It is a material change of use which requires planning permission. If you wish to use the garden room as a self contained flat you will have to submit a full planning application for consideration by the Council.”
- 3.7 **2006/3236/P** - Planning permission was **granted** on 13/12/2006 for the erection of a single-storey timber garden room in rear garden of existing residential building. Condition 2 of the permission required that the approved structure be used as ancillary accommodation for the residents of 45 Fitzjohns Avenue and not as an independent residential dwelling.
- 3.8 **2003/2351** - Planning application for demolition of central link and associated structures, and the erection of a basement and 3-storey infill building to provide four new residential flats and a new front entrance staircase onto Fitzjohns Avenue was **withdrawn** by the applicant on 04/02/04.
- 3.9 **PW9802522** - Planning permission was **granted** on 06/12/1999 for the erection of basement and ground floor rear extensions; external alterations to front and rear elevations and to central link; internal re-arrangement of 48 bedsits and associated sanitary facilities; conversion of ground floor ancillary office to one non-self contained bedsit.
- 3.10 In 1958 planning permission was granted for a lower ground and ground floor infill between the two buildings, with a stepped access.

#### Enforcement

- 3.11 **EN030291** - There was an enforcement investigation for the alterations to the ground floor and flat 21 not being in accordance with an earlier planning permission. No breach was found and therefore no further action was taken.
- 3.12 **EN07/0329** - An enforcement complaint was received on 25/04/2007 that the summerhouse was being used as a separate office in breach of planning condition 2 attached to planning approval ref:2006/3262/P. Due to lack of evidence of a breach no further enforcement action was taken.
- 3.13 **EN07/0410** - An enforcement complaint was received on 31/05/2007 that Room 10 had been converted into an annexe to the office. No breach was found and therefore no further enforcement action was taken.

#### 4.0 **CONSULTATIONS**

- 4.1 Thames Water: No objection subject to standard informatives.
- 4.2 Network Rail: No objection to the development as it is unlikely to impact on the Belsize New Tunnel underground rail infrastructure. No conditions requested.
- 4.3 English Heritage: No objection, application should be determined in accordance with relevant policy.

#### **Fitzjohns/Netherhall Conservation Area Advisory Committee - objects**

- The new footprint should be restricted to the existing garage building's footprint.
- The proposed building would be far too close to the façade of the existing Victorian building on the site in this important conservation area.

#### **Local Groups**

- 4.4 Heath and Hampstead Society: Objects
- It is a clear example of backland development, in an area where this would be particularly harmful. All the rear gardens of the large houses in Fitzjohns Avenue are free of this, and their contribution to the green and open character of this part of the Conservation Area is vital. Development of this nature would create a dangerous precedent. The character of Fitzjohns Avenue is not confined to the magnificent avenue trees and the great variety and major examples of many architectural styles, but also to its open, green character to be seen between the houses. This iconic feature of Hampstead must be preserved.
  - The presentation of this proposal as a replacement of the garages by another built form is incorrect and unjustified. The garages were built (in the 1980's) as ancillary to the main building, not as a separate unit with a different planning use and under different ownership.
  - The garden of Nos. 43-46 would be reduced by a large percentage. The main house, now an HMO, should not be deprived of this green recreation space. HMO residents are probably more in need of garden space than most, and the calculation made by the applicant that the residual garden space would comply with Camden's minimum standards is really rather insulting. This garden should remain undiminished, green and open for the benefit of the HMO residents and for passers-by in Fitzjohns Avenue.
  - The felling of 7 trees to permit this development is also unacceptable. They are all, naturally, located on the South side of the site, where they are now open to public view. Trees next door are also endangered.
  - The Basement Impact Assessment is effectively a desk study only, although the CPG4 boxes have been ticked. No site-specific ground investigation

survey is presented, this is fully justified on this site, close to the line of a major subterranean tributary of the Fleet River.

### **Adjoining Occupiers**

	<b>Original</b>
<i>Number of letters sent</i>	67
<i>Total number of responses received</i>	6
<i>Number of electronic responses</i>	0
<i>Number in support</i>	0
<i>Number of objections</i>	6

- 4.4 Site notices were displayed from 04/04/12 to 25/04/12 and the application was also advertised in the Ham & High on 12/04/12. The statutory public consultation period formally expired on 18/05/12.
- 4.5 6 letters of objection were received from the occupiers at 16A, 48, 50 and 52G Maresfield Gardens, 19 Lyndhurst Terrace and Flat 23 North 45 Fitzjohns Avenue. The following concerns were raised:
- Backland development sets a local precedent.
  - This development could set a precedent of converting rear outhouses into dwellings.
  - Loss of 7 trees at rear will impact upon privacy to Maresfield Gardens properties.
  - Loss of trees will harm the character of the conservation area, particularly the Sycamore (T4).
  - The development may impact on the structural stability of a brick wall at the rear of 48 Maresfield Gardens.
  - Noise and dust nuisance.
  - Landlord of HMO has a record of enforcement cases.
  - It is actually a double basement, not single.
  - Overdevelopment of site.
  - Reducing green space of rear garden.
  - Impact on local traffic and parking.
  - Layout and appearance would make a negative visual contribution to the character and appearance of the conservation area.
  - The new house will have a visual impact through ancillary structures, light and noise.
  - Damage to trees root zone, health and future growth.
  - Light pollution from a new dwelling in an area that is currently dark.
  - The Basement Impact Assessment includes no intrusive site investigations.
  - The CMP is not comprehensive enough.
  - Trial pits should be dug to assess the root zones of trees located in 39 Fitzjohns Avenue, which would be impacted upon.

## 5.0 **POLICIES**

### **National and Regional Policy**

- 5.1 National Planning Policy Framework 2012
- 5.2 London Plan 2011

### **LDF Core Strategy and Development Policies**

- 5.3 CS1 – Distribution of growth
- CS4 – Areas of more limited change
- CS5 – Managing the impact of growth and development
- CS6 – Providing quality homes
- CS11 – Promoting sustainable and efficient travel
- CS13 – Tackling climate change through promoting higher environmental standards
- CS14 – Promoting high quality places and conserving our heritage
- CS15 – Protecting and improving our parks and open spaces and encouraging biodiversity
- CS16 – Improving Camden’s health and well-being
- CS18 – Dealing with our waste and encouraging recycling
- CS19 – Delivering and monitoring the Core Strategy
  
- DP2 – Making full use of Camden’s capacity for housing
- DP3 – Contributions to the supply of affordable housing
- DP5 – Homes of different sizes
- DP6 – Lifetime homes and wheelchair housing
- DP16 – The transport implications of development
- DP17 – Walking, cycling and public transport
- DP18 – Parking standards and limiting the availability of car parking
- DP19 – Managing the impact of parking
- DP20 – Movement of goods and materials
- DP21 – Development connecting to the highway network
- DP22 – Promoting sustainable design and construction
- DP23 – Water
- DP24 – Securing high quality design
- DP25 – Conserving Camden’s heritage
- DP26 – Managing the impact of development on occupiers and neighbours
- DP27 – Basements and lightwells
- DP28 – Noise and Vibration
- DP29 – Improving access
- DP31 – Provisions of, and improvement to, open space and outdoor sport and recreation facilities
- DP32 – Air quality and Camden’s Clear Zone

### **Supplementary Planning Policies**

- 5.4 Camden Planning Guidance 2011
- Fitzjohns and Netherhall conservation area statement 2001

## **6.0 ASSESSMENT**

- 6.1 The principal considerations material to the determination of this application are summarised as follows: Relevant paragraphs number in italics.

- **Land use principles**

- **Urban Design**
- **Basement**
- **Trees**
- **Neighbouring amenity**
- **Residential quality**
- **Sustainability**
- **Transport**

### **Land use principles**

- 6.2 There is no policy requirement to retain the existing garage block (consisting of 11 separate garage units) or the caretakers garden shed (non-habitable accommodation that is ancillary to 43-45), and therefore their loss can be accepted.
- 6.3 The proposal to create a new self-contained residential dwelling on the site is supported by policy CS6 and DP2, whereby the Council will seek to maximise the supply of additional homes in the borough on previously developed land, with housing being the priority land use. As such, a new dwelling is supported in principle, but subject to other planning considerations. The dwelling's floorspace equates to 330sqm which falls significantly short of the 1,000sqm threshold for an affordable housing contribution. Consequently no contribution is required under policy DP3.

### **Urban design**

- 6.4 Pursuant to Core Strategy policy CS14 and Development Policies DP24 and DP25 all new development should be of the highest standard of design, respect local context and character and preserve and enhance Camden's heritage assets. Before the merits of the proposal are discussed, it is important to note that the previous scheme was not refused for urban or detailed design reasons. The development above ground remains the same and policy is unchanged.
- 6.5 The existing garage block and garden shed structure, which are to be demolished, do not make any contribution to the character or appearance of the conservation area and their loss would not result in substantial harm to the appearance and character of the conservation area. On this basis there is no objection to the works proposed under the conservation area consent.
- 6.6 Paragraph F/N32 of the Fitzjohns and Netherhall conservation area statement recognises that rear gardens contribute to the townscape, and paragraph F/N1 states that new development should be seen an opportunity to enhance the character of the conservation area. The statement also acknowledges that 'backland' development pressure exists in the area. However, in planning policy terms there is no objection in principle to new development in a rear garden of a primary building; particularly if it was to occur on land that was previously developed. In this case the new dwelling would be mainly located on the site of the existing garage and hardstanding, and CPG1 'Design' (section 4.24) outlines a number of criteria that must be met if development in such sensitive sites is to be accepted. These criteria are discussed individually below.



- *Development must be visually subordinate to host garden*

6.7 This can be assessed in two ways, first in garden area and secondly with regard to the scale of a new structure in a garden. In terms of the green/wooded area, the existing rear garden comprises 1,033sqm. This would be reduced by 107sqm to 926sqm after the development, which equates to retention of 90% of the existing rear garden. As such, the new development would retain a significant majority of the rear garden area and therefore be visually subordinate in that respect.

6.8 With regard to scale, the existing garage structure is 1.2m higher than the garden level to which it backs onto. Although two storeys, the new dwelling would be also be 1.2m higher than the garden level, because of the basement level excavation proposed. This ensures that the new structure would remain similarly subordinate to large area of garden retained. This coupled with the proposed removal of the caretakers shed, which sits in a dominant position at garden level, will ensure that the development is visually subordinate to the host garden.

- *Development must respect open character of neighbouring gardens*

6.9 As discussed above the 10% loss of garden area coupled with a building that is similar in height to the existing garages will ensure that the open character and garden amenity of neighbouring gardens will be preserved. Particularly the boundary with No.39 to the south which consists of a high wall and mature trees, which helps mitigate against any visual impact. It is also important to note that a hardcourt tennis court is located to the rear of No.39 alongside this boundary, and so not a feature typical of a garden's natural character. The character of the garden immediately to the west, serving the rear of 48 Maresfield Gardens, will also be preserved as the existing 8m distance from the garage structure to this boundary will not be encroached upon with any built form.

- *Development must include areas of soft landscaping*

6.10 The new building includes 171sqm of biodiverse roof to ensure that the new building respects the character of its green surroundings. This is an improvement over what currently exists; a large area of concrete hardstanding fronting the garages that have no green roof. The green roof shall be secured by condition.

- *Visibility over garden walls and fences must be maintained*

6.11 The only garden wall that will be impacted on is that to No.39 to the south. Currently it is a 1.8 high fence covered in creeping vegetation. The garages are 0.4m higher than this wall, however as they are set back 5.2m from the wall, their visual impact is minimal. The new building would abut and be 1.2m higher than this fence, and therefore the current visibility over it would be impacted upon. However, a 3m high boundary treatment, which this would become, is not uncharacteristic for the conservation area, and there are a number of mature trees on the No.39 side of this wall that currently limit the visibility over this boundary. As such the loss of visibility can be considered as moderate in this particular instance, and on balance would not warrant a reason for refusal.

- *Materials must compliment host property and overall character of area*

6.12 The new building would predominantly be subterranean, with facing materials above ground to include thin horizontal strips of Welsh Slate cladding for external elevations, with a green roof and green wall also proposed. This palette will

contrast appropriately with the large red brick villa and successfully allow a modern structure to sit recessively to the rear of a period building that must remain dominant to Fitzjohns Avenue.

- *Ensure water run-off and ground water flows are negated*

6.13 A net area of 107sqm garden will be lost, however a 171sqm area of green roof is proposed. This coupled with the Sustainable Urban Drainage System (hereinafter referred to as SUDS) proposed should ensure that the run-off rates are improved. The SUDS will be secured by condition.

#### Summary

6.14 The development of a new dwelling on previously developed 'rear garden' land generally accords with the currently adopted guidance for such sensitive sites. Importantly, the development will be visually subordinate to the host garden and will preserve the open character of neighbouring gardens. The height and scale of the structure, being similar in height to the existing garages, ensures that the new building would also be subordinate to the host four storey Victorian Villa.

6.15 Being significantly set back, at 32m, from Fitzjohns Avenue, coupled with the low height, materials and mature trees in the background, ensures that the new structure would appear visually discrete in views from Fitzjohns Avenue. The character and appearance of the conservation area will be preserved, and through the loss of the existing garages would serve to enhance the conservation area. The permitted development rights shall be removed by condition.

#### **Basement**

6.16 Policy DP27 states that where a basement development extends beyond the footprint of the original building or is deeper than one full storey below ground level (approximately 3 metres in depth) the Council will require a Basement Impact Assessment (hereinafter referred to as BIA) that at the very minimum contains a screening exercise, to determine whether further scoping, site investigation or technical evidence is necessary. This is to ensure that basement developments do not harm the built and natural environment or local amenity.

6.17 Although contained within the new building's footprint, the proposed basement's floor level would be up to 4.5m below ground level. Consequently a BIA has been prepared by Peter Brett Associates and submitted as part of the application. The BIA appropriately follows the sequential approach outlined in CPG7 in that the first stage 'screening' of the three main issues (see below) is considered. The impacts are considered individually below.

#### Groundwater flow

6.18 The site is not located directly above an aquifer or within the catchment of the Hampstead Heath pond chains. However, it is within 100m of a watercourse, being the culverted River Tyburn (over 30m to the west), and would increase the hard surfaced area of the site. As such a scoping stage, in the form of a Hydrological Assessment, was appropriately provided. This confirms that the River Tyburn once flowed southwards along the relatively steep gradient that now is Fitzjohns Avenue.

The proposed basement is located significantly away from this flow route, and it would not have any impact. SUDS (to include permeable paving system with underground tank for slow release) and green roof will be secured by condition negate against the small increase in hard surfacing. The moderate excavation works would cause no harm to groundwater flow.

#### Land stability

- 6.19 There are no slopes within the zone of the basement that would exceed 7 degrees, it's not within previously worked ground, nor within 5m of a highway. However, London Clay is the shallowest strata on the site and the basement would increase the differential foundation depth relative to neighbouring properties. As such scoping was required. Best practice standards accept that a slope of up to 10 degrees in London Clay formation is stable, particularly if it's dry clay. Slopes measured around the basement zone are 4-5 degrees and the clay was recorded as dry. AS such a single storey basement would not cause harm to land stability in this area. 43-45 and 39 Fitzjohns Avenue are located 4m and 8m from the excavation respectively. This distance, coupled with a dry London Clay formation on a 5 degree slope, would be unlikely to cause any significant impact to these neighbouring buildings. The excavation is also set back 5m and 8m from the southern and western boundary walls of the site, so their stability would be maintained. The moderate excavation works would cause no structural harm.

#### Surface flow and flooding

- 6.20 Firstly, it is important to note that Fitzjohns Avenue is not identified in CPG4 as a street at risk from surface water flooding, nor is it within a flood plain according to Environment Agency. As highlighted already, there is a small increase in the hard surfaced area however a green roof and SUDS will be conditioned to ensure there is no increase in runoff from the site. There would be no significant impact on drainage or run-off at ground level as a result of the moderate excavation.

#### Belsize New Tunnel

- 6.21 The tunnel runs southwest -northeast about 15m south of the southeast corner of the basement. The BIA accompanying the previous refusal did not consider this infrastructure, which formed refusal reason 2. The revised BIA now confirms that the London Clay has a high strength and low compressibility, and the conventional tunnelling techniques, used to form the 1880s cast construction, would be unlikely to have disturbed any ground surrounding the tunnel. The applicant has had direct discussions with Network Rail who have confirmed in writing that they have no objection to the proposal and do not require any further geotechnical studies, or conditions to be attached to any approved basement.
- 6.22 In summary, the moderate excavation proposed within will not harm the built and natural environment or local amenity, and complies with policy DP27.

#### **Trees**

- 6.23 The site, neighbouring plots and the Fitzjohns Avenue street frontage contain numerous mature tree specimens. The contribution of trees to the character and

appearance of this locality is significant and their importance is highlighted within the Fitzjohns/Netherhall Conservation Area statement. The previous application was refused because the siting and depth of basement excavation would have had a harmful impact upon the health of two significant tree specimens located within the plot of No.39 Fitzjohns Avenue. These were identified by the Council's Tree Officer as an Ash Tree (T1 in revised arboriculture report, but incorrectly named as an Indian Buckeye) and Chestnut Tree (T3 in revised arboriculture report, but incorrectly named as an Ash).

- 6.24 This revised application has repositioned the basement layout so that the health of these two important trees would be maintained. Previously the basement was to run the length of No.39's boundary, whereas now the basement would be set back 5.5m from this boundary. This distance coupled with the careful site investigation works undertaken by hand confirms that that the repositioned basement excavation would not harm the root protection areas of these trees. A total of The Tree Officer raises no objection to the works subject to standard conditions to protect trees to be retained during the works.

### **Neighbouring amenity**

- 6.25 Core Strategy policy CS5 and Development Policy DP26 seek to ensure that the residential amenity of neighbouring properties are protected, particularly with regard to daylight and sunlight, outlook and privacy.
- 6.26 The rear elevation of 43-45 Fitzjohns Avenue, served by habitable windows from lower ground level upwards, is sited 7.5m from the side elevation of the single storey garage. The new dwelling, of similar height to the garages, would maintain this distance to ensure that the amenity of this nearest neighbour is protected.
- 6.27 However, this neighbour has an extant permission for a two storey rear extension at lower ground and ground levels, and although not implemented, it is a material consideration and therefore shown on the drawings for amenity assessment purposes. The extension would contain non-self contained flats, served by windows on the rear elevation and be located 3.2m from the garage. This relationship was accepted at the time of the rear extensions approval. The new single storey dwelling would maintain this 3.2m separation, but it would extend parallel to the rear extension by 5.5m north of the existing rear elevation of the garage. This part of the new dwelling's mass would have some impact upon the lower ground windows of the rear extension, however as the rear garden is already raised about 1.6m above lower ground level, the impact would not be significant enough as to materially harm outlook and light to these windows.
- 6.28 As such, even if the rear extension was to be built the new dwelling is unlikely to cause an acceptable loss of outlook or light to any habitable windows serving 43-45 Fitzjohns Avenue. With regard to privacy, the new dwelling would have no windows on this opposing elevation, so no conflict would occur.
- 6.29 The siting and orientation of 39 Fitzjohns Avenue to the south, coupled with the presence of a 1.8m high boundary fence and mature trees, would ensure that this neighbour would suffer no loss of outlook, light or privacy.

### **Residential quality**

- 6.30 Policy DP26 requires residential developments to provide an acceptable standard of accommodation in terms of internal arrangements, dwelling and room sizes, amenity space and an internal living environment which affords acceptable levels of sunlight, daylight, privacy and outlook.
- 6.31 The proposed dwelling would have 3 double bedrooms all of which comfortably exceed the minimum floor area requirement of 11 sq metres. In addition the proposed gross internal floor space of 330sqm significantly exceeds the CPG standard of 93 sq metres. Ground and basement ceiling heights also comply by exceeding the 2.3m height requirements. All rooms would be served by large floor to ceiling windows to maximise natural light and ventilation, along with the sunken courtyard and green wall provide a good level of outlook and private outdoor amenity. The quality of the proposed accommodation is high.
- 6.32 In accordance with policy DP6, a Lifetime Homes statement has been provided. This confirms most of the standards can be achieved and the installation of an internal lift is welcomed, which shall be secured by condition.

### **Sustainability**

- 6.33 The development does not meet the 5 unit or 500sqm threshold for a requirement of Code for Sustainable Homes or Energy Statement. However, the proposal does positively include a biodiverse roof, green wall and SuDS, all of which will be secured by condition.

### **Transport**

- 6.34 As accepted previously, one off-street car parking space, which utilises the existing crossover access off Fitzjohns Avenue, is proposed. This can be accepted for a large family sized dwelling on a site that has a Public Transport Accessibility Level (PTAL) of 4 with Hampstead and Finchley Road underground stations each being a 8 -10 minutes walk from the site. A section 106 agreement is secured for the new dwelling to be car capped, so only one space can ever be achieved. The proposal has a garage that could accommodate two cycles, which meets the requirement for 3-bed homes. This cycle parking shall be secured by condition.
- 6.35 In order to knit the development into the surrounding urban environment, a s106 for £12,500 highways works is secured to repave the footway along Fitzjohns Avenue. Given the scale of the excavation and construction works, it is considered that a Construction Management Plan be required. This is also secured by way of a section 106 agreement.

### **Community Infrastructure Levy**

- 6.36 The proposal will be liable for the Mayor of London's CIL as the additional floorspace exceeds 100sqm. Based on the Mayor's CIL charging schedule and the information given on the plans the charge is likely to be £16,500 (330sqm x £50)

This will be collected by Camden after the scheme is implemented and could be subject to surcharges for failure to assume liability, submit a commencement notice and late payment, or and indexation in line with the construction costs index.

## 7.0 **CONCLUSION**

7.1 Development in rear gardens, commonly known as 'backland' development, can be supported provided it can be achieved in a very sensitive manner. This particular development would predominately be on previously developed land (concrete hardstanding and garages) and also meets the relevant planning guidance, in that it would be visually subordinate to the host garden, respect the open character of neighbouring gardens and include significant areas of soft landscaping (green roof and wall). The proposed basement is sited in a location whereby the health of important trees would not be harmed. The removal of the unsightly garages and hardstanding and replacement with a new single storey dwelling of quality materials would ensure that character and appearance of the conservation area is both preserved and enhanced. The new dwelling would provide good quality accommodation for the benefit of future occupiers and would not harm the amenity of neighboring properties.

7.2 Planning Permission is recommended subject to a S106 Legal Agreement for:

- Construction Management Plan
- Car capped housing
- Highways contribution: **£12,500**

## 8.0 **LEGAL COMMENTS**

8.1 Members are referred to the note from the Legal Division at the start of the Agenda.