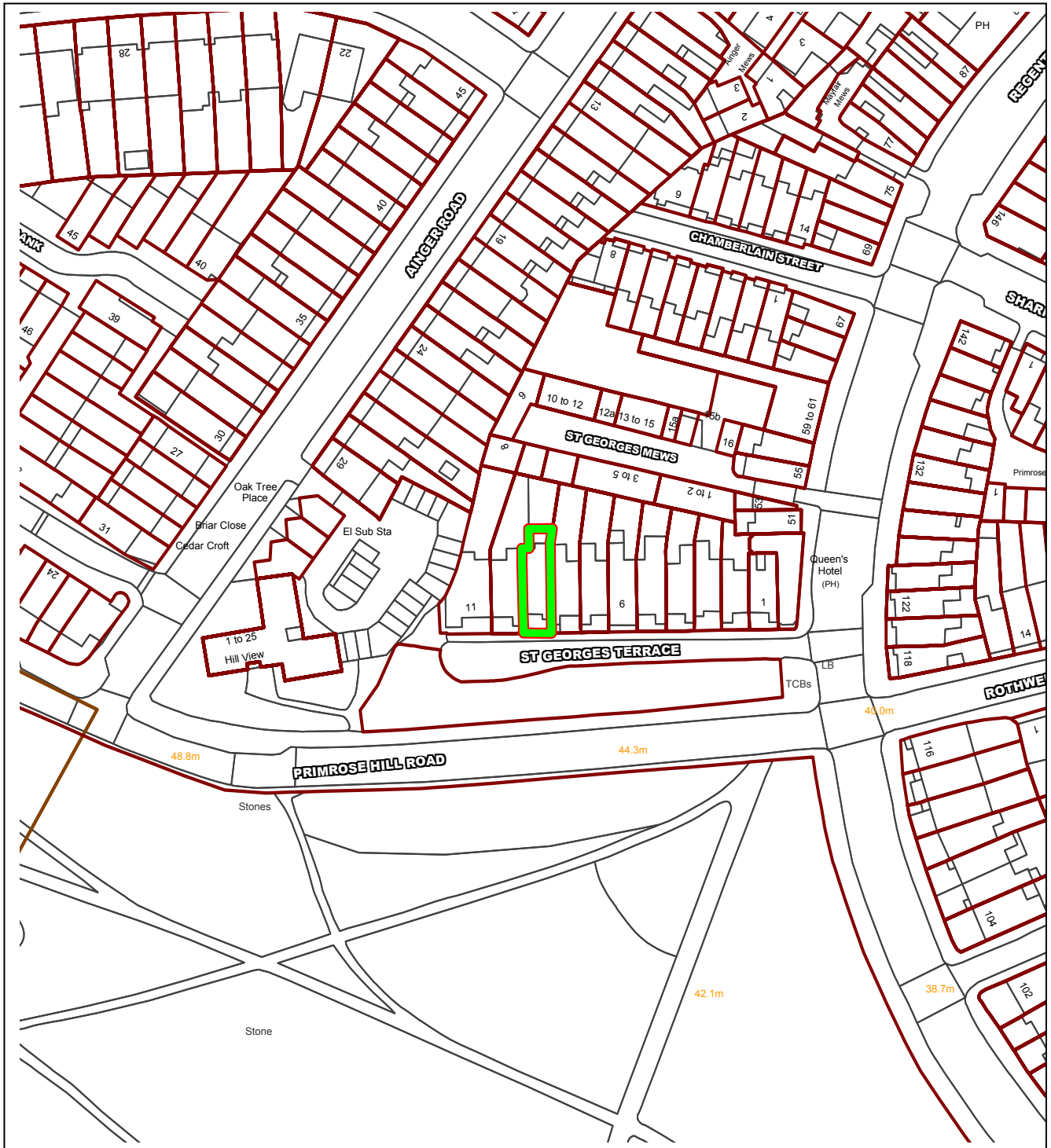


9 St George's Terrace - 2016/4393/P & 2016/4870/L



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

Site photos – 9 St George’s Terrace



1. View towards rear elevation



2. View towards rear elevation with neighbouring property 8 St George’s Terrace on the left



3. View towards neighbouring property 7 St George's Terrace



4. View of the terraced rear garden

| | | | | | |
|--|--|---|---------------------------------|---------------------------------|----------------------|
| Delegated Report (Members' Briefing) | | Expiry Date: | 01/11/2016 | Officer: | David Peres Da Costa |
| Application Address | | Application Number(s) | 1st Signature | 2nd Signature | |
| Flat Lower Ground Floor 9 St George's Terrace London NW1 8XH | | i) 2016/4393/P ii) 2016/4870/L | | | |
| Proposal(s) | | | | | |
| i) Rear extension at lower ground level with garden above (following demolition of conservatory) including excavation of rear garden. ii) Rear extension at lower ground level with garden above (following demolition of conservatory) including excavation of rear garden and internal alterations. | | | | | |
| Recommendation(s): | | i) Grant Conditional Planning Permission subject to a s106 legal agreement ii) Grant Listed Building Consent | | | |
| Application Type: | | i) Planning permission ii) Listed building consent | | | |
| Consultations | Date advertised | 21 days elapsed | Date posted | 21 days elapsed | |
| Press notice | 15/09/16 | 06/10/2016 | Site notice | 09/09/16 | 30/09/16 |
| | Date sent | 21 days elapsed | # Notified | # Responses | # Objections |
| Adjoining Occupier letters | 06/09/2016 | 27/09/2016 | 19 | | 9 |
| Consultation responses (including CAACs): | <ul style="list-style-type: none"> The development would be hugely detrimental to the architectural and historic significance to the area; new structure is out of keeping with the integrity of the buildings in the terrace; so large an extension appears out of character with the house and terrace and with the existing size and character of the flat; listed buildings in a conservation area (like this one) should be preserved in their original conditions <p><i>Officer's comment: The development is identical to that considered at appeal and the inspector found the proposal would preserve the special architectural and historical interest of the listed building (including its setting) and would preserve the character and appearance of the Primrose Hill Conservation Area.</i></p> <ul style="list-style-type: none"> Harmful precedent that back gardens can be turned into development opportunities verdant tree growing gardens the loss of gardens (A concrete box with some artificial grass on top is not a real garden); This proposal removes the opportunity to reinstate the beautiful garden; real difference between planting in the ground and that in planters; change of use of the purpose/normal use of a garden space. <p><i>Officer's comment: The development is identical to that considered at appeal and 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). The appeal inspector did not support the Council's previous assertion that the proposal would result in an unacceptably harmful impact on local biodiversity.</i></p> <ul style="list-style-type: none"> risk of damage to these fragile houses; destabilising of houses whose foundations | | | | |

during the year and times of construction are not very stable; cumulative impacts on structural stability of those buildings;

- concern about run off and the water table; concrete surface would not allow for proper water drainage and would lead to water penetration of the fabric

Officer's comment: A basement impact assessment was provided which has been independently audited and found to be acceptable. A basement construction plan would be secured by legal agreement.

- noise coming from the garden when proposed buildings windows are open even people talking on mobile phones in gardens the sound is exaggerated
- the privacy screen would mean the view from my window would be a hedge. This will also mean a deficit of natural light (upper ground floor flat no.9)
- invasion of privacy from elevated sight lines from the roof of the buildings (designated as garden in the plans) into the rooms at the rear of Houses 8, 9 and 10. A number of these windows that would be overlooked are bedrooms. I object most strongly to the ability of a neighbour to look directly into our bedroom window (Ground Floor Flat, 10 St. George's Terrace)

Officer's comment: The development is identical to that considered at appeal and the inspector concluded the proposal would not result in a materially harmful impact on the living conditions of nearby occupiers. In respect of the upper ground floor flat (No.9) the inspector found "the amended plans have sought to address concerns in terms of overlooking and privacy by the use of landscaped screens. Whilst I acknowledge the proximity between the bedroom window in the upper ground floor flat at No 9, the use of screening which could be secured by condition would assist in mitigating this harm". The appeal inspector also noted 'with the extension being at a lower ground level to neighbours, noise and light, in the main, is likely to be directed downwards or into the adjoining walls rather upwards directly into the living areas of other dwellings'.

- anyone seeking planning permission in their garden would get there by first terracing, clearly not the intention of planning policy

Officer's comment: Each application would be considered on its own merits and would be determined in accordance with the development plan taking into account all material considerations.

- danger to the terrace from construction traffic
- noise and disruption, dirt and dust

Officer's comment: A construction management plan would be secured by legal agreement and an environmental health informative would remind the applicant of the legislation which controls working times and days.

- excavation will likely result in further rats

Officer's comment: The presence of rats would be a matter for the Council's environmental health team

- raises a security issue for Flat 1, 9 St George's Terrace

Officer's comment: Whilst the proposal involves a flat glazed roof adjacent to Flat 1, this is not considered to have a harmful impact on the potential for crime as the rear of the property is not easily accessible.

Primrose Hill CAAC – Object

While we have taken account of the Planning Inspectorate's reasoning in his dismissal of the appeal application, we disagree with his view of the Listed Building issues, and stand by our advice given previously. In brief, that is that it is characteristic and significant in this terrace that the garden is a distinctive space in the hierarchy of open spaces associated with the Terrace, and that building over the garden as proposed would destroy that significance and harm the heritage assets in question. There is no public benefit to outweigh this harm.

On the Inspectorate's ground for refusal, we do not see that this application addresses this

fundamental point. The Inspector argued that he could not grant consent without that agreement. It would seem to us, in the light of the Inspectorate's decision, that we should see proof that the legal obstacles have been addressed before any application were to be approved.

Officer's comment: The development is identical to that considered at appeal and the inspector found the proposal would preserve the special architectural and historical interest of the listed building (including its setting) and would preserve the character and appearance of the Primrose Hill Conservation Area. If planning permission were to be granted, it would be subject to the signing of a legal agreement. Until this agreement is signed no final decision would be issued.

Site Description

The site is a 5 storey terrace property (including lower ground floor) in the Primrose Hill Conservation Area. The property is part of a Grade II listed terrace (Nos.1-11) on the north side of St George's Terrace.

Relevant History

Flat 1a, 10 St George's Terrace

2008/2831/P & 2008/3194/L: 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. Granted 16/09/2008

2014/7274/P & 2014/7336/L: Rear extension at lower ground level with garden above including excavation of rear garden, demolition of rear conservatory and internal alterations. Non-determination would have refused 13/04/2016 Appeal (ref: APP/X5210/W/15/3141393) dismissed 04/08/2016

Reasons for refusal

1. 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.
2. 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.
3. 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.
4. 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.
5. 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 neighbouring amenity.

They were a further 3 reasons for refusal which related to the absence of a Section 106 legal agreement to secure a Construction Management Plan, Basement Construction Plan and highways contribution.

Whilst the appeal was dismissed the inspector did not support reasons for refusal 1-5. The appeal was dismissed solely on the basis that there was no legal agreement securing a highways contribution, CMP and BCP. *"Even though I have found in favour of the appellant's case in respect of the main issues, this does not outweigh or overcome the lack of a legally effective mechanism in terms of local infrastructure"*

Relevant policies

NPPF 2012

The London Plan March 2015, consolidated with alterations since 2011

LDF Core Strategy and Development Policies

CS1 Distribution of Growth

CS5 Managing the Impact of Growth and Development

CS11 Promoting sustainable and efficient travel

CS14 Promoting High Quality Places and Conserving Our Heritage

CS15 Protecting and improving our parks and open spaces and encouraging biodiversity

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

Camden Planning Guidance

Primrose Hill Conservation Area Statement

Assessment

1. Proposal

- 1.1. Planning permission is sought for an extension at lower ground floor level to provide a 42sqm living room. This would project under the existing raised garden and would involve the excavation of the rear garden. The basement extension would be full width and the proposed rear elevation would be angled slightly so that it would 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 adjacent to No. 10. 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. Landscaping would be reinstated above the extension.
- 1.2. Various internal alterations are proposed to convert the existing living room into a bedroom with an ensuite bathroom. The proposed internal alterations and the extension would convert the 1-bed flat to a 2-bed flat.

1.3. Background

- 1.4. Planning permission and listed building consent (2014/7274/P & 2014/7336/L) was refused for an identical development 13/04/2016 following an appeal against non-determination. Whilst the appeal was dismissed the inspector did not support reasons for refusal 1-5 (see planning history above). The appeal was dismissed solely on the basis that there was no legal agreement securing a highways contribution, CMP and BCP. *"Even though I have found in favour of the appellant's case in respect of the main issues, this does not outweigh or overcome the lack of a legally effective mechanism in terms of local infrastructure"*

2. Assessment:

2.1. Impact on listed building and conservation area

- 2.2. The proposal was previously refused for 2 design reasons related to the impact on the listed building and the conservation area.
 1. 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.

3. 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.

2.3. These reasons were not supported by the inspector at the appeal. The inspector found that the rear elevations and gardens are an eclectic mix of styles, layout and form, and in this respect they make a very limited contribution to the significance of both the listed building, (including its setting), and the Primrose Hill Conservation Area. He also placed weight on the restoration of the rear garden level to a height similar to what may have been the case historically. The inspector concluded: *I do not, therefore, find that the proposed extension and works would result in an unacceptable harmful impact on the significance of the Grade II listed building or the conservation area in respect of character and appearance. In the light of the statutory duties set out in Sections 16(2), 66(1) and 72(1) of the PLBCA, I find that the proposal would preserve the special architectural and historical interest of the listed building (including its setting) and would preserve the character and appearance of the Primrose Hill Conservation Area.*

2.4. Given the inspector's decision, the design of the extension would be acceptable and the proposed extension would preserve both the character and appearance of the conservation area as well as the special architectural and historical interest of the listed building.

2.5. **Loss of Garden**

2.6. The current garden is terraced with large areas of paving. The basement development would extend across the full width of the site with artificial grass on the roof and a planter along the eastern edge and another parallel to the rear elevation and 4m from the property's closet wing. 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). The appeal decision states: *the proposal would result in the introduction of various heights and areas of garden space, which could reasonably allow a greater range of plants to be provided to support local biodiversity. In such circumstances, there is little to suggest support the Council's assertion that the proposal would result in an unacceptably harmful impact on local biodiversity.* Given the appeal decision, the Council accept the impact of the development on the garden and biodiversity would be acceptable.

2.7. **Basement**

2.8. The scheme involves cutting into the existing terraced rear garden to form living space beyond which a second lower garden will be formed up to the boundary wall with Nos. 6 and 7 St George's Mews. The excavation to form the extension and rear garden is full width of the property, approximately 6 metres, by approximately 15 metres in length to the rear boundary wall. The footprint of the lower ground floor (basement) extension plus the lowered garden at the rear would be approximately 71sqm. In accordance with policy DP27 (Basements and Lightwells), the applicant has submitted a basement impact assessment (BIA). The BIA was independently assessed as part of the previous application. The audit has noted the comments from adjoining occupiers regarding the basement and accepts that there are no significant residual impacts with respect to slope instability, surface water or subterranean flows. However, the audit confirms further or better information, including a services search, should be provided within a Basement Construction Plan. This is recommended to be secured via legal agreement.

- 2.9. The audit confirms an acceptable ground movement analysis has been carried out which shows potential damage to the rear wall of St George's Mews would be "Negligible – Burland Category O". The audit accepts that the proposed basement development would not affect the hydrogeology of the general area. Although it is also accepted that the development would not affect the hydrology of the general area, the adjacent Primrose Hill Road flooded in 1975 and 2002. Therefore basement flood mitigation measures proposed in the BIA should be incorporated into final design details. The audit accepts the amount of hardstanding is to decrease, along with a reduction in the amount of surface water discharge into the existing sewer system.
- 2.10. **Amenity**
- 2.11. 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. To mitigate the potential overlooking a wide planter would be provided. The proposal includes a sedum roof with a planter and 1.8m high screen beyond. The privacy screen would prevent any harmful overlooking and is recommended to be secured by condition. On the issue of amenity the inspector concluded the proposal would not result in a materially harmful impact on the living conditions of nearby occupiers.
- 2.12. **Transport**
- 2.13. Camden seeks to ensure that construction traffic does not create (or add to existing) traffic congestion in the local area. The construction is also likely to lead to a variety of amenity issues for local people (e.g. noise, vibration, air quality). A construction management plan would therefore need to be secured via a Section 106 legal agreement in order to ensure that the development can be implemented without being detrimental to amenity or the safe and efficient operation of the highway network in the local area.
- 2.14. 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 is likely to 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. This is recommended to be secured via legal agreement.
- 2.15. **SUDS**
- 2.16. 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). The use of SUDS is sought in all basement developments that extend beyond the footprint of the original building. A SUDS condition is recommended to be included on the decision to ensure surface water run-off rates were reduced.
- 2.17. **Recommendation:** Grant conditional planning permission subject to s106 legal agreement and listed building consent

DISCLAIMER

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 17th October 2016, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'.



Appeal Decisions

Hearing held on 7 June 2016

Site visit made on 7 June 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 August 2016

Appeal Ref A: APP/X5210/W/15/3141393

Basement Flat, 9 St Georges Terrace, London, UK NW1 8XH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Robert Taylor against the Council of the London Borough of Camden.
 - The application Ref 2014/7274/P, is dated 8 December 2014.
 - The development proposed is described as *'extending of the flat at lower ground level under existing garden, garden reinstated on top. New stair at rear of garden to access garden. Removal of modern conservatory and internal changes. Reinstate basement plan in form in original'.*
-

Appeal Ref B: APP/X5210/Y/15/3141400

Basement Flat, 9 St Georges Terrace, London, UK NW1 8XH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr Robert Taylor against the Council of the London Borough of Camden.
 - The application Ref 2014/7336/L is dated 22 November 2014.
 - The works proposed are described *'the proposal is to extension at Lower ground level, with garden reinstated over to provide a family unit with access to external amenity space. In addition a new room in garden will be provided with green roof and walls to give access to the upper garden level. Removal of conservatory and internal alterations to reinstate plan form of the listed building'.*
-

Decisions

1. Both appeal A and appeal B are dismissed.

Preliminary Matters

2. At the Hearing I was provided with a copy of the application form in relation to the application for listed building consent. The Council had not originally accepted this as it was made on a 'Householder' application form which should not be used for development concerning a flat. I also note that the plans have subsequently been amended since 22 November 2014. The description of development which reflects the drawings for Appeal B: that is for listed building consent, used in the above header is not entirely accurate. It is not in my gift to change the description of development as such. As a point of pragmatism, I understand from what I have heard and read, that listed building consent is

sought for the *'extending of the flat at lower ground level under existing garden, garden reinstated on top. New stair at rear of garden to access garden. Removal of modern conservatory and internal changes. Reinstate basement plan in form in original'*. I have therefore proceeded on this basis in respect of Appeal B.

3. On 29 February 2016, the appellant submitted four amended drawings labelled 317 (D) 101, 617 (P) 005 Rev B, 617 (P) 006 Rev C and 617 (P) 007 Rev B respectively. At the Hearing, the appellant pointed out that the principal difference in these drawings is that the landscape screening opposite a window serving the upper ground floor flat at No 9 has been moved further away from the sedum roof proposed, and therefore the windows in the rear elevation of the building. These drawings have been available on the Council's website since early March 2016; and before formal notification of the appeal and Hearing to interested parties on the 17 March and 23 May 2016. At the Hearing I heard from two neighbours, who were representing both themselves and local residents unable to attend the Hearing, that they were not entirely aware of these drawings. However, others were aware, and the appellant had spoken to some neighbours showing them the amended plans.
4. In this case I understand the context to be that the changes to the scheme the drawings seek are relatively small, some of the interested parties were aware that amended drawings had been submitted, the drawings have been in the public domain in the four months leading up to the appeal hearing and before notification of the appeal and subsequent Hearing, and some neighbours were aware that the drawings had been submitted. Given all these factors, and in accordance with the *'Wheatcroft Principles'*, I am satisfied that there is no difference in substance between what was applied for and the amended scheme, and that interested parties would not be unduly prejudiced by me taking these drawings into account as the schemes for which permission is sought.

Main Issues

5. The main issues are:
 - Whether the proposed development and/or works would preserve the special architectural or historical interest of the Grade II listed building, and whether the proposal would preserve or enhance the character and appearance of the Primrose Hill Conservation Area.
 - The effect of the proposals on the living conditions of neighbouring occupiers in terms of overlooking and outlook, with specific regard to the upper ground floor flat of No 9 St Georges Terrace.
 - What impact, if any, the proposal would have on the local environment with specific regard to biodiversity and Sustainable Urban Drainage Systems (SUDs).
 - Whether the proposed development would make adequate provision in respect of local infrastructure with specific regard to development plan policies which seek highways contributions, a Basement Construction Plan and/or Construction Management Plan.

Reasons

Heritage matters

6. The appeal building is a mid-terrace Grade II listed building situated within the Primrose Hill Conservation Area. I saw that this building and many of those along the terrace are divided into flats. The proposed development and alterations would see the removal of a 20th Century conservatory and re-grading of the garden in order to permit the erection of a single level rear extension connected to the building by a link, with artificial lawn garden area roof. I saw at my site inspection that the rear gardens along the terrace are characterised by a change in ground levels, with parts of the appeal site having a significantly lower ground level than the adjoining sites.
7. The listing description indicates that the key architectural or historical features of the building derive from elements such as quoins, prostyle Doric porches and stucco cornice, with its focus on the front elevation. I saw that from the pavement, these features form an important part of the significance of the listed building. I was also able to view inside the basement flat at No 9 and saw that although the interior had not been surveyed as part of the listing description, there appeared to be limited features, which in any case are unlikely to be lost through the proposed works. I also saw that the rear elevations and gardens are an eclectic mix of styles, layout and form, and in this respect they make a very limited contribution to the significance of both the listed building,(including its setting), and the Primrose Hill Conservation Area.
8. What is more, the proposed rear extension in this case, would put simply, re-level the rear garden, so that it would be at a closer level to that found at the adjoining rear gardens. In practice this would restore the rear garden level (due to the garden roof proposed) to a height similar to what may have been the case historically. Whilst the architectural style of the extension would be fairly modern, this in its self does not automatically mean that it is unacceptable in principle. Indeed, the rear elevations along the back of the terrace already have a number of differences, which the proposal would add further to.
9. I do not, therefore, find that the proposed extension and works would result in an unacceptable harmful impact on the significance of the Grade II listed building or the conservation area in respect of character and appearance. In the light of the statutory duties set out in Sections 16(2), 66(1) and 72(1) of the PLBCA, I find that the proposal would preserve the special architectural and historical interest of the listed building (including its setting) and would preserve the character and appearance of the Primrose Hill Conservation Area. Accordingly, I find that the proposal would accord with Policy CS14 of the *Camden Core Strategy 2010- 2025* (LDFCS) and Policies DP24 and DP25 of the *Camden Development Policies 2010-2025* (CDP), which, amongst other aims, seek to ensure that consent is only granted when it would not cause harm to the special interest of the building and preserve and enhances the character and appearance of conservation areas.
10. It would also accord with the aims of the National Planning Policy Framework (the Framework), which includes conserving heritage assets in a manner consistent with their significance.

Living conditions

11. I heard concerns regarding the fact that occupiers would be able to sit out in the extension, with the associated noise and light being harmful given the area does not, at present, permit this. However, I see little that would stop existing occupiers from sitting outside and using the terraced garden for entertaining; which in itself would result in noise and light. I accept that an internal space allows the use of items such as televisions and so on, but the reality is that with the extension being at a lower ground level to neighbours, noise and light, in the main, is likely to be directed downwards or into the adjoining walls rather upwards directly into the living areas of other dwellings.
12. The amended plans have sought to address concerns in terms of overlooking and privacy by the use of landscaped screens. Whilst I acknowledge the proximity between the bedroom window in the upper ground floor flat at No 9, the use of screening which could be secured by condition would assist in mitigating this harm. What is more, it is already possible to look from the existing ground levels into this window, albeit at a further away distance. Nonetheless, the inclusion of screening would help reduce this existing issue. In practice, these measures would reduce the potential for overlooking into neighbouring properties, including the upper ground floor flat at No 9.
13. I therefore conclude that the proposal would not result in a materially harmful impact on the living conditions of nearby occupiers. It would therefore accord with Policy CS5 of the LDFCS and Policy DP26 of the CDP, which, amongst other aims, seek to protect and enhance the amenity and quality of life of local communities.

Biodiversity and SUDs

14. The Council is concerned that the loss of the rear terraced garden and its replacement with an area of artificial grass and provision of planting boxes with a depth of roughly 0.4 metres would mean the proposal would result in a loss of biodiversity. In this respect, the Council points to Policy DP27 of the CDP, relating to basements and lightwells, which indicates that schemes should 'provide adequate soil depths'. The Council then pointed me to a number of documents including Camden Planning Guidance Design 2015 (CGP1) and Basements and Lightwells 2015 (CPG4), the latter of which indicates at Paragraph 2.16, it will be expected a minimum depth of 1 metre of soil should be provided for both roots and assist drainage.
15. However, the area of roughly 0.4m soil depth is confined to the planters, and the proposal would still see the retention or creation of areas of soil which are likely to be greater than this. What is more, in terms of biodiversity, I understand that the 1 metre depth sought by CPG4 is a guide rather than prescriptive, in the manner of Paragraph 59 of the Framework, where policies should avoid unnecessary prescription or detail. I also heard nothing at the Hearing from the Council which properly explained why a depth of less than 1 metre for the planters would be any more detrimental to plants that say a depth of 0.9 metres, or indeed that the depth proposed would be unable to support a variety of plants and fauna. What is more, the proposal would result in the introduction of various heights and areas of garden space, which could reasonably allow a greater range of plants to be provided to support local biodiversity. In such circumstances, there is little to suggest support the Council's assertion that the proposal would result in an unacceptably harmful

- impact on local biodiversity, or that it would fail to promote or enhance biodiversity within the local area.
16. In terms of sustainable drainage matters, the Basement Impact Assessment (BIA) identifies that the proposal would amount to a reduction in water run-off, and that there would be an increase in the ability to manage this run-off. The BIA was audited by an organisation independent of the original, and whom the Council were satisfied would provide an appropriate audit of the BIA and the Council has raised no significant concerns with the outcome of the audit. On this basis, I see no reason to not consider the BIA submitted, and its conclusions, as written.
 17. In this respect, the audit indicates that the drainage arrangements comply with the relevant policies of the development plan, including Policy DP23 of the CDP, which, whilst indicating that the Council will require developments to reduce the pressure on the sewer network and the risk of flooding by limiting the rate and run-off of waste water, does not indicate a specific level which should be achieved within the Policy. In any case, not only does the BIA indicate that water run-off could be reduced, but I consider that the use of a planning condition could be a reasonable means of securing such reductions.
 18. I therefore conclude that the proposed development would not result in a materially harmful impact of local biodiversity or on the local drainage systems. It would therefore accord with Policies CS13 and CS15 of the LDFCS and Policy DP23 of the CDP, as supported by the Camden Planning Guidance – Sustainability – Flooding, which, amongst other aims, seek to protect green areas with nature conservation value and limit the amount and rate of water run-off. It would also accord with the aims of the Framework, which include at Paragraph 17 that planning should contribute and enhance the natural environment.

Local Infrastructure

19. The BIA, identifies that the proposal would not result in an unacceptable impact on neighbouring properties with regard to the ground works required to dig into the terraced garden area. I have not been presented with any technical evidence to the contrary and therefore see no reason to take a contrary stance. Nonetheless, the works in this case would occur on or very close to the shared boundaries, require the stationing of vehicles to enter the no-through road of St Georges Terrace, and items such as a Basement Construction Management Plan.
20. In this respect, the Council has sought the submission of a legal agreement under Section 106 of the TCPA 1990 as this may affect areas outside of the appellant's control. The appellant has indicated willingness to comply with these requirements and to that end submitted a draft S106 agreement just prior to the Hearing. However, I have not been provided with a signed and completed copy of this document (and therefore it does not appear legally effective). Indeed, the appellant confirms that they are unable to get all parties relevant to that agreement to sign it.
21. Instead, the appellant has submitted a signed Unilateral Undertaking in its place (dated 7 July 2016). I am content that the LPA has had an opportunity to consider and comment on this document, even though it is not the one that was agreed between the main parties to be submitted post-Hearing. The

Unilateral Undertaking before me does not have a copy of the title and there appear to be some typographical omissions, such as a date on the second page. Setting these matters aside though, more fundamental is the fact that the mortgage company and resident's management company, which I understand hold the Freehold of the building, are not a party to the unilateral undertaking. I cannot, therefore, be sure that the Unilateral Undertaking would be enforceable or effective in securing what it seeks to secure, as it only relates to the lease-holder rather than all owners or those with a direct interest in the land.

22. Given such circumstances, I cannot be sure that an effect legal mechanism exists which would mitigate the potential harms arising. Accordingly, the proposal would fail to comply with Policies CS11, CS14, CS15 of the LDFCS, and Policies DP16, DP20, DP21, DP23, DP24, DP25 and DP27 of the CDP, which, amongst other aims seek to promote sustainable and efficient travel (including the movement of goods) and conserving our heritage insofar as they relate to the matters set out in the legal agreement.

Overall Conclusion

23. Even though I have found in favour of the appellant's case in respect of the first three main issues, this does not outweigh or overcome the lack of a legally effective mechanism in terms of local infrastructure. What is more, the planning appeal and listed building appeal are intrinsically linked to such an extent that issuing a split decision would be neither practicable nor ensure that the works proposed would not result in the harm identified in respect of the fourth main issue.
24. For the reasons given above, and having taken into account all matters raised, I conclude that both appeals should be dismissed.

Cullum J A Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

| | |
|--------------------------------|---------------------------------|
| Nicholas Ostrowski | Counsel instructed by appellant |
| Grant Leggett | Planning Advisor |
| Mike Morris BA(Hons) Dip(Arch) | Architect |
| Paul Velluet, IHBC MRTPI | Heritage advisor |
| Robert Taylor | Appellant |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|--|-----------------------------|
| Antonia Powell | Senior Conservation Officer |
| David Peres Da Costa, MA Town Planning | Senior Planner |

INTERESTED PERSONS:

| | |
|----------------------|--|
| Richard Simpson, FSA | Chair PHCAAC and local resident |
| Lucy Cottrell | Local resident and spoke on behalf of local residents unable to attend |
| Adam Donneky | Local resident and spoke on behalf of local residents unable to attend |

Documents submitted at Hearing:

1. *Application for Listed building consent* Dated 22/11/2014 Handed in by LPA
2. *Closing Submissions on behalf of the appellant* Handed in by Appellant

Documents submitted after Hearing:

3. Unilateral Undertaking signed on first page as dated 7 July 2016
4. Correspondence from the LPA raising concerns over Unilateral Undertaking, with responses from the Appellant

Michael D Morris Architects Ltd
6 Cromwell Road
Teddington
TW11 9EH

Application Ref: **2016/4393/P**

12 October 2016

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:

**Flat Lower Ground Floor
9 St George's Terrace
London
NW1 8XH**

Proposal:

DECISION
Rear extension at lower ground level with garden above (following demolition of conservatory) including excavation of rear garden.

Drawing Nos: 617(P)005 B, 617(P)006 C, 617(P)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

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

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

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

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

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

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: 617(P)005 B, 617(P)006 C, 617(P)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.

- 4 The use of the roof as a terrace shall not commence until the screen, as shown on the approved drawings, has been constructed. The screen shall be permanently retained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 5 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 based on a 1:100 year event with 30% provision for climate change demonstrating 50% attenuation of all runoff. The system shall be implemented as part of the development and thereafter retained and maintained.

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.

- 6 Prior to commencement of development, a plan showing details of the 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.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

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

Yours faithfully

DRAFT

DECISION

Michael D Morris Architects Ltd
6 Cromwell Road
Teddington
TW11 9EH

Application Ref: **2016/4870/L**
Please ask for: **David Peres Da Costa**
Telephone: 020 7974 **5262**

12 October 2016

DRAFT

Dear Sir/Madam

DECISION

Planning (Listed Building and Conservation Areas) Act 1990

Listed Building Consent Granted

Address:

**Flat Lower Ground Floor
9 St George's Terrace
London
NW1 8XH**

DECISION

Proposal:

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

Drawing Nos: 617(P)005 B, 617(P)006 C, 617(P)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

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

Conditions And Reasons:

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

Executive Director Supporting Communities



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

- 2 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.

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

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.

- 4 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.

- 5 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.

You can find advice about your rights of appeal at:

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

Yours faithfully

Executive Director Supporting Communities

DRAFT

DECISION