

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 21 June 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Regent's Park	
Subject of Report	35 Hamilton Terrace, London, NW8 9RG,		
Proposal	Erection of a single storey rear extension at lower ground floor level (works in association with lower ground floor flat).		
Agent	Michael Doyle		
On behalf of	Mr Eli Talmor		
Registered Number	16/03270/FULL	Date amended/ completed	6 May 2016
Date Application Received	11 April 2016		
Historic Building Grade	Unlisted		
Conservation Area	St John's Wood		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site is occupied by a detached building divided into flats and is located on the western side of Hamilton Terrace in the St John's Wood Conservation Area.

The application seeks planning permission for the erection of a single storey rear extension at lower ground floor level, which will provide additional accommodation for the lower ground floor flat.

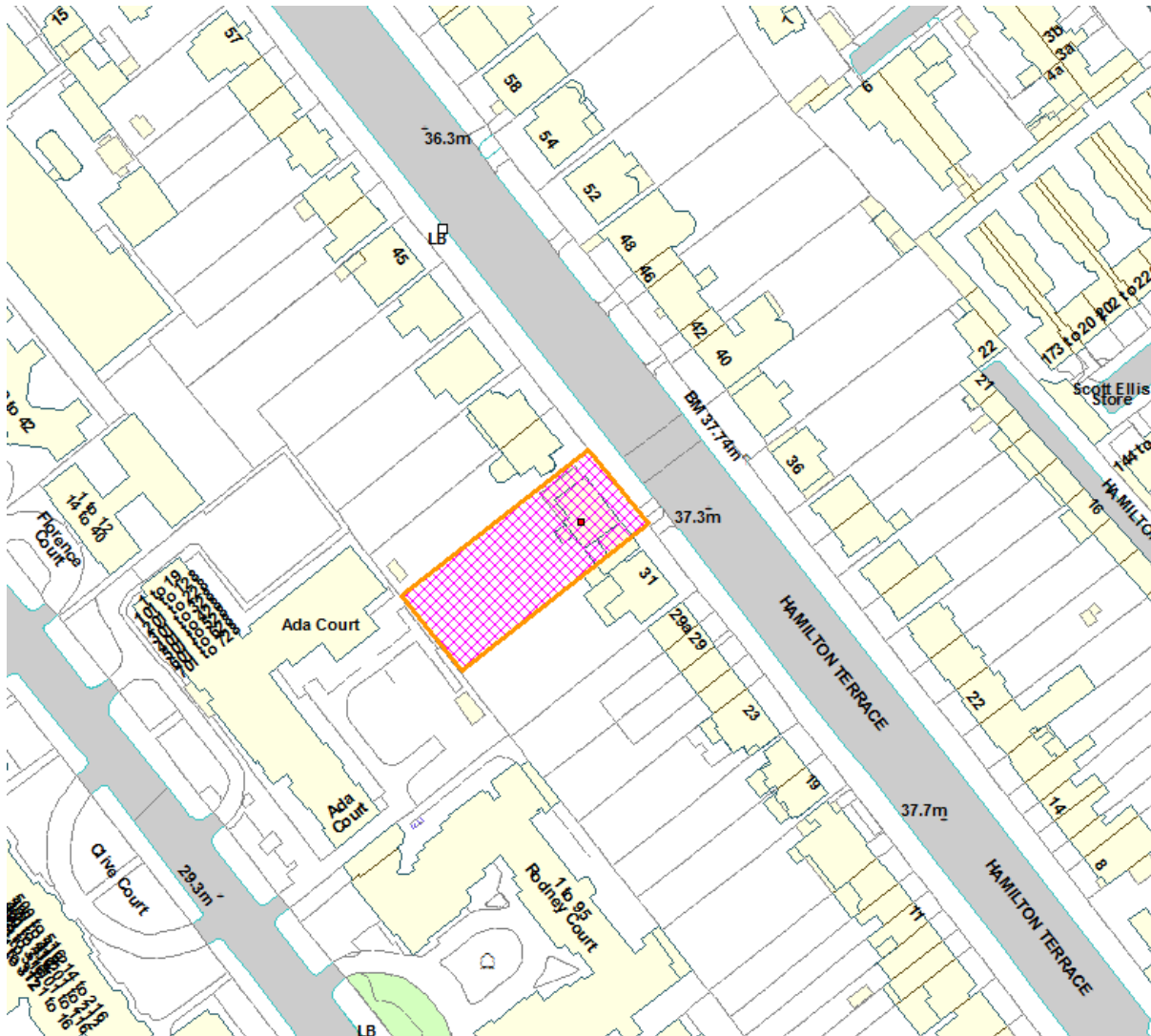
The key issues in this case are:

- * The impact of the development on the character and appearance of the townscape, adjacent conservation area and neighbouring listed buildings;
- * The impact of the development on the amenity of neighbouring properties;

Several objections have been received from neighbouring properties on design, amenity and construction grounds.

Notwithstanding the objections received, the proposals are considered to be acceptable and would accord with the relevant policies in Westminster's City Plan: Strategic Policies adopted in November 2013 (the City Plan) and the Unitary Development Plan adopted in January 2007 (the UDP).

3. LOCATION PLAN



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4. PHOTOGRAPHS

Rear Elevation



Proposed location of extension



5. CONSULTATIONS

Ward Councillors:

Any responses to be reported verbally.

St John's Wood Society:

Support is given to the neighbours objections.

Arboricultural Section - Development Planning

Any responses to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 7

No. of objections: 8

No. in support: 2 (from applicant)

Seven objections (four on behalf of the same family) on the following grounds:

Design:

- The proposed extensions are too large, resulting in an imposing structure harmful to the design and appearance of the building and the garden;
- The large extension is uncharacteristic of the area;
- The extension is a starkly modern incongruous addition to the rear of the building;
- The rendered treatment is unacceptable;
- The use of lead is an industrial material not suitable to the area;
- The detailing of the windows is unacceptable;
- The extension should be considered part of the garden rather than an extension to the building.

Amenity:

- Loss of views to garden from Flat 2;
- View onto roof of extension is unsightly;
- Light spillage from roof lanterns;
- The herb garden should be permanent to prevent the area being used as an amenity space in the future which would result in noise and overlooking to Flat 2 above;
- Overlooking from the side elevation windows of the extension to the windows of Flat 2 above;
- The proposed extension, at a higher point than the main garden level would result in overlooking;
- The planting of trees at the extension level, whilst helping to overcome overlooking, is not allowed to be carried out by the applicant and would result in further issues regarding the protection of trees in a conservation area, in future years;
- The lead roof will result in an increase in heat and reflect glare to the windows of Flat 2, above at ground floor level.

Other:

- Disruption during the course of construction;
- Access to the property during works will be via the hardstanding and the communal stairs to the rear garden and this is unacceptable;
- The construction management plan is inadequate;
- The third bedroom of Flat 2 will become un-useable if works were approved;
- The proposed development results in the loss of structural columns which support the cantilevered extension and it is not clear if this can be done;
- Applicant does not own the structural columns;
- Artists views are misleading;
- The proposed plans do not accurately reflect the adjacent buildings;
- No drainage information has been supplied;
- Lack of consultation between the applicant and the owners/occupiers of 35 Hamilton Terrace'
- Private neighbour disputes are also referred to.

The two letters of support received are from the applicant and justify why the proposals are should be considered acceptable. On behalf of the applicant, the agent has provided two comments in direct response to the objections received.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

CONSULTATION RESPONSES FURTHER TO THE RECEIPT OF REVISED DRAWINGS:

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 7

No. of objections: 3

No. in support: 0

Three further objections received from the same family, raising mainly the same objections as previously submitted.

Amenity:

- Users of the raised garden level terrace could easily fall of the edge to the main garden level.

Other:

- The Construction Management Plan is inadequate and raises concerns as to how the development will affect neighbours during the course of construction;
- The list of similar examples of development in the area are irrelevant as they relate to single family dwellings;
- The drawings submitted showing the removal of the ground floor pillars are inappropriate.

6. BACKGROUND INFORMATION

6.1 The Application Site

This application site comprises a four storey building, divided into flat on the western side of Hamilton Terrace. To the rear of the building is a raised paved terrace area and a large extensive garden measuring nearly 40m. Access to the communal garden, for all the flats, is via a side gate and steps to the north side of the building. The property is unlisted and lies within the St John's Wood Conservation Area.

6.2 Recent Relevant History

A similar application (16/00790/FULL) for a lower ground floor extension was recently withdrawn on 1 April 2016 upon the advice of officers. The proposals, whilst considered acceptable in principle, were too large in terms of the footprint of the extension and raised detailed design concerns. This application too was subject to objections.

7. THE PROPOSAL

Planning permission is sought for the erection of a single storey rear extension at lower ground floor level, on a raised area of garden (comprising a paved area and grassed area). The proposed extension will provide additional accommodation to the existing lower ground floor flat. The extension comprises two elements, a solid brick extension, with a rendered base cited within the centre of the building with a solid lead roof lantern; and a smaller extension to the southern end of the terrace, which is primarily timber and glazed in terms of elevational treatment with a dark obscure rooflight. Full height doors are proposed to the main extension which will allow access onto a small area of garden and outside of the smaller extension is an area designated as 'family/outdoor space'.

The proposals were subject to amendments during the course of the application and included changes to the proposed design and architectural detailing of the extension and the submission of structural engineers drawings to demonstrate how the existing cantilevered extension is retained. Further consultation on these revisions was carried out.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposed extension accord with policies S14 of the City Plan and H3 of the UDP which welcome the provision of additional residential floorspace.

8.2 Townscape and Design

The proposed extension is to be assessed against Policy DES5, DES9 and DES12 of the UDP and S25 and S28 of the City Plan.

The extension will project outward from the rear elevation of the property by between 3.5m and 5m. The extension comprises two architectural elements. The main part of the extension is to be in brickwork, with a rendered base, despite some objectors referring to the extension as fully white render. The roof will consist of a solid lead lantern. Two timber sliding sash windows are proposed to the side elevation of the main extension and three sets of timber doors are proposed to the rear elevation, all to be painted white. The

smaller extension has been designed to read as a more subservient addition, in timber and primarily glazed and with a glass rooflight.

Objections have been received to the proposals on conservation and design grounds, notably that the extension is too large and bulky; is too modern in its design with a rendered elevation; is too industrial looking with the lead roof and is too dominant in terms of its relationship to the host property and to the garden. Comment is made that the artists' visuals are misleading and that the drawings do not show the neighbouring properties to show the development in context.

Firstly, the artists' impressions are only generally submitted for officers and consultees to gain a further understanding and perspective over the submitted architectural drawings. These visuals are not approved, rather for information only. Whilst in some cases, it is of benefit to see the proposals in the context of neighbouring properties; it is not a requirement of the applicant and is for the officer to assess on site.

Policy DES 5 of the UDP seeks to ensure the highest standards of design in alterations and extensions, specifically noting that permission will be granted where an alteration or extension does not visually dominate the existing building and is of a scale and detailed design that reflects the host building. It also states that permission may be refused where an extension rises above the penultimate storey of the existing building.

Given that the extension is sited to the rear of the building and is confined to the lower ground floor level, the extension as now proposed (having been reduced substantially in terms of footprint, bulk and massing from the previous withdrawn scheme) is considered acceptable in principle and complies with policy. Whilst large and providing a substantial amount of accommodation to the lower ground floor flat, it is not considered that the extension is over-dominant when seen in context of the main building or the garden. The design and appearance of the main part of the extension; in brickwork with timber doors and windows finished white, to match the host property is considered acceptable and not an incongruous addition as argued by the objectors. The lead roof as proposed is considered to be a traditional roofing material and is welcomed. The smaller timber extension which reads as a more traditional conservatory is considered to be a subservient addition to both the larger brick extension and the host property. The glass lantern rooflight is considered to be a typical feature of extensions and raises no design concerns.

For the reasons given above, the proposals are also considered to comply with Part C of Policy DES9 which relates to extensions to buildings in conservation areas.

Objectors have argued that the proposals are not consistent with the aims and objectives of Policy DES12 which seeks to preserve and enhance the appearance and integrity of open spaces, including private gardens. The proposed extension, whilst large is to be positioned at the upper level of the garden and the main garden in its traditional landscaped form is not to be altered. It is therefore considered that the extension does not harm the appearance or wider setting of the garden. The extension is considered to be well designed and relates well to the host property and the main garden area and therefore complies with policy DES12.

The applicant has submitted examples of similar extensions to properties within Hamilton Terrace. This was in direct response to an objector's comment which stated that similar examples hadn't been provided as supporting information for the application. The objectors now say that these should not be taken as precedent cases as they relate to single family dwellings. Whilst this is acknowledged, the principle of large extensions at lower ground has been accepted in the St John's Wood Conservation Area and this is noted.

For the reasons set out above, the proposals are considered to preserve and enhance the character and appearance of the St John's Wood Conservation Area and are considered acceptable in design terms.

8.3 Residential Amenity

Policy ENV13 of the UDP and S29 of the City Plan aim to safeguard the amenity of residents from the effects of new development with particular regard to overlooking, sense of enclosure and loss of daylight and sunlight.

Objections have been received in relation to loss of garden view, light spillage and loss of privacy from residents within the upper level flats.

The extension will project outward from the rear elevation of the property by between 3.5m and 5m. The main extension will measure 3.4m in height to the parapet level with the pitch of the lead roof measuring a further 300mm and the smaller extension will measure 3m in height with the pitch of the glass rooflight measuring a further 200mm. Objections have been raised on the grounds that the extension will impact the views into and out of the existing garden. The garden is nearly 40m long and whilst the neighbours of the upper flats will see the roofs of the extension directly below them, it is not considered that this relationship is unacceptable or that the proposals will significantly result in the loss of the view of the garden. The City Council does not protect the views of residents as this is not a material planning consideration and therefore the application cannot be refused on this basis.

The proposed lead lantern, according to the applicant will result in heat projection to the windows at Flat 2 above. Lead is a traditional roofing material and not generally considered to result in any amenity concerns regarding heat. To the smaller extension, a dark opaque glass rooflight is proposed and the owners and occupier of Flat 2 has concerns that this will result in light spillage detrimental to the bedroom accommodation directly above. Given the dark and opaque nature of the glass proposed, which is to be conditioned as a sample, it is not considered that there would be any significant light spillage to harm the ability of neighbours to sleep in their bedroom. In addition, an extension with a glass rooflight is not uncommon.

The proposed extension contains a number of sets of openable doors within the rear elevation of both elements of the extension. Outside of the smaller part of the extension, the plans are annotated to provide 'family/outdoor space'. Objections on the grounds of loss of privacy to the users of the communal garden from these elements have been received. The existing lower ground floor flat already significantly overlooks the rear garden from within the flat and when using the communal raised garden area. Whilst it is acknowledged that the occupiers of the lower ground floor flat will have a 'closer' view into

the main part of the rear garden and arguably views into the garden could become more intensive from within the new extension, given the existing situation and the large size of the garden, it is not considered that the extension would result in substantial overlooking to users of the garden to warrant refusal. The plans do show a number of trees set in planter on the lower part of the garden (the communal area) which, when grown, would afford a privacy barrier to both the lower ground floor flat and the users of the garden. Objections have been made to the positioning of trees in this location as they would be on the communal part of the objection where the applicant has no right to install them and it is unknown who responsibility these would be and that they would be protected trees by virtue of being in a conservation area that could result in other concerns such as overshadowing to the garden. The plans show these trees in non-permanent planters that could effectively be moved around the garden. It is therefore considered that these cannot be subject to planning control. It is further worth noting that the issue of where the trees are placed would be a private matter between the owner of the lower ground floor flat and the owners of the remaining flats.

To the side elevation of the extension, two windows are proposed overlooking the proposed herb garden, which will be adjacent the stairs/path to the communal garden. An objection has been received that the windows will allow for overlooking to the terrace and living room window of Flat 2 at ground floor level. It is considered that any view from these windows upwards, would be so oblique as to result in any overlooking.

Objectors have requested that the proposed herb garden should become a permanent feature so that at no time in the future it can become an amenity space for the lower ground floor flat, below the living room windows of Flat 2 at ground floor level, thereby potentially resulting in any overlooking or noise conditions. The area where the herb garden is proposed is already an area that the occupiers of the lower ground floor or any other flat could use for amenity space/ entertaining and therefore it is not considered reasonable in this instance to condition its retention.

The proposed extension is set a sufficient distance, of over 8m from the neighbouring boundary with No. 37 Hamilton Terrace does not raise any amenity concerns.

With regards to the impact upon No. 31 Hamilton Terrace, the extension is contained wholly within the application site, behind the boundary wall/ side elevation of the neighbouring property and will therefore have no impact upon the amenity of the occupiers of this property. Concern has been raised to the occupier of 31 Hamilton Terrace being able to look down into the glass rooflight of the extension. It is unlikely that the owner of this property would purposefully stand in a window to look solely into the rooflight of the neighbouring property and therefore this objection cannot be sustained.

The proposals are acceptable in amenity terms and considered to accord with policies ENV13 of the UDP and S29 of the City Plan.

8.4 Transportation/Parking

The provision of additional residential accommodation for the existing lower ground floor flat raises no highways concerns.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

There is no change to the existing access arrangements.

8.7 Other UDP/Westminster Policy Considerations

Trees

The proposals would not have a harmful impact on trees in the application site or adjoining gardens and would therefore comply with policy ENV16 in the adopted UDP.

8.8 London Plan

This application raises no strategic issues.

8.9 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

8.10 Planning Obligations

Planning obligations are not relevant in the determination of this application.

8.11 Environmental Impact Assessment

Not applicable, given the size of the extension proposed.

8.12 Other Issues

Construction Management Plan.

Objections have been raised on the grounds that the construction management statement is inadequate.

The construction management statement, whilst inclusive of some of the details that the council require, such as contact numbers and a schedule of works, is more of an agreement between the applicant and the contractor. It should also be noted that the dates referred to within the statement are already in the past, as this was the statement that was originally provided for the previous application.

Given the nature of the works for a single storey extension, the applicant is not required in this instance to provide one and therefore it is considered unreasonable to condition further details. A construction management plan is generally required when basement excavation is proposed or on more complex applications.

An issue arising from the plan is the access to the rear of the site and how materials will be transferred. The plan states that this will be done through the application site rather than via

the communal side/ garden stairs, whereas objectors state that in all likelihood it would be done from the communal side/garden stairs and that this will also require use of the existing hardstanding, which are both unacceptable. This is considered to be a private matter and not one in which the City Council can become involved.

Disruption during the Course of Works

With regard to the impact in terms of noise and disruption of the works during construction, a standard condition to control hours of building work is recommended which includes between 08.00 and 18.00 Monday to Friday; between 08.00 and 13.00 on Saturday; and not at all on Sundays, bank holidays and public holidays.

An objection from Flat 2, at ground floor level has been received on the grounds that their third bedroom, in the cantilevered extension will become unusable during the works, especially as works are proposed to the pillars. Whilst it is acknowledged that the development could be disruptive to the occupiers both in terms of structural stability and as a result of noise, these are not reasons to withhold permission.

Ownership issues

Concern has been raised with regards to the applicants' intention to use part of the raised terrace as a herb garden and the removal of the structural columns to the cantilevered extension at ground floor level and that it is not within their right to do these works. Landownership matters are not considered to be a material planning consideration and these matters will have to be resolved privately before the implementation of any planning permission.

Drainage

The proposed plans do not show any form of drainage and objectors have raised this as a concern. Details of drainage are secured via Building Regulations and planning permission cannot be withheld on this basis.

Other

The objectors refer to the lack of consultation between the applicant and themselves. Whilst it is desirable and encouraged for neighbours to engage in meaningful discussion regarding future development, it is not a legal requirement and permission cannot be withheld on this basis.

A concern has been raised that the occupiers of the lower ground floor flat could easily fall from the raised garden terrace area to the lower garden area and this could be unsafe. The extension will be set back some 2.1m from the change in level. Even with the French doors fully open there will be a clear path of 1.6m. The level change is approximately 70-75cm. It is not a large drop and no changes are proposed to the detailing of the wall.

9. BACKGROUND PAPERS

1. Application form
2. Response from St John's Wood Society, dated 16 May 2016
3. Letter from occupier of 31 Hamilton Terrace dated 21 April 2016.
4. Letter from owners/ occupiers of Flat 2, 35 Hamilton Terrace, London, dated 3, 6, 9, 15, 25 and 31 May 2016 and 3 June 2016;

5. Letter from occupier of Flat 4, 35 Hamilton Terrace, London, dated 9 May 2016
6. Letters from owner of application site, dated 11 May 2016.
7. Letter on behalf of owners of application site, dated 1 June 2016.

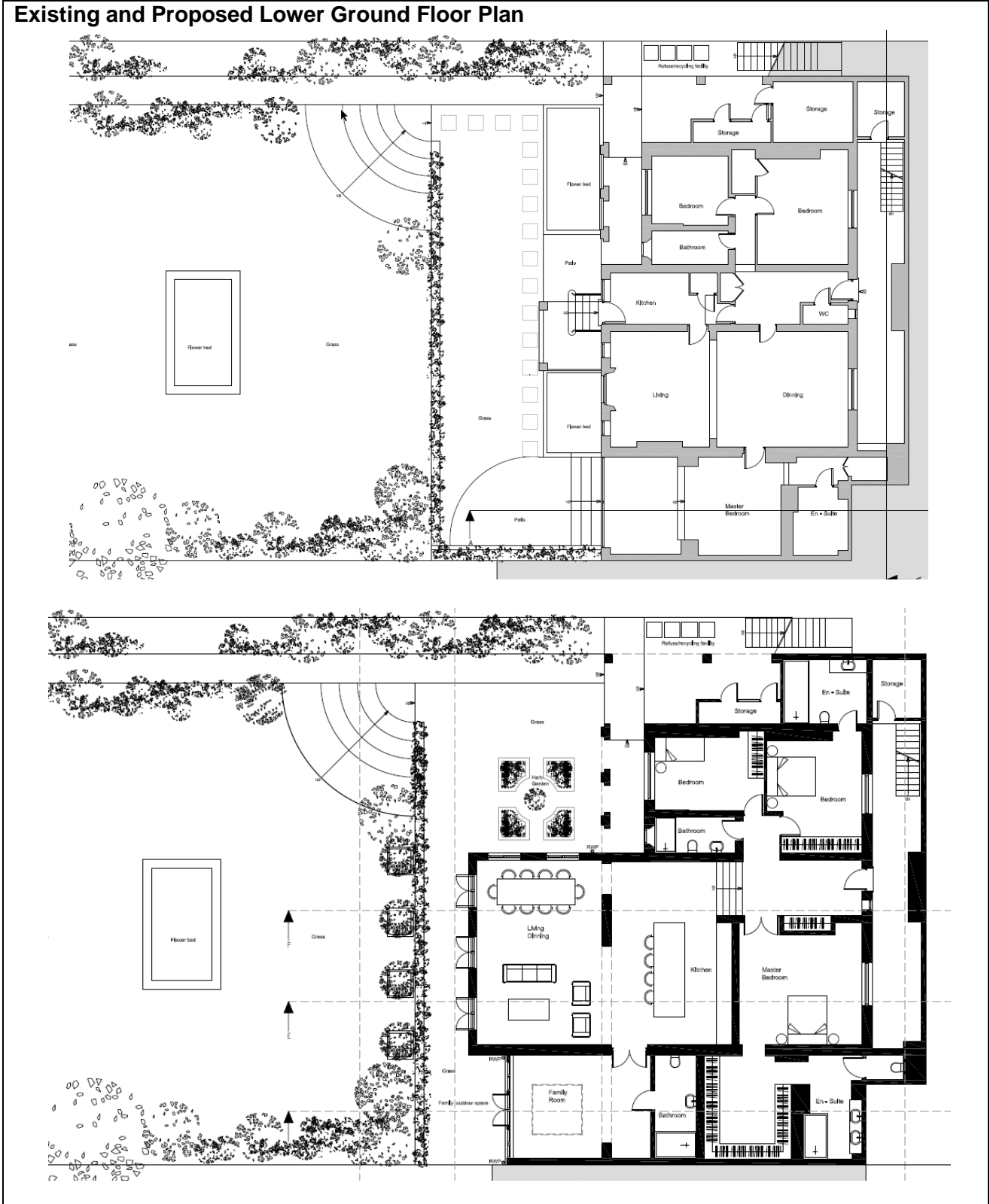
Selected relevant drawings

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT KIMBERLEY DAVIES ON 020 7641 5939 OR BY EMAIL AT northplanningteamkdavies1@westminster.gov.uk

10. KEY DRAWINGS

Existing and Proposed Lower Ground Floor Plan



Existing and Proposed Rear Elevation



Proposed Side Elevation and Section



DRAFT DECISION LETTER

Address: 35 Hamilton Terrace, London, NW8 9RG,

Proposal: Erection of a rear single storey extension at lower ground floor level (works in association to lower ground floor flat).

Reference: 16/03270/FULL

Plan Nos: EX100; EX100A, EX101; EX102, EX200; EX201; EX203; EX300; EX302; PL100; PL101; PL102; PL201; PL202; PL203; PL300; Site location plan; Covering Letter; For Information Only: Structural Drawings by Malachy Walsh and Partners and Construction Management Plan.

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641 5939

Recommended Condition(s) and Reason(s):

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 You must carry out any building work which can be heard at the boundary of the site only:

- * between 08.00 and 18.00 Monday to Friday;
- * between 08.00 and 13.00 on Saturday; and
- * not at all on Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set

out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 The glass in the rooflight shall be non-opening and opaque and be retained in that condition thereafter.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 3 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at:

www.westminster.gov.uk/cil

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form** **immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Forms can be submitted to CIL@Westminster.gov.uk

Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.