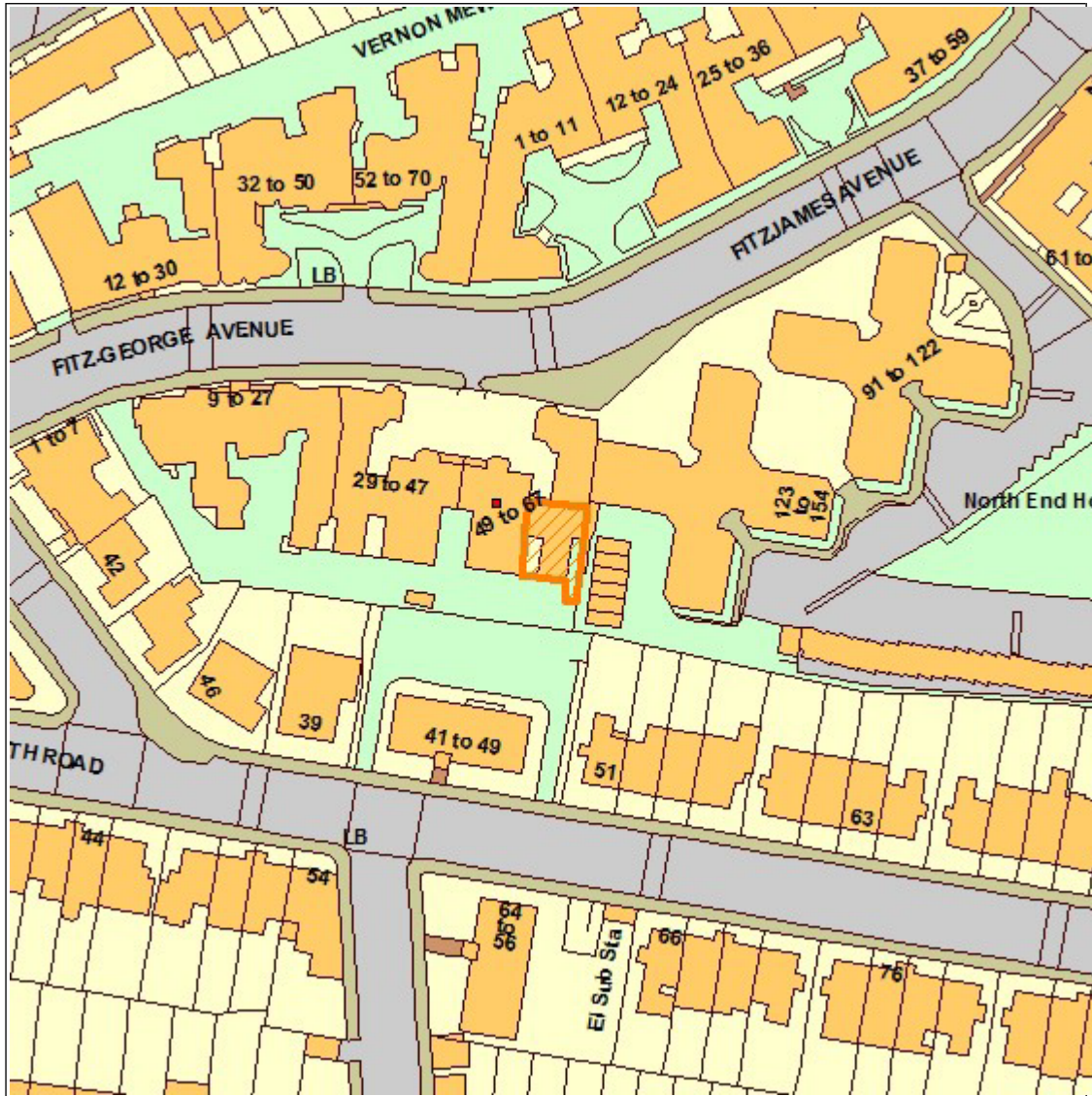


Ward: Avonmore

Site Address:

Flat 1 49 - 67 Fitz-George Avenue London W14 0SZ



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For identification purposes only - do not scale.

Reg. No:
2024/01917/FUL

Case Officer:
Anisa Aboud

Date Valid:
31.07.2024

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

Committee Date:
11.02.2025

Applicant:

Mr. Wrennall

Flat 5, 9-27 Fitz-George Avenue London W14 0SZ

Description:

Creation of 1no. self-contained one bedroom flat at lower ground floor level through change of use of the existing basement storage area and excavation and enlargement of the existing basement level; creation of new lightwells and associated installation of new windows and doors, and erection of a bicycle store.

Drg Nos: See condition 2

Application Type:

Full Detailed Planning Application

Officer Recommendation:

- 1) That the Committee resolve, that the Director of Planning and Property be authorised to grant planning permission upon the completion of a satisfactory legal agreement and subject to the conditions listed below.
- 2) That the Committee resolve that the Director of Planning and Property, after consultation with the Assistant Director of Legal Services and the Chair of the Planning and Development Control Committee be authorised to make any minor changes to the 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 hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.

Proposed Basement Plan - FLAT 1 drg.no 2088-08p-PLAN Rev. E: 15.07.2024,
Proposed Basement - FLAT 1 drg.no 2088-08pG Rev. G: 09.07.2024,
Existing & Proposed Cycle Storage - 2088-sk04E Rev. E: 15.07.2024,
Assessment for the Provision Daylight and Sunlight within the Development at Fitz-George & Fitz-James Avenue dated May 2024 prepared by Herrington Consulting Limited Rev 1.

To ensure full compliance with the planning application hereby approved and to prevent harm arising through deviations from the approved plans.

- 3) Prior to commencement of the relevant part of the works, details of the following external facing materials (including manufacturer's specifications, photographs and/ or a physical sample) shall be submitted to, and approved in writing by the Council.

The development shall be carried out and completed in accordance with the approved details. The development shall be permanently retained in accordance with the approved details. Any works of making good to existing elevations shall be carried out in materials to match the elevation to which the works relate.

To ensure a satisfactory external appearance, in accordance with Policies DC1 and DC4 of the Local Plan (2018).

- 4) No external air-conditioning units, ventilation fans, extraction equipment, flues or other plant equipment and associated external pipework or ducting shall be fitted to the exterior of the building/front elevation/rear elevation unless otherwise shown on the approved drawings.

To ensure a satisfactory external appearance and to prevent harm to the amenities of the occupiers of neighbouring residential properties, in accordance with Policies DC1, DC2, DC4 and HO11 of the Local Plan (2018).

- 5) The development hereby permitted shall comply with the approved Flood Risk Assessment dated May 2016 (Issue 2, Rev 1) prepared by Herrington Consulting Limited and Flood Risk Addendum dated 28 June 2024 ref. TV/0604_Jun24_r0. The FRA shall be implemented in accordance with the approved details prior to occupation of the development hereby permitted, and thereafter permanently retained and maintained in line with the agreed plan.

To limit the impact on flood risk and mitigate the susceptibility of the development to flooding in accordance with Policies CC2, CC3 and CC4 of the Local Plan (2018).

- 6) Prior to occupation of the development hereby permitted, details (including manufacturer specification, installation/commissioning certificates and photographic confirmation) of the installed Zero Emission Air Source Heat Pump, Heat Battery Boiler or Electric boiler for the supply of space heating and hot water for the self-contained dwellinghouse (Use 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 improving local air quality and to ensure no new gas connections are made in line with Local Plan CC1, CC10 and CC13.

- 7) Prior to occupation of the development hereby permitted, details (including manufacturer specification, installation/commissioning certificates and photographic confirmation) of the installed electric induction cooking stoves in the kitchen of the self-contained dwellinghouse (Use 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 improving local air quality and to ensure no new gas connections are made in line with Local Plan CC1, CC10 and CC13.

- 8) Prior to commencement of above ground works in the development hereby permitted, a Ventilation Strategy Report to mitigate the impact of existing poor air quality for the self-contained dwellinghouse (Use Class C3) shall be submitted to and approved in writing by the Local Planning Authority. This is applicable to all residential floors where Council 2030 World Health Organisation aligned Annual Mean Air Quality Targets for Nitrogen Dioxide (NO₂) - 10ug/m³, Particulate (PM₁₀) -15 ug/m³ and Particulate (PM_{2.5}) - 5 ug/m³ are exceeded and where current and future predicted pollutant concentrations are within 5% of these limits. The report shall include the following information:

- a) Details and locations of the ventilation intake locations at rear roof level or on the rear elevations of all residential floors.
- b) Details and locations of ventilation extracts, to demonstrate that they are located a minimum of 2 metres away from the air ventilation intakes on all residential floors, to minimise the potential for the recirculation of extract air through the supply air ventilation intake in accordance with paragraph 8.9 part 'C' of Building Standards, Supporting Guidance, Domestic Ventilation, 2nd Edition, The Scottish Government, 2017.
- c) Details of the independently tested mechanical ventilation system with Nitrogen Dioxide (NO₂) and Particulate Matter (PM_{2.5}, PM₁₀) filtration with air intakes on the rear elevation to remove airborne pollutants. The filtration system shall have a minimum efficiency of 90% in the removal of Nitrogen Oxides/Dioxides, Particulate Matter (PM_{2.5}, PM₁₀) in accordance with BS EN ISO 10121-1:2014 and BS EN ISO 16890:2016.
- d) Details and locations of restricted opening windows (maximum 200mm for emergency purge ventilation only) for all habitable rooms (Bedrooms, Living Rooms, Study) on all residential floors.

The whole system shall be designed to prevent summer overheating and minimise energy usage. The maintenance and cleaning of the systems shall be undertaken regularly in accordance with manufacturer specifications and shall be the responsibility of the primary owner of the property. Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

In the interests of improving local air quality in line with Local Plan CC1, CC10 and CC13.

- 9) Prior to occupation of the development hereby permitted, details of a post installation compliance report including photographic confirmation of the mitigation measures as included in the approved ventilation strategy as required by condition 8 to mitigate the impact of existing poor air quality shall be submitted to and approved in writing by the Local Planning Authority. The report shall be produced by an accredited Chartered Building Surveyor (MRICS). Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

In the interests of improving local air quality in line with Local Plan CC1, CC10 and CC13.

- 10) No part of the development hereby approved shall be occupied until details of secure storage for two cycles has 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).

- 11) 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).

- 12) 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 LCRM: Land Contamination Risk Management (Environment Agency 2023) 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 the Local Plan (2018) and key principles LC1 to LC7 of the Planning Guidance Supplementary Planning Document (2018).

- 13) 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 LCRM: Land Contamination Risk Management (Environment Agency 2023) 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 the Local Plan (2018) and key principles LC1 to LC7 of the Planning Guidance Supplementary Planning Document (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, 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 LCRM: Land Contamination Risk Management (Environment Agency 2023) 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 the Local Plan (2018) and key principles LC1 to LC7 of the Planning Guidance Supplementary Planning Document (2018).

- 15) 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 LCRM: Land Contamination Risk Management (Environment Agency 2023) 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 the Local Plan (2018) and key principles LC1 to LC7 of the Planning Guidance Supplementary Planning Document (2018).

- 16) 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 LCRM: Land Contamination Risk Management (Environment Agency 2023) 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 the Local Plan (2018) and key principles LC1 to LC7 of the Planning Guidance Supplementary Planning Document (2018).

- 17) 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 LCRM: Land Contamination Risk Management (Environment Agency 2023) 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 the Local Plan (2018) and key principles LC1 to LC7 of the Planning Guidance Supplementary Planning Document (2018).

- 18) 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).

- 19) Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of an enhanced sound insulation value $D_{nT,w} + C_{tr}$ and $L'_{nT,w}$ of at least 10dB above the Building Regulations value, for the floor/ceiling /wall structures separating different types of rooms/ uses in adjoining dwellings, namely [eg. living room and kitchen above bedroom of separate dwelling]. 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).

- 20) 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).

- 21) Prior to the commencement of development an updated Drainage Strategy shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the rainwater harvesting measures, soft landscaping and permeable surfaces. Full plans of the Sustainable Drainage Systems (SuDS) shall also be provided showing how these connect into the drainage network and maintenance information for all features shall also be provided. The development shall be carried out and subsequently maintained in accordance with these approved details.

To reduce the impact of flooding in the area, in accordance with Policies SI 5 and SI 13 of the London Plan 2021 and Policy CC3 of the Local Plan 2018.

- 22) The development shall be carried out and completed in full accordance with the details contained within the approved 'PLANNING FIRE SAFETY STATEMENT FOR PLANNING APPLICATION' (dated April 2023). No part of the development shall be used or occupied until all mitigation, measures and means within the approved document have been implemented in full and shall thereafter be retained for the lifetime of the building hereby approved.

Reason: To ensure that the development incorporates the necessary fire safety measures in accordance with the Policy D12 of the London Plan (2021).

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 (2021) and Local Plan (2018) target of 1,609 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).

Quality of Accommodation: The proposed development provides an acceptable standard of living accommodation, in accordance with Policy D6 of the London Plan (2021) and Policies HO4 and HO11 of the Local Plan (2018) which all require residential development to be of the highest quality internally.

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).

Highways: The proposed development has made satisfactory provision for cycle storage and refuse storage. Subject to completion of a unilateral undertaking 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) and Policy T6.1 of London Plan (2021).

Design and Heritage: The proposed development would result in limited changes to the appearance of the host property. As such the proposals would not result in harm to character and appearance of the Fitz-George and Fitzjames conservation area, and significance of area would be preserved. The development is considered compliant with s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and acceptable in accordance with the NPPF (2024), London Plan (2021), Local Plan (2018) Policy DC8.

**LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS**

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

Application form received: 30th July 2024
Drawing Nos: see above

Policy documents: National Planning Policy Framework (NPPF) 2024
The London Plan 2021
LBHF - Local Plan 2018
LBHF – Planning Guidance Supplementary Planning Document
2018

Consultation Comments:

Comments from:	Dated:
Thames Water - Development Control	05.08.24
Crime Prevention Design Advisor - Hammersmith	15.08.24
Environment Agency - Planning Liaison	09.08.24

Neighbour Comments:

Letters from:	Dated:
1A Fitzjames Avenue London W14 0RP	23.08.24
27 Cairn Hill Newry County Down BT34 2ST	24.08.24
27 Cairn Hill Newry BT34 2ST	24.08.24
35 Fitzjames Avenue London W14 0RR	03.09.24
14 Fitzgeorge Avenue London W14 0SN	03.09.24
25 Fitzgeroge Avenue London W14 0SY	03.09.24
57 Fitzgeorge Avenue London W14 0SZ	03.09.24
17 Fitzjames Avenue London W14 0RP	24.08.24
53 Fitzgeorge Avenue London W14 0SZ	24.08.24
64A Fitzgeorge Avenue London W14 0SW	30.08.24
13 Fitzgeorge Avenue London W14 0SY	28.08.24
39 Fitzjames Avenue London W14 0RR	29.08.24
17 Fitzgeorge Avenue London W14 0SY	29.08.24
59 Fitzgeorge Avenue London W14 0SZ	31.08.24
20 FitzGeorge Avenue London W14 0SN	02.09.24

45 Fitzjames Avenue London W14 0RR	30.08.24
58 Fitzgeorge Avenue London W14 0SW	03.09.24
63 Fitz-George Avenue London W14 0SZ	03.09.24
30 Fitz James Avenue London W14 0RR	31.08.24
42 Fitz-James Avenue London W14 0RR	01.09.24
28 Fitzgeorge Avenue London W14 0SN	01.09.24
32 Fitzjames Avenue London W14 0RR	02.09.24
15 Fitzgeorge Avenue London W14 0SY	02.09.24
25 Fitzgeorge Avenue London W14 0SY	23.08.24
25 Fitzgeorge Avenue London W14 0SY	02.09.24
36 Fitzjames Avenue London W14 0RR	24.08.24
66 Fitzgeorge Avenue London W14 0SW	30.08.24
15 Via Roma Griante 22011	30.08.24
24 Fitzgeorge Avenue London W14 0SN	03.09.24
46 Brackenbury Road London W6 0BB	23.08.24
2 Fitz-George Avenue London W14 0SN	29.08.24
23 Fitzgeorge Avenue London W14 0SY	02.09.24
20 Fitzgeorge Avenue London W14 0SN	29.08.24
9 Fitzgeorge Avenue London W14 0SY	30.08.24
37 Fitzgeorge Avenue London W14 0SZ	01.09.24
15A Fitzgeorge Avenue London W14 0SY	02.09.24
6 Fitzgeorge Avenue London W14 0SN	04.09.24
6 Fitzgeorge Avenue London W14 0SN	04.09.24
23 Melbury Road London W14 8AB	26.08.24
15A Fitzgeorge Avenue London W14 0SY	28.08.24
3 Fitzgeorge Avenue London W14 0SY	29.08.24
21 Fitzgeorge Avenue London W14 0SY	30.08.24
68 Fitz-George Ave London W14 0SW	25.08.24
11 Fitzgeorge Avenue London W140SY	28.08.24
40 Fitzjames Avenue London W14 0RR	29.08.24
39 Fitzgeorge Avenue London W140SZ	01.09.24
23A Fitzgeorge Avenue London W14 0SY	01.09.24
23a Fitzgeorge Avenue London W14 0SY	31.08.24
31 Fitz-george Avenue London W14 0SZ	27.08.24
57A Fitz-george Avenue London W14 0SZ	04.09.24
51a Fitzgeorge Avenue London W14 0SZ	02.09.24
48 Fitzjames Avenue, London W14 0RR	30.08.24
42 Fitzgeorge Avenue London W14 0SW	03.09.24
3 Fitzgeorge Avenue London W14 0SY	21.09.24
25 Fitzgeorge Avenue London W14 0SY	22.08.24
24 Fitzjames Ave London W14 0RP	27.08.24
19a Fitzgeorge avenue London W14 0SY	22.08.24
2 Fitzgeorge Avenue London W14 0SN	25.08.24
5B Fitzjames Avenue London W14 0RP	02.09.24
68a Fitzgeorge Avenue London W14 0SW	29.08.24
21 Fitzgeorge Avenue London W14 0SY	23.08.24
23 Fitzgeorge Avenue London W14 0SY	23.08.24
42 Fitzgeorge Avenue London W14 0SW	23.08.24
49A Fitzgeorge Avenue London W14 0SZ	26.08.24
43 Fitzjames Avenue London W14 0RR	29.08.24
5 Fitzgeorge Avenue London W14 0SY	29.08.24
27 Fitzjames Avenue London W14 0RR	29.08.24

OFFICER'S REPORT

1.0 BACKGROUND

- 1.1 The application relates to a 6-storey mansion block on the southern side of Fitz-George Avenue (Nos. 49-67).
- 1.2 The site is located within the Fitz-George and Fitzjames Conservation Area. The boundary of the Gunter Estate Conservation Area is to the South and West of the site.
- 1.3 The site does not contain any statutory or locally listed buildings.
- 1.4 The site is within the Environment Agency's Flood Zone 2.
- 1.5 Fitz-George Avenue also benefits from excellent public transport accessibility (PTAL rating of 6a according to Transport for London's methodology).
- 1.6 This application is for the creation of 1no. self-contained one bedroom flat through excavation and enlargement of the existing basement and creation of a new lightwell and associated installation of new windows and doors; and erection of a bike store. This application proposal is known as 'Flat 1'.
- 1.7 Applications for similar proposals on adjacent parts of the site have also been submitted and are being considered alongside this one, as follows:
 - Flat 2 (Ref. 2024/01918/FUL)
 - Flat 4 (Ref. 2024/01919/FUL)
 - Flat 5 (Ref. 2024/01923/FUL)

2.0 RELEVANT PLANNING HISTORY

- 2.1 A series of applications have been previously been submitted for the creation of new flats at basement/ lower ground floor level around the Fitz-George and Fitzjames estate.
- 2.2 In relation to this specific site, the council defended an appeal for non-determination on 3rd November 2023 for the same development that is now proposed (Ref. 2023/00916/FUL). It was refused on the following grounds:
 - i) The proposal would include a substandard residential accommodation and generally poor living conditions in proposed self-contained flat, which would fail to provide adequate outlook, natural light and ventilation for future occupiers. More particularly, in the absence of a Daylight and Sunlight Report in line with the 3rd edition of the BRE guidance on daylight & sunlight amenity published June 2022, it is considered that this residential unit would therefore give rise to unacceptably low standards of accommodation for future occupiers to the detriment of their residential amenity and general well-being. The proposal is therefore contrary to Policies HO4 and HO11 of the Local Plan (2018).

- ii) In the absence of adequate and insufficient information from the submitted Flood Risk Assessment which fails to demonstrate that the risk to life can be managed, and to appropriately consider, avoid and/or minimise all potential risks of flooding, especially from groundwater and sewer flooding, given that the basement level would include sleeping accommodation, the scheme would be unacceptable in terms of flood risk. This is contrary to Policies CC3 and CC4 of the Local Plan (2018) and Key Principle FR1 of the 'Planning Guidance' Supplementary Planning Document (2018).
- iii) In the absence of a signed legal agreement through a Unilateral Undertaking under Section 106, removing residential car parking permit rights, the proposal fails to demonstrate that the scheme would be car-free and would not increase vehicular movements or adversely impact on on-street car parking demands and highway conditions, to the detriment of sustainable transport modes, the free flow of traffic, cyclist, pedestrian and highway safety. This would also increase the risk of poor localised air quality generated by motor vehicle journeys in the area. The proposal is therefore contrary to Policies CC10 and T4 of the Local Plan (2018) and Policies SI 1, T2 and T6 of the London Plan (2021).

2.3 The appeal was dismissed by the Planning Inspectorate (Appeal Ref. 3325474). The Inspector's only ground for dismissing the appeal was insufficient evidence to demonstrate the proposal would receive sufficient levels of daylight and sunlight. The Inspector did not agree with the council's other reasons for refusal and found the proposals to be acceptable in all other respects. The Inspector's decision carries significant weight in the determination of this application.

3.0 PUBLICITY AND CONSULTATION RESPONSES

3.1 A site notice and press advert were published to advertise the application and notification letters were sent to the occupants of surrounding properties.

3.2 A total of 66 individual objection comments were received from the following addresses:

- 2, 3, 5, 6, 9, 11, 13, 14, 15, 15a, 19a, 20, 21, 23, 23a, 25, 28, 37, 49a, 51a, 53, 57, 57a, 58, 59, 63, 64a, 66, 68, 68a Fitz-George Avenue;
- 1a, 5b, 17, 24, 27, 30, 31, 32, 35, 36, 39, 40, 42, 43, 45, 48 Fitzjames Avenue;
- 27 Cairn Hill, Newry, Northern Ireland.
- 46 Brackenbury Road,
- 23 Melbury Road,
- 15 Via Roma Griante, Italy.

3.3 The objections can be summarised as follows:

- The space in the car park will be reduced making it difficult for residents to navigate in and out of their assigned spaces;
- Noise, nuisance and parking stress for existing residents during construction;
- The location of the proposed external amenity spaces will significantly impact those living in the flats above;
- The proposed development is unsuitable for a flood risk area;
- There are practical construction issues that could prevent the implementation of the scheme;

- The structure of the building may be compromised.
- Poor quality of flat to be created, in terms of lack of outlook and natural light.
- The proposal represents overdevelopment on a street which already has a large number of people living here. The creation of new flats will place pressure on refuse storage and street parking stress.
- Disruption and nuisance during construction works, including excavation of basement and alterations to existing rear access.
- There is a general lack of detail as to how it would be technically feasible to carry out the development. No details are provided of how hot water and heating pipes would be re-routed, and the proposed internal access for the new flat would appear to conflict with the likely overrun of the lift shaft.

3.4 Case Officer response: The material planning matters raised above will be addressed in the report below. Concerns regarding the impact of the development on party walls, or the structure of adjacent flats, may be properly addressed by means of an agreement under the Party Wall Act 1996 and are not material to the planning process, however, residents' concerns are noted. Similarly, questions over the practicalities of implementing the scheme are not a matter to be considered as part of the planning application.

3.5 External consultation responses were as follows:

Thames Water - No objection with regards to sewerage or water infrastructure capacity.

Environment Agency - No objection.

The Metropolitan Police's Crime Prevention Design Advisor - no objection and made some recommendations relating to the use of SBC accredited products.

4.0 PLANNING CONSIDERATIONS

4.1 The main planning issues that must be assessed in considering this proposal are:

- The principle of a new residential unit in this location;
- The acceptability of the proposed basement development in terms of scale and impact on the local, natural and historic environment, and flood risk;
- The quality of the proposed residential unit in terms of floor area, light, outlook, access, floor to ceiling height, amenity space, and refuse storage;
- Highways matters including car parking and cycle parking.

4.2 The provision of housing is a significant issue, with paragraph 60 of the National Planning Policy Framework (NPPF, 2023) outlining that local planning authorities should seek to significantly boost the supply of housing. This need for housing is recognised within Policy H1 of the London Plan (2021), with Table 4.1 of this Policy outlining that a minimum of 1,609 new residential dwellings should be provided per year within the Borough of Hammersmith and Fulham up to 2031. Policy HO1 of the Local Plan (2018) specifies that the Borough of Hammersmith and Fulham will continue to seek at least 1,031 additional dwellings a year in the period up to 2035.

4.3 The provision of an additional residential unit would contribute toward the abovementioned targets. As such, the proposed development is considered acceptable and in accordance with Policy HO1 of the Local Plan (2018) subject to the proposals according with other relevant provisions of the adopted Development Plan and other material planning considerations raised.

ACCEPTABILITY OF BASEMENT DEVELOPMENT

+ Extent

4.4 The proposal would involve excavating underneath part of the mansion block. Two lightwells would be excavated to provide light and amenity space for the flat. In addition, the proposed amenity space would also function as a type of secondary lightwell. Save for the new lightwells, excavation would be contained underneath the footprint of the existing building, in accordance with Criterion a) of Local Plan Policy DC11.

+ Design and Heritage

4.5 Local Plan Policy DC8 (heritage and conservation) states that the council will conserve the significance of the borough's historic environment by protecting, restoring and enhancing its heritage assets. These assets include listed buildings, conservation areas historic parks and gardens, the scheduled monument of Fulham Palace Moated site, unscheduled archaeological remains and buildings and features of local interest. When determining applications affecting heritage assets, the council will apply the following principles:

- a. the presumption will be in favour of the conservation, restoration and enhancement of heritage assets, and proposals should secure the long term future of heritage assets. The more significant the designated heritage asset, the greater the presumption should be in favour of its conservation;
- b. applications affecting designated heritage assets, including alterations and extensions to buildings will only be permitted if the significance of the heritage asset is conserved or enhanced;
- c. applications should conserve the setting of, make a positive contribution to, or reveal the significance of the heritage asset. The presence of heritage assets should inform high quality design within their setting;
- d. applications affecting non-designated heritage assets (buildings and artefacts of local importance and interest) will be determined having regard to the scale and impact of any harm or loss and the significance of the heritage asset in accordance with paragraph 135 of the National planning Policy Framework;
- e. particular regard will be given to matters of scale, height, massing, alignment, materials and use;
- f. where changes of use are proposed for heritage assets, the proposed use, and any alterations that are required resulting from the proposed use should be consistent with the aims of conservation of the asset's significance, including securing its optimum viable use;
- g. applications should include a description of the significance of the asset concerned and an assessment of the impact of the proposal upon it or its setting which should be carried out with the assistance of a suitably qualified person. The extent of the requirement should be proportionate to the nature and level of the asset's significance. Where archaeological remains of national significance may be affected applications should also be supported by an archaeological field

- evaluation; h. proposals which involve substantial harm, or less than substantial harm to the significance of a heritage asset will be refused unless it can be demonstrated that they meet the criteria specified in paragraph 133 and 134 of the National Planning Policy Framework;
- i. where a heritage asset cannot be retained in its entirety or when a change of use is proposed, the developer should ensure that a suitably qualified person carries out an analysis (including photographic surveys) of its design and significance, in order to record and advance the understanding of heritage in the borough. The extent of the requirement should be proportionate to the nature and level of the asset's significance;
- j. the proposal respects the principles of accessible and inclusive design;
- k. where measures to mitigate the effects of climate change are proposed, the applicants will be required to demonstrate how they have considered the significance of the heritage asset and tailored their proposals accordingly;
- l. expert advice will be required to address the need to evaluate and conserve archaeological remains, and to advise on the appropriate mitigation measures in cases where excavation is justified; and
- m. securing the future of heritage assets at risk identified on Historic England's national register, as part of a positive strategy for the historic environment.

4.6 The Council's Supplementary Planning Guidance SPD (2018) is relevant, in particular Key Principles AH1 (Information Requirements for applications for consent affecting heritage assets); AH2 (Protection of Heritage Assets); CAG2 (Urban Design in Conservation Areas) and CAG3 (New Development in Conservation Areas). These Key Principles provide guidance which seeks to ensure that heritage assets are conserved in a manner appropriate to their significance in accordance with the NPPF.

4.7 The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the principal statutory duties which must be considered in the determination of any application affecting listed buildings or conservation areas. It is key to the assessment of these applications that the decision-making process is based on the understanding of specific duties in relation to listed buildings and Conservation Areas required by the relevant legislation, particularly the section 72 duties of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements set out in the NPPF.

4.8 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that: 'In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'

4.9 The NPPF makes a clear distinction between the approach to be taken in decision-making where the proposed development would affect the significance of designated heritage assets (listed buildings, conservation areas, Registered Parks and Gardens) and where it would affect the significance of non-designated heritage assets (buildings of local historic and architectural importance). The NPPF also makes a clear distinction between the approach to be taken in decision-making where the proposed development would result in 'substantial' harm and where it would result in 'less than substantial' harm.

4.10 Case law indicates that following the approach set out in the NPPF will normally be enough to satisfy the statutory tests. However, when carrying out the balancing exercise, it is important to recognise that the statutory provisions require the decision maker to give great weight to the desirability of preserving designated heritage assets and/or their setting.

4.11 The application site is located in the Fitz-George and Fitzjames conservation area and does not include any designated or non-designated heritage assets.

+ Fitz-George and Fitzjames conservation area

4.12 The conservation was designated in September 1982 with its historic significance and character focussed upon the plan form, use and architectural character of the large mansion block, flatted properties. Development of the area established the creation of a complete street of privately owned residential mansion flats of intricate plan and varied composition, all designed by the same firm of architects albeit over a period of 30 years. The mansion blocks provide a rich townscape of interest and maintain their original appearance and features. The mature tree lined street and the scale of development provides a relaxed urban atmosphere.

+ Assessment of harm

4.13 In terms of the impact of the development upon the character and appearance of the conservation area, the proposals seek to create a new residential flat through enlargement of an existing basement, excavation of new lightwells and introduction of new/enlarged windows and doors. The location of the basements to the rear of the host building mean that any changes to the building would not be readily visible in public views of the site and would not impact upon the high-quality street environment and local townscape of Fitz-George Avenue.

4.14 Furthermore, there are no trees in the immediate vicinity of the site which stand to be affected through the proposed excavation underneath the building.

4.15 The physical changes to the building are limited in scope. The further excavation of existing basements and the proposed lightwells would be mostly concealed from views from the service road to the rear of the building and their excavation alongside the introduction of new/enlarged windows and doors would not result in any impact upon the key architectural features of the host building.

4.16 As such, the proposals are not considered to result in any harm to the character and appearance of the conservation area; and its historic significance would be preserved.

4.17 For these reasons, Officers are satisfied that the character and appearance of the conservation area would be preserved with due regards to s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and in accordance with the NPPF (2024), London Plan (2021), and Local Plan Policy DC8.

+ Neighbouring amenity

- 4.18 Criterion e) of Policy DC11 also states that new basement accommodation will only be permitted where there is no adverse impact on the amenity of adjoining properties. Policies HO11 and DC4 also concern the protection of existing residential amenities. In this case, the main issue is noise. The new flat has the potential to create noise disturbance to habitable rooms within the ground floor flat directly above, although no details are given about what rooms are located immediately above the proposed flat. If the development was found to be acceptable in all other respects, a condition could be attached regarding enhanced sound insulation to be installed within the ceiling structure separating the new and existing flats to ensure that noise disturbance did not occur from the living activities inside the flat.
- 4.19 Representations received have also raised concern about the proximity of the proposed amenity spaces, to those windows directly above which belong to the ground floor flats. The proposed amenity space would be positioned directly underneath residential windows to the ground floor flats above, and it is considered that the creation of a new outdoor amenity space, which could be used for sitting out, small parties, and activities such as smoking, would have some level of impact upon the ground floor flats in terms of noise disturbance, loss of privacy and the quiet enjoyment of their flat. However, on balance, given the planning history and previous consent Officers are unable to sustain a refusal on this basis and accept on balance the proposed private amenity spaces would not result in demonstrable harm to existing neighbouring properties amenity.
- 4.20 With regards to the impact of construction, in terms of noise disturbance and other nuisances such as dust, if the application were to be approved, the Council would require a Construction Management Plan to be agreed, to ensure the amenities of residents are protected as far as possible throughout the construction phase. It has been raised that the occupants of the ground floor flat immediately above the proposed excavation may be required to move out altogether while floors are removed and reconstructed above the basement. This impact would be properly addressed by means of a Party Wall Agreement and is not considered to be a material planning consideration in this case.

QUALITY OF THE NEW RESIDENTIAL UNIT

- 4.21 Policy HO11 states that floor areas and room sizes in new build dwellings, conversions and changes of use, must meet the Nationally Described Space Standards (NDSS) requirements which is replicated in the London Plan where relevant. In order to provide one bedspace, a single bedroom must have a floor area of at least 7.5sqm and be at least 2.15m wide. In order to provide two bedspaces, a double (or twin bedroom) must have a floor area of at least 11.sqm and at least one double (or twin bedroom) must be at least 2.75m wide and every other double (or twin) bedroom at least 2.55m wide. According to the NDSS and Policy D6 of the London Plan, the minimum GIA floorspace as per below are applicable to the scheme:

+ Size

4.22 The proposed one-bedroom flat would have a Gross Internal Area of 40.2 sq.m, which would be in accordance with the London Plan (2021) requirements and the DCLG's nationally described space standard for this type of flat. Assuming this is a one bed one person flat. The bedroom would be 12.1 sq.m, which would exceed the 11 sqm minimum requirement for a double bedroom and certainly for the 7.5sqm single bedroom minimum requirement. The proposed bedroom is considered to be satisfactory. The submitted section shows that the floor-to-ceiling height would be a uniform 2.3m throughout the flat, which is considered to be satisfactory.

+ Amenity space, daylight and sunlight, outlook

4.23 The proposed flat would be located entirely below ground floor level with lightwells forming the only source of natural light. The unit comprises two private outdoor amenity spaces to the east and west of the unit in the form of a terraced area, which totals 21.8 sqm. The proposed amenity space areas are significantly larger than the 5 sqm minimum size required by the London Plan and LBHF Planning Guidance SPD Policy HS1.

4.24 Furthermore, the basement bedroom would have its main source of light from the windows looking onto the private amenity space to the east. In respect of light and outlook to the new unit, Officers previously raised concerns with the earlier application that it's outlook would be poor. Although the lightwell would be open to the sky with no obstructions, it would be enclosed on three sides by the elevations of the existing building as well as by the railings that would be necessary to surround the lightwell. The Planning Inspector in determining the appeal previously stated: "7. An Assessment for the Provision Daylight and Sunlight dated November 2021 (the Assessment) has been submitted in support of the scheme. The Council had raised concerns that the Assessment does not reflect updated BRE guidance published in June 2022 which refers to new daylight and sunlight tests. The windows in the east elevation would be restricted by the adjacent high wall, the lightwells are small in size and the doors onto the amenity space to the west would be overshadowed by the existing stairwell for the main building. From the evidence before me, I am not satisfied that the proposal would receive sufficient levels of daylight and sunlight, and this would compromise the living conditions of future occupiers of the flat."

4.25 Accordingly, an updated Daylight and Sunlight Report was submitted in support of the current application that showed the internal light levels would be within acceptable limits. This overcomes the reason for refusal the Inspector dismissed the previous appeal on.

4.26 The Daylight and Sunlight Report dated May 2024 by Herrington Consulting Ltd concludes that both bedrooms and the living/ dining/ kitchen area within the new flat would have adequate daylight according to the illuminance calculations. For each room type 50% or more of the assessment area needs to meet or exceed the target illuminance value for the room type (100 lux in bedrooms, 150 lux in living rooms and 200 lux in kitchens), as follows:

- Bedroom: 61% of the room would meet the required lux levels.
- Kitchen/Living/ dining room: 90% of the room would meet the required lux levels.

4.27 Therefore, the proposal would meet the minimum daylight levels required in line with the BRE standards. With regards to sunlight, the BRE requirements for sunlight are that at least one main window faces within 90 degrees of due south and that a habitable room, preferably a main living room, should receive a total of at least 1.5 hours of sunlight on the 21st March. The submitted daylight and sunlight report demonstrates that the proposed development would meet the above minimum requirements. The bedroom would receive 2.9 hours of sunlight on the 21st March and the combined living room, kitchen, diner would receive 1.7 hours of sunlight on the 21st March. As such, the proposal overcomes the Inspectors previous reason for dismissing the appeal.

4.28 In light of the planning history and the updated daylight and sunlight report, on balance, the proposal would result in satisfactory standard of accommodation.

HIGHWAYS AND TRANSPORTATION

+ Car parking for new flat

4.29 Policy T1 of the Local Plan (2018) seeks to encourage the provision and use of public transport and bicycles, to improve congestion and air quality within the Borough. Policy T3 of the Local Plan (2018) specifies that new development should include the provision of convenient, accessible, safe and secure cycle storage within the boundary of the application site, in accordance with the London Plan cycle parking standards.

4.30 Policy T4 of the Local Plan (2018) specifies that car parking permit free measures will be required on all new development unless evidence is provided to show that there is a significant lack of public transport available. In such instances, maximum residential car parking standards as set out the London Plan should be met.

4.31 The London Plan Policy T6 states that car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport, with developments elsewhere designed to provide the minimum necessary parking ('car-lite'). Car-free development has no general parking but should still provide disabled persons parking.

4.32 The site is in a Controlled Parking Zone (Zone E) in operation 9am to 8pm, Monday to Saturday. 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. This therefore justifies a car-free scheme which can be secured by restricting future car parking permits right for disabled parking only to those possessing a blue badge.

4.33 The Council will expect the residential units to be proposed as car-free and this needs to be secured by the signing of a Unilateral Undertaking (UU). This is the only mechanism the Council uses for securing car-free development. The signed Unilateral Undertaking (UU) would ensure the proposal adheres to both the Local Plan and London Plan policies regarding car parking for car-free residential development and is also beneficial to reduce air pollution from vehicle emissions. The applicant has agreed to enter into a Unilateral undertaking and has provided a draft UU. This would ensure the proposal is car-free and does not lead to increase demands in on-street car parking which would have an impact on highways safety and condition, as well as on localised air quality which is currently poor. The proposal is therefore in accordance with Policies CC10 and T4 of the Local Plan (2018) and Policies SI 1, T2 and T6 of the London Plan (2021).

+ Cycle parking

4.34 A new freestanding, covered cycle store with space for two cycles is proposed to be erected adjacent to the flank wall of the mansion block at ground floor level, just to the South of the new lightwell. This new store would be sufficient to meet the requirements of Local Plan Policy T3. If the application were acceptable in all other respects, a condition would be attached requiring details to be submitted.

+ Refuse storage

4.35 In terms of refuse storage, 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. For these reasons no objections are raised in terms of Local Plan Policy CC7.

+ Air quality

4.36 NPPF (2024) Paragraph 199 relates to air quality, and states planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.

4.37 The councils Air Quality Action Plan 2025-2030 was approved and adopted by the council on the 16th of December 2024.

4.38 The development site is within the borough wide Air Quality Management Area (AQMA) and an area of existing poor air quality due to the road traffic emissions from Hammersmith Road (A315) and North End Road (B317). The development proposal would introduce new residential receptors into an area of existing poor air quality.

4.39 At the proposed development site, the councils 2030 annual mean Air Quality targets for the air pollutants Nitrogen Dioxide (NO₂) - 10ug/m³, Particulates (PM₁₀) - 15ug/m³ and PM_{2.5} - 5ug/m³ are exceeded. Further Mitigation measures would be required to make the development acceptable in accordance with Local Plan Policy CC10 and London Plan Policy SI 1 , and the councils Air Quality Action Plan.

4.40 The Council's Air Quality team have reviewed the application and suggested conditions to secure details of air quality mitigations.

+ Flood risk

4.41 This site is in the Environment agency's Flood Zone 2. The proposals are to create a new dwelling at lower ground floor level. As required, a Flood Risk Assessment (FRA) has been provided with the application. Whilst this dated from 2016 it is accompanied by an Addendum from 2024. The Addendum provides an update on the previously submitted FRA noting that the flood risks remain the same as before. The Environment Agency published new breach modelling for the River Thames in 2017 which has been considered but the site would not be impacted in the event of a breach of flood defences. Surface water, groundwater and sewer flood risks also remain as low. Nevertheless, some flood mitigation measures are proposed, which are considered to be appropriate.

4.42 Overall, the FRA can be accepted and a condition is included requiring the implementation of the measures as outlined. However, a condition is also attached requiring a further detailed SuDs strategy to be submitted, in order to maximise opportunities for urban greening and flood resilience in line with Local Plan (2018) policy CC3 and Policies SI 5 and SI 13 of the London Plan (2021).

+ Contamination

4.43 Local Plan Policy CC4 states that the Council will support the remediation of contaminated land and that it will take measures to minimise the potential harm of contaminated sites and ensure that mitigation measures are put in place. Local Plan Policy CC9 states that the Council will support the remediation of contaminated land and that it will take measures to minimise the potential harm of contaminated sites and ensure that mitigation measures are put in place. The Policy requires applicants to carry out site assessment and submit a report of findings on sites where contamination is known to be present, to establish the nature and extent of contamination.

4.44 Key principles LC 1-6 of the Planning Guidance SPD identify the key principles informing the processes for engaging with the council on, and assessing, phasing and granting applications for planning permission on contaminated land. The latter principle provides that planning conditions can be used to ensure that development does not commence until conditions have been discharged.

4.45 Potentially contaminative land uses (past or present) have been identified at, and or, near to this site, and the proposal would introduce uses that are vulnerable to potential contamination. Therefore, to ensure that no unacceptable risks are caused to humans, controlled waters, or the wider environment during and following the development works conditions are attached covering the assessment and remediation of contaminated land.

4.46 Subject to the conditions recommended above, no objection would be raised under Local Plan Policy CC9 on land contamination grounds.

FIRE SAFETY

4.47 In the interests of fire safety and to ensure the safety of all building users, Policy D12 of the London Plan (2021) states that 'all development proposals must achieve the highest standards of fire safety'.

4.48 Paragraph 3.12.2 of the London Plan (2021) specifies that the matter of fire safety compliance is covered by Part B of the Building Regulations. However, to ensure that proposals achieve the highest standards of fire safety, reducing risk to life, minimising the risk of fire spread, and providing suitable and convenient means of escape which all building users can have confidence in, applicants should consider issues of fire safety before building control application stage.

4.49 A 'Fire Strategy Statement' has been submitted as part of the application, outlining the details regarding how the proposal has given consideration to the criteria of Policy D12 Part A, 1 - 6 of the London Plan (2021). The new dwelling will be provided with a Home Fire Safety Pack - comprising of 2kg Dry Powder fire extinguisher and a British Standard hard case fire blanket. Residents will be made aware of the location of this equipment. Given the nature of the proposal, officers are satisfied that the proposed development would satisfy London Plan Policy D12, Part A.

5.0 RECOMMENDATION

5.1 On balance, in light of the above, Officers recommend that planning permission be granted for this development subject to conditions and a unilateral undertaking.