



**PLANNING SERVICES**

**TOWN & COUNTRY PLANNING ACT 1990 (as amended)**

**HEARING**

**STATEMENT OF CASE**

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**APPEAL SITE** Lower ground floor, 9 St George's Terrace, NW1 8XH

**APPELLANT** Bob Taylor

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**SUBJECT OF APPEAL**

1) Appeal against non-determination of planning permission for:

Rear extension at lower ground level with garden above including excavation of rear garden.

2) Appeal against non-determination of listed building consent for:

Rear extension at lower ground level with garden above including excavation of rear garden, demolition of rear conservatory and internal alterations.

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**COUNCIL REFERENCE:** 2014/7274/P & 2014/7336/L

**PLANNING INSPECTORATE REFERENCES:** APP/X5210/W/15/3141393 &  
APP/X5210/Y/15/3141400

## Summary

This is an important site. The appeal property, 9 St George's Terrace is part of a Grade II listed terrace (1-11 St George's Terrace) fronting onto St George's Terrace Gardens and overlooking Primrose Hill. The property falls within the Primrose Hill Conservation Area.

It is a 5 storey building including lower ground floor and has been sub-divided into flats. The appeal relates to the lower ground floor flat.

St George's Terrace is a cul-de-sac and immediately to the rear of the gardens is a mews terrace (St George's Mews).

The architectural and historic character of No. 9 St Georges Terrace is defined as a mid-19th century terraced house sitting within its original building plot and which includes front entrance steps and a domestic basement area while to the rear the garden is enclosed by the original Victorian boundary. This historic layout is still clearly in evidence at No. 9 and is considered to form part of the building's significance in terms of the NPPF. The proposed extension is unacceptable in historic building and conservation terms for the following reasons.

The proposed extension would be out of scale and proportion with the floor plan of the listed building and at odds with the traditional hierarchy of early to mid-Victorian houses of this type. The extension would constitute a considerably larger floor plan than the historic lower ground floor with its traditional front and rear rooms. The proposal would essentially double the floor plan of the historic building and would therefore alter the appreciation of its characteristic historic proportions. The introduction of an extension of such overwhelming proportions would fail to be subordinate and would undermine and detract from the historic character and spatial qualities of the listed building.

As the extension would project approximately 9m into the rear garden, it would alter and undermine the character of the garden space. The proposed extension and courtyard / lightwells would dominate the view from the house and would be clearly seen from the neighbouring houses within the terrace, creating an awkward solid structure spanning the garden and causing visual disruption. When viewed from the main house the original garden would no longer be evident. A solid building formed around lightwells would occupy the full width and virtually all the depth. Rather than a view of the garden with natural planting and open visual amenity, the view would be of a full-width, solid, manmade structure. By its very

nature the structure would have hard edges and manufactured materials, reflective glazing and a flat manmade roof. The manmade green coloured roof would look out of keeping and at odds with the garden setting. The development would erode the garden character by introducing urban structures deep into the garden area. At night, this would result in light and noise coming from a part of the garden that may normally be quiet and dark. Likewise in daytime, the introduction of living space deep into the garden would erode its garden character.

The garden would be lowered at the rear to form a large lightwell and 'lower garden'. This lowering would create an awkward and uncharacteristic form and plan which would appear incongruous and obtrusive to the character of the back gardens along this part of the terrace. The rear elevation of the basement extension would be highly visible from the rear garden space. The view from the end of the garden, back towards the house, would be dominated by the solid man made structure. The extension with artificial grass roof would appear as an overlarge addition to the host property, harming the character of the listed building.

The proposed basement rear extension would represent an intensification of urban hard landscape which would be detrimental to the landscape character and the biodiversity function of the garden and so would be harmful to the setting of the listed building and to the character and appearance of the wider Conservation Area. Given the lack of planting depth above the basement extension and the lack of margins at the sides it has not been demonstrated that the proposed development would be able to meet the required reduction (50%) in surface water run-off rates.

In addition, the proposed lower ground floor extension would result in the garden level closest to the upper ground floor bedroom window being raised and would result in increased overlooking and loss of privacy to the occupiers of the upper ground floor flat. Whilst the proposed privacy screen would prevent any harmful overlooking it would result in an increased sense of enclosure to the occupier of this flat as the screen would be only 4m from the upper ground floor window. A screen would also harm the open character of the rear garden.

## SITE AND SURROUNDINGS

- 1.1. The appeal building consists of a 5 storey building including lower ground floor which has been sub-divided into flats. The appeal relates to the lower ground floor flat.
- 1.2. The appeal building is grade II listed and forms part of a listed terrace (1-11 St George's Terrace) fronting onto St George's Terrace Gardens and overlooking Primrose Hill. The terrace forms a grand symmetrical composition with highly decorative stucco work to porches, balustrades at first and second floor levels, projecting quoins, window surrounds, and parapets. No. 9 is a mid-terrace property recessed to the main elevation
- 1.3. The property falls within the Primrose Hill Conservation Area. St George's Terrace is a cul-de-sac and immediately to the rear of the gardens is a mews building (St George's Mews).
- 1.4. The listed description includes the following: *Terrace of 11 houses. c1852. Pale yellow stock brick with channelled stucco ground floors and quoins and dressings. 3 storeys and basements. Nos 3 & 9 slightly recessed and originally of 2 storeys. 1 window each. Ground floor tripartite sashes mostly with enriched cast-iron window guards. Each house has a prostyle Doric porch (Nos 5 & 6 paired) supporting a continuous stuccoed balustrade to tripartite 1st floor window with screen of 4 half-columns with enriched capitals supporting an entablature the cornice of which supports a balustraded window guard to tripartite 2nd floor window with pilaster screen and entablature. 3rd floor windows tripartite architraved round-arched with keystones. Heavy bracketed and enriched stucco cornice*

## 2.0 RELEVANT PLANNING HISTORY

- 2.1. On 16<sup>th</sup> September 2008, planning permission and listed building consent (2008/2831/P & 2008/3194/L) were granted for the erection of a single storey in-fill conservatory extension to the rear of the ground floor flat and minor alterations to the front and rear basement elevations at Flat 1a, 10 St George's Terrace. Flat 1a, 10 St George's Terrace was the previous postal address of the appeal property as it was accessed at that time from 10 St George's Terrace via a communal entrance lobby at

lower ground floor level and a passage which connected the adjacent terrace properties.

### 3.0 PLANNING POLICY FRAMEWORK

#### **Local Development Framework**

3.1 The Council's Local Development Framework (LDF) adopted on 8th November 2010. The LDF comprises Core Strategy and Development Policies documents. These documents have been through an Examination in Public, and the appointed Inspector found the documents to be sound. The relevant LDF policies as they relate to the reason for refusal of the applications are listed below:

#### Core Strategy

CS1 Distribution of Growth

CS5 Managing the Impact of Growth and Development

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

#### Development Policies

DP16 The transport implications of development

DP20 Movement of goods and materials

DP21 Development connecting to the highway network

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

3.2 The full text of each of the policies has been sent with the questionnaire documents.

Supplementary Guidance (CPG)

- 3.3 The following Camden Planning Guidance is relevant.  
Camden Planning Guidance 1 Design (As amended 2013 and 2015)  
Camden Planning Guidance 4 Basement and Lightwells (As amended 2013 and 2015)  
Camden Planning Guidance 3 Sustainability (As amended 2013 and 2015)  
Camden Planning Guidance 6 Amenity  
These Supplementary Planning Documents were adopted following extensive public consultation.
- 3.4 In addition, the guidance contained in the Primrose Hill Conservation Area Statement is relevant to this appeal. This was adopted December 2000.
- 3.5 A copy of the above Camden Planning Guidance documents and the Primrose Hill Conservation Areas Statement were sent with the questionnaire.
- 3.6 The National Planning Policy Framework (NPPF) 2012 is also relevant to the Council's decision and to this appeal. The policies and guidance contained within Camden's LDF 2010 are up to date and fully accord with paragraphs 214 – 216 (Annex 1) of the NPPF and should therefore be given substantial weight in the decision of this appeal. The National Planning Policy Framework was adopted in April 2012 and states that development should be refused if the proposed development conflicts with the local plan unless other material considerations indicate otherwise. There are no material differences between the Council's policies and the NPPF in relation to this appeal.

4.0 SUBMISSIONS

- 4.1 The council confirms that had appeals against non-determination not been made, planning permission and listed building consent for internal and external alterations involving rear extension at lower ground level with garden above including excavation of rear garden and demolition of rear conservatory would have been refused for the following reasons.

Planning permission (2014/7274/P)

### **Reason 1**

- 4.2 The proposed extension, by reason of its location, form, size and materials, would be an incongruous addition which would be harmful to the appearance and special architectural and historic interest of this listed building and the character and appearance of the conservation area contrary to policy CS14 (Promoting High Quality Places and Conserving Our Heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing High Quality Design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

### **Reason 2**

- 4.3 The proposed extension and rear lightwell, by reason of its location, form and size, without either margins to the side of the extension or depth of soil above for planting, would harm biodiversity and undermine the garden setting of the host property, harming the listed building and the wider conservation area contrary to policies CS14 (Promoting High Quality Places and Conserving Our Heritage) and CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing High Quality Design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

### **Reason 3**

- 4.4 The proposed extension, by reason of its location and size, would undermine the spatial hierarchy and plan form of the listed building, harming its characteristic historic proportions and significance contrary to policy CS14 (Promoting High Quality Places and Conserving Our Heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

### **Reason 4**

- 4.5 The proposed extension, by reason of insufficient side margins and insufficient depth

of soil above the extension and the absence of information on SUDS, would not provide a 50% reduction in surface water run-off rates contrary to policy CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and policy DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.

#### **Reason 5**

- 4.6 The proposed development with privacy screen, by reason of the increased sense of enclosure to the occupier of the upper ground floor flat, would be harmful to neighboring amenity contrary to policy CS5 (Managing the Impact of Growth and Development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 (Managing the Impact of Development on Occupiers and Neighbours) of the London Borough of Camden Local Development Framework Development Policies.

#### **Reason 6**

- 4.7 The proposed development, in the absence of a Section 106 legal agreement to secure associated highway works, would fail to maintain the borough's transport infrastructure to the detriment of the safety of pedestrians, cyclists and vehicles, contrary to policy CS11 (Promoting sustainable and efficient travel) and policy DP21 (Development connecting to the highway network).

#### **Reason 7**

- 4.8 The proposed development, in the absence of a Section 106 legal agreement securing a Construction Management Plan, would be likely to contribute unacceptably to traffic disruption and be detrimental to general highway and pedestrian safety, contrary to policy CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategy and policies DP16 (The transport implications of development) and DP20 (Movement of goods and materials) of the London Borough of Camden Local Development Framework Development Policies.

#### **Reason 8**



- 4.9 The proposed development, in the absence of a Section 106 legal agreement securing a Basement Construction Plan, would fail to protect the water environment and the structural integrity of neighbouring properties and the listed building, contrary to policies CS14 (Promoting High Quality Places and Conserving Our Heritage) and CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) of the London Borough of Camden Local Development Framework Core Strategy and policies DP23 (Water), DP24 (Securing High Quality Design), DP25 (Conserving Camden's heritage) and DP27 (Basements and lightwells).

Listed Building Consent (2014/7336/L)

**Reason 1**

- 4.10 The proposed extension and lightwell, by reason of its location, form, size and materials, would be an incongruous addition, undermining the garden character of its setting and so would be harmful to the significance of the listed building contrary to policy CS14 (Promoting High Quality Places and Conserving Our Heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

**Reason 2**

- 4.11 The proposed extension, by reason of its location and size, would undermine the spatial hierarchy and plan form of the listed building, harming the characteristic historic proportions and the significance of the listed building contrary to policy CS14 (Promoting High Quality Places and Conserving Our Heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

5.0. THE APPELLANT'S GROUNDS OF APPEAL

The appellant's grounds of appeal can be summarized as follows

1. The proposed development would bring about improvements to the setting of the listed building and conservation area as the development would enable the removal of the mound of earth.
2. The proposed development would enable the reduction of harm caused to amenity of neighbors (The existing mound of earth enables overlooking to a number of adjoining properties" habitable room windows well within 18m).
3. There are no specific policies in the Framework or the Development Plan that indicate development should be resisted.
4. No unwelcome precedent would be set given the site circumstances are so unique.
5. The lower ground floor flat is itself, in its entirety, a non-original arrangement of the lower ground floor of the building which was originally a house. Its hierarchy has already been altered with no realistic prospect of it being returned to a single house.
6. The proposals do not seek to conventionally extend the property, but to complement it with a modern outbuilding at lower ground floor, connected with a lightweight modern link. Therefore CPG1 guidance should be applied flexibly, if at all.
7. If the CPG1 guidance for extensions (General principles, paragraph 4.10) is applied to the development, it still complies well.
8. Applying the CPG1 guidance for development in rear gardens (paragraphs 4.22-4.26), the development also complies well.
9. The development's rear elevation would be invisible from any vantage point, and thus it cannot be concluded that it would cause any harm to the visual amenity of the area, the setting of the listed building or the character and appearance of the conservation area.
10. The roof of the outbuilding would be designed to appear like garden. Whilst the roof is not intended to be a green roof a planning condition could be imposed.

11. The Council's consultant proposes that the preceding requests for further or better information, including a services search, be provided within a Basement Construction Plan, secured by condition.

The Council will address each of the appellants' grounds of appeal individually replicating the format used above.

- 5.1 **The proposed development would bring about improvements to the setting of the listed building and conservation area as the development would enable the removal of the mound of earth.**
- 5.2 The re-grading of the garden and the lower ground floor extension are separate matters. Whilst the proposed lower ground floor extension would allow the leveling of the garden, this landscaping work could be achieved without the proposed lower ground floor extension. As the lower ground floor extension would be harmful to the host property and its setting, the Council does not accept that the levelled and lowered garden provides sufficient or adequate justification.
- 5.3 **The proposed development would enable the reduction of harm caused to amenity of neighbors (the existing mound of earth enables overlooking to a number of adjoining properties' habitable room windows well within 18m).**
- 5.4 The existing garden landscaping is considered less harmful to neighbouring amenity than the proposed levelled and lowered garden. The existing garden is terraced with the height of the garden increasing with distance from the host property. This arrangement results in the ground level furthest from the upper ground floor windows being approximately the same level as the upper ground floor windows of the host property. The proposed lower ground floor extension would result in the garden level closest to these windows being raised and could result in increased overlooking and loss of privacy to the occupiers of the upper ground floor flat. From the consultation responses it is evident that this window serves a bedroom. To mitigate the potential overlooking a wide planter would be provided. It is noted that the appeal scheme includes a sedum roof with a planter and 1.8m high screen beyond. Whilst the privacy screen would prevent any harmful overlooking it would result in an increased sense of enclosure to the occupier of this flat. A screen would also harm the open character of the rear garden.

5.5 **There are no specific policies in the Framework or the Development Plan that indicate development should be resisted.**

5.6 The supporting text for Policy DP24 (Securing high quality design) emphasizes that *development should not undermine any existing uniformity of a street or ignore patterns or groupings of buildings. Overly large extensions can disfigure a building and upset its proportions. Extensions should therefore be subordinate to the original building in terms of scale and situation* (paragraph 24.13). The supporting text also underlines the importance of rear gardens. *Extensions and new developments should not cause the loss of any existing natural habitats, including private gardens* (paragraph 24.19). *Development within rear gardens and other undeveloped areas can often have a significant impact upon the amenity and character of an area. Gardens help shape their local area, provide a setting for buildings and can be important visually. Therefore they can be an important element in the character and identity of an area (its 'sense of place'). We will resist development that occupies an excessive part of a garden, and where there is a loss of garden space which contributes to the character of the townscape* (paragraph 24.20).

5.7 Policy DP25 (Conserving Camden's heritage) states the Council will only permit development within conservation areas that preserves and enhances the character and appearance of the area (25(d)) and will preserve trees and garden spaces which contribute to the character of a conservation area and which provide a setting for Camden's architectural heritage (25(e)). Furthermore, Policy DP25 states how the Council will preserve and enhance the borough's listed buildings. The policy states the Council will only grant consent for alterations and extensions to a listed building where it considers this would not cause harm to the special interest of the building (25(f)) and will not permit development that it considers would cause harm to the setting of a listed building (25(g)).

5.8 The supporting text for Policy DP27 (basement and lightwells) provides clear expectations for basement development. Paragraph 27.9 states: *proposals for basements that take up the whole rear and/or front garden of a property are unlikely to be acceptable. Sufficient margins should be left between the site boundaries and any basement construction to sustain growth of vegetation and trees. Developments should provide an appropriate proportion of planted material above the structure to mitigate the reduction in the natural storm water infiltration capacity of the site and/or the loss of biodiversity caused by the development. This will usually take the form of*

*a soft landscaping or detention pond on the top of the underground structure, which is designed to temporarily hold a set amount of water while slowly draining to another location. It will be expected that a minimum of 0.5 metres of soil be provided above the basement development, where this extends beyond the footprint of the building, to enable garden planting.*

5.9 **No unwelcome precedent would be set given the site circumstances are so unique.**

5.10 No evidence has been provided to demonstrate that the circumstances of the site are unique. There is a genuine concern that allowing a large basement rear extension under the majority of the garden would set an unwelcome precedent for this listed terrace, eroding the garden setting of these properties. Likewise, allowing a 9m rear extension to this property, filling the rear garden would be harmful as it would be difficult to resist other disproportionately large extensions at the rear of these properties.

5.11 **The lower ground floor flat is itself, in its entirety, a non-original arrangement of the lower ground floor of the building which was originally a house. Its hierarchy has already been altered with no realistic prospect of it being returned to a single house.**

5.12 It is acknowledged that the listed building has been subdivided and the lower ground floor has been altered over time. Nevertheless, the size of the proposed extension removes the established and expected historic character and hierarchy of this lower ground floor flat. This domestic floor would simply serve as a through space to the grander scaled garden extension.

5.13 **The proposals do not seek to conventionally extend the property, but to complement it with a modern outbuilding at lower ground floor, connected with a lightweight modern link. Therefore CPG1 guidance should be applied flexibly, if at all.**

5.14 The basement rear extension does not have the character of an outbuilding. The proposed development when viewed from the proposed excavated garden at the rear would appear as a large extension to the host property. Given this, chapter 4 (extensions, alterations and conservatories) of Camden Planning Guidance (CPG1 Design) would be highly relevant to the assessment of the proposed development.

5.15 **If the CPG1 guidance for extensions (General principles, paragraph 4.10) is applied to the development, it still complies well.**

5.16 The appellant's assertion that the development complies with paragraph 4.10 of CPG1 Design is incorrect. The proposed development would not meet the specific guidance on rear extensions. That is to say, the proposed extension would not be secondary to the building being extended; it would not respect and preserve the original design and proportions of the building; it would not respect and preserve the historic pattern and established townscape of the surrounding area, including the ratio of built to unbuilt space; it would not allow for the retention of a reasonable sized garden; and it would not retain the open character of existing natural landscaping and garden amenity, including that of neighbouring properties, proportionate to that of the surrounding area. Given these considerations, the proposed extension is contrary to the Council's specific guidance on rear extensions.

5.17 **Applying the CPG1 guidance for development in rear gardens (paragraphs 4.22-4.26), the development also complies well.**

5.18 The appellant seeks to apply guidance for development in rear gardens. The Council maintains that the guidance on development in rear gardens is appropriate when assessing separate, stand-alone buildings and would not be appropriate for assessing an extension to the host property. Nevertheless paragraph 4.22 emphasizes that *structures in rear gardens can often have a significant impact upon the amenity, biodiversity and character of an area. They may detract from the generally soft and green nature of gardens and other open space, contributing to the loss of amenity for existing and future residents of the property.*

5.19 **The development's rear elevation would be invisible from any vantage point, and thus it cannot be concluded that it would cause any harm to the visual amenity of the area, the setting of the listed building or the character and appearance of the conservation area.**

5.20 It is accepted the development's rear elevation would not be easily visible from neighbouring properties or their gardens. However the rear elevation would be visible within the excavated rear garden of the host property. From this location the proposed development would appear as an overly large extension to the host property. In addition, notwithstanding the planters and artificial grass, the proposed

development would be clearly visible from the host property as well as neighbouring properties and would appear as a structure occupying virtually the whole of the garden with a non-traditional form and materials, harming the setting of the listed building. Moreover, the proposed basement extension would significantly reduce the area of garden. The proposed basement would extend beneath the full width of the existing garden and so would reduce the ability of the garden to support trees and other vegetation resulting in a poorer quality garden, a loss in amenity and would be harmful to the character of the conservation area.

5.21 **The roof of the outbuilding would be designed to appear like garden. While the roof is not intended to be a green roof a planning condition could be imposed.**

5.22 The basement would extend the full width of the plot without margins between the basement construction and the side boundaries of the site. Nor would the basement include an appropriate proportion of planted material above the basement development to allow for rain water to be absorbed or to compensate for the loss of biodiversity caused by the development. The artificial grass above the structure would be detrimental to the natural storm water infiltration capacity of the site and would harm the potential biodiversity of the site. A planning condition would not resolve the objection to the principle of the size and the extent of the extension.

5.23 **The Council's consultant's proposal for further or better information, including a services search, to be provided within a Basement Construction Plan, secured by condition.**

5.24 The audit requires a basement construction plan but does not specify how this should be secured. Basement construction plans are required to be secure by legal agreements as the scope of its control extends beyond the application site. Under s72 of the Town and Country Planning Act 1990 planning conditions are used to control matters on land within the developer's control. However, a BCP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site, but also around the site in order to minimise as far as reasonable the detrimental effects of construction on neighbouring properties. Using a condition to secure the type of off-site requirements usually included in a BCP would in this case be unenforceable.

## 6.0 THE COUNCIL'S STATEMENT OF CASE

6.1. Proposal

6.2. The proposed lower ground floor rear extension would adjoin the rear of the existing kitchen and extend below the existing garden. It would be full width and the proposed rear elevation would be angled to be parallel with the rear boundary. The angle would result in the proposed extension projecting 8.4m into the garden (from the rear wall of the existing kitchen) where it is adjacent to the boundary with No. 8 St George's Terrace and 9.8m into the garden where the extension is adjacent to No. 10.

6.3. It is noted that there is a discrepancy in the proposed drawings. The size of the extension and the rear garden, as shown on the 'lower ground plan' and 'upper ground level plan' (drawing number 617 (P) 005), differs. The depth of the extension when measure from the centre of the kitchen window to the rear elevation is shown as 8.98m on the lower ground plan, whereas on the upper ground level plan this measurement is 9.44m. This results in the depth of the garden being either 5m (lower ground plan) or 4m (upper ground level plan). As it is unclear which of these drawings is accurate, the dimensions referred to in paragraph 6.2 are taken from the lower ground plan rather than the upper ground level plan.

6.4. The proposed extension would create an enclosed paved garden (following the demolition of the existing conservatory) to the side of the existing kitchen and between the proposed extension and the main rear elevation of the host property.

6.5. The roof of the extension would have a 2m by 4m sedum roof close to the host property and a planter extending across the width of the garden and also adjacent to the side boundary with No.8 St George's Terrace. Artificial grass would cover 26sqm of the rear part of the roof of the extension and there would be steps from the proposed lower ground floor garden (which would be excavated) to this upper level amenity area.

6.6. Design

6.7. The Council has clear policies on rear extensions and development in rear gardens. Policy DP24 states that extensions should respect the character and appearance of the local area and neighbouring buildings. Development should not undermine any



existing uniformity of a street. Overly large extensions can disfigure a building and upset its proportions (paragraph 24.12 and 24.13). More specific guidance is provided in Camden Planning Guidance CPG1 Design. This states that rear extensions should:

1. be secondary to the building being extended, in terms of location, form, scale, proportions, dimensions and detailing;
2. respect and preserve the original design and proportions of the building, including its architectural period and style;
3. respect and preserve the historic pattern and established townscape of the surrounding area, including the ratio of built to unbuilt space;
4. allow for the retention of a reasonable sized garden; and
5. retain the open character of existing natural landscaping and garden amenity, including that of neighbouring properties, proportionate to that of the surrounding area.

6.8. Rear gardens make an important contribution to the townscape of the Borough and contribute to the distinctive character and appearance of individual buildings and their surroundings. Gardens are particularly prone to development pressure in the Borough with their loss resulting in the erosion of local character and amenity, biodiversity and their function in reducing local storm water run-off (Camden Planning Guidance CPG1, paragraph 6.24).

6.9. Camden Planning Guidance CPG1 (paragraph 6.29) emphasizes the importance of rear gardens as they:

- form part of the semi-public domain where they are over looked by large numbers of properties and the occupants of surrounding buildings benefit from the outlook.
- form the character of an area in terms of the relationship between
- buildings and spaces and the resulting openness or sense of enclosure
- provide a sense of the greenery where they can be viewed through gaps between buildings
- provide a sense of visual separation and privacy
- soften the impact of buildings and integrate them into their setting
- play a significant role in maintaining the biodiversity of the borough. In particular groups of trees and vegetation along the rear boundaries of garden provide important wild life corridors within existing development patterns.

- 6.10. Planning permission is unlikely to be granted for development whether in the form of extensions, conservatories, garden studios, basements or new development which significantly erode the character of existing garden spaces and their function in providing wildlife habitat (Camden Planning Guidance CPG1 paragraph 6.31).
- 6.11. The size of the basement rear extension would not be subordinate to the building being extended and would be disproportionately large in relation to the host property. As the extension would project approximately 9m into the rear garden, it would alter and undermine the character of the garden space. The development would erode the garden character by introducing urban structures with living space including large windows deep into the garden area. At night, this would result in light and noise coming from a part of the garden that may normally be quiet and dark. Likewise in daytime, the introduction of living space deep into the garden would erode its garden character.
- 6.12. Camden Planning Guidance also explicitly states that excessively large lightwells will not be permitted in any garden space and the lowering of the natural ground level to the rear of the property should be minimised as much as is practicable (Camden Planning Guidance CPG4 paragraph 2.22 and 2.26).
- 6.13. The garden would be lowered at the rear to form a large lightwell and 'lower garden' contrary to CPG4. This lowering would significantly alter the character of the garden and would not respect the character and appearance of the local area. The rear elevation of the basement extension would be highly visible from the rear garden space. When viewed from the rear garden the basement would appear as a 9.8m extension to the host property. The size of the extension with artificial grass roof would appear as an overlarge addition to the host property, harming the character of the listed building.
- 6.14. Impact on Listed Building
- 6.15. The architectural and historic character of No. 9 St Georges Terrace is defined as a mid-19<sup>th</sup> century terraced house sitting within its original building plot and which includes front entrance steps and a domestic basement area while to the rear the garden is enclosed by the original Victorian boundary. This historic layout is still clearly in evidence at No. 9 and is considered to form part of the buildings significance in terms of the NPPF.

- 6.16. The proposed extension would be out of scale and proportion with the floor plan of the listed building and at odds with the traditional hierarchy of early to mid-Victorian houses of this type. The extension would constitute a considerably larger floor plan than the historic lower ground floor with its traditional front and rear rooms. The proposal would essentially double the floor plan of the historic building and would therefore alter the appreciation of its characteristic historic proportions. The introduction of an extension of such overwhelming proportions would fail to be subordinate and would undermine and detract from the historic character and spatial qualities of the listed building. The proposed extension would damage the established and expected historic character and hierarchy of the listed building.
- 6.17. The proposed extension and courtyard / lightwells would dominate the view from the house and would be clearly seen from the neighbouring houses within the terrace, creating an awkward solid structure spanning the garden and causing visual disruption. When viewed from the main house the original garden would no longer be evident. A solid building formed around lightwells would occupy the full width and virtually all the depth. Rather than a view of the garden with natural planting and an open visual amenity, the view would be filled with a full width, solid, manmade structure. By its very nature the structure would have hard edges and manufactured materials, reflective glazing and a flat manmade roof. The manmade green coloured roof would look out of keeping and at odds with the garden setting.
- 6.18. The view from the end of the garden, back towards the house, would also be dominated by the solid manmade structure. Particularly because the rearmost lightwell (lower ground floor garden) would create an awkward and uncharacteristic form and plan. This would appear incongruous and obtrusive to the character of the back gardens along this part of the terrace.
- 6.19. The proposed development represents an intensification of urban hard landscape and loss of natural habitat and recreation space which would be harmful to both the listed building and to the wider conservation area.
- 6.20. In addition, the proposed development would be likely to cause damage to the garden walls which are listed by virtue of being attached to the listed house.
- 6.21. Impact on bio-diversity

- 6.22. Basement development that extends below garden space can reduce the ability of that garden to support trees and other vegetation leading to poorer quality gardens and a loss in amenity and to the character of the area.
- 6.23. Council policy requires sufficient margins to be left between the site boundaries and any basement construction to enable natural processes to occur and for vegetation to grow naturally. These margins should be wide enough to sustain the growth and mature development of the characteristic tree species and vegetation of the area. The Council seeks to ensure that gardens maintain their biodiversity function for flora and fauna and that they are capable of continuing to contribute to the landscape character of an area so that this can be preserved or enhanced (Camden Planning Guidance CPG4 Basements and Lightwells paragraph 2.15).
- 6.24. Council policy also expects a minimum of 1 metre of soil to be provided above basement development that extends beyond the footprint of the building, to enable garden planting and to mitigate the effect on infiltration capacity (Camden Planning Guidance CPG4 Basements and Lightwells paragraph 2.16).
- 6.25. The basement extension would significantly reduce the area of garden. Whilst it is recognized that the current garden contains large areas of paving, this area has the potential for future planting. The basement development would extend across the full width of the site with artificial grass over the majority of the development and only a planter around the edge. This would reduce the scope of garden planting, contrary to CPG4 paragraph 2.16 and policy DP27 (paragraph 27.9) as sufficient margins would not be retained at the site boundaries to sustain growth of vegetation and trees. The artificial grass above the structure, rather than an appropriate proportion of planted material, would be detrimental to the natural storm water infiltration capacity of the site and would harm the potential biodiversity of the site. In addition, the existing 83.3 sqm garden would be fragmented and reduced in size so that the rearmost element would have an area of only 28.4sqm. As the area taken up by the proposed staircase would not provide usable amenity space, the rear garden would only have a usable area of 23sqm (27% of the size of the existing garden). This relatively small area of garden would be the only part of the landscaping suitable for trees. In addition this lower ground floor garden would be a storey below the existing garden level and so would be out of character with the level of surrounding gardens. A garden at this lower level would also contribute less to the garden setting of these properties. A

garden at this lower level would have reduced potential due to the overshadowing of relatively high neighbouring walls and structures.

6.26. The proposed basement rear extension would be detrimental to the landscape character and the biodiversity function of the garden and so would be harmful to the setting of the listed building and to the character and appearance of the Primrose Hill Conservation Area.

6.27. Conservation Area considerations

6.28. The Primrose Hill Conservation Area Statement indicates excavation or extension of basement areas for additional accommodation and loss of garden space are both current issues within the conservation area.

6.29. Neighbouring Amenity

6.30. The existing garden is terraced with the height of the garden increasing with distance from the host property. This arrangement results in the ground level furthest from the upper ground floor windows being approximately the same level as the upper ground floor windows of the host property. The proposed lower ground floor extension would result in the garden level closest to these windows being raised and would result in increased overlooking and loss of privacy to the occupiers of the upper ground floor flat. It has been established that this window serves a bedroom. The appeal scheme includes a sedum roof with a planter and 1.8m high screen beyond. Whilst the privacy screen would prevent any harmful overlooking it would result in an increased sense of enclosure to the occupier of this flat as the screen would be only 4m from the upper ground floor window. A screen would also harm the open character of the rear garden.

6.31. Sustainable Urban Drainage Systems

6.32. The existing garden has 13.47sqm of soft landscaping and large areas of hard landscaping. The proposed garden would provide an increase in soft landscaping with an overall area of 36.2sqm (including 23sqm in the lower garden, 7sqm of sedum and 6.2sqm of planters). Notwithstanding the increase in soft landscaping it has not been demonstrated that the Councils SUDS requirements can be met.

- 6.33. The Council requires developments to reduce the pressure on the combined sewer network and the risk of flooding by retaining and re-using surface water and grey water on-site and by limiting the amount and rate of run-off and waste water entering the combined storm water and sewer network through SUDS (Policy DP23). The Council expects developments to achieve a greenfield surface water run-off rate once SUDS have been installed. As a minimum, surface water run-off rates should be reduced by 50% across the development (CPG3 paragraph 11.5).
- 6.34. The London Plan requires development to utilise sustainable urban drainage systems (SUDS) unless there are practical reasons for not doing so, and should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible in line with the drainage hierarchy (Policy 5.13).
- 6.35. The use of SUDS is sought in all basement developments that extend beyond the footprint of the original building. No specific details of SUDS have been provided. Given the lack of planting depth above the basement extension and the lack of margins at the sides it is not clear that the proposed development would be able to meet the required reduction (50%) in surface water run-off rates.
- 6.36. Construction Management Plan
- 6.37. St George's Terrace is a cul-de-sac and is therefore a constrained site. The site is also in a conservation area and part of a listed terrace. Impact on the highway network and immediate environment is likely during construction. Given the size of the proposed development the proposal is likely to represent a detrimental impact on the highway network during its construction period. This likely level of works is considered sufficient to require a Construction Management Plan (CMP) in order to mitigate any adverse impacts.
- 6.38. A planning obligation is considered to be the most appropriate mechanism for securing compliance with a CMP in this case simply because a considerable extent of the activity during construction could cause conflict with other road users or be detrimental to the amenity of the area and will necessarily take place outside the curtilage of the planning unit of the appeal site. Potential impacts for the proposed demolition/construction works which should be controlled by a CMP include traffic generation from removal and delivery of materials to the site. This could result in traffic disruption and dangerous situations for pedestrians and road users.

- 6.39. Under s72 of the Town and Country Planning Act 1990 planning conditions are used to control matters on land within the developer's control. However, a CMP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site but also around the site in order to minimise as far as reasonable the detrimental effects of construction on local residential amenity and / or highway safety on the nearby roads hence, using a condition to secure the type of off-site requirements usually included in a CMP would in this case be unenforceable.
- 6.40. Conditions can only lawfully be used to control matters on land within the developer's control. Many of the CMP provisions will relate to off-site requirements, particularly public highway (which is not land within the developers' control). As such, a Section 106 Agreement (rather than a condition) is the most appropriate mechanism. This is in accordance with Circular 11/95, where it states at Appendix B (7) as an example of an unacceptable condition, is one requiring loading and unloading and the parking of vehicles not to take place on the highway, as it purports to exercise control in respect of a public highway which is not under the control of the applicant.

*Compliance with CIL reg 122*

- 6.41. The CMP is: (i) necessary to mitigate against the adverse impacts of the construction stage; (ii) directly relates to the construction stage of the proposed development; and (iii) is fairly and reasonably related in scale and kind to development in that it address relevant aspects of construction phase of the development as identified under the Council's development plan for developments of the nature proposed. Further, the CMP will ensure that the effects of construction are managed in an appropriate manner.
- 6.42. Basement Construction Plan
- 6.43. The independent audit of the Basement Impact Assessment states that a Basement Construction Plan is required. This is because insufficient information was included in the Basement Impact Assessment.
- 6.44. Basement construction plans are required to be secure by legal agreements as the scope of its control extends beyond the application site. Under s72 of the Town and Country Planning Act 1990 planning conditions can only be lawfully imposed on grant of planning permission for regulating the development or use of any land under the control of the applicant or requiring the carrying out of works on any such land.

However, a BCP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site, but also around the site in order to minimise as far as reasonable the detrimental effects of basement construction on neighbouring properties. Using a condition to secure the type of off-site requirements usually included in a BCP would in this case be unenforceable.

6.45. *Compliance with CIL reg 122*

6.46. The BCP is: (i) necessary to mitigate against the adverse impacts of the basement construction stage; (ii) directly relates to the basement construction stage of the proposed development; and (iii) is fairly and reasonably related in scale and kind to development in that it address relevant aspects of basement construction phase of the development as identified under the Council's development plan for developments of the nature proposed.

6.47. Highways Contribution

6.48. The Council expects works affecting Highways to repair any construction damage to transport infrastructure or landscaping and reinstate all affected road and footway surfaces following development. The footway directly adjacent to the site could be damaged as a direct result of the proposed works. To allow the proposal to comply with Development Policy DP21, a financial contribution for highway works would be sought. A cost estimate for highway works (£1,925) has been received from the Council's Highways Delivery Team. The highways contribution is required to be secured by legal agreement.

6.49. *Compliance with CIL reg 122*

6.50. The Highways Contribution is: (i) necessary to mitigate construction damage to the footway following the basement construction stage; (ii) directly relates to the basement construction stage of the proposed development; and (iii) is fairly and reasonably related in scale and kind to development in that it address relevant aspects of basement construction phase of the development as identified under the Council's development plan for developments of the nature proposed.

6.51. Conclusion



6.52. The proposal, it is considered, would fail to preserve the special architectural and historic interest of the listed building and would neither preserve nor enhance the character and appearance of the Primrose Hill Conservation Area. There is no evident public benefit which could be considered to outweigh such harm, therefore the proposal is contrary to the NPPF and the aims of policies CS14 of the core strategy and policies DP24 and DP25 of the development policies. In addition, the development would result in harm to the amenity of the upper ground floor flat, 9 St George's Terrace, harm to biodiversity and would not contribute to sustainable urban drainage contrary to policies CS5, CS13 and CS15 of the core strategy and policies DP23, and DP26 of the development policies.

## 7.0 APPROPRIATE CONDITIONS

### Planning permission

7.1 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).

7.2 The development shall be carried out in accordance with the following approved plans: 617(P): 006 C; 005 B; 007 B; 617(D)101; Basement Impact Assessment prepared by Chelmer Consultancy Services dated November 2015; Statement prepared by Michael D Morris Architects dated July 2015; Report prepared by Paul Velluet dated 15th June 2015; Construction Management Plan prepared by Abtech Basement Systems; 617(E): 003; 002; 001; 004

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

7.3 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 policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies

DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 7.4 Prior to the first occupation of the building a plan showing details of the biodiverse green roof including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, and a programme for a scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The green 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 of maintenance.

Reason: To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CS13, CS14, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23, DP24 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 7.5 Sustainable urban drainage:

- A) Prior to commencement of development details of a sustainable urban drainage system shall be submitted to and approved in writing by the local planning authority. Such system shall be designed to accommodate all storms up to and including a 1:100 year storm with a 30% provision for climate change, and shall demonstrate that greenfield run off rates (5l/s) will be achieved.
- B) Prior to occupation of the development, evidence that the sustainable drainage system has been implemented shall be submitted to the Local Authority and approved in writing. The systems shall thereafter be retained and maintained in accordance with the approved maintenance plan.

Reason: To reduce the rate of surface water run-off from the buildings and limit the impact on the storm-water drainage system in accordance with policies CS13 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.

7.6 Listed Building

7.7 The works hereby permitted shall be begun not later than the end of three years from the date of this consent.

Reason: In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7.8 All new work and work of making good shall be carried out to match the original work as closely as possible in materials and detailed execution.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

7.9 Details of all new plumbing and electrical services including new mechanical extraction, external flues, grilles and vents, demonstrating the relationship with the fabric and structure of the listed building.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

7.10 Details of any works of alteration or upgrading required to satisfy Building Regulations or Fire Certification.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

7.5 The works hereby approved are only those specifically indicated on the drawing(s) referred to above.

**9 St George's Terrace, LPA Statement of case**

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

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