

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 11 July 2023	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> Hyde Park	
<b>Subject of Report</b>	<b>Devonport, 23 Southwick Street, London, W2 2PR</b>		
<b>Proposal</b>	Part demolition of the existing standalone garages and erection of two new dwellings (Class C3) over two storeys, landscaping works, air source heat pump equipment and other associated works.		
<b>Agent</b>	Miss Kathryn Tyne		
<b>On behalf of</b>	Church Commissioners for England		
<b>Registered Number</b>	22/07052/FULL	<b>Date amended/ completed</b>	26 October 2022
<b>Date Application Received</b>	19 October 2022		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Bayswater		
<b>Neighbourhood Plan</b>	Not applicable		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY & KEY CONSIDERATIONS

The site comprises a group of 5 existing single-storey garages set in the centre of the Devonport building complex. The site itself is not listed but lies within the Bayswater Conservation Area. The site is not visible from the street level (Sussex Gardens or Southwick Crescent) and is adjacent to a communal garden.

The existing garages are approached by car from a lower-level driveway that is accessed directly from Southwick Street to the north-east and Radnor Place to the south-west, via ramps. There are no public views of the garage site from the surrounding streets, and limited private views from the rear of higher floors in properties on Somers Crescent and Southwick Street. The area above the existing garages is accessible from the existing reception lobby of Devonport by foot. The nearest residential units are located on Somers Crescent, Southwick Street and within Devonport itself.

The application proposes the part demolition of the existing standalone garages and, utilising the floorplate/ retaining walls of the garage, the erection of two new dwellings (Class C3) over two storeys. Both units comprise 2 bedrooms at lower ground floor level and living areas and kitchens at ground floor garden level. The units have a small area of landscaping to the rear at lower ground floor level and to the front of the building, facing the communal gardens of Devonport at ground floor level. Access to the unit is proposed to be from the communal gardens of Devonport, using the reception/concierge area. Two trees are proposed to be removed, and landscaping works and tree replacement is proposed. Air source heat pumps are proposed for both units.

Minor revisions have been made to this application to de-link this application from proposals at Portsea Mews (discussed in the planning history section of this report) and to amend the access arrangements to the units. Re-consultation took place.

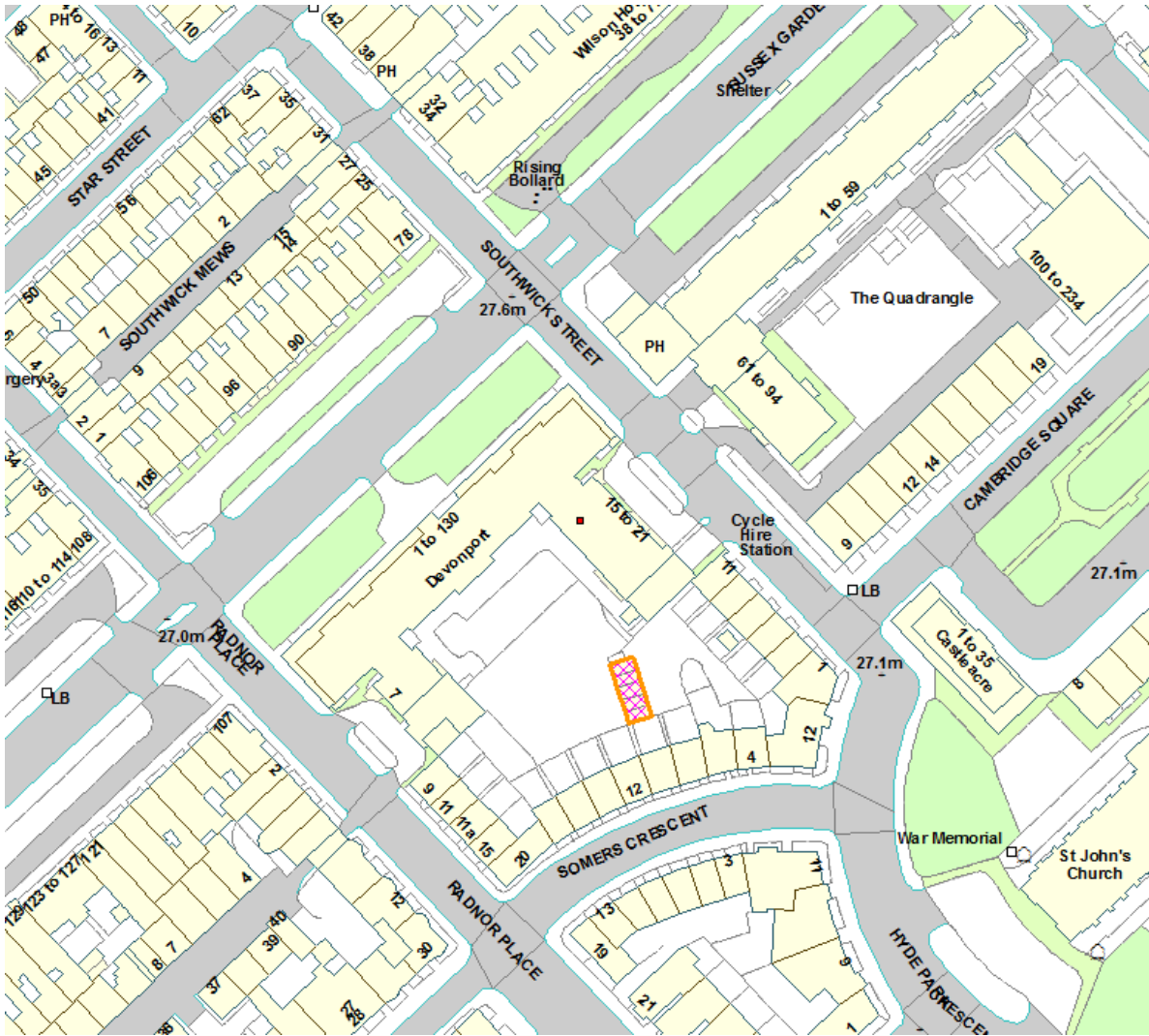
Objections have been received to the proposals from residents in Devonport and surrounding properties primarily on amenity grounds.

The key considerations in this case are:

- The acceptability of the proposed residential accommodation in terms of its, size, mix and accessibility.
- The acceptability of the energy performance of the proposed building.
- The acceptability of the proposed buildings in design terms.
- The impact of the proposed buildings on the character and appearance of the Bayswater Conservation Area.
- The impact on the amenity of neighbouring residential properties.

The application is considered to accord with the development plan in terms of land use, amenity, design, energy and trees/landscaping and the application is therefore recommended for approval, subject to the conditions set out in the draft decision letter appended to the report.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

**Garden elevation of Garage with 1-11 Southwick Street to the rear and properties of Somers Crescent to the right.**



**Garages from rear driveways/ access. Somers Crescent properties to left of photo, communal garden to right of photo.**



## 5. CONSULTATIONS

### 5.1 Application Consultations

#### COUNCILLOR DIMOLDENBERG & COUNCILLOR SOUTHERN

- Objection raised on the grounds that the communal garden is too small for the construction of two houses.
- The loss of two mature trees is unacceptable as the garden is currently a haven for birds,
- The proposed houses will be very close to existing homes and will present a blank wall to residents in Somers Crescent harmful to amenity.
- The noise from the proposed heat pumps will create unacceptable noise.
- The proposed entrance to the new houses requires the occupants and their visitors to walk through the garden and will result in the garden being used at night creating noise and disturbance.
- The upper floor will look directly on to the garden area reducing amenity to existing residents.
- Quality of the accommodation proposed is poor with the ground floor having no windows on three sides. and the fourth side will look out on to a well-used car park directly outside.
- It is the Church Commissioners intention to rent these flats and there are concerns that these flats will not provide long term homes for families.
- There is no doubt that the construction will take considerable time, during which the garden area will not be a pleasant place to sit and relax.

Councillor Dimoldenberg also forwarded on an objection from a local resident.

#### HYDE PARK ESTATE ASSOCIATION

Support given to the Portsea Mews development but the proposed units in the garden will impact on the privacy of existing residents using the garden; that privileged access to the garden is unacceptable and the new residential units will destroy the peace of the gardens.

A further objection from the association was received (from a different person) reiterating the concerns raised by Councillor Dimoldenberg and raising the following additional further grounds for objection:

- There is no direct access to the properties except through the gardens. How will visitors access the property? How will deliveries say: deliveroo; postal or other access the property.
- Is extra lighting for safe passage of future tenants needed?
- Light spillage into garden and adjacent properties.
- Bat protection.

#### HISTORIC ENGLAND

Not considered necessary to be notified of this application.

#### HIGHWAYS PLANNING MANAGER

No objections raised to loss of garages or provision of new residential properties. Details of the cycle storage need to be provided.

**WASTE PROJECTS OFFICER**

Objection raised on the details submitted. If the applicant intends on using existing facilities at Devonport then details of capacities needs to be given.

**ENVIRONMENTAL SCIENCES**

No objection to the plant proposed. Suggested noise conditions attached.

**ARBORICULTURAL OFFICER**

No objection subject to conditions.

**ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**

No. Consulted: 152

Total No. of replies: 22

No. of objections: 22 (on behalf of 20 properties)

1 Petition containing 68 signatures.

The objections received raised some or all of the following:

**Land Use**

- Two new homes are not going to create a material difference to housing provision/ social housing provision in Westminster and this should not be a reason to approve the scheme.
- The linking of the scheme to Portsea Mews development should not be justification for this poor development – if the Portsea Mews application fails, the proposals which result in the loss of the garden should not be the fallback position.
- The properties are going to be rented and therefore the homes proposed don't add to the permanent housing stock. Behaviour of renters is very different to that of an owner.
- There are so many empty homes that no more are needed.

**Design**

- Design and materials are shoddy, modern and bear to much of a resemblance to Devonport itself.
- The design is out of keeping with the conservation area.
- The new terraces to the units would attract unsightly furniture.

**Amenity**

- Loss of garden
- Access from the garden to the units is via a central stair in front of the building, implying the communal gardens will be 'theirs'.
- Overlooking into communal garden and therefore loss of privacy.
- Overlooking into adjacent residential properties.
- Noise from new tenants using the communal garden especially if they have children and pets.
- Noise from new tenants using the proposed terraces.
- Noise from new plant and floors.
- Loss of light to ground floor flats and garden.

- The top floor is taller than adjacent boundary fences and will affect light and view to neighbouring properties.
- The design and access falsifies that the scheme would only result in limited private views from adjacent properties.

#### Garden/ Trees

- Loss of 2 trees is unacceptable.
- There is no justification for the loss of the trees except 'to make way for the development'.
- The arboricultural report is biased toward the development and disingenuous in providing winter photos and provides a false magnification of the development.
- Loss of communal garden area unacceptable for housing.
- Loss of nature.

#### Other

- Access to the units from Southwick Street is only via the garden.
- Noise and disruption during works.
- Security from direct access of new residential units to garden from both new tenants and delivery people.
- Security concerns from new tenants accessing the new units.
- This is an attempt to make money from leaseholders – the cost of garden upkeep is high.
- Negative impact on property values in Devonport.
- Freeholder/ leaseholder rights will be impeached – the freeholder lease says 128 flats can access and enjoy the right of the garden.
- Granting permission may affect the owner's chance of acquiring the Right to Manage or the freehold of the block.
- It is unfair to upset 100's of residents for two families.
- What family would want to live here when there are 100's of residents not happy with their presence.

#### PRESS NOTICE/ SITE NOTICE:

Yes

RECONSULTATION 12 APRIL 2023 (The consultation advised that the application had been de-coupled from the Portsea Mews applications, and that some amendments have been made and include the relocation of the stairs on the access terrace from a central staircase to one to the northern end of the terrace towards the stairs to Southwick Street).

#### HYDE PARK ESTATE ASSOCIATION:

No further response received.



## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 152  
Total No. of replies: 2  
No. of objections: 2

2 responses received stating:

- The revisions to the main access stair to the units, to beside the units rather than into the communal gardens, still allows the proposed units direct access into gardens
- No one uses the gardens at night despite applicant's assertion and these two houses will still be able to easily access the garden resulting in noise
- The revised proposals do not respond to all the objections received.

### 5.2 Applicant's Pre-Application Community Engagement

The applicant confirms that Engagement was carried out by the applicant with the local community and that key stakeholders in the area prior to the submission of the planning application, in accordance with the principles set out in the Early Community Engagement guidance.

The applicant confirms that they circulated details of the proposed scheme to the existing residents of the Devonport complex for their feedback in two separate rounds of consultation (although details of this have not been provided). The applicant confirms that there were a small number of responses to the initial consultation (again details of this have not been provided) and the main concern that was raised was the relationship between the new dwellings and the adjacent area of communal lawn. Specifically, the concern was the potential for the residents of the two new dwellings to extend their private terrace. The applicant noted that there are several properties in the Devonport complex who already have direct access onto the communal garden, but revised the scheme to provide a more clearly delineated threshold between the shared spaces of the communal lawn and existing pathways around the gardens. Further concern was also raised from residents in Southwick Street to the loss of their view of the communal gardens. Whilst the applicant considered these views limited a green roof to the new bulk and massing was proposed to provide a more pleasant outlook and additional planting was included in the scheme.

The applicant's cover letter and other application documents confirm that the scheme has been revised in response to views and representations expressed during pre-application community engagement, although objections still remain.

## 6. WESTMINSTER'S DEVELOPMENT PLAN

### 6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38

of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## **6.2 Neighbourhood Planning**

The application site is not located within an area covered by a Neighbourhood Plan.

## **6.3 National Policy & Guidance**

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

## **7. BACKGROUND INFORMATION**

### **7.1 The Application Site**

The site comprises a group of 5 existing single-storey garages set in the centre of the Devonport building complex. The site itself is not listed but lies within the Bayswater Conservation Area. The site is not visible from the street level (Sussex Gardens or Southwick Crescent) and is adjacent to the communal garden of the Devonport flats.

The existing garages are approached by car from a lower-level driveway that is accessed directly from Southwick Street to the north-east and Radnor Place to the south-west, via ramps. There are no public views of the garage site from the surrounding streets, but there are private views from the Devonport flats, plus the rear of higher floors in properties on Somers Crescent and Southwick Street. The area above the existing garages is accessible from the existing reception lobby of Devonport by foot.

The nearest residential properties are those with the Devonport block of flats themselves; the 5 townhouses at 3-11 Southwick Street and the townhouse of 8-12 Somers Crescent, all of which are part of the original post war development. The townhouses of Southwick Street and Somers Crescent all have a uniform appearance from front to the rear, with a raised patio garden at rear ground floor level, which forms a roof deck for a covered area of off-street parking, including the garages subject to this application, located below at lower ground floor level. The parking is accessed via a secure gated underpass, located under the block to the north (adjacent to No 9).

## 7.2 Recent Relevant History

None relevant to the garages.

### **Portsea Mews - 22/06901/FULL & 22/6902/LBC**

Demolition behind the retained facade and alterations to the existing buildings, replacement floorspace and extension at roof and ground floor level (through the introduction of glazed infills); excavation of a new basement, to create Office (Class E) accommodation and improved residential accommodation (Class C3) within Portsea Mews; creation of new internal link at ground floor to 8 Porchester Place, new shopfront to 8 Porchester Place, repair of facades and other associated works. Associated listed building works.

Granted permission June 2023 by the Planning Committee.

It was originally proposed that the 2 units sought under this current application would be the off-site provision for the scheme at Portsea Mews as there was a shortfall in residential accommodation and the schemes were to be linked. The proposals are no longer to be linked and this current application is being assessed on its own merits. A number of comments from objectors refer to this linking.

## 8. THE PROPOSAL

The application proposes the part demolition of the existing standalone garages, utilising the floorplate/ retaining walls of the garage for the erection of two new dwellings (Class C3) over two storeys. The new bulk and massing comprises an extension at ground floor level, atop the existing garage structure and this measures 13m in width (the same as the garage structure below); 9.1m in depth (some 2.9m deeper than the garage structure below) and 3.3m in height.

Both units comprise 2 bedrooms at lower ground floor level and living areas and kitchens at ground floor garden level. The units have a small area of landscaping to the rear at lower ground floor level and to the front of the building, facing the communal gardens of Devonport at ground floor level. Access to the unit is proposed to be either from the communal gardens of Devonport, using the reception area, or from within the driveway/garage access, both accessed from Southwick Street. Two trees are proposed to be removed, and landscaping works and tree replacement is proposed. Air source heat pumps are proposed for both units.

Minor revisions have been made to this application to de-link this application from proposals at Portsea Mews (discussed in the planning history section of this report) and to access arrangements. Re-consultation took place.

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

#### **Loss of Garages**

The garages, according to the applicant, are either vacant or used for storage purposes only. There are no City Council policies which seek to protect car parking of this nature and Policy 27 states 'where sites are redeveloped, existing parking provision must be reduced to meet the parking standards as set out in the London Plan'. Therefore, the loss of the private garage car parking is considered acceptable.

#### **Proposed Residential Accommodation**

As noted above, a number of objections have been received on the grounds that if the 2 residential units were proposed to make the application at Portsea Mews acceptable, then this too is unacceptable given the harm the 2 new units will cause to the amenity of residents of Devonport and surrounding properties.

Now that the application is no longer linked to the proposals at Portsea Mews, the proposals for 2 new residential units are to be assessed on its own merits.

Further objections have been received on the grounds that 2 residential units will not add to the housing stock of Westminster, noting that they are proposed to be rented and not for social housing, and that there are so many empty properties in the vicinity. The objectors concerns are that there is additional harm caused by the proposals, as set out above and discussed below, which is not outweighed by the benefits of 2 residential units.

The principle of any new housing is supported by Policy 8 of the City Plan (April 2021) and in place of this garage accommodation is considered to be an innovative delivery of housing compliant with Policy 11. Therefore, the objections can not be sustained.

The two, 2 bed (4 person) houses measure 90m each and whilst slightly larger than Technical Housing Standards size of 79m<sup>2</sup>, are utilising the floorplate/ retaining walls of the garage which is dictating the bulk and massing. The proposed houses are fully compliant with the Technical Space Standards for bedroom sizes. The bedrooms are proposed at lower ground floor level with the living accommodation proposed at ground floor level. All rooms have natural light. The bedrooms facing the driveway will be lit with full height sliding doors, leading to a small terrace and the bedrooms facing the garden will be lit by high level clerestory windows (so as to not result in overlooking or being overlooked) and an internal glazed floor rooflight. At ground floor level, high level clerestory windows are proposed to the driveway elevation and this serves the kitchens and a WC, and there are full height sliding doors to the living accommodation which access the small terrace/ walkway. A daylight assessment has been submitted with the application which demonstrates that the internal levels of daylighting to the new residential units comply with the BRE guidelines with respect to the ground floor living areas. Regrettably the bedroom windows to both properties do not comply with the guidance but this is due to the nature of the site, the purposing of the garages shell and the design of the windows overcoming both amenity concerns to nearby residential occupiers, and the expected amenity of the future occupiers. On balance and given that the living areas are fully compliant, and exceed the BRE guidance, the proposals are

considered acceptable. In terms of sunlight, all rooms except the two lower ground rear bedrooms comply with the BRE guidance. Again, for the reasons above, this is considered acceptable and does not justify refusal of the application. The units both have private amenity space at lower ground level off one of the bedrooms and at the ground floor, a shared terrace which spans the width of the development and this measures approximately 11m<sup>2</sup> for each house. Accordingly, the proposals are considered to offer a good standard of accommodation and are considered to comply with Policy 12 (Housing quality).

## 9.2 Environment & Sustainability

### **Sustainable Design & Energy Performance**

The proposals are providing high quality additional residential floorspace to the existing property. The applicant advises that sustainable and sustainability sourced materials will be used wherever possible. The extension atop the existing garage structure will have good insulation and the windows will have sound thermal energy performance. Two air source heat pumps are proposed which are an energy efficient measure.

The proposals are therefore considered to comply with Policy 36 (Energy Performance) and 38D (Design Principles) of the City Plan and the guidance as set out in the 'Energy' and 'Retrofitting and Sustainable Design' sections of the ESPD.

### **Whole Life Carbon**

The proposed scheme is a minor development and therefore a Whole Life Carbon Assessment is not required.

### **Circular Economy**

Whilst Policy 37C states that developers are required to demonstrate the recycling, re-use and responsible disposal of construction, demolition and excavation waste, the scheme is not major application, therefore the applicant is not obliged to comply with the Circular Economy policies. In any event, there is little to be demolished except internally within the garages.

### **Flood Risk & Sustainable Drainage**

The site does not lie within a surface water flooding hotspot. However, measures to reduce the risk of surface water flooding include the planting and green/wildflower roof and a rainwater harvesting tank (to be sited adjacent the proposed air source heat pumps beneath the undercroft driveway). The proposals are in accordance with policy 35 (Flood risk) and will help protect receiving waters from pollution and minimise the risk of flooding and other environmental damage.

### **Light Pollution**

Whilst there are windows to the front and rear elevation and a number of rooflights, these are well proportioned and not considered to result in significant lighting which could affect wildlife in the garden. The proposals are considered to comply with Policy 33(B). Local environmental impacts

### **Environment & Sustainability Summary**

For a development of this size and nature it is considered that the proposal meets the City Council's environmental and sustainability policies.

### 9.3 Biodiversity & Greening

Objections have been received on the grounds of lack of biodiversity, harm to nature from the development and the removal of the trees. The tree issues are discussed in part 9.8 of this report.

Policies 7 and 34 within the City Plan 2019 - 2040 states that developments will, wherever possible, contribute to the greening of Westminster, and that they should achieve biodiversity net gain wherever feasible and appropriate including maximisation of habitats for priority species.

A green wildflower roof is proposed to the new dwellings and this will incorporate a rainwater harvesting system. This green roof is welcomed and details of the maintenance of the wildflower roof will be secured.

A climbing plant screen is also proposed to the northern driveway elevation at lower ground floor. Whilst this is welcomed in principle, and for the amenity of future occupiers is desirable, as these plants may be growing in planters details of the design, irrigation, plants and maintenance should also be secured.

In the applicant's statement it is proposed that insect, bee and bat boxes are installed at roof level. These are not shown on the proposed drawings and therefore whilst welcomed, details will be secured by condition.

It is not considered that the development of the existing garage structure and the extension atop this will harm the biodiversity of the garden. Whilst there are windows to the front and rear elevation and a number of rooflights, these are well proportioned and not considered to result in significant lighting which could affect wildlife in the garden.

The proposals are considered to comply with Policy 7 and 34.

### 9.4 Townscape, Design & Heritage Impact

#### Site and Significance

The site is not listed and, as noted by the architect's assessment, is generally ignored by the Conservation Area Audit, other than it being one of a number of such postwar redevelopments in this part of the Church Commissioners' Hyde Park Estate. This collection of post-war housing blocks is of some interest in terms of how the area developed after World War 2, and whilst tastes may vary, the scale and layout of the blocks is generally respectful of the local historic context.

The open gardens are an integral component of the design of the Devonport and Somers Crescent development, providing shared private amenity space, with garage blocks set at a distinctly lower level to maintain the open character of the gardens.

The garage area is set lower than the gardens, and is significantly more functional in character with concrete surfacing and brick and concrete walling creating a somewhat oppressive environment, in stark contrast to the pleasant verdant character of the gardens at the upper level. The (raised) level and open character of the gardens and their definition from the more functional lower garages, is an important component of how this mini estate was designed.

### **Legislative & Policy Context**

The key legislative requirements in respect to designated heritage assets are as follows:

Section 72 of the LBCA Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Policy 39 of the Westminster City Plan 2019-2040 (April 2021) requires development to conserve features that contribute positively to the settings of conservation areas and take opportunities to enhance their settings, wherever possible.

Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. This applies whether or not a site is formally designated.

Chapter 16 of the NPPF clarifies that harmful proposals affecting listed buildings and conservation areas (and other designated heritage assets) should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

### **The Proposals and their Impacts**

As noted above there are objections to the detailed design of the new houses and comments are made to the materials being shoddy and modern, which bear to much of a resemblance to Devonport itself and that the design is out of keeping with the conservation area.

The pair of new dwellings, each set over two-storeys would be built from the existing concrete ring and retaining walls that form the main envelope of the garages, building a new façade at the lower (driveway) level slightly further into the driveway than existing (but maintaining sufficient width for two way traffic), above which a new upper storey would be added at garden level, cantilevering out over the parking area. The new ground floor would be a timber clad structure. This would represent a new and sizeable built addition at this upper level which is otherwise generally open in character. However, the proposal with this additional bulk and massing is designed in a generally sensitive manner to the 20<sup>th</sup> century design of the development and would appear to sit comfortably within its landscaped setting. Repeating the concrete beam aesthetic would respond positively to the strength of the existing architecture around the wider development, whilst the use of timber cladding would provide some naturalisation of the design with the landscaped character of the gardens.

Whilst the upper storey would be visually evident at garden level, it would not seem to be out of place, appearing almost like a communal or ‘lodge-like’ building such as one might expect of a development of this type. The proposed material choices are all taken directly from, and in keeping with, the existing palette forming the context of the scheme. While the neighbouring buildings are predominantly brick, they also feature timber cladding to the feature bay windows and so this material choice is in keeping with the context of the surrounding area. The new timber block will sit above the retained brick base at the lower level for further material continuity with its surroundings in accordance

with Policy 38 and 40 of the City Plan. The vertical timber cladding will be in untreated oak, so that it will quickly weather to a silvery grey to blend more directly with the existing mature trees in the communal garden, it is therefore considered to have minimal effect on the view out of these gardens or on their enclosure and sit comfortably within the surrounding trees. Detailed design elements such as painted front doors; canopies over the front doors and main garden elevation windows allow for legibility of these properties as two separate residential properties which is considered to eliminate concerns of conflict between private and shared spaces. The replacement tree planting and landscaping also provides a suitable buffer between the new houses and the gardens.

Overall, the proposals are considered to preserve and enhance the surrounding buildings and the character and appearance of the Bayswater Conservation Area. This would meet Policies 38, 39 and 40 of the City Plan 2019 – 2040.

## 9.5 Residential Amenity

Development that could result in a change to the amenity of neighbouring residents must be found to be in accordance with policy 7, 33 and 38 of the City Plan 2019 - 2040. Policy 7 seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing. Policy 33 aims to minimise local environmental impacts of development. Policy 38 C also seeks to reduce the opportunity for crime and anti-social behaviour, promoting health, well-being and active lifestyles through design and ensuring a good standard of amenity for new and existing occupiers.

A number of objections have been raised on amenity grounds relating to the loss of garden which is described as a “calm oasis” to existing owners/tenants, loss of light, sense of enclosure, overlooking, noise from the use of the new dwellings, noise from plant and the provision of direct access to the communal gardens.

### Daylight & Sunlight

The existing garage is to be adapted with an extension above to create the two storey houses. The extension measures the width of the existing garage structure at lower ground level of 13m. The ground floor extension measures 9.1m in depth (compared to the existing lower ground floor structure of 6.2m) as this incorporates an overhang over the driveway to the rear and is 3.3m in height with a flat roof.

The bulk and massing of the new extension would be approximately 9m away from the nearest residential properties in Devonport, north of the proposals; 23m away from 3-11 Southwick Street to the north east; and 7.5m away from the rear windows of 8-12 Somers Crescent, to the south of the site. The proposals about the elevated ground floor terraces of 8-12 Somers Crescent, extending 1.5m above the existing terrace fencing of 10 Somers Crescent.



A daylight and sunlight assessment has been submitted with the application and this has assessed the following properties:

- 15-21 Devonport
- 1-11 Southwick Street
- 1 Hyde Park Crescent
- 4-12 Somers Crescent

\*As a point to note, a single storey ground floor extension is shown on the assessed plans for 7 Southwick Street. This extension is unauthorised; has been refused planning permission and is subject to enforcement proceedings.

The report demonstrates that there are no losses of daylight to any of the properties assessed.

In terms of sunlight, it must be remembered that only properties which have a window facing due south of the application proposals are required to be assessed. Therefore only 15-21 Devonport and 1-11 Southwick Street need be assessed. There are no losses to any of the properties assessed.

It is therefore considered that the proposals are wholly acceptable in terms of daylight and sunlight and the objections on this ground cannot be sustained,

In terms of overshadowing, the report identifies that there will be no overshadowing to neighbouring properties' gardens and the communal garden and the objections on this ground cannot be sustained.

### **Sense of Enclosure**

The most affected properties in terms of sense of enclosure are the properties south of the application proposals in Somers Crescent but notably No.10. The proposed extension is 7.5m away from their rear ground floor windows (which from records available to the Council comprise a kitchen/ dining area), at the rear of their ground floor terraces. To No.10 there is already a timber fence to the rear of the terrace, abutting the application site. The extension will measure 1.5m above this fencing, at a width of 9.1m. Whilst this extension will be wholly visible from this property and the adjacent Somers Crescent properties, it is not considered that this bulk and massing would result in such a harmful sense of enclosure to warrant refusal.

Given the height of the additional bulk and massing and the distance to the Devonport and the Southwick Street properties, the proposals are not considered to result in any harmful sense of enclosure.

### **Loss of Privacy**

Bedrooms are proposed at lower ground floor level with the living accommodation proposed at ground floor level. The bedrooms facing the driveway will be served by full height sliding doors, leading to a small terrace, to be obscured by climbing planting and the bedrooms facing the garden will be lit by high level clerestory windows (so as to not result in overlooking or being overlooked) and an internal glazed floor rooflight. Given these windows are high level and that they face the driveway there are no concerns with regards to overlooking.

At ground floor level there are again high level clerestory windows to the rear elevation facing the driveway, which serve the kitchen areas, and one in the northern elevation facing Devonport, serving the entry corridor. There are no windows in the southern elevation facing Somers Crescent properties. Therefore, given that these windows are high level prohibiting any meaningful views and are primarily for lighting purposes, there are no concerns with regards to overlooking to the windows of surrounding properties. Whilst there are a number of rooflights proposed these offer views upwards to the sky.

To the front elevation of the development there are sliding patio doors to each house serving a living area and providing access to their terrace. In order to maintain privacy for both the dwellings and users of the communal gardens, the windows facing towards the communal garden will be blocked from any direct views to or from the lawn by a full-length cantilevered balcony with a solid timber balustrade. Planting is proposed as a buffer between this balustrade and the existing communal garden.

The proposals are not considered to result in any harmful overlooking to adjacent properties or to cause harmful overlooking onto the communal gardens.

As a point to note, objectors contend that views into the communal garden are not experienced elsewhere and users of the garden experience privacy to enjoy this peaceful area. Despite the mature landscaping to the communal gardens, they are already heavily overlooked by the windows to the flats of Devonport; and the properties of Southwick Street and Somers Crescent and it is not considered that the creation of two new units would significantly alter this overlooking and for that reason this objection cannot be sustained.

#### **Noise & Vibration from Plant**

Objections have been received to the siting of two air source heat pumps under the undercroft adjacent the lower level of the properties, which is under the terrace/ garden area belonging to 10 Somers Crescent. The objections relate to the assessment of the proposals and that a revised acoustic report was submitted identifying 12 Somers Crescent as the nearest noise receptor and from general noise associated with air source heat pumps.

The acoustic report submitted with the application was revised during the course of the application at the request of the Environmental Sciences Officer to provide the actual noise calculations and details regarding the distances from the proposed air source heat pumps to the nearest noise receptors so that a full assessment could be made. As a point to note, although the plant is sited under the terrace/garden to 10 Somers Crescent, as this is shielded, 12 Somers Crescent is considered the nearest receptor.

The Environmental Sciences Officer considers that the proposed air source heat pumps will not cause any detrimental harm to the nearest residential properties at 10-12 Somers Crescent in terms of noise. Standard compliance noise conditions are recommended.

### **Noise from New Residential Units and Use of Garden**

Concerns are raised that future occupiers would create unacceptable levels of noise from internally within their living room if the doors are open; from the terraces and at night-time if the future occupiers access the garden, when existing residents do not use the garden at night-time.

Given the size of the two new units and the size of the terraces proposed to the front, it is not considered that unacceptable levels of noise would be generated. It is unlikely that an increase in 8 people (the flats are 2 bed, 4 person homes), using the communal garden will result in such an increase in noise so as to be noticeable. The Devonport complex has a management company and should there be any future unacceptable behaviour/ parties etc resulting in excessive noise it is considered that the concerns can be dealt with in this manner.

Responding to the issue specifically of night-time garden use, the applicant confirms that the use of the gardens is not permitted after 9pm and that this, whilst not governed by the lease itself, this does form part of the formal garden rules. The applicant has advised that any future occupiers of the new residential units will also have to abide by this. Not using the garden after 9pm seeks to ensure that the amenity of residents is not disturbed unreasonably.

### **Amenity of Proposed Units**

Given the proposed balustrading to the front terrace and associated planting; the treatment to the lower ground floor elevations and the sound insulation proposed to the existing fabric and new extension, it is not considered that the future occupiers would experience any detrimental overlooking or noise from users of the communal garden, or noise from vehicles using the driveway.

### **Amenity Conclusion**

For the reasons set out above, the proposals are considered acceptable in amenity terms and comply with policies 7, 33 and 38 of the City Plan.

## **9.6 Transportation, Accessibility & Servicing**

### **Loss of garage carparking**

As noted in the land use section of this report, there are no City Council policies which seek to protect car parking of this nature.

### **Highway Impact**

Whilst car ownership and reliance is discouraged, it is not considered that the creation of two new dwellings would create a harmful demand on the existing highway and parking network.

The ground floor extension is wider than the lower ground garage structure and will overhang the garage. This does not impact on the clearance for two way traffic in the driveway.

### **Cycle Parking**

Four cycle parking spaces are proposed in accordance with the London Plan 2021 and Policy 25 of the City Plan. These additional spaces will be located within the existing

cycle store which the new residents will have access to. A condition to ensure these are provided is recommended.

### **Servicing and Waste & Recycling Storage**

The Devonport development has a managed system for waste and recyclables collection and the new units will be incorporated into this scheme. Each unit in the complex has a small dedicated waste and recyclables cupboard adjacent to the unit entrance, accessible from the common parts, and waste/recycling left here is collected on a twice-daily basis by maintenance staff. The waste and recyclables are then transferred to one of three waste rooms within the complex with large recycling bins also accessible from the street at both the Radnor Place and Southwick Street pedestrian entrances. Waste is collected from the site thrice-weekly, and recycling twice-weekly.

The new dwellings will be incorporated into this scheme, and the plans for the proposed units show the dedicated waste and recycling collection cupboards adjacent to the front entry/steps to each unit to facilitate access by both maintenance staff and residents. Each cupboard will contain at least 2x 44L type waste and recycling containers, and additional waste/recycling streams will be accommodated in under-sink mounted bins within the kitchen in each unit.

The City Council's Waste Project Officer would like further details of the capacities of the existing development to ensure that the proposals can be accommodated and that food storage provision is made. This is not considered necessary given the proposals are for two residential units and that the applicant has advised that there is no food waste collection for the whole Devonport complex.

## **9.7 Economy including Employment & Skills**

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending. The new residential accommodation proposed will support the local economy through increased local spending, thereby also supporting local employment and services.

## **9.8 Other Considerations**

### **Arboricultural Matters**

Numerous objections have been raised to the proposed loss of the two trees proposed; that there is no justification for the loss of the trees except 'to make way for the development'; that the arboricultural report is biased and that the report is disingenuous in providing winter photos and providing a false magnification of the development.

As a point to note, officers have carried out site visits to the gardens in both winter and summer and fully aware of the seasonal changes and don't just consider the photo renderings on face value.

### **Loss of Trees**

Two trees are proposed for removal. These are one Loquat (T1) and one Silver Birch (T2). The Loquat is a very small tree with limited amenity value. The Silver Birch is an

attractive, mature tree, which at this time does make a positive contribution to the communal gardens. However, it would be too close to the proposed new building and so it would not be realistic to retain it within the development. The City Council's arboricultural officer inspected the Silver Birch, T2, in March 2022 and observed a cavity in the trunk, which extended about 20cm downwards. Further investigation would be required to fully assess the impact of the cavity on the structural integrity of the tree. However, it is a significant defect and would be likely to reduce the lifespan of the tree and therefore in this instance subject to suitable replacement the loss of this Silver Birch is, on balance, acceptable.

There are another two trees which are also very close to the proposed building. These are T3 and T4, two Whitebeam. The proposed terrace will be within the RPA of T3, but no details have been submitted regarding the foundation design or construction methodology and this is to be secured by condition.

The proximity of these trees to the building could lead to complaints about shading and debris and perceived risk of tree failure from the future residents and therefore could lead to pressure to excessively prune or remove the trees. However, the relationship between these trees and the proposed dwelling would not be exceptionally close.

### **Replacement Tree Planting**

Three new trees are proposed in order to replace the screening and amenity value currently provided by the birch T2, and to a lesser extent the Loquat T1. The proposed replacement tree species are two types of birch: *Betula albosinensis* (Chinese Red Birch) and *Betula albosinensis* 'China Ruby' (China Ruby Red Birch). The application includes an image of 'Replacement Tree Renderings', which shows the trees as young specimens, however in maturity they would be much larger than seen in this image. The arboricultural officer is not convinced of the merits of planting 3 birch trees in this location, or of planting two different birch species in a 2:1 ratio. They do however appreciate the intention to provide screening and to replace the environmental and amenity value of the Silver Birch but consider that a single specimen tree in this location, with some lower level screening, would be preferable.

To this end, no objections are raised to the loss of the two trees, subject to suitable replacements and this is to be secured by condition.

### **Bats**

Objectors have raised concern in relation to bats, but do not explicitly state that there are bats or roosts present in this location.

All bats species and roosts are legally protected in England under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations (2017) and it is a criminal offence to disturb a roost, damage or destroy a place used by bats or obstruct access to a bat roost. The applicant will be made aware of this by informative and should any bats or roosts be found during works, they will have to stop works to investigate further.

### **Access to new houses and communal garden**

Access to the new houses will be via the main reception of Devonport and through the communal garden to the steps leading to the front terrace and entrance doors. Objection

has been raised to this but it is considered appropriate that this is the main access to the properties rather than from the rear driveway accessible from the car barriers/gates of Southwick Street.

Originally it was proposed that the entrance steps from the garden to the new houses was in the centre of the front elevation. In response to objections which outlined that 'this implied the communal garden was their private garden because of the easy access', the steps have been relocated to the northern end of the building, but still from the communal gardens. This is deemed acceptable. It should also be noted that a number of the existing ground floor flats have direct access from sliding doors onto the communal gardens and walkways, with no restrictions in the lease as to their use and the proposals are considered to be no worse.

### **Noise and Disruption During Works**

Objections have been received on the grounds of noise and disruption during the course of works, especially to the calm oasis of the garden. An application cannot be refused on the grounds of noise and disruption during the course of works. The Council's standard hours of working condition is recommended which are Monday to Friday 8am-6pm and Saturdays 8am-1pm. An informative is also recommended advising the applicant to sign up to the Considerate Constructors scheme.

### **Security & Deliveries to New Houses (Post, Amazon, Deliveroo etc)**

A number of objections have been received on the grounds of security from those new occupiers, their access to the existing flats and the communal gardens, and from delivery people such as Amazon and Deliveroo etc. The applicant has confirmed that all postal/ Amazon deliveries etc to the new residential use will operate in accordance with the existing situation which is for these to be made to the reception/concierge area and then collected by the resident. In terms of Deliveroo etc, drivers are currently asked to sign in at reception and then deliver directly to the flat and this is proposed to be allowed to the future occupiers of the new units. It is not considered that the occupiers of these new homes would pose a risk to security of the Devonport complex over and above any other tenant of this complex or that the delivery procedures which are the same for those as the rest of the complex are unacceptable in terms of noise and disturbance.

### **Freeholder/ Leaseholder Matters**

As noted above objections have been received on the following grounds: this is an attempt to make money from leaseholders when the cost of garden upkeep is already high; freeholder/ leaseholder rights will be impeached as the freeholder lease says only 128 flats can access and enjoy the right of the garden and the granting of permission may affect the owner's chance of acquiring the Right to Manage or the freehold of the block.

Whilst all of these concerns are noted, and valid to the existing occupiers of Devonport, these are all private matters and are not considered material in the determination of this application.

### **Impact to Property Values**

This is not a material planning consideration.

## 9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

## 9.10 Planning Obligations & Pre-Commencement Conditions

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

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the submission of details relating to tree protection measures. The applicant has agreed to the imposition of the condition.

## 10. Conclusion

The proposals are considered acceptable in land use, townscape, design and conservation, amenity, highways and environmental terms mindful of policies 7, 13, 18, 28, 29, 33, 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: IAN CORRIE BY EMAIL AT [icorrie@westminster.gov.uk](mailto:icorrie@westminster.gov.uk)

11. KEY DRAWINGS

Existing Garage Deck



Proposals





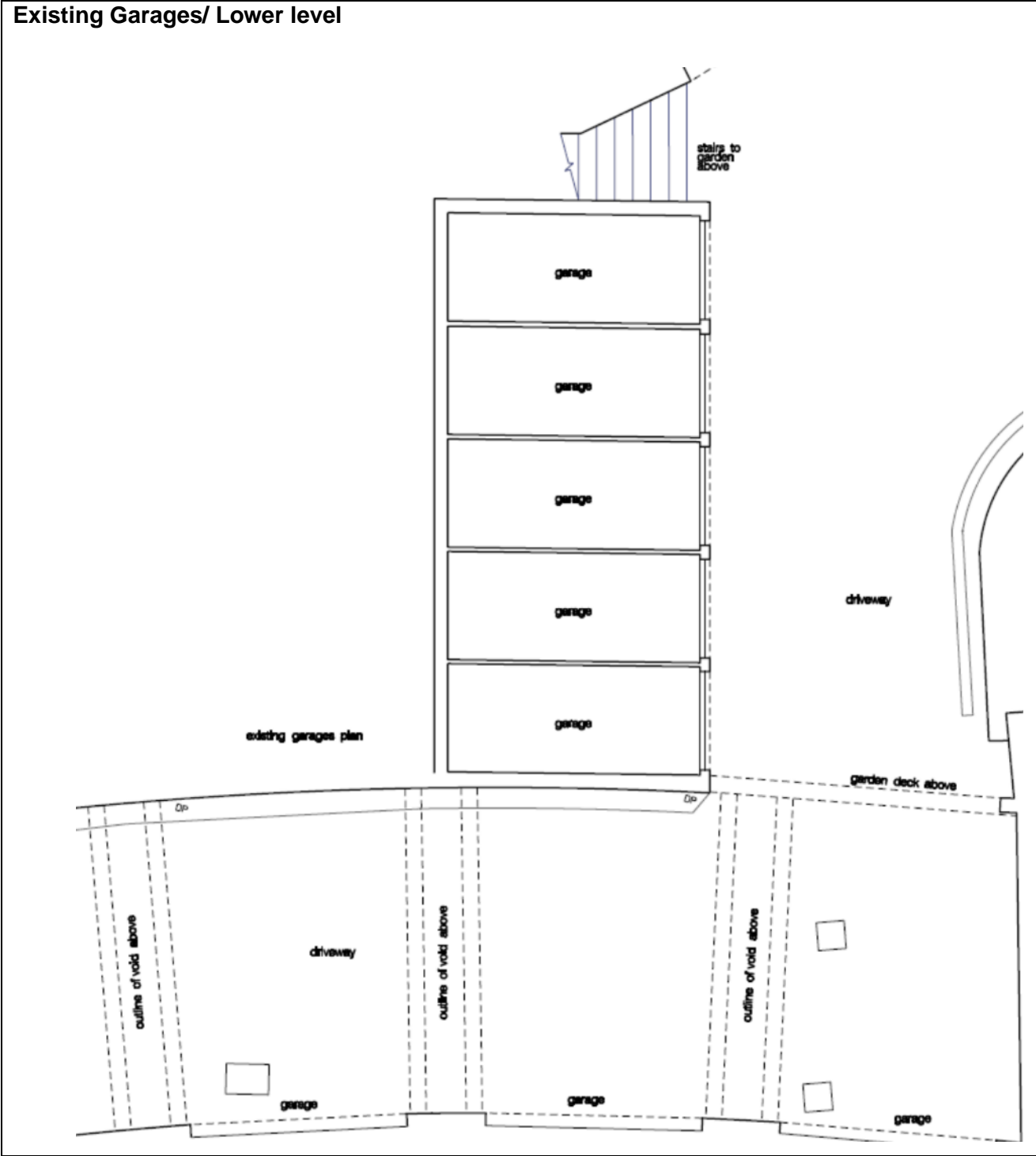
**Existing Driveway/ Garage View**



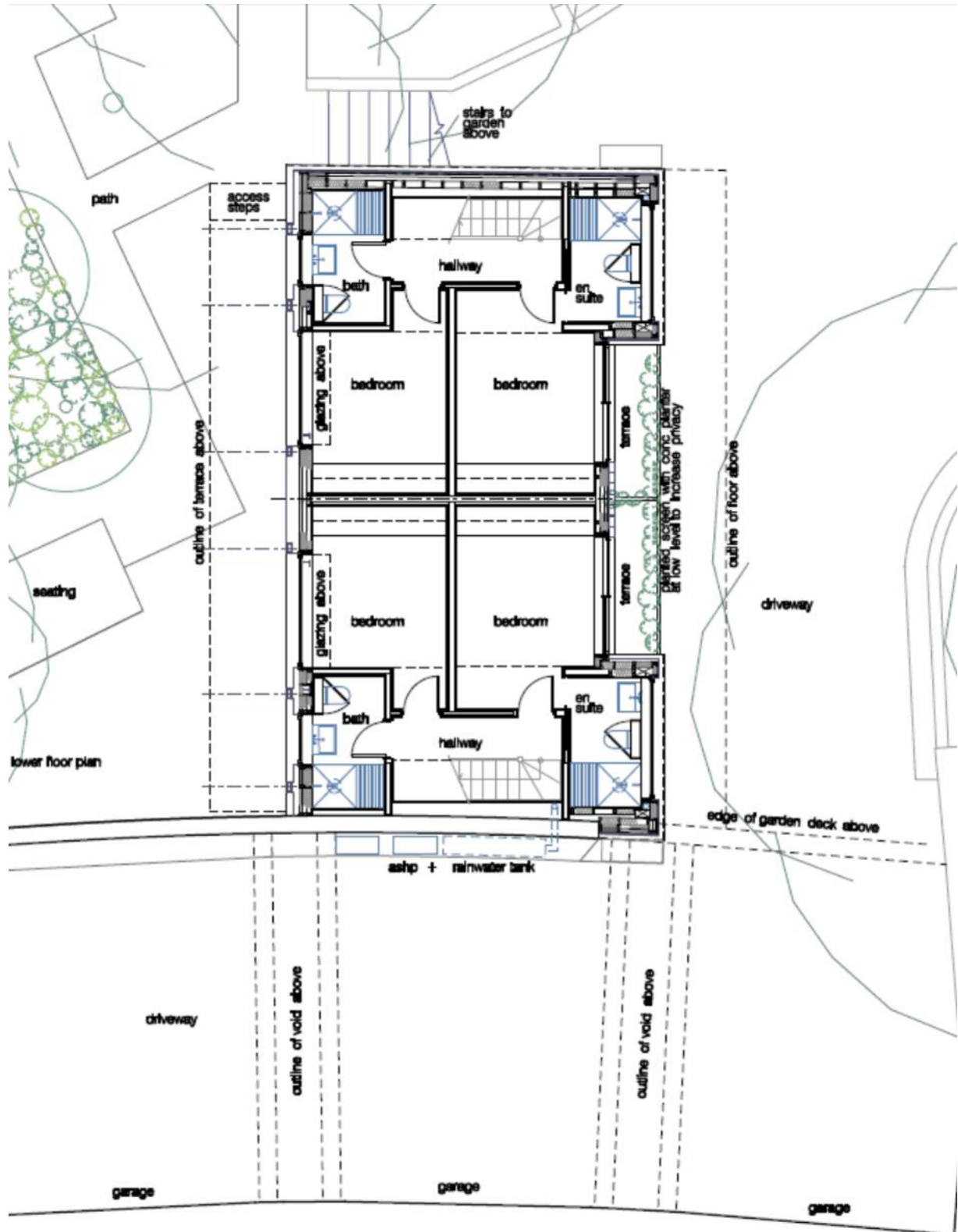
**Proposed Driveway View/ rear elevation**



Existing Garages/ Lower level



Proposed Lower Level



Roof of existing garage

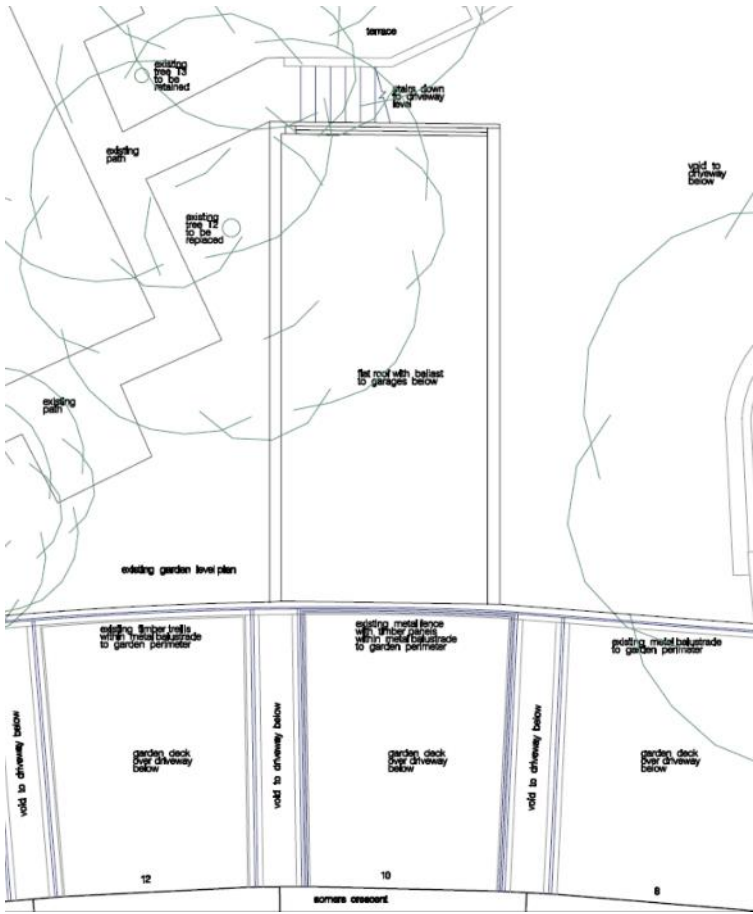
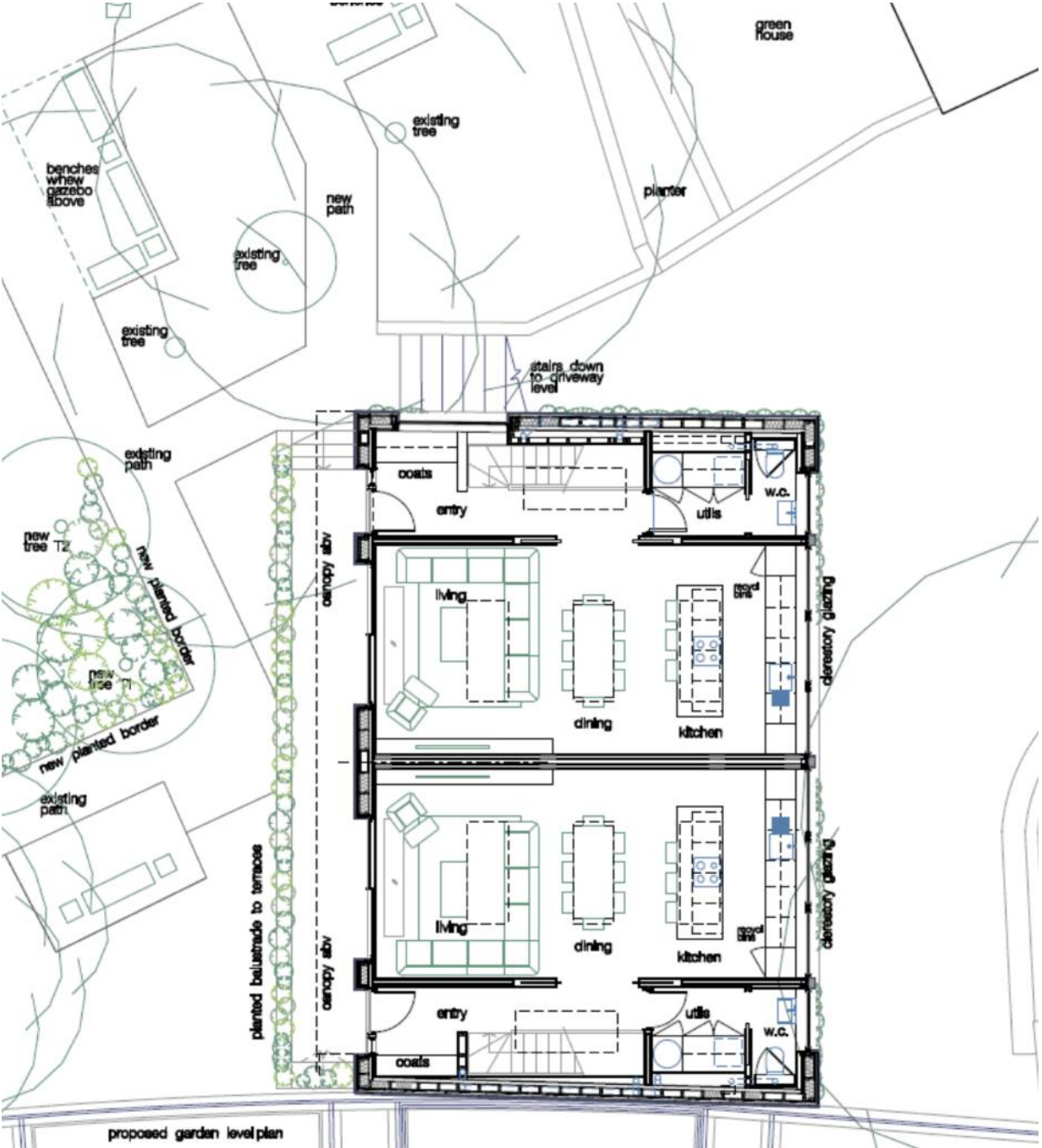


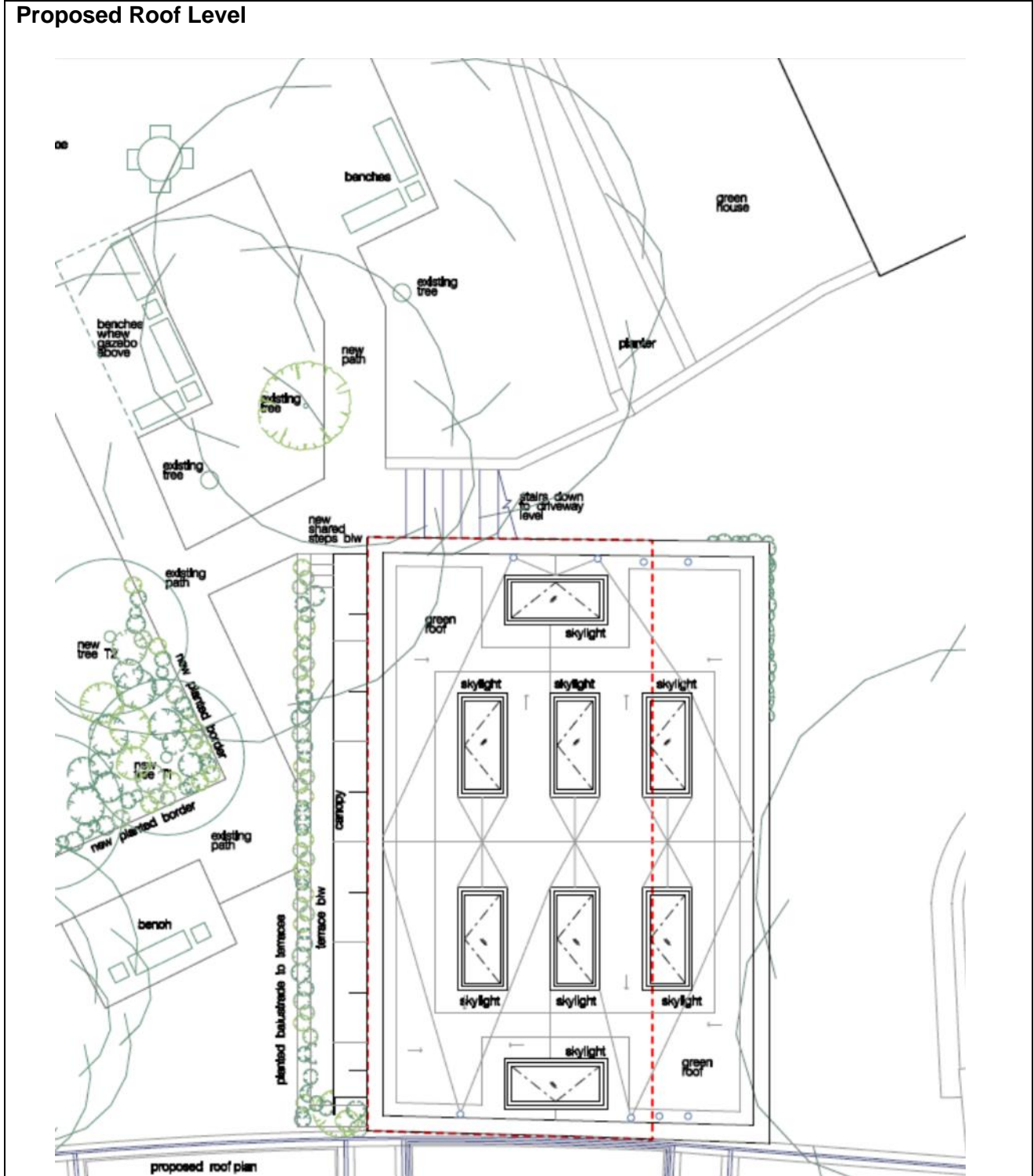
Photo of existing garage roof



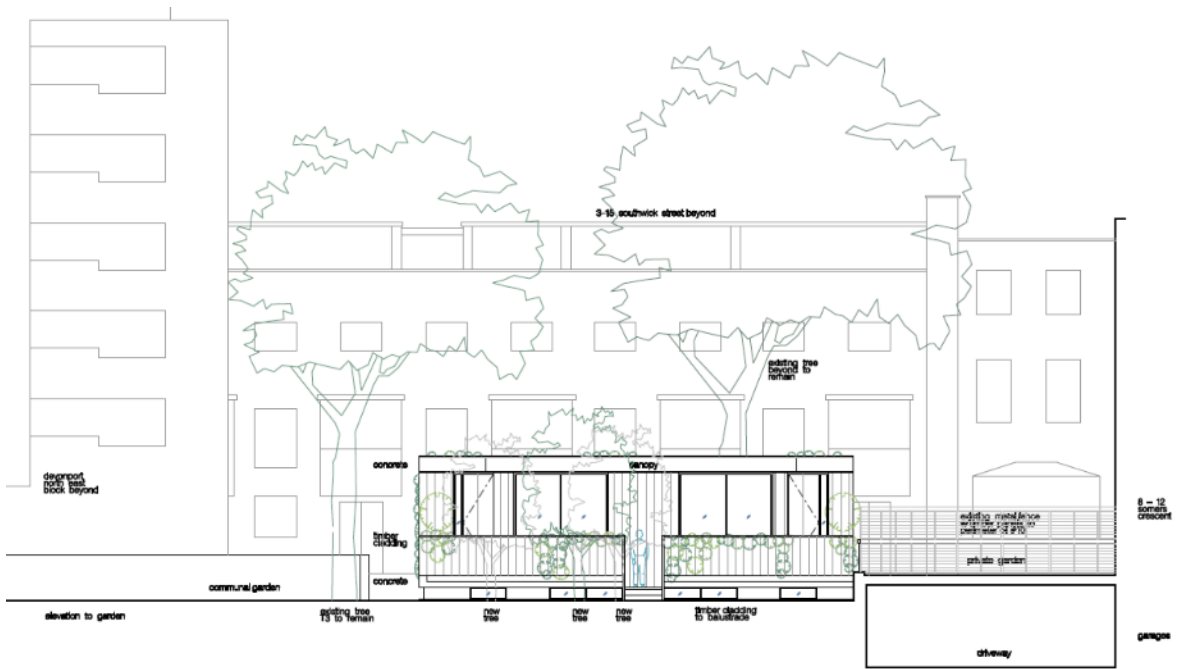
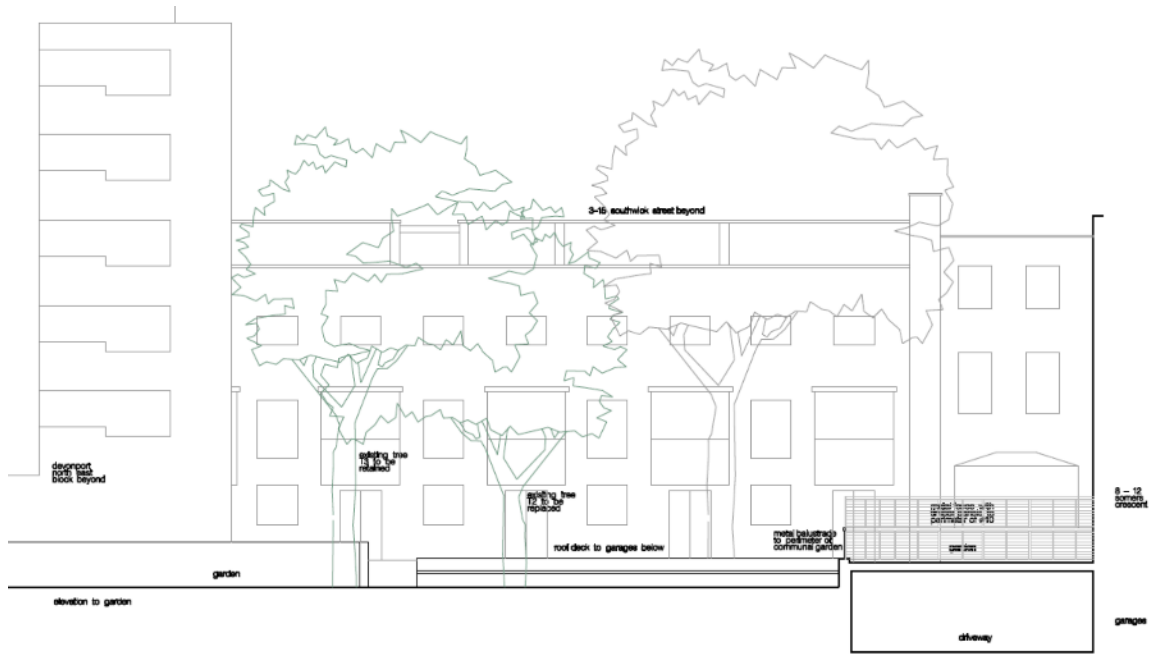
Proposed Ground Floor Level



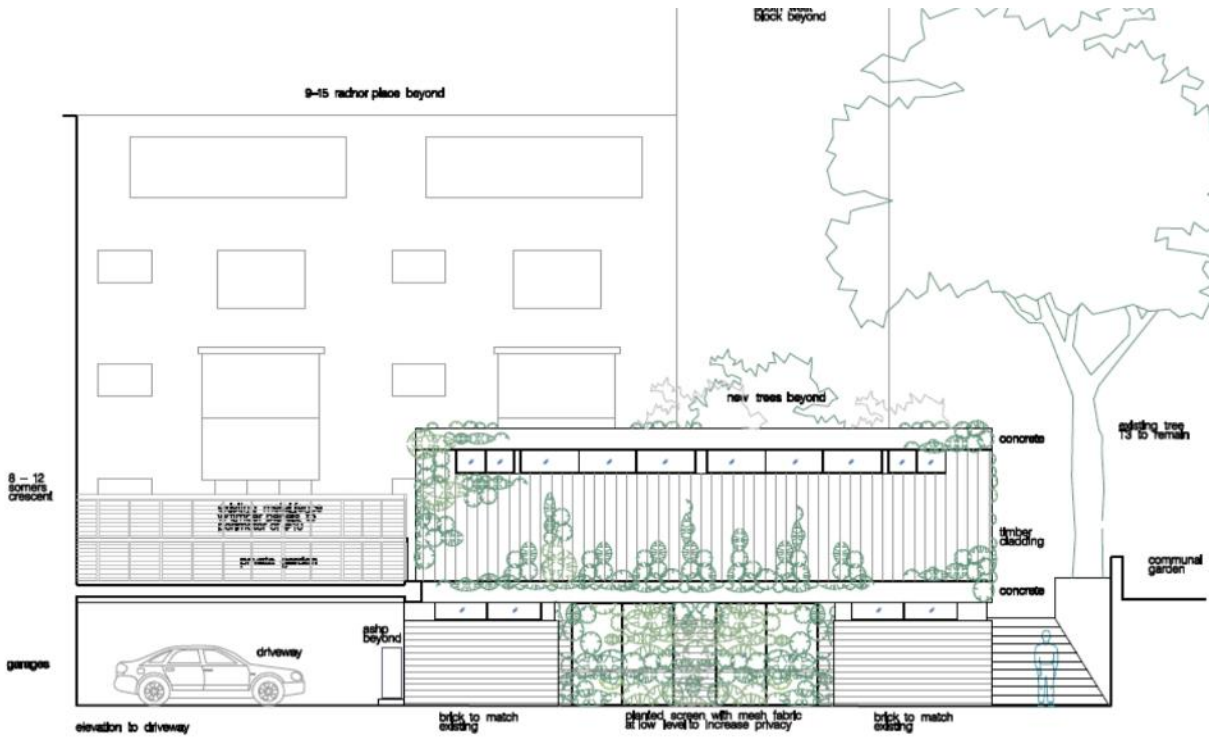
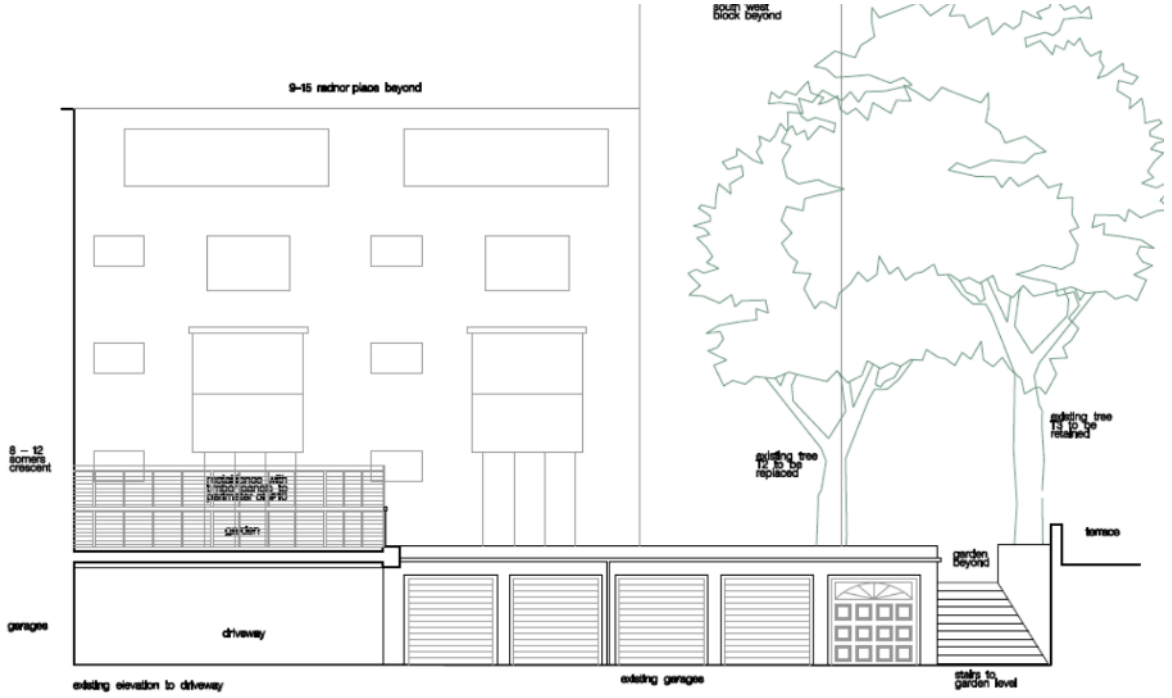
### Proposed Roof Level



### Existing (top) and Proposed (bottom) Garden Elevation

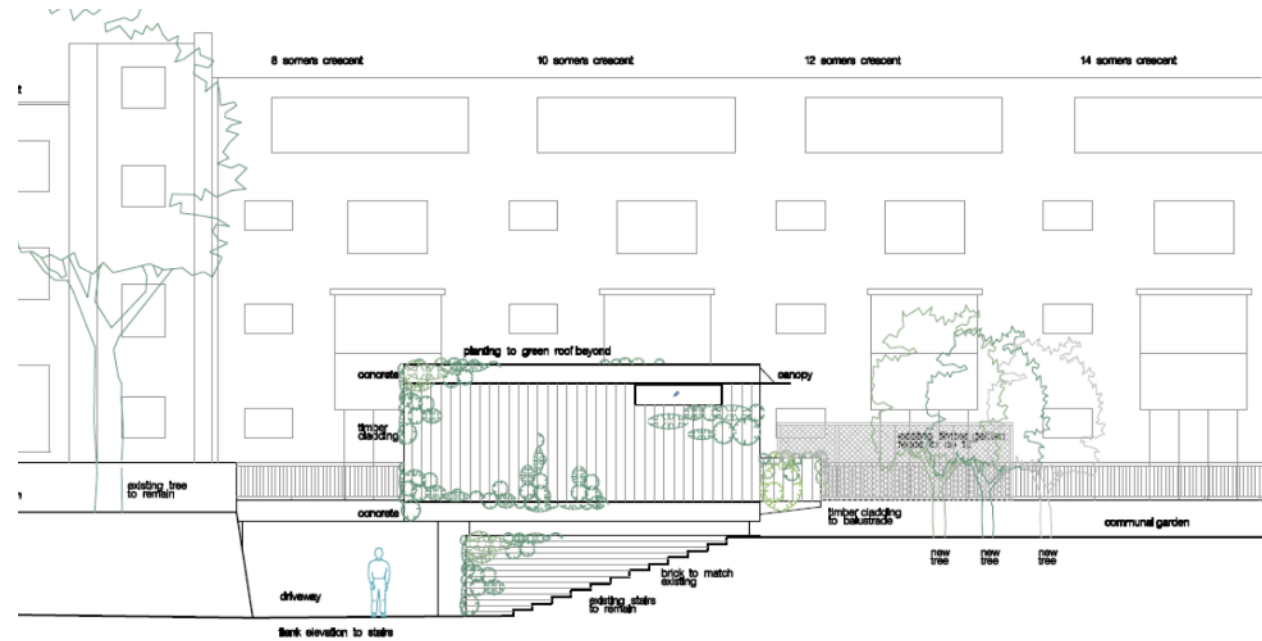
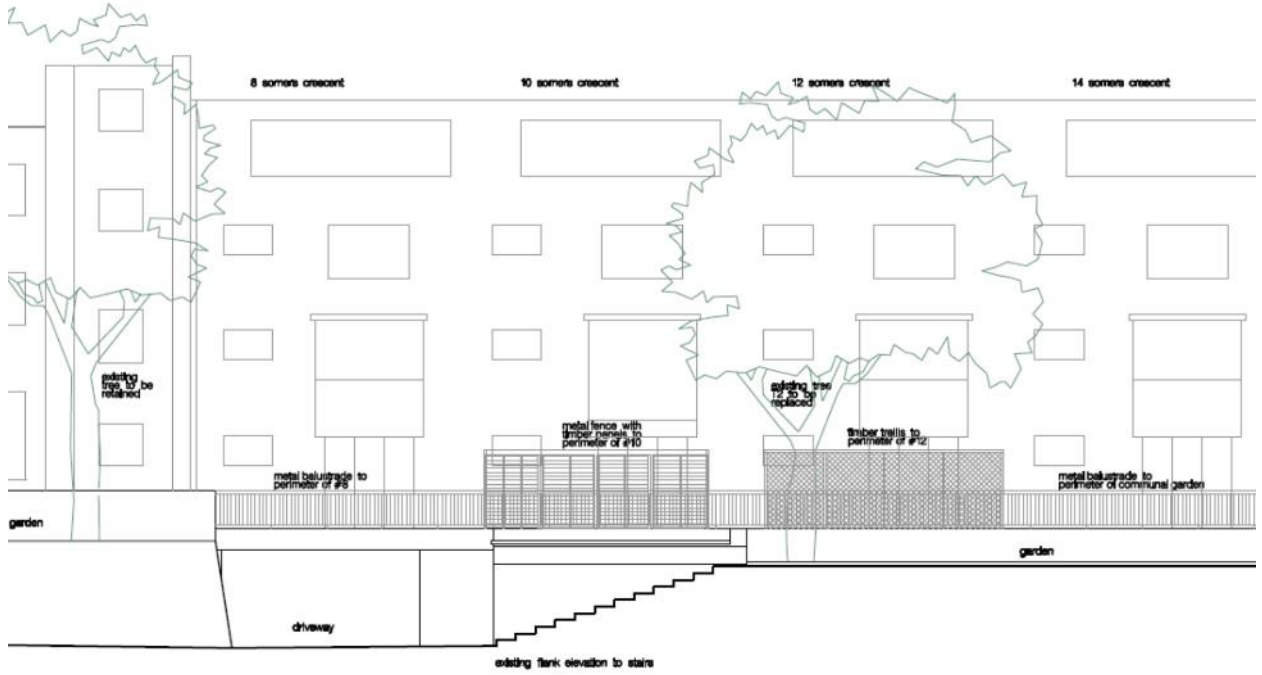


**Existing (top) and Proposed (bottom) Driveway/Rear Elevation**

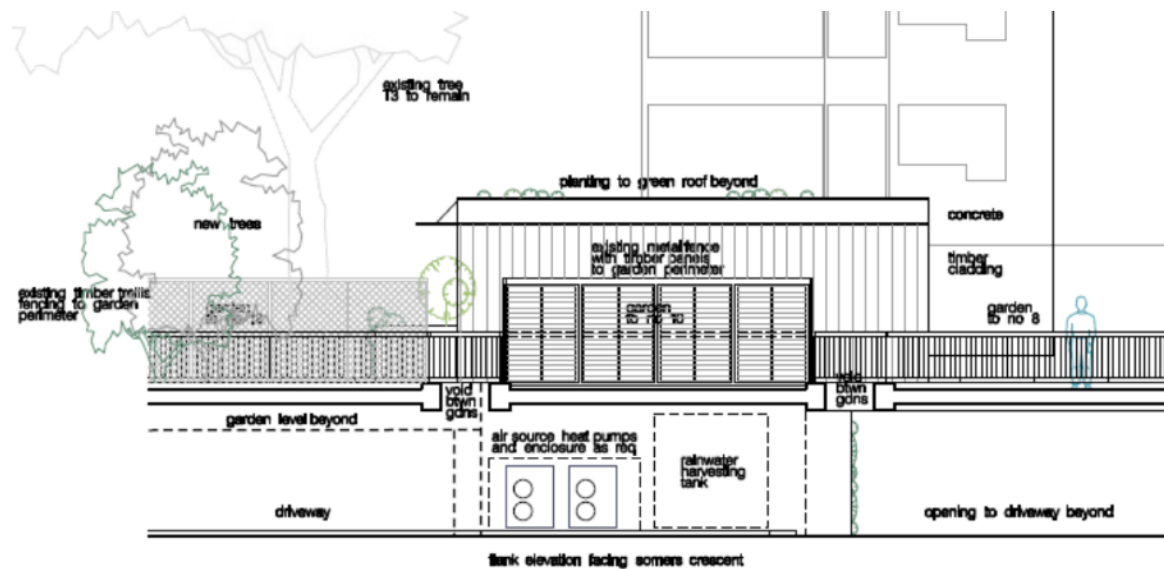
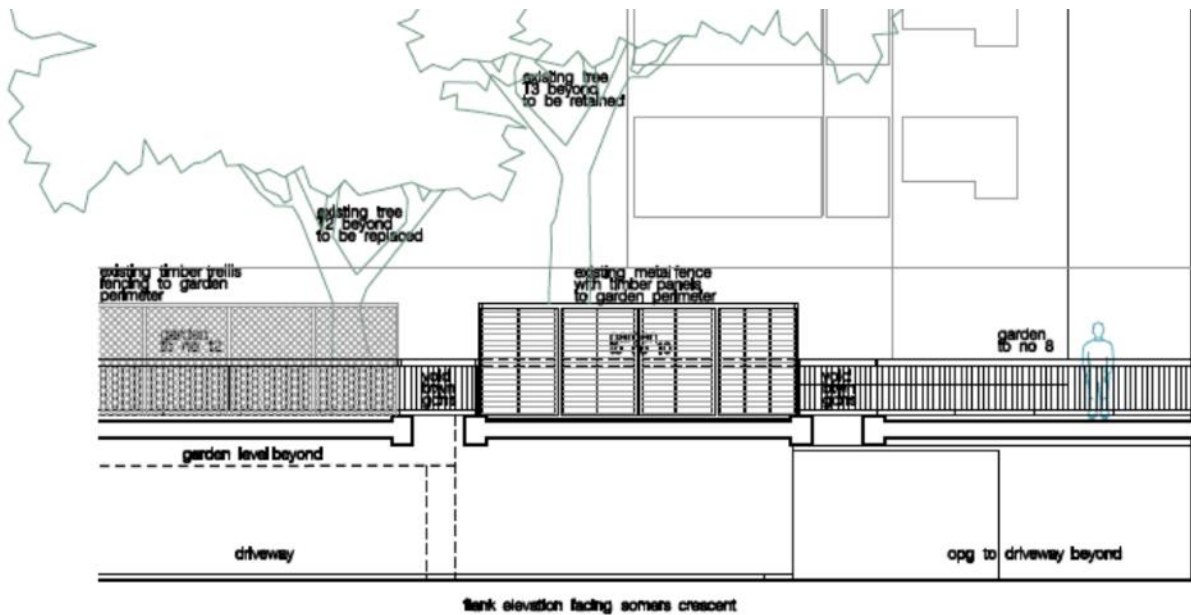




**Existing (top) and Proposed (bottom) Sections to show relationship to driveway/rear and communal gardens**



Existing (top) and Proposed (bottom) Sections showing Southern Elevation – showing 'view' from 8-12 Somers Crescent



**Photos of Existing Cycle Storage and Refuse Facilities (taken from applicant's submission)**



**DRAFT DECISION LETTER**

**Address:** Devonport, 23 Southwick Street, London, W2 2PR

**Proposal:** Demolition of the existing standalone garages and erection of two new dwellings (Class C3) over two storeys, landscaping works, air source heat pump equipment and other associated works.

**Reference:** 22/07052/FULL

**Plan Nos:** dpg lp 001\_00; pl x d 001; pl x d 002; e x d 001; e x d 002; e x d 003; s x d 001; pl x 000; pl x 001; pl x 002; e x 001; e x 002; e x 003; e x 004; s x 001; scg sp 001 B; pl 000 B; pl 001 C; pl 002 C; pl 003 C; e 001 C; e 002 B; e 003 C; e 004 B; s 001 B; dpg se 001 B; scg se 002 B; , , For Information Only; , 3d Massing models dated 20 Sept 2022; Renderings dated 20 September 2022; Daylight, Sunlight, Overshadowing Report dated 15 December 2021; Transport Note dated 4 April 2022; Arboricultural Planning Report dated 19 August 2022 Rev 1; Design and Access, Sustainability and Heritage Statement dated 7 February 2023.

**Case Officer:** Kimberley Davies

**Direct Tel. No.** 020 7641  
07866036948

**Recommended Condition(s) and Reason(s)**

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: , o between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , o not at all on Sundays, bank holidays and public holidays. , , You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and , onot at all on Saturdays, Sundays, bank holidays and public holidays. , , Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 You must apply to us for approval of a detailed written and photographic specification for the facing materials you propose to use, including glazing and hard-landscaping. This should include annotated versions of the approved elevations and roof plans showing the usage of each of your proposed materials, and a record of a minimum 1sqm trial panel(s) of fully finished brickwork prepared on-site for our inspection. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 4 You must apply to us for approval of further details of the following parts of the development:

(a). Overall external facade details at 1:20, with key details such as windows and doors at 1:10.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved details. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 5 You must not paint any outside walls of the building without our written permission. This is despite the fact that this work would normally be 'permitted development' under Class C of Part 2 of Schedule 2 to the Town and Country Planning General Permitted Development (England) Order 2015 (as amended) (or any order that may replace it). (C26WC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 6 You must provide, maintain and retain the following bio-diversity features before you start to use any part of the development, as set out in your application., , Wildflower/ green roof, , You must not remove any of these features. (C43FA)

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

- 7 You must provide, maintain and retain the following energy efficiency measures before you start to use any part of the development, as set out in your application., , Air Source Heat Pumps, , You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 8 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:; (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing LA90 (15 minutes) measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46BC)

## Reason:

As set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46BC)

- 9 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

## Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 10 **Pre Commencement Condition.** You must apply to us for approval of the ways in which you will protect the trees which you are keeping, as shown on drawing 22 2218 TPP001 REV 1. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. The tree protection must follow the recommendations in section 7 of British Standard BS5837: 2012. You must then carry out the work according to the approved details. (C31AC)

## Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31AD)

- 11 You must retain the existing retaining garage walls, as shown on drawings 'garage plans -lower level demolition PIX\_D\_001'.

## Reason:

To protect trees and the character and appearance of the site as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31CD)

- 12 You must apply to us for our approval of the depth and methods to be used to dig the foundations of the terrace within the root protection area of any retained tree (as defined by paragraph 5.2.2 of British Standard BS5837: 2012) and within five metres beyond it. You must not start any work to dig the foundations until we have approved in writing what you have sent to us. The excavation and foundations must be carried out according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31AD)

- 13 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the landscaping and planting within 1 growing season of completing the development (or within any other time limit we agree to in writing)., , If you remove any trees that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within 3 years of planting them, you must replace them with trees of a similar size and species. (C30CC)

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R30AD)

- 14 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number pl 002 C prior to occupation and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the new residential units. (C14FC)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 15 You must ensure that 4 cycle space in the existing cycle storage areas in Devonport are made available for the new residential units. You must provide each cycle parking space prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC) (C22HA)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 16 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)



- 17 You must not form any windows or other openings (other than those shown on the plans) in the outside walls of the building without our written permission. This is despite the provisions of Classes A of Part 1 of Schedule 2 to the Town and Country Planning General Permitted Development Order (England) 2015 (as amended) (or any order that may replace it). (C21EC)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 **HIGHWAYS LICENSING:**  
Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).
- CONSIDERATE CONSTRUCTORS:**, You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- BUILDING REGULATIONS:**, You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)
- 3 You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/planning-building-and-environmental-regulations/building-control](http://www.westminster.gov.uk/planning-building-and-environmental-regulations/building-control).

- 4 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 5 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You can apply online at the following link: [www.westminster.gov.uk/trees-and-high-hedges](http://www.westminster.gov.uk/trees-and-high-hedges). You may want to discuss this first with our Tree Officers by emailing [privatelyownedtrees@westminster.gov.uk](mailto:privatelyownedtrees@westminster.gov.uk).
- 6 When you apply to us for approval of details of the landscaping as required under Condition 14 you should:
  - o consider the use of one large sized tree and understorey planting, rather than three closely planted trees of the same species.,
  - o Include details of the living wall, including details of species, sizes and numbers of plants, substrate make-up and volumes, irrigation and maintenance.
- 7 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
  - 1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].,
  - 2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).,

, This applies to both new and existing residential accommodation. Please see our website for more information: [www.westminster.gov.uk/planning-building-and-environmental-regulations/planning-enforcement/short-term-lets](http://www.westminster.gov.uk/planning-building-and-environmental-regulations/planning-enforcement/short-term-lets).,

, Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).
- 8 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk)) to make sure that you meet all the requirements before you draw up contracts for demolition and building work. , , When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974)., , British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory

Order as the accepted guidance for noise control during construction work., , An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

- 9 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.
- 10 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is also a condition of the London Building Acts (Amendment) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application for street naming and numbering, and to read our guidelines, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering). (I54AB)
- 11 Conditions 9 and 10 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 12 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 13 In relation to the green roof condition, you should review the guidance provided by the Greater London Authority on their website prior to finalising the structural design of the development, as additional strengthening is likely to be required to support this feature: [www.london.gov.uk/what-we-do/environment/parks-green-spaces-and-biodiversity/urban-greening](http://www.london.gov.uk/what-we-do/environment/parks-green-spaces-and-biodiversity/urban-greening).
- 14 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil), , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**, , CIL forms are available from the planning on the planning portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil), , Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk), , **Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

Item No.
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Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.