

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	08/03/2017
		N/A	<b>Consultation Expiry Date:</b>	17/02/2017
<b>Officer</b>			<b>Application Number(s)</b>	
David Peres Da Costa			2017/0144/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
2 Maresfield Gardens London NW3 5SU			Refer to decision notice	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>				
Variation of condition 1 (approved plans) of planning permission 2015/6894/P dated 24/08/2016 (for variation of condition 3 (approved plans) of planning permission 2014/6313/P dated 30/03/2015 (for addition of one storey at second floor level with replacement roof level accommodation above, alterations to Coach House facade and use of resulting building as 6 residential units), namely excavation of 2 lightwells at rear basement level.				
<b>Recommendation(s):</b>		Refuse Planning Permission		
<b>Application Type:</b>		Variation or Removal of Condition(s)		

<b>Conditions or Reasons for Refusal:</b>	<b>Refer to Draft Decision Notice</b>					
<b>Informatives:</b>						
<b>Consultations</b>						
<b>Adjoining Occupiers:</b>	No. notified	<b>--</b>	No. of responses	<b>00</b>	No. of objections	<b>05</b>
<b>Summary of consultation responses:</b>	<p>4 Objections were received from occupiers of 11, 15 and 16 Maresfield Gardens and 12 Belsize Crescent. The issues raised are summarised below.</p> <ul style="list-style-type: none"> <li>• there is insufficient information in this application to make a decision. Where is the BIA to show the impact on ground water? We have not seen any reports regarding calculations for deep excavations.</li> <li>• the creation of a new excavated area would result in the almost complete loss of the rear garden. This loss of garden and open space is against Camden Policy. I am totally opposed to this amendment; we see no justification, under conservation rules for this road, to completely lose the rear green open space of this property;</li> <li>• The proposed plans for this building are already an over-development of the site. This new application will lead to a loss of most of the rest of the garden with more development on it and goes against the guidelines of the conservation area.</li> <li>• this is yet another variation on this scheme, each one of which is described as a minor variation but in aggregate these variations constitute a major expansion of the original approved plans.</li> </ul>					
<b>CAAC/Local groups* comments:</b> <small>*Please Specify</small>	<p>Hampstead CAAC had No Objection to the proposals</p> <p>Netherhall Neighbourhood Association – object</p> <p>This amendment results in the almost total loss of the rear garden by the creation of a new excavated area between the rear of the new extension and the eastern boundary. We believe the approved proposals were accepted on the basis that some area of rear garden was retained. The request for this amendment has arisen due to the previous approval of over development of the site by the excessively large new rear extension and its resultant poor natural light which should not be used as a reason to give this approval. This results in the effective complete loss of the rear garden and the loss of Green Open Space which is against Camden Policy. In addition there is no accompanying BIA to show the effect on the ground water. In effect if approved this will permit the total excavation of the land from the front facade to the rear boundary fence. The NNA strongly object to this further loss of Open Green Space.</p>					

## Site Description

The existing building at 2 Maresfield Gardens is recognised in the Fitzjohn/Netherhall Conservation Area Statement as making a positive contribution to the character and appearance of the Conservation Area. The property is read in the context of similar properties along Maresfield Gardens, all with a high level of original features and unity. The properties were built around the 1870's with eclectic domestic styling overlaid onto solid geometric red brick massed forms. Although many properties in the street are semidetached, no. 2 is a stand alone villa, and one of the few not to have an original basement level.

## Relevant History

**2008/2288/P:** Change of use from 5 to 6 flats, including erection of a basement extension with lightwell to the front and rear and a rear internal courtyard, erection of single-storey ground floor extension on the front elevation, erection of a lower ground and ground floor rear extension. Granted Subject to a Section 106 Legal Agreement 12/03/2009

**2010/2772/P:** Amendment to planning permission granted on 12 March 2009 (ref 2008/2288/P) including revision of internal layouts to provide vertically arranged duplex apartments, extension at lower ground floor level, addition of rear extension to coach house at lower ground and upper ground floor levels, changes to front fenestration on coach house and erection of a timber enclosure in rear garden. Granted Subject to a Section 106 Legal Agreement 25/08/2010

**2011/2206/P:** Amendments including change of use to 4 self-contained flats, amalgamation of the two internal courtyards into one, of planning permission granted 12/03/09 (2008/2288/P) as amended on 25/08/10 for change of use from 5 to 6 flats, basement extension with lightwell to front and rear and a rear internal courtyard, erection of single-storey ground floor extension on front elevation, erection of lower ground and ground floor rear extension, rear extension to coach house at lower ground and upper ground floor levels, changes to front fenestration on coach house and erection of a timber enclosure in rear garden. Granted 12/07/2011

**2011/4584/P:** Amendments to planning permission granted 12/03/09 (2008/2288/P) as amended on 25/08/10 (2010/2772/P) and 12/07/11 (2011/2206/P) for change of use from original 5 flats to proposed 4 flats, including erection of a basement extension with lightwell to the front and rear and a rear internal courtyard, erection of single-storey ground floor extension on the front elevation, erection of a lower ground and ground floor rear extension, addition of rear extension to coach house at lower ground and upper ground floor levels, changes to front fenestration on coach house and erection of a timber enclosure in rear garden, namely to revise the internal layout and reduce the number of flats from proposed 4 to 3. (overall reduction in 2 flats from original 5). Refused 04/11/2011

**2012/6011/P:** Non-material amendments to planning permission granted 12/07/11 (Ref:2011/2206/P) for 'amendments including change of use to 4 self-contained flats, amalgamation of the two internal courtyards into one, of planning permission granted 12/03/09 (2008/2288/P) as amended on 25/08/10 for change of use from 5 to 6 flats, basement extension with lightwell to front and rear and a rear internal courtyard, erection of single-storey ground floor extension on front elevation, erection of lower ground and ground floor rear extension, rear extension to coach house at lower ground and upper ground floor levels, changes to front fenestration on coach house and erection of a timber enclosure in rear garden' namely, reconfiguration of the first floor and increase in number of units from 4 to 5. Refused 08/02/2013

**2014/6313/P:** Addition of one storey at second floor level with replacement roof level accommodation above, alterations to Coach House facade (all further works to partially completed works carried out under permission 2010/2772/P), and use of resulting building as 6 residential units. Granted Subject to a Section 106 Legal Agreement 30/03/2015

**2015/6894/P:** Variation of condition 3 (approved plans) of planning permission 2014/6313/P dated 30/03/2015 (for addition of one storey at second floor level with replacement roof level accommodation above, alterations to Coach House facade and use of resulting building as 6

residential units), namely increase in size of front lightwell, creation of rear stepped lightwell to Coach House, glazed infill extension to rear, creation of 1st floor roof terrace at rear including replacement of windows with French doors. Granted Subject to a Section 106 Legal Agreement 24/08/2016

## **Relevant policies**

**NPPF 2012**

**London Plan 2011**

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

CS1 (Distribution of Growth)

CS5 (Managing the Impact of Growth and Development)

CS14 (Promoting High Quality Places and Conserving Our Heritage)

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**

**CPG 1 Design**

**CPG 4 Basement and lightwells**

**Fitzjohn/Netherhall Conservation Area Statement (Adopted March 2001)**

### **Camden Local Plan Submission Draft 2016**

The emerging Local Plan is reaching the final stages of its public examination. Consultation on proposed modifications to the Submission Draft Local Plan began on 30 January and ends on 13 March 2017. The modifications have been proposed in response to Inspector's comments during the examination and seek to ensure that the Inspector can find the plan 'sound' subject to the modifications being made to the Plan. The Local Plan at this stage is a material consideration in decision making, but pending publication of the Inspector's report into the examination only has limited weight.

Policy D1 Design

Policy D2 Heritage

Policy A1 Managing the impact of development

Policy A5 Basements

## Assessment

### Proposal

The application seeks permission for a minor material amendment of planning permission 2015/6894/P. The proposed amendment consists of excavation of 2 lightwells at the rear basement level and the insertion of full height glazed windows into the exposed basement elevation. The lightwells would project 4m into the rear garden and the combined lightwells would have a width of 11.5m.

### Background

Planning permission was granted in 2009 for a conversion from 5 to 6 flats including a basement extension (under the footprint of the existing house and extending under the garden), a single storey rear extension and an enlargement of the existing ground floor front extension. The scheme was amended in 2010 to enlarge the size of the basement extension so that it would extend further under the garden, including a revision of internal layouts (to provide vertically arranged duplex apartments) and a rear extension to the coach house. Several applications were subsequently submitted (1 granted and 2 refused) but the application which has been implemented is the 2010 amendment (2010/2772/P) of the 2008 permission (2008/2288/P). In 2015, planning permission was granted for a further amendment consisting of an additional storey at second floor level with replacement roof level accommodation above (2014/6313/P). In 2016, planning permission was granted for a further minor material amendment consisting of an increase in size of front lightwell, the creation of rear stepped lightwell to the Coach House, a glazed infill extension to the rear and the creation of a 1st floor roof terrace at the rear (2015/6894/P). The current application (2017/0144/P) seeks to make a minor material amendment to this most recent application (2015/6894/P).

## Assessment

### Basement excavation

The two lightwells (when they are measured together) would be 4m by 11.5m. The maximum depth of the stepped lightwell would be 2.1m and excavation of the ground will follow a sectional profile (i.e. a slope would be excavated). A basement impact assessment has been submitted. The BIA concludes that the proposed lightwell development would have a negligible impact on the existing surrounding properties in terms of potential ground instability, surface water flooding and groundwater flow issues. The applicant has also provided a plan which shows the location of existing structures in neighbouring gardens.

Planning permission was previously granted 25/08/2010 for a basement with an area of 474sqm (ref: 2010/2772/P). This basement has been built. Planning permission was approved 24/08/2016 for the creation of rear stepped lightwell to the Coach House and an increase in size of front lightwell (2015/6894/P). The basement impact assessment was not independently verified for this application (2015/6894/P) due to the very slight increase in the size of the basement.

For the current application officer's agree with the Council's independent auditors (Campbell Reith) that an audit would not be necessary given the distance to neighbouring structures (the nearest structure would be 9.7m from the rear of the proposed stepped lightwell) and the scale and nature of the excavation. The applicant has in addition provided details of the construction sequence:

- a. Excavation of the ground will follow the sectional profile (i.e. a slope will be excavated)
- b. Suitable spoil will be used to infill the concrete box to the rear to form SUDS area
- c. Stepped lightwell form subject to detailed design – likely either reinforced concrete or blockwork walls and steps.
- d. Openings formed in rear wall of basement

Given the information submitted, the basement excavation is considered acceptable. If permission were granted a condition would be included to ensure the works were carried out in accordance with

the recommendations of the BIA and that a suitably qualified engineer would oversee the works.

## Design

The original property had a garden measuring approximately 500sqm. It is noted that at ground floor level an extension on the side boundary originally extended into this garden area with a floorspace of approximately 21sqm. The approved basement extends under the rear garden and would have an area of approximately 225sqm (including stairs and the lightwell to the coachhouse). The approved basement would extend approximately 12.69m into the garden (as measured from the centre of the rear elevation and the basement area (under the garden) would be 45% of the area of the original garden

The proposed stepped lightwell would measure approximately 46sqm and would result in the basement extending a further 4m into the garden. The resulting basement would extend approximately 16.6m from the rear elevation to the edge of the stepped lightwell. The cumulative impact of the stepped lightwell and the approved basement would mean that 54% of the garden would have either have a basement under it or be a lightwell to the basement.

The Fitzjohn/Netherhall Conservation Area Statement states that rear gardens contribute to the townscape of the conservation area and provide a significant amenity to residents and a habitat for wildlife.

Camden's guidance on the size of basement developments is also relevant (CPG4 Basements and Lightwells). This states that just as overly large extensions above the ground level can dominate a building, contributing to the over-development of a site, an extension below ground can be of an inappropriate scale. There may be more flexibility with the scale of a development when it is proposed underground, but there are a number of factors that would mean basement development would be overdevelopment. Basement development that extends below garden space can also reduce the ability of that garden to support trees and other vegetation leading to poorer quality gardens and a loss in amenity and the character of the area.

The basement guidance underlines that any exposed area of basement development to the side or rear of a building will be assessed against the guidance in CPG1 Design (section 4 on extensions, alterations and conservatories). In general, this expects that any exposed area of basement to be:

- subordinate to the building being extended;
- respect the original design and proportions of the building, including its architectural period and style; and
- retain a reasonable sized garden.

The local plan is a material consideration but has a limited weight. Emerging policy A5 Basements specifies the size of basements in parts 'f' to 'm' of the policy .

The siting, location, scale and design of basements must have minimal impact on, and be subordinate to, the host building and property. Basement development should:

- f) not comprise of more than one storey;
- g) not be built under an existing basement;
- h) not exceed 50% of each garden within the property;
- i) be less than 1.5 times the footprint of the host building in area;
- j) extend into the garden no further than 50% of the depth of the host building measured from the principal rear elevation;
- k) not extend into or underneath the garden further than 50% of the depth of the garden;
- l) be set back from neighbouring property boundaries where it extends beyond the footprint of the host building; and
- m) avoid the loss of garden space or trees of townscape or amenity value.

The supporting text provides guidance on the size of basement (para 6.124).

*The Council will also seek to control the overall size of basement development to protect the character and amenity of the area, the quality of gardens and vegetation and to minimise the impacts of construction on neighbouring properties.*

The cumulative impact of the proposed basement lightwell needs to be assessed. The lightwell would result in the basement being exposed and would highlight the size of the approved basement which previously would have been hidden under the green roof and would have maintained the appearance of part of the garden.

It is noted that the original scheme (planning reference 2008/2288/P) included a green roof above the lower ground floor (basement). This was included to allow continuity of the existing soft landscaping and to minimise the visibility of the extension.

The Design and Access Statement submitted with application 2008/2288/P sets out the design intentions of the scheme and includes the following: 'a green roof over the extended lower ground living space maintains the continuity of natural landscaping. This softens the development immediately, closely readdressing the original balance between the development and the existing soft landscaping' (page 9). At ground level, the visible scale of the development remains particularly modest particularly with the integration of the green roof over the lower ground floor extension, ensuring the continuation of the existing 'carpet' of soft landscaping.



**Figure 1: Design and Access statement (page 9) submitted with 2008/2288/P**

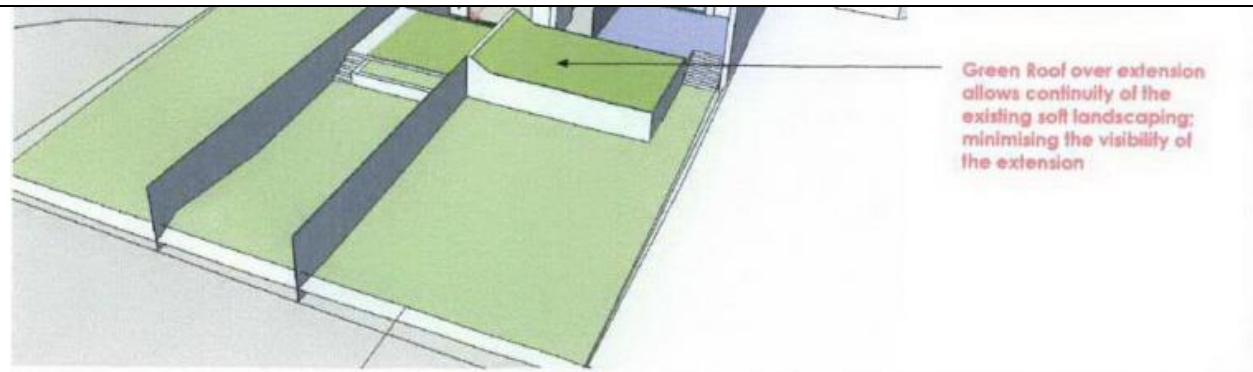


Figure 2: Design and Access statement (page 5) submitted with 2008/2288/P

The scheme was amended in 2010 to enlarge the size of the basement extension so that it would extend a further 2m into the rear garden (ref: 2010/2772/P). The officer's report includes the following:

*The enlargement of the lower ground and ground floor rear extension by a further 2m into the rear garden would be only slightly discernible to neighbours, as it would remain 1.5m from the boundary, shielded by the fence, with the parapet wall projecting just 1.7m above ground level and with the extent of the sedum roof planted on the flat roof extended accordingly. This addition to the previously approved extension would have limited visual impact on the proposed development, and would preserve the character and appearance of the Conservation Area.*

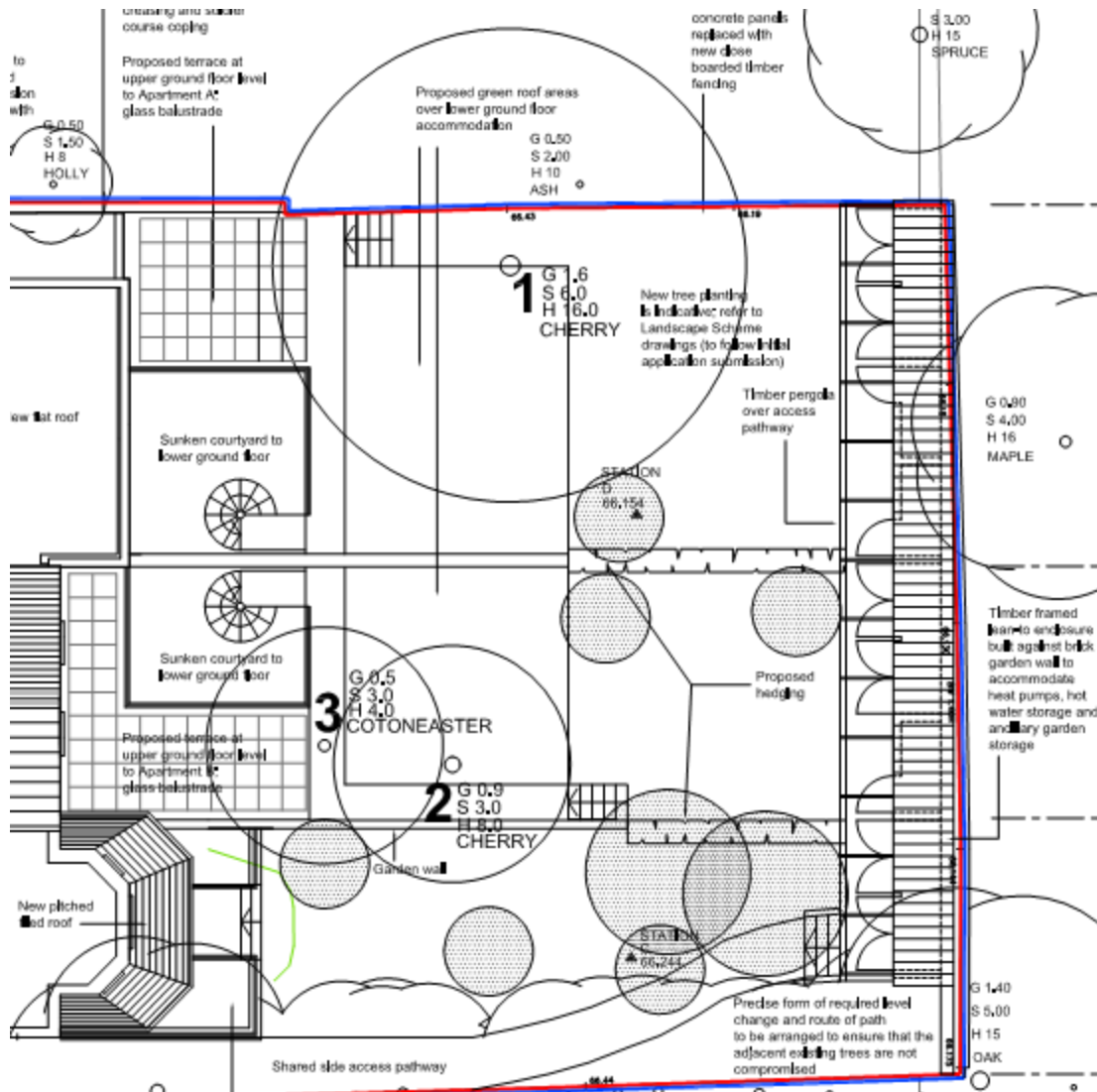


Figure 3: approved site plan for application ref: 2010/2772/P

The proposed stepped lightwell when taking together with the proposed exposed basement elevation would result in a basement which would have an inappropriate scale and would no longer be subordinate to the building being extended. It would undermine the original design intent of the



scheme which was to 'to allow continuity of the existing soft landscaping and to minimise the visibility of the extension'. The stepped lightwell would harm the garden setting of the host property, would diminish the quality of garden and would undermine any future landscaping. It is noted details of landscaping were required by condition 2 of planning permission 2008/2288/P. Although this was subsequently amended by planning permission granted 25/08/2010 (ref 2010/2772/P), an informative on this decision notice reminds the applicant of the need to comply with the conditions in the original permission granted 12/03/2009 (2008/2288/P).

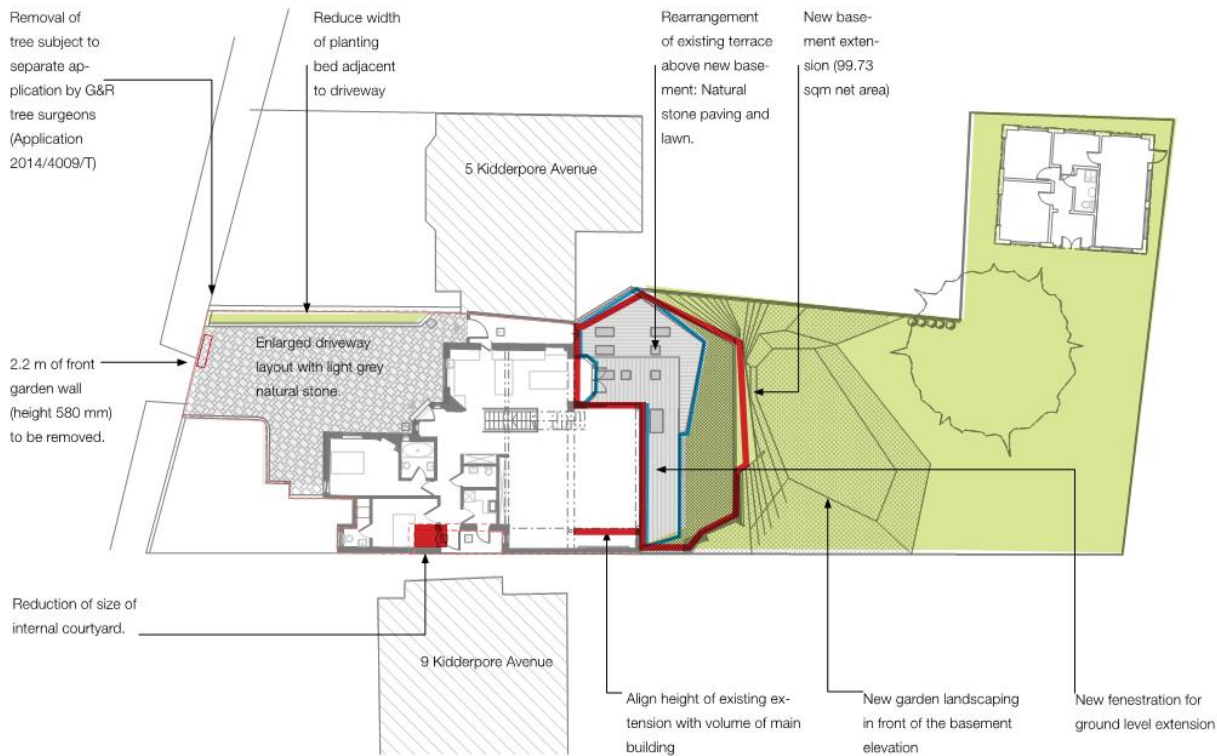
The Fitzjohns Netherhall CA Statement notes (page 10) that "trees are an inherent and characteristic part of the conservation area. As well as appearing as formal street planting they appear in front gardens and in gaps between properties and in rear gardens" and continues "the private landscape often contains significant trees, whether groups or individual specimens, contributing to the character of the area". Relating to Maresfield Gardens (page 17) the statement notes "there are few street trees and the character is formed by the contribution of the trees and vegetation in private gardens".

It is considered that the excavation of additional areas of the rear garden would further erode the capacity of the rear garden to sustain significant mature planting or trees, thereby harming the contribution of the rear garden space to the noted character and appearance of the area.

It is also noted that part of the applicant's justification is the infilling of the existing concrete box at the rear of the garden which would be grassed over to form SUDS / amenity area. This in itself is not considered to overcome the harm from the visibility of the basement extension. In addition the concrete box is not shown as being completely removed and this would further undermine the ability of the garden to support trees.

The justification in the submitted design and access statement asserts that the lightwells would be read in isolation to the main body of the house, and would appear as a landscape feature that is part of the garden arrangement. The applicant compares the proposed development to the large outbuildings at the rear of neighbouring gardens (4 Maresfield Garden and at both 9 and 11 Fitzjohns Avenue). These structures are clearly standalone structures at the rear of the garden and unlike at the application site, are not physically attached to the host properties. They are therefore read as discrete structures which are physically separate from the host property being located at the rear of the garden.

The applicant also refers to the approval at 7 Kidderpore Avenue (2014/4410/P). However this site is significantly different as there is a large garden beyond the approved basement extension.



In addition the approved basement at Kidderpore Gardens was beneath an existing terrace which projected 2.6m from the rear elevation of the property. The approved basement would extend under the garden by a further 3m. Therefore the basement would extend 5.6m into the garden from the main rear elevation. For the subject application the proposal would expose a basement elevation which would be more than 12m from the main plane of the rear elevation of the host property. It is evidently not comparable with the approved 5.6m basement at 7 Kidderpore Gardens.

The proposals are therefore unacceptable.

### Amenity

The proposed stepped lightwell and rear basement elevation would have not have a harmful impact on neighbouring amenity in terms of overlooking or loss of privacy. The development would not have any impact in terms of loss of daylight / sunlight.

### Trees

An arboricultural report has been submitted. This shows that there would be no trees that affected by the proposed stepped lightwell.

### Other

The permission (2015/6894/P) which this application seeks to amend was subject to a legal agreement to secure car free housing for the 1x 2bed unit at roof level. The legal agreement included the following wording:

3.2. The obligations contained in clause 3.1 shall apply equally to any further planning permissions which are issued under Section 73 of the Act in relation to the Original Planning Permission or the Section 73 Planning Permission or any further such Section 73 planning permission.

The Council's legal team have advised that a further deed of variation would be required. The above wording leaves a risk that any future agreement is not linked to the section 106 as any future application is not specifically mentioned within the Deed of Clarification. Therefore there would be a risk that it doesn't all link together and may not then attach to the original planning permission. Given

this risk, if the application were to be recommended for approval it would be subject to a further deed of variation.

**Recommendation:** Refuse planning permission