

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'.