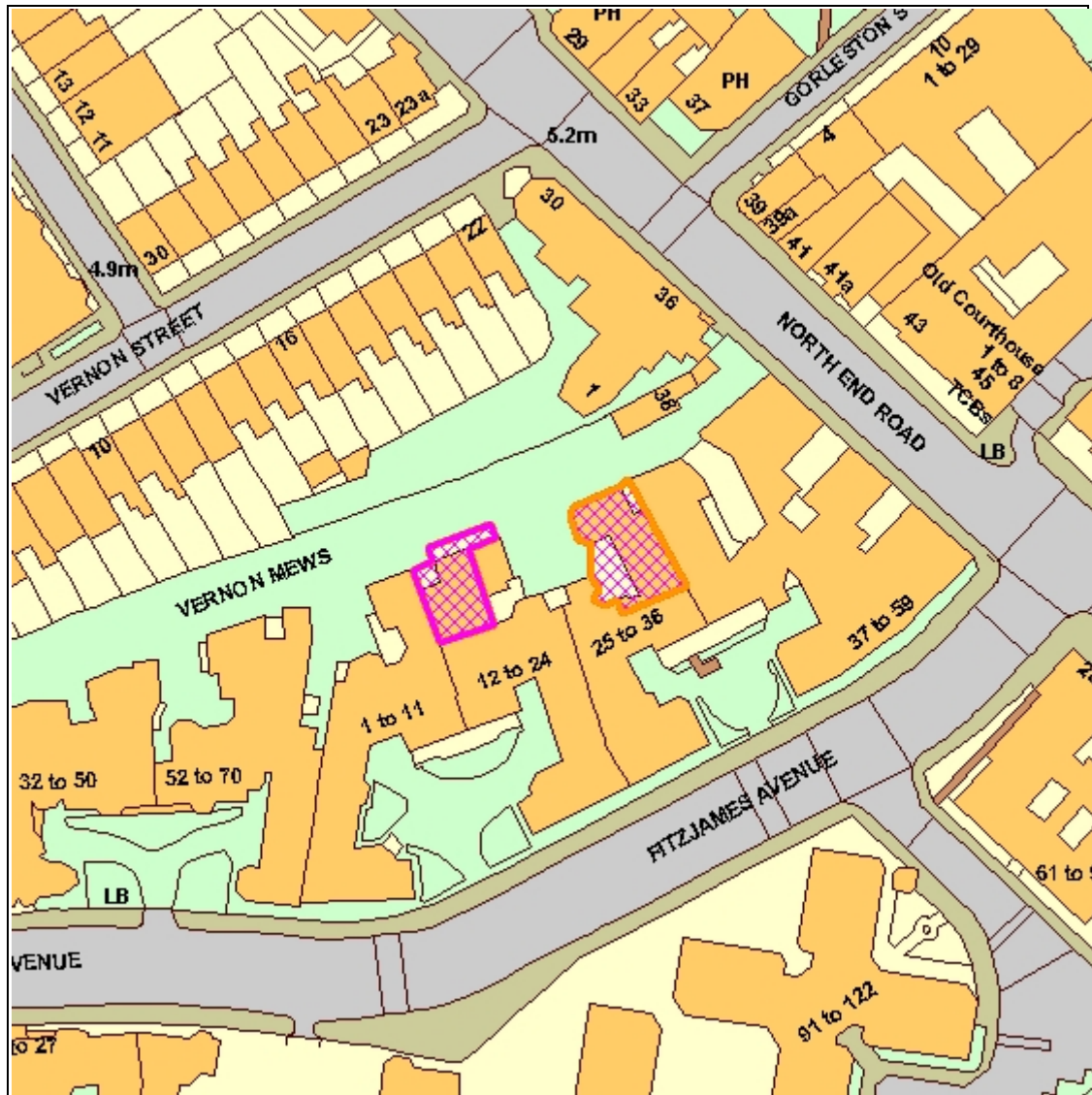


Ward: Avonmore

Site Address:

25 - 36 Fitzjames Avenue London W14 0RR



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Reg. No:
2022/00702/FUL

Case Officer:
Grace Harrison

Date Valid:
14.03.2022

Conservation Area:
Constraint Name: Fitz-George And Fitzjames
Conservation Area - Number 19

Committee Date:
07.06.2022

Applicant:

Mr Jonathan Milburn
77 Portland Road Notting Hill London W1 4LJ

Description:

Change of use of the lower ground floor on the northern side of the building from a storage area for storage lockers, plant equipment and bicycles, to a two bedroom self-contained residential flat; external alterations at lower ground floor level including installation of new windows and doors, increasing the size of some existing window openings and treatment to existing external courtyard; and the creation of a new cycle storage in the lower ground floor of 11-24 Fitzjames Avenue to offset the space currently used for cycle storage within the lower ground floor of 25-36 Fitzjames Avenue.

Drg Nos: 0201 Rev. P-00; 0302 Rev. P-00; 0303 Rev. P-00.

Application Type:

Full Detailed Planning Application

Officer Recommendation:

- 1) That the Committee resolve that the Chief Planning Officer be authorised to grant permission upon the completion of a satisfactory legal agreement and subject to the conditions listed below;
- 2) That the Committee resolve that the Chief Planning Officer, after consultation with the Assistant Director, Legal Services and the Chair of the Planning and Development Control Committee be authorised to make any minor changes to the proposed Heads of Terms of the legal agreement or proposed conditions, which may include the variation, addition or deletion of conditions, any such changes shall be within their discretion.

Conditions:

- 1) The development hereby permitted shall not commence later than the expiration of 3 years beginning with the date of this planning permission.

Condition required to be imposed by section 91(1)(a) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

- 2) The development shall be carried out only in complete accordance with the submitted drawings which have been approved and which are stated on this decision notice.

In order to ensure full compliance with the planning permission hereby approved

and to prevent harm arising through deviations from the approved plans, in accordance with Policies DC1, DC4, DC8, DC11 and HO11 of the Local Plan (2018).

- 3) No part of the development hereby approved shall be commenced until the details of the new, relocated cycle store have been submitted to, and approved in writing by, the Council. Thereafter, the development shall not be occupied until the cycle storage has been provided in accordance with the agreed details, and permanently retained as such thereafter.

To ensure satisfactory provision for the cycles and thereby promote sustainable and active modes of transport, in accordance with Policy T3 of the Local Plan (2018).

- 4) The development shall be carried out in accordance with the details contained within the Flood Risk Assessment (Herrington Consulting, July 2019 and Groundwater Impact Assessment (GB Card and Partners, July 2019) submitted with this application. All flood prevention and mitigation measures should be installed in accordance with the approved details prior to the occupation of the development and thereafter be permanently retained and maintained.

To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site, and to reduce the impact of flooding to the proposed development and future occupants, in accordance with Policy CC2 and CC3 of the Local Plan (2018).

- 5) Prior to the occupation of the basement accommodation hereby approved, a non-return valve and pump device should be installed to prevent sewage 'back-surfing' into the basement in times of heavy rain and to allow the property's sewage to continue to flow properly into the sewer network.

To protect the new basement accommodation from flooding, as recommended by Thames Water and in accordance with Local Plan (2018) Policy CC2, London Plan (2015) Policy 5.12 and Part 10 of the National Planning Policy Framework (2019).

- 6) Prior to commencement of the development hereby approved, a Construction Management Plan shall be submitted to and approved in writing by the Council. Details shall include control measures for dust, noise, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary to 0800-1800hrs Mondays to Fridays and 0800 -1300 hrs on Saturdays, advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works. Thereafter the approved details shall be implemented throughout the project period.

To ensure that the amenity of occupiers of surrounding premises is not adversely affected by noise, vibration, dust, lighting or other emissions from the building site, in accordance with Policies CC11 and CC13 of the Local Plan (2018).

- 7) The sound insulation value $D_{nT,w}$ and $L'_{nT,w}$ shall be enhanced by at least 10dB above the Building Regulations value, for the floor/ceiling structures separating different types of rooms/ uses in adjoining dwellings. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

To ensure that the amenity of occupiers of the development site is not adversely affected by noise, in accordance with Policies CC11 and CC13 of the Local Plan (2018).

- 8) Prior to occupation of the development hereby permitted, details of the installation/commissioning certificate of the Zero Emission MCS certified Air/ Water Source Heat Pumps or Electric Boilers to be provided for space heating and hot water for each of the three self-contained residential units (Class C3) shall be submitted to and approved in writing by the Local Planning Authority. Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

In the interests of air quality, in accordance with Policy CC10 of the Local Plan (2018).

- 9) No development shall commence until a preliminary risk assessment report is submitted to and approved in writing by the Council. This report shall comprise: a desktop study which identifies all current and previous uses at the site and surrounding area as well as the potential contaminants associated with those uses; a site reconnaissance; and a conceptual model indicating potential pollutant linkages between sources, pathways and receptors, including those in the surrounding area and those planned at the site; and a qualitative risk assessment of any potentially unacceptable risks arising from the identified pollutant linkages to human health, controlled waters and the wider environment including ecological receptors and building materials. All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing.

Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. This condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works, in accordance with Policy CC9 of the Local Plan (2018).

- 10) No development shall commence until a site investigation scheme is submitted to and approved in writing by the Council. This scheme shall be based upon and target the risks identified in the approved preliminary risk assessment and shall

provide provisions for, where relevant, the sampling of soil, soil vapour, ground gas, surface and groundwater . All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing.

Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. This condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works, in accordance with Policy CC9 of the Local Plan (2018).

- 11) Unless the Council agree in writing that a set extent of development must commence to enable compliance with this condition, no development shall commence until, following a site investigation undertaken in compliance with the approved site investigation scheme, a quantitative risk assessment report is submitted to and approved in writing by the Council. This report shall: assess the degree and nature of any contamination identified on the site through the site investigation; include a revised conceptual site model from the preliminary risk assessment based on the information gathered through the site investigation to confirm the existence of any remaining pollutant linkages and determine the risks posed by any contamination to human health, controlled waters and the wider environment. All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing.

Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. This condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works, in accordance with Policy CC9 of the Local Plan (2018).

- 12) Unless the Council agree in writing that a set extent of development must commence to enable compliance with this condition, no development shall commence until, a remediation method statement is submitted to and approved in writing by the Council. This statement shall detail any required remediation works and shall be designed to mitigate any remaining risks identified in the approved quantitative risk assessment. All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing.

Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. This condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works, in accordance with Policy CC9 of the Local Plan (2018).

- 13) Unless the Council agree in writing that a set extent of development must commence to enable compliance with this condition, no development shall commence until the approved remediation method statement has been carried out in full and a verification report confirming these works has been submitted to, and approved in writing, by the Council. This report shall include: details of the remediation works carried out; results of any verification sampling, testing or monitoring including the analysis of any imported soil; all waste management documentation showing the classification of waste, its treatment, movement and disposal; and the validation of gas membrane placement. If, during development, contamination not previously identified is found to be present at the site, the Council is to be informed immediately and no further development (unless otherwise agreed in writing by the Council) shall be carried out until a report indicating the nature of the contamination and how it is to be dealt with is submitted to, and agreed in writing by, the Council. Any required remediation shall be detailed in an amendment to the remediation statement and verification of these works included in the verification report. All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing.

Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. This condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works, in accordance with Policy CC9 of the Local Plan (2018).

- 14) Unless the Council agree in writing that a set extent of development must commence to enable compliance with this condition, no development shall commence until an onward long-term monitoring methodology report is submitted to and approved in writing by the Council where further monitoring is required past the completion of development works to verify the success of the remediation undertaken. A verification report of these monitoring works shall then be submitted to and approved in writing by the Council when it may be demonstrated that no residual adverse risks exist. All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing.

Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. This condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works, in accordance with Policy CC9 of the Local Plan (2018)

- 15) Prior to commencement of the development hereby approved, a Construction Logistics Plan shall be submitted to, and approved in writing by, the council. This must be in accordance with Transport for London (TfL) requirements and should seek to minimise the impact of construction traffic on nearby roads and restrict construction trips to off-peak hours only. Thereafter the approved details shall be implemented throughout the project period.

To ensure that construction works do not adversely impact on the operation of the public highway, in accordance with Policies T1 and T7 of the Local Plan (2018).

- 16) All new windows and doors shall be formed of timber and painted white, and permanently retained in this form thereafter.

To ensure a satisfactory appearance and to preserve the character and appearance of the building and the Fitz-George and Fitzjames Conservation Area, in accordance with Policies DC1, DC4 and DC8 of the Local Plan (2018).

- 17) All new balustrades and screening shall be formed of glass, and permanently retained as such thereafter.

To ensure a satisfactory appearance and to preserve the character and appearance of the building and the Fitz-George and Fitzjames Conservation Area, in accordance with Policies DC1, DC4 and DC8 of the Local Plan (2018).

- 18) All refuse and recycling generated by the occupants of the new dwelling shall be stored in the existing communal refuse storage bins for the building. At no time shall refuse or recycling bags be placed on the street.

To ensure satisfactory provision for the storage of refuse and recycling on site, and thereby prevent it being stored on the highway, in accordance with Policy CC7 of the Local Plan (2018).

- 19) The development hereby approved shall not be occupied until statement of how Secured by Design requirements are to be adequately achieved has been submitted to and approved in writing by the council. Thereafter the development shall not be occupied until the approved measures have been fully implemented and they shall be permanently retained as such thereafter.

To ensure a safe and secure environment for users of the development, in accordance with Policies DC1 and DC2 of the Local Plan (2018).

Justification for Approving the Application:

- 1) Principle: The proposed development would make a small positive contribution towards the quantity of the borough's housing stock, helping to achieve the London Plan (2016) and Local Plan (2018) target of 1,031 residential units per year through new build, conversion of change of use. The proposed enlargement of the existing basement is also considered to be acceptable in principle when assessed against Policy DC11 of the Local Plan (2018).
- 2) Quality of Accommodation: The proposed development provides an acceptable standard of living accommodation, in accordance with Paragraph 123 of the NPPF (2019), Policy 3.5 of the London Plan (2016) and Policies HO4 and HO11 of the Local Plan (2018) which all require residential development to be of the highest quality internally.
- 3) Flood risk: The risk of flooding to the new unit has been satisfactorily addressed by way of the proposed flood risk mitigation measures, in accordance with Policies CC3 and CC4 of the Local Plan (2018).
- 4) Highways: The proposed development has made satisfactory provision for cycle storage and refuse storage. Subject to conditions restricting the right of occupants to hold parking permits, the development would not contribute to on-street parking stress. For these reasons the development complies with Policies T3, T4 and CC7 of the Local Plan (2018).
- 5) Design and Heritage: The lightwells and external alterations associated with the development would be discreetly located to the rear of the building and would not be visible from the street, and only minimally visible from neighbouring properties and surrounding areas. The character and appearance of the Fitz-George and Fitzjames Conservation Area would be preserved, in accordance with Policies DC1, DC4 and DC8 of the Local Plan (2018). The development would also accord with the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

All Background Papers held by Andrew Marshall (Ext: 4841):

Application form received: 11th March 2022

Drawing Nos: see above

Policy documents: National Planning Policy Framework (NPPF) 2021
The London Plan 2021
LBHF - Local Plan 2018
LBHF – Planning Guidance Supplementary Planning Document
2018

Consultation Comments:

Comments from:

Thames Water - Development Control
Crime Prevention Design Advisor - Hammersmith

Dated:

17.03.22
24.03.22

Neighbour Comments:

Letters from:

Dated:

Flat 103 North End House LONDON W14 0RY	30.03.22
23 Fitzgeorge Avenue London W14 0SY	08.04.22
21 Fitz-george Avenue London W14 0SY	11.04.22
11A Fitz-george Avenue London W14 0SY	11.04.22
25 Fitzgeorge Avenue London W14 0SY	13.04.22
Level 4 Clockwork Building 45 Beavor Lane London W6 9AR	23.03.22
17 Fitzjames Avenue London W14 0RP	24.03.22
35 Fitzjames Ave London W14 0RR	08.04.22
39 Fitzgeorge Avenue London W140SZ	11.04.22
15a Fitzgeorge Ave London w140sy	29.03.22
26 Fitzjames Avenue London W14 0RR	07.04.22
25A Fitzjames Avenue London W14 0RR	12.04.22
25A Fitzjames Avenue London W14 0RR	12.04.22
15a Fitzgeorge Ave London W14 0SY	08.04.22
25A Fitzjames Avenue London W14 0RR	12.04.22

OFFICER'S NOTES

1.0 BACKGROUND

- 1.1 The application relates to the basement of a five-storey (plus loft level) mansion block located on the northern side of Fitz-James Avenue. The application site is located within a wider development of Victorian mansion blocks that run along Fitz-James and Fitz-George Avenue. The wider development of mansion blocks was built in the mid to late 1800s, with each mansion block having its own unique plan and design.
- 1.2 The application property, and the surrounding mansion blocks, are located within the Fitz-George and Fitz-James Conservation Area. The mansion blocks on the northern side of Fitz-James Avenue (including the application block) are on the Council's register of Locally Listed Buildings of Merit. The Conservation Area itself is relatively small and is centred along the mansion blocks of Fitz-James and Fitz-George Avenue.
- 1.3 The property is located within the Environment Agency's Flood Risk Zone 2.

2.0 RELEVANT HISTORY

- 2.1 This application follows a recent application which was refused and subsequently dismissed at appeal (LBHF Ref. 2021/00378/FUL and appeal Ref.

APP/H5390/W/21/3278813) for the same development. The Council's reason for refusal for the earlier application was as follows:

- (i) "The outlook from the new flat would be extremely constrained by the tall, six-storey surrounding building and give rise to a significant sense of enclosure for future occupants, given the high walls of the surrounding mansion blocks. Considered in conjunction with the fact that there would be very little direct sunlight receivable to the flat, objections are raised to the quality of the accommodation that would be provided. In this respect, the proposed development would provide a substandard level of accommodation contrary to Policy HO11 of the Local Plan (2018)."

2.2 The Inspector for the above appeal concluded that the development was acceptable in terms of residential quality, however, they found that the Council's suggested conditions restricting the right of future occupiers to apply for parking permits did not meet the six tests set out in the NPPF. However, they considered that in the absence of any other means of controlling the ability of the future occupants to hold parking permits, the development would be likely to contribute towards parking stress in the area and the appeal was dismissed on these grounds.

2.3 Over the past decade the Council has received a number of planning applications for new basement flats underneath various mansion blocks on both sides of Fitz-George and Fitz-James Avenues.

2.4 Other than the most recent application referred to above, the planning history for this specific site is as follows:

2.5 Planning permission was refused on 8 January 2021 (Ref. 2020/02906/FUL) for change of use of the lower ground floor on the northern side of the building from a storage area for storage lockers, plant equipment and bicycles, to a two bedroom self-contained residential flat; external alterations at lower ground floor level including installation of new windows and doors, increasing the size of some existing window openings and treatment to existing external courtyard; internal alterations including the demolition of some internal partition walls, a complete re-fit out of internal space, and the creation of a new cycle storage in the lower ground floor of 11-24 Fitzjames Avenue to offset the space currently used for cycle storage within the lower ground floor of 25-36 Fitzjames Avenue. This application was not appealed.

2.6 Planning permission was refused on 23rd April 2013 for a 2-bed flat (Ref. 2012/04213/FUL). That scheme involved installing new windows and doors; creating two lightwells along the northern building elevation and associated external alterations. This was refused on three grounds:

- (i) Noise and disturbance to surrounding residents as a consequence of the size of the proposed private amenity space
- (ii) Poor and inadequate cycle provision
- (iii) Insufficient refuse and recycling storage

2.7 The application was dismissed at appeal on 18th February 2014 (ref. APP/H5390/A/13/2202545). The Inspector stated that:

- (i) The proposal, to the rear of the mansion block, would ensure no detrimental impact on the conservation area.
- (ii) The amenity space for the flat would be of low quality and would not be used intensively for outdoor activities, therefore the amenity space would not result in noise and disturbance to neighbouring properties.
- (iii) The proposed replacement cycle parking was not of equal quality to existing cycle storage and would not encourage bicycle usage - but that this matter could be addressed by providing cycle parking in an alternative location on the estate.
- (iv) The estate has a portering service with large bin areas for communal waste, and so refuse could be adequately stored on site.

2.8 In determining the application, the Inspector also raised the following:

- (i) There was insufficient information provided to demonstrate that the existing car parking spaces could continue to be used following the provision of the lightwells to the north.
- (ii) Accessibility is an issue, though this may not be possible to resolve given the constraints to the property; this needs to be weighed against the benefits of providing an additional flat.
- (iii) The daylighting levels in bedrooms would not be ideal but the daylight to the living room would appear to just exceed the recommended minimum values; though he was unsure if the plans put forward for approval would achieve the stated ADF figures.
- (iv) Pipes within the application site, and which serve the existing building, would need to be removed and the applicant would need to resolve this and impacts of the scheme on the overall building structure would need to be addressed at building regulations stage.

2.9 A non-determination appeal was allowed for planning application 2013/02636/FUL which was for the change of use of lower ground storage area on the northern side of the building into a two bedroom self-contained flat; installation of new windows and doors; excavation to form two lightwells along the northern building elevation and external alterations, including re-configured planter and cycle provision. This application was allowed at appeal (Ref. APP/H5390/A/14/2218074). The applicant states that this proposal was never implemented, giving rise to the requirement for this new application.

2.10 In reaching their decision on the above appeal, the Planning Inspectorate stated that:

- (i) The previous proposal was dismissed on specific, narrow grounds which the appellant has sought to address in this proposal.
- (ii) Use of the proposed courtyard would not lead to harm to the living conditions of residents above the proposal site.

- (iii) The appellant now proposes to create further covered cycle accommodation elsewhere in the basement, rather than re-providing it in a location exposed to the elements.
- (iv) The application now includes confirmation of parking land ownership and a plan of how existing car parking spaces could be re-arranged with tracking details.

2.11 A subsequent planning application was refused on 10 September 2014 (ref. 2014/01948/FUL) at Planning and Development Control Committee for Use of the lower ground floor as a 2-bed flat, to replace storage and cycle parking; involving the creation of lightwells to the northern elevation, installation of windows and doors; excavation in the area outside the proposed flat, to allow stairs through a lightwell into the new dwelling. This application was not subject to an appeal.

2.12 The application was refused on five grounds:

- (i) Poor quality residential accommodation;
- (ii) Detrimental impact on the character and appearance of the conservation area;
- (iii) Noise and disturbance from the large external amenity area;
- (iv) Increased density in an already densely developed area, poor quality accommodation for future occupiers;
- (v) The proposal would create a precedent for similar unacceptable development in this location which would have a cumulative impact.

2.13 An application was approved on 17 April 2018 for formation of a covered cycle store for up to 20 bikes (ref. 2018/00467/FUL) to be positioned in place of existing car parking spaces directly opposite the current application site.

2.14 On 8 January 2021 an application (Ref. 2020/02906/FUL) was refused for 'Change of use of the lower ground floor on the northern side of the building from a storage area for storage lockers, plant equipment and bicycles, to a two bedroom self-contained residential flat; external alterations at lower ground floor level including installation of new windows and doors, increasing the size of some existing window openings and treatment to existing external courtyard; internal alterations including the demolition of some internal partition walls, a complete re-fit out of internal space, and the creation of a new cycle storage in the lower ground floor of 11-24 Fitzjames Avenue to offset the space currently used for cycle storage within the lower ground floor of 25-36 Fitzjames Avenue.'

2.15 The above application was refused on two grounds:

- (i) The large outdoor amenity space would give rise to harmful noise and disturbance for properties on flats above;
- (ii) The outlook to the unit would be unduly constrained and subject to an unacceptable sense of enclosure by the high walls of the mansion block surrounding the site.

2.16 There are extant planning permissions for similar basement developments on the estate, all of which are for one flat each, including:

2017/03111/FUL - 49A Fitz-George Avenue

2017/03284/FUL - 49-67 Fitz-George Avenue

2017/04828/FUL - Flat 3, 29-47 Fitz-George Avenue

2019/02510/FUL - Flat 4, 29-47 Fitz-George Avenue

2019/02511/FUL - Flat 5, 9-27 Fitz-George Avenue

2019/02512/FUL - Flat 6, 49-67 Fitz-George Avenue

CURRENT APPLICATION

2.17 The current application is for change of use of the lower ground floor on the northern side of the building from a storage area for storage lockers, plant equipment and bicycles, to a two bedroom self-contained residential flat; external alterations at lower ground floor level including installation of new windows and doors, increasing the size of some existing window openings and treatment to existing external courtyard; and the creation of a new cycle storage in the lower ground floor of 11-24 Fitzjames Avenue to offset the space currently used for cycle storage within the lower ground floor of 25-36 Fitzjames Avenue.

3.0 PUBLICITY AND CONSULTATION RESPONSES

3.1 Fourteen objection comments have been received, all from addresses on Fitzjames Avenue. The concerns raised by local residents are summarised below:

Safety and structural integrity

- Lightwells and other structural alterations could compromise the fabric of the 120-year old building;

Disruption from construction

- Disruption caused by the proposed construction will be significant for those living in affected blocks;

Impact on upon shared building services and communal internal and external spaces.

- Lightwells on the north side would restrict movement of emergency vehicles through the service road;
- Rerouting services will interrupt the supplies for a long time to flats above;
- Parking space for residents could be reduced

Impact on street parking stress and traffic congestion on the Avenue

- The local CPZ is already overwhelmed and parking on the street is huge issue; adding another household will add to the parking problem;

Poor quality of new residential accommodation

- There is practically no natural light and no sunshine will ever reach the patio which is a deep well, prone to flooding and very damp;
- There will be no way to install disability aids or make adjustments for residents should there be a need to do so

Flood risk to new dwelling

- The lightwells and basement spaces flood in heavy rain;

Harm to Conservation Area

- The proposed development is overbearing and out of scale or out of character in terms of its appearance compared with existing development in the vicinity; damages the existing high quality and unique character of this mansion estate;
- Trees might be removed from the rear of the blocks.

Impact on existing residents

- Noise from the outdoor space would echo and cause serious inconvenience to occupants in surrounding blocks;
- Overlooking, loss of privacy and impact on safety;
- The only access is past the whole of Vernon Mews which is inconvenient and would impact on their quality of life;

3.2 Responses were also received from the Metropolitan Police Designing Out Crime Officer - No objection provided Secure by Design principles are complied with.

4.0 PLANNING CONSIDERATIONS

4.1 The proposed development needs to be assessed against the relevant policies and standards set out in the National Planning Policy Framework (2019), the London Plan (2021), the Mayor's Supplementary Planning Guidance on Housing (March 2016) and the Council's Local Plan (2018) and Planning Guidance Supplementary Planning Document (2018).

4.2 The relevant planning considerations in this case are land use; residential density; quality of the proposed residential accommodation; design and conservation; impact on neighbours; highways and parking, and environmental matters.

LAND USE

4.3 The planning application seeks to utilise existing storage areas located in the basement level of the mansion block (including private lockers, caretakers' workshop, and a communal cycle store) to provide a two-bedroom dwelling with private external amenity space created within an existing lightwell that is currently inaccessible.

4.4 The NPPF identifies the need for additional housing and sets out ways in which Planning can boost the delivery of housing through preparation of policy documents. Policy H1 of the London Plan (2021) states that LBHF has a target to deliver 1609 net additional dwellings per annum to 2031, superseding the former, lower, London Plan targets reflected in Policy HO1 of the Local Plan (2018).

4.5 The proposed development would result in the delivery of one additional dwelling on a windfall site. The proposal would contribute, in a very small way, to the

delivery of new housing in the borough. As the surrounding area is in residential use, the proposed development is considered to be compatible with the existing land use in the immediate area.

Density

- 4.6 Policy HO4 of the Local Plan seeks to ensure that development proposals achieve the optimum intensity of use compatible with local context, design principles and with public transport capacity. The application site is located in Public Transport Accessibility Level (PTAL) 6a, which is excellent. The new London Plan (2021) moves away from specifying appropriate density using numerical ranges, towards considering the matter on a site-by-site basis (Policy GG2 - Making the best use of land and Policy D3 - Optimising site capacity through the design-led approach). By itself, the proposal would increase the residential density of the estate by a very small amount, but the application is to be considered in the context of other extant planning permissions for new basement flats elsewhere on the estate (as described in paragraph 2.7).
- 4.7 It is therefore important to consider the cumulative impact of basement developments on the estate. The main considerations in respect of density are considered to be parking stress; the capacity of shared services including refuse storage; and noise and disturbance, especially from the new amenity spaces. These matters will be considered in the relevant sections below. If the development was found to be acceptable in these respects, then no objections would be raised in terms of residential density alone.

QUALITY OF RESIDENTIAL ACCOMMODATION

- 4.8 Housing is a key consideration in the assessment of applications for new developments. The London Plan (2021) seeks delivery of housing that is of a high quality of design. Policy D6 'Housing quality and standards' says that housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment. The Mayor's Housing SPG provides detailed guidance which seeks to assist in the design of new housing to ensure that new developments are of the highest quality and make a difference to the quality of life of new residents. The SPG is clear that increasing output of housing is not a simple end in itself - new housing must also enhance the environment, improve choice and affordability and provide better quality homes. Further guidance on how to achieve high quality residential design is also set out at a local level Local Plan Policy HO11 (Detailed residential standards).
- 4.10 Policy HO11 says that the Council will ensure that the design and quality of all new housing is of a high standard. To assess this, the following considerations will be taken into account:
- Floor area
 - Accessibility for disabled people
 - Amenity and garden space provision
 - A safe and secure environment
 - Car parking and cycle parking
 - Attenuation of surface water run off
 - Sustainable energy matters

- Provision of waste and recycling storage facilities
- Noise insulation and layout to minimise noise nuisance between dwellings
- Protection of existing residential amenities

Internal and external space

4.11 London Plan (2021) Policy D6 and Table 3.1 places a significant new focus on internal space standards for new dwellings. The purpose of the policy is to ensure that all new homes are fit for purpose and offer the potential to be occupied over time by households of all tenure. London Plan Table 3.1 sets out the minimum gross internal area for new flats and states that a two-bedroom flat that can accommodate four people, as is the case here, should have a minimum internal area of 70 sqm. The proposed flat would have a total floor area of 114 sq.m. The Nationally Described Space Standard recommends that the main double/twin bedroom has a floor area of at least 11.5sqm and that one double bedroom should be at least 2.75m wide and second double bedrooms at least 2.55m wide. The proposed flat's double bedrooms would be 18sqm and 15sqm respectively with adequate space for storage/ furniture. There would be two bathrooms and a sizeable kitchen/living/diner of 45sqm. The flat is considered to be acceptable in terms of size.

4.12 The Nationally Described Space Standard (DCLG, 2015) also says that the minimum floor to ceiling height should be 2.3m for at least 75% of the Gross Internal Area. The section drawings in the application show that a 2.5m floor to ceiling height can be achieved, without the need to excavate below the existing floor level. A series of plans have been submitted with the application indicating that it will be necessary to re-route existing pipes and cabling within the space. The internal works required to undertake the conversion are not a planning matter and would be properly dealt with via a Building Regulations application, but Officers are satisfied that the required floor-to-ceiling height could be achieved.

Privacy

4.13 The proposed development would be located at basement level, to the rear of the mansion block. The proposed development would incorporate an area of private amenity space directly in front of the proposed dwelling, within an existing lightwell that is presently inaccessible to residents. To facilitate access, new doors are proposed within the north elevation of the block at basement level. The hardstanding at ground level, adjacent to the proposed amenity space, is occupied by car parking spaces, this use would continue if the development were to be carried out. In addition to car parking, the rear access also provides a service route and a secondary pedestrian access/emergency escape to the block.

4.14 The lower position of the proposed flat and the set-back created by the proposed private courtyard would all ensure that opportunities for overlooking from residents moving around the rear access would be limited. The location of the dwelling at lower ground floor level would only allow glimpsed views into its habitable rooms from flats at upper levels and so would not result in a detrimental impact on the privacy of residents below. The external amenity space, on the other hand, would be directly and almost entirely overlooked by flats on upper levels. Given that this fact would be readily apparent to prospective occupiers, it is reasoned that the benefit of having outdoor space would most likely be outweighed by its lack of

privacy. Given there are no other reasonable alternatives to provide outdoor space in an alternative location, the courtyard's lack of privacy is not considered to be a reason for refusal in this instance. In terms of size it provides a good level of amenity for the future occupants of the flat.

Outlook and internal light levels

4.15 In Officers' assessment of the most recent application, which was refused on grounds of poor outlook and heightened sense of enclosure for the occupants of the new flat, it was judged that the space was of insufficient quality and would lead to an excessively oppressive living space due to the high walls of the mansion block which surround the courtyard amenity space. The Inspector for the subsequent appeal did not agree with the Council on this point, stating that:

"The outlook from the flat would be somewhat constrained by the basement location and the height of the surrounding blocks. However, the flat would not be without outlook by reason of views out towards a modest courtyard and by reason of the large, glazed openings. There would be a limited but welcome view out towards trees and foliage and the sky beyond. Therefore, the available outlook would not result in any unacceptable sense of enclosure for future occupiers of the flat." (Para 8 of the appeal decision).

4.16 The appeal decision is a material consideration of significant weight in the determination of the application. In view of the fact that an Inspector so recently concluded that an identical proposal would be compliant with Policy HO11 of the Local Plan (2018), Officers consider that it would not be reasonable to continue to object to the proposals on this basis.

4.17 A Daylight and Sunlight Assessment report has been submitted with the application (by Herrington Consulting Ltd.) dated October 2020, providing the Average Daylight Factor results for each of the rooms in accordance with the guidance set out in the BRE's 'Site Layout Planning for Daylight and Sunlight - A Good Practice Guide'. The BRE guide states that the following would be an acceptable ADF for a typical development that would provide a well-lit room.

Bedrooms - 1%

Living rooms - 1.5%

Kitchens - 2%

4.18 The results show that Bedroom 1 would have an ADF of 1.2%, Bedroom 2 would have an ADF of 1.0% and that the living/kitchen/diner would have an ADF of 2.0%, all of which are in accordance with the BRE's guidance. These results represent the trees to the rear of Fitz-James Avenue having been modelled as opaque features. It is noted that in reality, these trees will not be completely opaque, and a varying degree of daylight will be able to pass through the tree throughout the year depending on the leaf cover. Having reviewed the report, Officers have no reason to disagree with its conclusions or results.

4.19 The Daylight and Sunlight Assessment (October 2020) reports that the height of the surrounding buildings and north-west facing aspect means that the proposed flat would receive very little direct sunlight throughout the year, with Bedroom and 2 and the main living kitchen diner receiving none at all in winter. Nevertheless,

the daylight and sunlight levels overall are considered to be acceptable and no objections are recommended to be raised on these grounds.

- 4.20 For the above reasons it is considered that no objections continue to be raised on the grounds of residential quality, in accordance with Local Plan (2018) Policy HO11.

Inclusive access

- 4.21 Accessibility requirements are incorporated into the Building Regulations 2010. Local Plan Policy HO6 states that 90% of new housing should meet Building Regulations Approved Document M (Access to and use of buildings), specifically the optional requirement M4(2) - 'Accessible and adaptable dwellings'. The remaining 10% must be built to the Approved Document M's optional requirement M4(3) - 'Wheelchair user dwellings'.

- 4.22 However, paragraph 6.57 of the Local Plan recognises that "there may be circumstances where it is not possible to achieve all the full M4(2) requirements. The policy therefore allows for some flexibility in achievement of the criteria, but the council will require assessments to show why the requirements cannot be met." Similarly, the Mayor's SPG (para 2.3.10) states that on developments of four storeys or less, these accessibility requirements "should be applied flexibly to ensure that residential or mixed use development is deliverable" and that this need for flexibility may bear particularly on small scale developments, where the depth and width of a plot and height restrictions may inhibit the overall floor plate and massing of a dwelling.

- 4.23 The need to exercise flexibility with accessibility requirements is considered to be especially relevant in this case, which represents conversion of space within a historic mansion block rather than a new build. It is accepted that it would not be possible to provide level access internally, given the existing lift does not extend to basement level and it would not be reasonable to expect the entire lift system to be replaced and extended to accommodate a single flat. It is considered that the site is unlikely to be desirable or practical for those with mobility impairments. On balance, it is considered that the circumstances of this particular site are exceptional and would not reoccur frequently throughout the borough. Therefore, the lack of compliance with the optional requirement M4(2) standard is not considered to be justification for refusal of the application in this instance. The minimum Building Regulations M4(1) standard would be required through the Building Regulations process.

Safe and secure environment

- 4.24 Local Plan Policies DC1 and DC2 require proposals to provide a safe and secure environment. A condition is recommended to secure details of the development meets "Secured by Design" requirements, to be confirmed with the Metropolitan Police's Crime Prevention Design Advisor prior to the development commencing.

IMPACT ON NEIGHBOURS

- 4.25 The proposal would see the creation of an outdoor amenity space of 14sq.m., compared to the previous proposal which saw the entire existing lightwell given

over to amenity space extending to approximately 36sq.m. Officers considered the previous proposal to give rise to significant harm to the amenities of neighbours by virtue of noise and disturbance, contrary to Policy CC11 of the Local Plan (2018). However the reduction in the size of the accessible amenity space is considered to overcome these issues, and its shape (long and narrow) is also considered to mitigate against its potential use for large gatherings. Its size is now in accordance with the guidance set out in the supporting text for Key Principle HS8 of the Planning Guidance SPD (2018).

- 4.26 Existing residents raised objections based on the impact of the construction. Whilst it is not possible for planning applications to be refused on the grounds of disturbance from the construction phase, if the application was found to be acceptable in all other respects, a condition could be attached requiring a Construction Management Plan to be agreed with Noise and Nuisance Officers prior to work commencing in accordance with Policies CC11 and CC13 of the Local Plan.

DESIGN AND CONSERVATION

- 4.27 The site is located within the Fitz-George and Fitz-James Conservation Area and is a locally listed Building of Merit. Policy DC8 of the Local Plan states that applications affecting designated heritage assets will only be permitted if the significance of the heritage asset is conserved or enhanced. Officers are satisfied that the proposed external alterations, including replacement windows and the replacement of existing windows with new French door openings, would be in keeping with the traditional character of the building. They would be in a very discreet location on the building and not visible from any public areas. No harm would be caused to the heritage assets and the proposals comply with Policies DC4 and DC8 of the Local Plan (2018).

FLOOD RISK

- 4.28 The site is located within the Environment Agency's Flood Zone 2. A Flood Risk Assessment has been submitted with the application which includes a new residential unit at lower ground floor level. This states that flood mitigation measures will be installed including the use of flood resilient methods of construction and materials and that floor levels will not be lowered. The Council's Environmental Policy Office does not object providing these details are complied with and a new pumped sewer surcharge device is fitted to any new plumbing. If the proposals were otherwise acceptable, conditions could be attached with regards to these matters. The proposal is in compliance with Policies CC3 and CC4 of the Local Plan (2018).

REFUSE STORAGE

- 4.29 It is suggested that the existing waste management procedure, where estate staff collect refuse from outside front doors six times a week and take it to the communal bins to the rear of the blocks on the northern side of the road, would also be applied to the new units. The paladins are then collected by LBHF twice weekly. This arrangement is considered to be acceptable and, following Officers' inspection of the situation on site prior to collection day, it was clear that there would be capacity for the additional refuse generated by this proposal (in addition

to that generated by the other proposals for the other consented flats on the estate. For these reasons no objections are recommended to be raised in terms of Local Plan (2018) Policy CC7.

CAR PARKING

4.30 Local Plan (2018) Policy T4 sets maximum parking standards in relation to residential development and states that all residential developments in areas with good transport accessibility should aim for significantly less than 1 space per unit. The site benefits from a Public Transport Accessibility Level (PTAL) of 6a, which is excellent, and is in close proximity to West Kensington and Barons Court Underground stations, and Kensington (Olympia) Overground station in addition to a number of bus stops on North End Road. The application does not propose any additional parking spaces. If the application was acceptable in all other respects, a legal agreement could be entered into to ensure that the occupants of the new unit were not issued parking permits for the street, in the interests of preventing parking stress on Fitz-James Avenue, in accordance with Policy T4 of the Local Plan (2018). The proposals would not result in any changes to the current parking layout to the rear of the site.

CYCLE PARKING

4.31 The existing indoor basement cycle storage is proposed to be moved to accommodate the proposal, to a new location within the basement of No.12-24 Fitz-James Avenue, in an area currently identified on the plans as a staff mess room. The proposed new location is larger than the existing store. Officers note residents' comments that the proposed store, in an adjacent block, would not be as convenient as the current store. Whilst there may be a short distance further to travel to store or retrieve one's cycle, the distance is not considered to be excessive and this is not considered to be grounds for refusal of the application. If the application was found to be acceptable in other respects, a condition would be attached requiring details of the new storage area to ensure compliance with West London Cycle Parking Guidance and Policy T3 of the Local Plan (2018).

PLANNING OBLIGATIONS/ LEGAL AGREEMENT

4.32 In dealing with planning proposals, local planning authorities consider each on its merits and reach a decision based on whether the application accords with the relevant development plan, unless material considerations indicate otherwise. Where applications do not meet these requirements, they may be refused. However, in some instances, it may be possible to make acceptable development proposals which might otherwise be unacceptable, through the use of planning conditions or, where this is not possible, through planning obligations. London Plan (2021) Policy DF1 recognises the role of planning obligations in mitigating the effects of development and provides guidance on the priorities for obligations in the context of overall scheme viability.

4.33 In this instance, site-specific planning obligations would be included in the S106 agreement and would include the following:

- Prohibition of future residents to obtain parking permits as secured through section 16 of the Greater London (General Powers) Act 1974;

5.0 RECOMMENDATION

- 5.1 It is recommended that planning permission be approved in line with the recommendations above.