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Merton Council

Planning Applications Committee Agenda

Membership

Councillors:

Aidan Mundy (Chair)
Simon McGrath (Vice-Chair)
Thomas Barlow
Sheri-Ann Bhim
Michael Butcher
Edward Foley
Susie Hicks
Dan Johnston
Gill Manly
Martin Whelton

Substitute Members:

Caroline Charles
Kirsten Galea
Nick McLean
Stephen Mercer
Stuart Neaverson
Matthew Willis

Date: Wednesday 23 November 2022

Time: 7.15 pm

Venue: Council Chamber, Merton Civic Centre, London Road, Morden, SM4 5DX

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Planning Applications Committee Agenda

23 November 2022

- 1 Apologies for absence
- 2 Declarations of Pecuniary Interest
- 3 Minutes of the previous meeting 1 - 10
- 4 Town Planning Applications
The Chair will announce the order of Items at the beginning of the Meeting.
A Supplementary Agenda with any modifications will be published on the day of the meeting.
Note: there is no written report for this item
- 5 57 Kenilworth Avenue, Wimbledon, London, SW19 7LP 11 - 36
Application No: 20/P0603
Ward: Wimbledon Park
Officer Recommendation: Grant Planning Permission Subject to Conditions
- 6 TPO 780 - 50 Ridgway Place, Wimbledon, SW19 4SW 37 - 46
Application No: TPO No780
Ward: Hillside
Officer Recommendation: That the Merton (No.780) Tree Preservation Order be confirmed without modification
- 7 Planning Appeal Decisions 47 - 50
Officer Recommendation:
That Members note the contents of the report.
- 8 Planning Enforcement Service Presentation
A verbal presentation to be provided at the meeting

Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

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Agenda Item 3

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at www.merton.gov.uk/committee.

PLANNING APPLICATIONS COMMITTEE

20 OCTOBER 2022
(7.20 pm - 11.10 pm)

PRESENT Councillors Councillor Aidan Mundy (in the Chair),
Councillor Simon McGrath, Councillor Thomas Barlow,
Councillor Sheri-Ann Bhim, Councillor Michael Butcher,
Councillor Edward Foley, Councillor Susie Hicks,
Councillor Dan Johnston and Councillor Gill Manly

ALSO PRESENT Councillor Matthew Willis

Jonathan Berry (Interim Head of Development Control and Building Control), Tim Lipscomb (Planning Officer), Stuart Adams (Development Control Team Leader South), Jill Tyndale (Conservation Officer), Andrew Robertson (Head of Democracy and Electoral Services) and Amy Dumitrescu (Democracy Services Manager)

ATTENDING Councillor Caroline Cooper-Marbiah
REMOTELY Councillor Linda Kirby

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies were received from Councillor Martin Whelton, Councillor Caroline Charles attended as substitute.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

Councillor Sheri-Ann Bhim declared that two applications were located within her ward.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 22 September 2022 are agreed as an accurate record.

4 TOWN PLANNING APPLICATIONS (Agenda Item 4)

The Committee noted the amendments and modifications to the officer's report. The Chair advised that the agendas would be taken in the published agenda order.

5 BENNETTS COURTYARD, WATERMILL WAY, SW19 2RW (Agenda Item 5)

Proposal: Erection of roof extensions to the three residential blocks which comprise Bennetts Courtyard to provide 17 x self contained flats (comprising 9 x 1 bed and 8 x 2 bed flats)

The Planning Officer presented the report.

At the end of the presentation, the Financial Viability Officer spoke to advise that having looked at the application, including the build costs whereby some savings had been identified and the sales values which were considered fair and reasonable. The profit level of 20% was reduced to 17.5% in line with previous work undertaken on the scheme. The design fees and sales and marketing fees had also been reduced. Following consultation with officers the CIL amount had also been reduced. The residual land value of £518,000 therefore resulted in a surplus of £468,000.

The Conservation Officer spoke to advise that the buildings were on the local list. The initial application was not deemed to be enhancing, the new design within the current proposal followed through the initial design and extended it upwards by one storey, which preserved the original qualities and did not detract from the conservation area.

The Committee received presentations from an objector who made points including:

- This application is taller and broader and has additional flats to the initial application
- The proposal is within a conservation area and within a heritage area

Councillor Cooper-Marbiah, Ward Councillor spoke to acknowledge the progress made to the application and raising concerns that the property was within a conservation area, the potential disruption to residents and noted there was no affordable housing proposed and would not address the need for more family housing in Merton.

The Applicant spoke in response and raised points including:

- The amendments made to the application had addressed the Conservation Officers' concerns
- The scheme had been subject to independent viability specialists assessments
- The Council's sustainability officer had confirmed the proposal met the standards and no carbon offset was required
- The scheme would deliver 17 new homes in the Borough

In response to the comments received within the presentations, the Planning Officer advised that whilst disruption couldn't be used as a reason for refusal, this was a common occurrence across the Borough and could be controlled as far as reasonably possible. There was an affordable housing offer of £470,000. There are no family sized proposals however this was due to matching the setup of the existing building.

In response to questions from Committee members the Planning Officer and Conservation Officer advised that:

- The money could be requested as a cumulative sum and spend on affordable housing in any way we saw fit, such as affordable rent or intermediate rent or an on site provision of 2 shared ownership properties.
- If there was a rooftop extension the impact should be minimised and conditions can be placed – condition 15 requiring a construction management plan and condition 8 and 9 were included in terms of reducing disruption and would be looked at through the condition discharge process
- The height of the building now is acceptable within the context of other developments within the area
- The applicant would be free to make any further application in the future and the Council could grant or refuse permission based on the impact.
- Local Planning Authorities are permitted under the legislation to take into account multiple applications in certain circumstances, for instance where there is a contiguous boundary, adjoining applications within a specific period of time and also which come under the same land ownership and can take account of those at a later stage to then take forward the affordable housing provision from this application to ensure that the total after a second application ends up providing the right amount as if the two storeys were applied for now.
- The Committee could if so minded, include a clause within the legal agreement that any future development would invoke the full affordable housing requirements.
- There would need to be a financial viability assessment of any future application as a whole development
- Whilst this group of buildings had received an award from good design, the Conservation officer did not believe this would detract from the design of these buildings and would remain lower than the buildings nearby to the site, some of which were within the same conservation area. It was the officers' view that one storey being added with the same materials and design would be acceptable and would retain its' good design
- Cleanliness of the halls inside could be conditioned to ensure no ambiguity
- A residential management plan for existing residents could be requested from the Applicant as part of a condition – this could be in consultation with ward members.

Committee members commented on the application, noting the conservation officers' comments and the difficulty of the tilted balance situation.

Members expressed concerns about the impact on residents and agreed that additional conditions should be included to make it clear that the financial viability assessment for any future storey addition consider the property as a whole, a residential management plan be included to include cleanliness and timelines and an

update would be brought to Planning Committee on this and that construction hours be limited at the weekend.

The officer recommendation was put to the vote including the additional conditions and it was

RESOLVED: That Permission was GRANTED subject to conditions and s.106 legal agreement

The Chair did not participate in the vote on this application.

6 35 WOODLAND WAY, MITCHAM, CR4 2DZ (Agenda Item 6)

Proposal: Demolition of existing side garage and conservatory and erection of a part single storey, part two storey side extension. Erection of a two-storey rear extension, conversion of roofspace and erection of a rear roof extension. Modified block will be sub-divided to create 1 x 3-bedroom, 1 x 2 bedroom and 2 x 1 bedroom selfcontained flats.

The Development Control Team Leader (South) presented the report

The Committee received presentations from one objector who made points including:

- There were concerns about the impact on services in the area
- There were concerns regarding the impact on parking noting that after 6.30pm and during weekends parking was difficult in the street and this would be increased with additional properties
- The conversion to flats would minimise family development
- The shape and size of the building would be out of context with the other buildings in the area
- The proposal did not fit with the requirement in DMD2 in regards to the impact on neighbouring properties
- There were concerns about overlooking from the balcony onto other properties and gardens
- There would be loss of light resulting from the proposal
- There were concerns about noise vibration and dust from the development
- The London Plan Housing SPG – the site had a PTAL rating of 2 and the density of the property would be 74 units which would lead to greater impact to the area

The Applicant spoke in response and raised points including:

- There was great demand for properties within this area
- There were a number of flats being developed within this road

- Feedback at the pre-application stage had been supportive subject to a number of conditions and a downscaled version had been submitted following consultation with officers to ensure it was policy compliant

In response to the comments received, the Development Control Team Leader (South) clarified points including:

- In regards to parking and permit free – if a permit free development was imposed on the flats this would discourage car parking and this would also promote sustainable transport
- In relation to family accommodation there would be 2x3 bedroom flats which are defined as family accommodation
- This is a modest scale development so there is no suggestion that there would be a large impact on local services
- The policy CS14 does restrict a number of house conversions

In response to questions from Committee members, the Development Control Team Leader (South) advised that:

- In terms of bin storage, the proposal was to have storage in the back gardens of each of the flats and the level of this would be controlled as part of the condition following consultation with the Councils' waste officers. It was desirable to hide the bin storage as much as possible, noting there was scope to provide larger bins on site.
- In terms of the power plant, as part of the condition the climate change officer would be consulted
- The majority of the extension would be on the side a distance from neighbouring properties, whilst there might be some loss of light this would not in officers' view warrant refusal of the application
- The hip to gable would be the subject of a separate application
- If members felt it necessary, an additional condition could be added for further measures to be approved in relation to noise
- There is a degree of overlooking currently from existing windows and officers feel the proposal would not add to additional overlooking
- The feasibility of electric charging points could be assessed
- A condition is attached to the application in terms of air quality
- The rear gardens are a large size for flats in relation to London Plan space standards
- Potential increase of damp would be covered under building control

Committee members commented on the application encouraging the applicant to consider the aesthetic of the front of the property, noting there were some good conditions attached and requesting whether a bicycle hanger could be included.

The Interim Head of Development Control responded that a general boundary treatment condition could be included to enhance the appearance of the site.

The officer recommendation with the additional conditions of general boundary treatment, inclusion of an air source heat pump, soundproofing and the larger 240litre wheeled bin to be provided to the properties as well as screening for the bins and the inclusion of one car charging point was put to the vote and it was

RESOLVED: That Permission was GRANTED subject to conditions and s.106 legal agreement

The Chair did not participate in the vote on this application.

The meeting was briefly adjourned at 21.09 and resumed at 21.23

7 191 WORPLE ROAD, RAYNES PARK, SW20 8RE (Agenda Item 7)

Proposal: Demolition of re-fabricated storage building to rear and the erection of a two storey rear extension to provide enlarged commercial floorspace (storage space for existing restaurant) at ground floor and a 1bed flat at first floor level, with rear facing balcony

The Planning Officer presented the report drawing the Committees' attention to the modifications sheet.

The Committee received presentations from two objectors who made points including:

- There were concerns regarding reduction of natural light
- Privacy would be affected and there would be an increase in noise
- The ground floor extension is now listed as commercial and so could be used as additional seating
- The number of deliveries to the property would increase and this would increase noise
- The second storey would look out of character and disproportionate to nearby properties
- The access way would now be a main entrance to the new property, how do deliveries and post delivery persons find the property
- The refuse is shared with the side restaurant and it is not clear whether it has been agreed to close in this

Councillor Willis, Ward Councillor spoke to note that para 7.4.2 of the report and 7.4.8 – Environmental Health concerns had led to an acoustic report but did not cover the adjoining property. Impact on neighbouring amenity and expressing concerns. There had been no noise impact assessment.

In response to the comments received, the Planning Officer advised that in relation to the obscure glazing this would prevent the majority of views out but the level of overlooking was felt to be low. However it wouldn't be unreasonable to add as an condition that these windows be shut. The space met with the relevant standards in

terms of floor area and light penetration. Urban design guidance encourage frontages onto the main road however whilst this is desirable this must be taken into context with the rest of the development.

In response to questions from Committee members, the Planning Officer responded:

- There isn't an air conditioning unit within the proposal currently and the addition of one would require a planning application
- It is not a requirement to supply details on fire safety (this comes under building regulations) but this would be required by building control
- If a heat pump were proposed this could be provided however Planning are only able to enforce a 19% reduction in carbon dioxide levels, anything over that would be under building control
- A condition could be added for noise insulation to the neighbouring properties – there have been discussions between the applicant and Environmental Health regarding this however environmental health have not raised any objection
- There would be a marginal loss of morning sunlight but officers do not deem this to be significant
- The existing restaurant already has bins on site and any issues would likely be existing but this might require additional bin storage or frequency of collection – a condition could be added to require details of the waste management for the restaurant as well as the residential unit

Committee members commented on the application, noting the bulk in a small space, was short on windows and expressing concern regarding the impact on neighbours. Members expressed concern about the fire escape route from the property which was not clear.

The officer recommendation was put to the vote and it fell. Members therefore proposed reasons for refusal and voted on refusal for those reasons. The Chair did not participate in the vote on this application.

RESOLVED:

1. That the Committee REFUSED the application for the following reasons:
The proposal would result in an overdevelopment of the site to the visual detriment of the character and appearance of the area. There would be inadequate standards of amenity and a harmful impact on the living conditions of neighbouring occupiers.
2. That the Committee DELEGATED to the Interim Director of Housing and Sustainable Development the authority to make any appropriate amendments in the context of the above to the wording of the grounds of refusal including references to appropriate policies

8 153 LINKS ROAD, TOOTING, SW17 9EW (Agenda Item 8)

Proposal: Application for the proposed change of use of a dwelling house to a 7-bed (7 person) House in Multiple Occupation

The Development Control Team Leader (South) presented the report.

Councillor Linda Kirby spoke on the proposal, expressing this was an overdevelopment with concern that the amenity space at the rear would be further reduced by the bins. The development does not appear to meet DMD2 criteria to not to have an undue negative impact on neighbours, through quality of living conditions, privacy, visual intrusion and noise. There were already 55 registered HMOs within the ward.

The Development Control Team Leader (South) responded that the bins in the rear garden could be conditioned which would lead to a breach of condition if stored at the front. It was noted no objections were received from neighbouring properties.

In response to questions from Committee members, the Development Control Team Leader (South) responded:

- The 2007 report is the most up-to-date report and is included within the report
- There is a guide in relation to the sizes of bedrooms and living areas and this property does meet those standards
- The changes proposed are a proposal and whilst there was a previous application for a certificate of lawfulness this was refused.

Members commented on the application and expressed concern that the amenity and size and quality of design were not sufficient on the application.

The officer recommendation was put to the vote and it fell. Members therefore proposed reasons for refusal and voted on refusal for those reasons.

The Chair did not participate in the vote on this application.

RESOLVED:

1. That the Committee REFUSED the application for the following reasons: Overdevelopment, lack of quality planning and unacceptable impacts in terms of amenity and waste management arrangements.
2. That the Committee DELEGATED to the Interim Director of Housing and Sustainable Development the authority to make any appropriate amendments in the context of the above to the wording of the grounds of refusal including references to appropriate policies

9 225 STREATHAM ROAD, STREATHAM, SW16 6NZ (Agenda Item 9)

Proposal: Demolition of existing single storey buildings (shops and garage/workshop) and erection of a steel frame single storey structure for use as motor repairs (class B2), provision of hand car wash business (Sui Generis) and car sales (Sui Generis)

The Interim Head of Development Management and Building Control presented the report.

Councillor Kirby, Ward Councillor spoke to raise points including

- The site has been derelict for over five years and since the changes on the site the site had been used and a retrospective planning application was submitted.
- Work has been undertaken on the site without planning permission and since enforcement action no further work has taken place
- Housing is needed on this site and the poor state of this site is an eyesore for local residents

The Agent for the application spoke to raise points including

- The previous application had been deferred by the Committee requesting further information which had now been provided
- There had been a recommendation to approve the application however the recommendation was now for refusal

The Interim Head of Development Control and Building Control responded that the main reason for recommending refusal was the visual impact. The highways engineer had acknowledged an error was made in terms of the swept path analysis not being correct. Design is subjective and the Planning Committee could overturn the officer recommendation should they wish to.

In response to questions from Committee members the Interim Head of Development Control responded

- The reasons for refusal in the report were recommended outside of the highways analysis issues
- The design and lack of biodiversity were two other reasons given for the recommendation to refuse

Committee members commented on the application and made comments on the visual impact of the proposal.

There was a challenge by the applicant as to whether the highways plan was the latest plan. The officer recommended there was insufficient information on the access arrangements and members agreed to add this as an additional reason for refusal.

The officer recommendation was put to the vote.

The Chair did not participate in the vote on this item.

RESOLVED:

1. That the Committee REFUSED the application for the reasons of design, visual impact, lack of sufficient biodiversity net gain and access arrangements
2. That the Committee DELEGATED to the Interim Director of Housing and Sustainable Development the authority to make any appropriate amendments in the context of the above to the wording of the grounds of refusal including references to appropriate policies

10 GALPINS ROAD (Agenda Item 10)

The Interim Head of Development Management and Building Control provided a presentation to the Committee on the most recent updates to the ongoing situation at Galpins Road. It was noted that there had been a number of routine safety inspections undertaken within the red exclusion zone at the start of October. All properties between 262 and 288 were inspected and bespoke advisory letters detailing the issues with the properties were provided to residents – these issues were loose roof tiles, broken windows, both or no issues. The Head of Development Control gave members an overview of the site findings and the next steps, noting that Building Control were facilitating discussions between insurers, loss adjustors and residents.

In response to questions from members, the Interim Head of Development Control advised that the Council was sourcing legal advice for residents in regards to their rights.

Members thanked the officers for their work.

11 PLANNING APPEAL DECISIONS (Agenda Item 11)

The Head of Development Control presented the report which was noted.

12 PLANNING ENFORCEMENT - SUMMARY OF CURRENT CASES (Agenda Item 12)

The report was noted. The in depth report on enforcement was deferred to a future meeting.

PLANNING APPLICATIONS COMMITTEE
23rd November 2022

Item No:

UPRN

APPLICATION NO.

DATE VALID

20/P0603

01/06/2020

Address/Site: 57 Kenilworth Avenue, Wimbledon, London, SW19 7LP

(Ward) Wimbledon Park

Proposal: Excavation of new basement including the insertion of front and rear lightwells

Drawing Nos: 101, 201A, 202A, 203A, 204A, 205A, 206A, 210

Contact Officer: David Gardener (0208 545 3115)

RECOMMENDATION

Grant Planning Permission Subject to Conditions

CHECKLIST INFORMATION

- Heads of agreement: None
- Is a screening opinion required: No
- Is an Environmental Statement required: No
- Has an Environmental Impact Assessment been submitted: No
- Press notice: No
- Site notice: Yes
- Design Review Panel consulted: No
- Number of neighbours consulted: 3
- External consultations: None

1. INTRODUCTION

- 1.1 This application is being brought before the Planning Applications Committee for determination due to the number and nature of representations received.

2. SITE AND SURROUNDINGS

- 2.1 The application site comprises a two-storey semi-detached dwelling which is located on the south side of Kenilworth Avenue, Wimbledon Park. The dwelling is not located in a conservation area.

- 2.2 The dwelling has been previously extended at ground floor and roof levels.
- 2.3 The application site lies within Flood Zone 1 and is identified as being low risk for surface water flooding.

3. CURRENT PROPOSAL

- 3.1 The applicant seeks planning permission for excavation of new basement including the insertion of front and rear lightwells.
- 3.2 The basement would project approx. 4.3m beyond the current ground floor rear elevation of the dwelling, with the rear lightwell/lower patio extending a further approx. 2m. To accommodate the basement extension to the rear the rear patio would be raised by approx. 30cm. The rear wall of the basement would be rendered.
- 3.3 The proposed front lightwell would extend approx. 1m beyond the ground floor front bay window and would feature a flush metal grill.

4. PLANNING HISTORY

- 4.1 04/P0952 - Certificate of lawfulness for a proposed loft conversion with extensions to the side and rear of the roof. Issued - 01/07/2004
- 4.2 08/P2060 – Single storey rear extension. Granted - 18/09/2008

5. POLICY CONTEXT

- 5.1 The relevant policies in the Adopted Sites and Policies Plan and Policies Maps (July 2014) are:
DM D2 (Design considerations in all developments)
DM D3 (Alterations and extensions to existing buildings)
DM F2 (Sustainable urban drainage systems (SuDS) and; Wastewater and Water Infrastructure)
- 5.2 The relevant policies in the Adopted Core Planning Strategy (July 2011) are:
CS.14 (Design)
CS.16 (Flood Risk Management)
- 5.3 The relevant policies in the London Plan (March 2021) are:
SI 12 (Flood Risk Management)
SI 13 (Sustainable Drainage)
- 5.4 National Planning Policy Framework 2021

6. CONSULTATION

- 6.1 Standard 21-day site notice procedure and individual letters to neighbouring occupiers. In response 8 letters of objection were received. The grounds of objection are as follows:

- Flood risk
- Environmental damage such as carbon emissions from lorry trips due to excavation
- Light pollution / Air quality
- Front lightwells would set a poor precedent / out of character with surrounding area
- Traffic and parking impact
- Impact on flora and fauna
- Potential for subsidence of adjoining properties
- Basement Impact Assessment is generic and doesn't include site specific ground investigation / Construction Method Statement not acceptable
- Excessive size of basement / out of proportion with property
- Noise and vibration impact during construction and use
- Potential impact on street tree
- Loss of amenity / Disruption during build process / road being blocked during deliveries / health and safety impact / Covid
- Incomplete plans/ construction method statement, including lack of measurements

6.2 Council's Structural Engineer

Has reviewed the submitted Construction Method Statement and Basement Impact Assessment. It demonstrates that the proposed development can be built safely without adversely affecting the surrounding natural and built environment. However, due to the close proximity of the excavation works/temporary works in relation to the highway, it is recommended that a condition is attached requiring further details (e.g. detailed construction method statement, ground movement analysis, and detailed design calculations) are submitted once a contractor is appointed.

6.3 Council's Flood Risk Officer

No objections subject to prior commencement conditions requiring further details on how drainage and groundwater will be managed and mitigated during and post construction.

6.4 Council's Highways Officer

No objections subject to conditions relating to details on construction traffic (size amount and how they are delivered and stored).

7. PLANNING CONSIDERATIONS

7.1 Principle of Development

- 7.11 It is considered that the proposed basement would comply with the requirement set out in policy DM D2 of the Adopted Sites and Policies Plan and Policies Maps (July 2014) and is acceptable in terms of visual amenity. The basement would not exceed 50% of the front, rear or side garden of the property, and would not cause the loss of or damage to trees with townscape or amenity value.

7.2 Visual Amenity

- 7.21 Planning policy DM D2 (Design considerations in all developments) seeks to achieve high quality design and protection of amenity within the Borough. Proposals for all development will be expected to relate positively and appropriately to the siting, rhythm, scale, density, proportions, height, materials and massing of surrounding buildings and existing street patterns, historic context, urban layout and landscape features of the surrounding area.
- 7.22 It should be noted that No.57 is not located in the Merton (Kenilworth Avenue) Conservation Area. The Kenilworth Avenue Boundary Assessment (2005) states that the properties within the Conservation Area, which lie in Kenilworth Ave, Waldemar Road and Landgrove Road possess a strong feeling of coherence and unity. The boundary assessment also states that to the north-east of the existing Conservation Area boundary, where No.57 is located, the houses in Kenilworth Avenue are far less cohesive in their architectural character than is the case with those within the Conservation Area.
- 7.23 Given the dwelling is located outside the Merton (Kenilworth Avenue) Conservation Area, it is considered that there is more scope to make more significant alterations to the front of the property without having a detrimental impact on the overall character of the road. Nevertheless, it is considered that the proposed front lightwell is sympathetically designed. The lightwell is modest in terms of size and would be enclosed by a metal grill meaning its visual impact when viewed from the street would be very limited.
- 7.24 It is considered that the rear basement extension is also acceptable in terms of design and appearance, with the only part of this element visible being the rear wall, which would be rendered to match the facing materials of the existing dwelling.
- 7.25 Overall, it is considered that the proposal would accord with policies DM D2 and DM D3 of the Adopted Sites and Policies Plan and Policies Maps (July 2014) and is acceptable in terms of visual amenity.

7.3 Residential Amenity

- 7.31 Policy DM D2 from the Adopted Sites and Policies Plan and Policies Maps (July 2014) states that new development will be expected to ensure for provision of appropriate levels of sunlight/daylight, quality of living conditions, privacy and protect new and existing development from visual intrusion.
- 7.32 It is considered that the proposed development would have an acceptable impact on neighbour amenity. The proposal would not be visually intrusive, overbearing or result in an unacceptable loss of daylight/sunlight levels given the works are almost entirely below ground floor level. The rear patio would be raised by approx. 30cm to accommodate the rear extension of the basement, however this would have a minimal impact on privacy given it is only a small increase in height. Given the proposal is for a basement excavation, a condition will be imposed restricting construction hours/days.

- 7.33 It is therefore considered that the proposal would accord with policies DM D2 and DM D3 of the Adopted Sites and Policies Plan and Policies Maps (July 2014) and is accordingly considered acceptable with regards to neighboring amenity.

7.4 Flood risk and Construction of Basement

- 7.41 The site lies within Flood Zone 1 wherein principle new development (including basement development) is acceptable.
- 7.42 The applicant submitted a Construction Method Statement and Basement Impact Assessment, which includes results of on-site ground investigation demonstrating how the stability of ground conditions will be maintained in relation to adjoining properties. The Council's Flood Risk Officer and Structural Engineer have assessed the proposal and are satisfied with the details submitted subject to the imposition of suitable conditions on any planning approval requiring further details in relation to groundwater and drainage. In addition, a condition will be attached requiring the submission of ground movement analysis and detailed construction method statement from the appointed contractor. It is therefore considered that the proposal would accord with policies DM D2 and DM F2 of the Adopted Sites and Policies Plan and Policies Maps (July 2014).

8. SUSTAINABILITY AND ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS

- 8.1 The application does not constitute Schedule 1 or Schedule 2 development. Accordingly, there are no requirements in terms of EIA submission.

9. CONCLUSION

- 9.1 It is considered that the proposed basement extension would not have a detrimental impact on the character and appearance of the Kenilworth Avenue street scene. It is also considered that the proposal would have an acceptable impact on neighbour amenity, whilst the the Council's Flood Risk Officer and Structural Engineer are satisfied that the basement can be constructed without having an unacceptable impact on groundwater, drainage and structural stability of the public highway and adjoining buildings. The proposal would therefore accord with relevant planning policies and planning permission should be granted.

RECOMMENDATION

GRANT PLANNING PERMISSION

Subject to the following conditions:

1. A.1 (Commencement of Development for full application)

2. B.3 (External Materials as specified)
3. Prior to the commencement of development, the applicant shall submit a detailed proposal on how drainage and groundwater will be managed and mitigated during and post construction (permanent phase), for example through the implementation of passive drainage measures around the basement structure, waterproofing and drainage.

Reason: To reduce the risk of surface and foul water flooding to the proposed development and future users and ensure surface water and foul flood risk does not increase offsite in accordance with Merton's policies CS16, DMF2 and the London Plan policy SI 13.

4. Prior to the commencement of development, a detailed scheme for the provision of surface and foul water drainage shall be submitted to and approved in writing by the local planning authority for the development. The drainage scheme will dispose of surface water by means of a sustainable drainage system (SuDS) based on the 100yr plus 40% climate change event, in accordance with drainage hierarchy contained within the London Plan Policy (SI 13 and SPG) and the advice contained within the National SuDS Standards

Reason: To reduce the risk of surface and foul water flooding to the proposed development and future users, and ensure surface water and foul flood risk does not increase offsite in accordance with Merton's policies CS16, DMF2 and the London Plan policy SI 13.

5. Prior to commencement of development the following information shall be submitted and approved by the Local Planning Authority:

a) Ground Movement Analysis (Vertical and Horizontal) including any heave or settlement analysis, and Damage Category Assessment with detailed calculations.

b) Detailed Construction Method Statement produced by the respective Contractors responsible for the underpinning, excavation and construction of the basement retaining wall. This shall be reviewed and agreed by the Structural Engineer designing the basement.

c) Detail design calculations of the permanent retaining wall retaining the highway has to be submitted. The calculations shall be carried out in accordance with Eurocodes. We recommend assuming full hydrostatic pressure to ground level and using a highway surcharge of 10 kN/m² for the design of the retaining wall supporting the highway.

d) Temporary works drawings and sections of the basement retaining walls.

e) Movement monitoring report produced by specialist surveyors appointed to install monitoring gauges to detect any movement of the highway/neighbouring properties from start to completion of the project works. The report should include the proposed locations of the horizontal and vertical movement

monitoring, frequency of monitoring, trigger levels, and the actions required for different trigger alarms.

Reason: In the interests of protecting and preserving the structural integrity of the building and the public highway, in accordance with Merton's policy DMD2 of the Sites and Policies Plan (2014).

6. The development shall not commence until details of the provision to accommodate all site workers', visitors' and construction vehicles and loading /unloading arrangements during the construction process have been submitted to and approved in writing by the Local Planning Authority. The approved details must be implemented and complied with for the duration of the construction process.

Reason: To ensure the safety of pedestrians and vehicles and the amenities of the surrounding area and to comply with the following Development Plan policies for Merton: policies T4 and T7 of the London Plan 2021, policy CS20 of Merton's Core Planning Strategy 2011 and policy DM T2 of Merton's Sites and Policies Plan 2014.

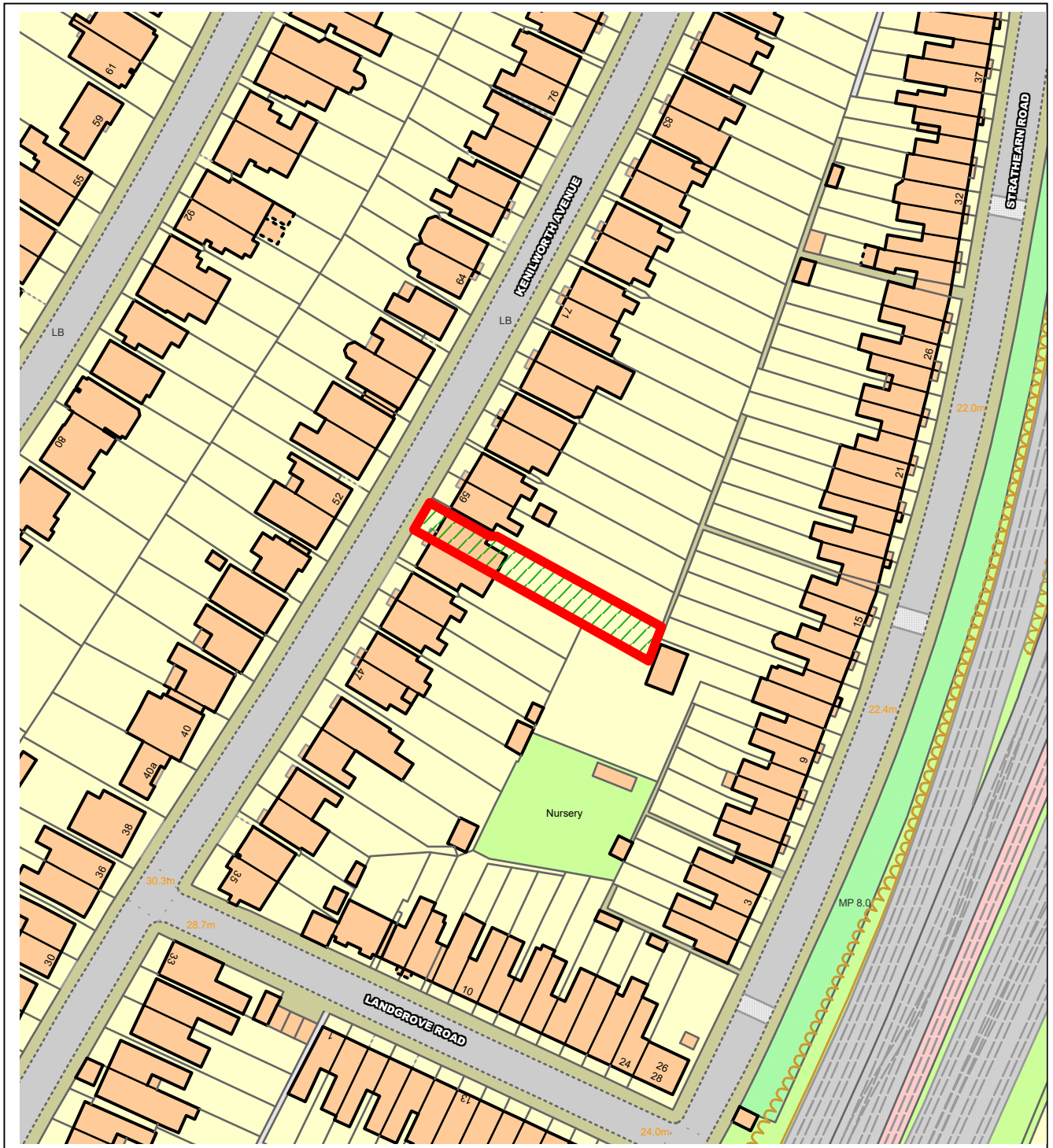
7. No demolition or construction work or ancillary activities such as deliveries shall take place before 8am or after 6pm Mondays - Fridays inclusive, before 8am or after 1pm on Saturdays or at any time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of the area and the occupiers of neighbouring properties and ensure compliance with the following Development Plan policies for Merton: policies D14 and T7 of the London Plan 2021 and policy DM EP2 of Merton's Sites and Policies Plan 2014.

8. INFORMATIVE: The developer must contact the highways section (minimum 6 weeks) prior to any works being carried out to ensure all relevant licenses are in place.

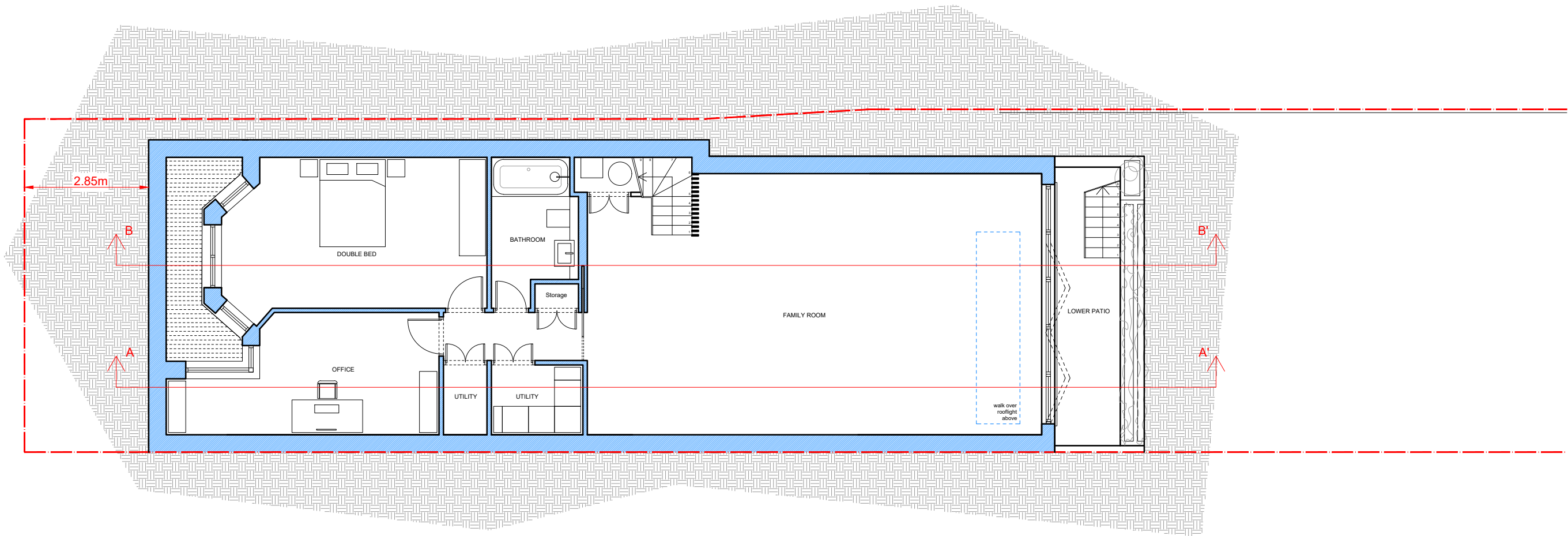
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NORTHGATE SE GIS Print Template



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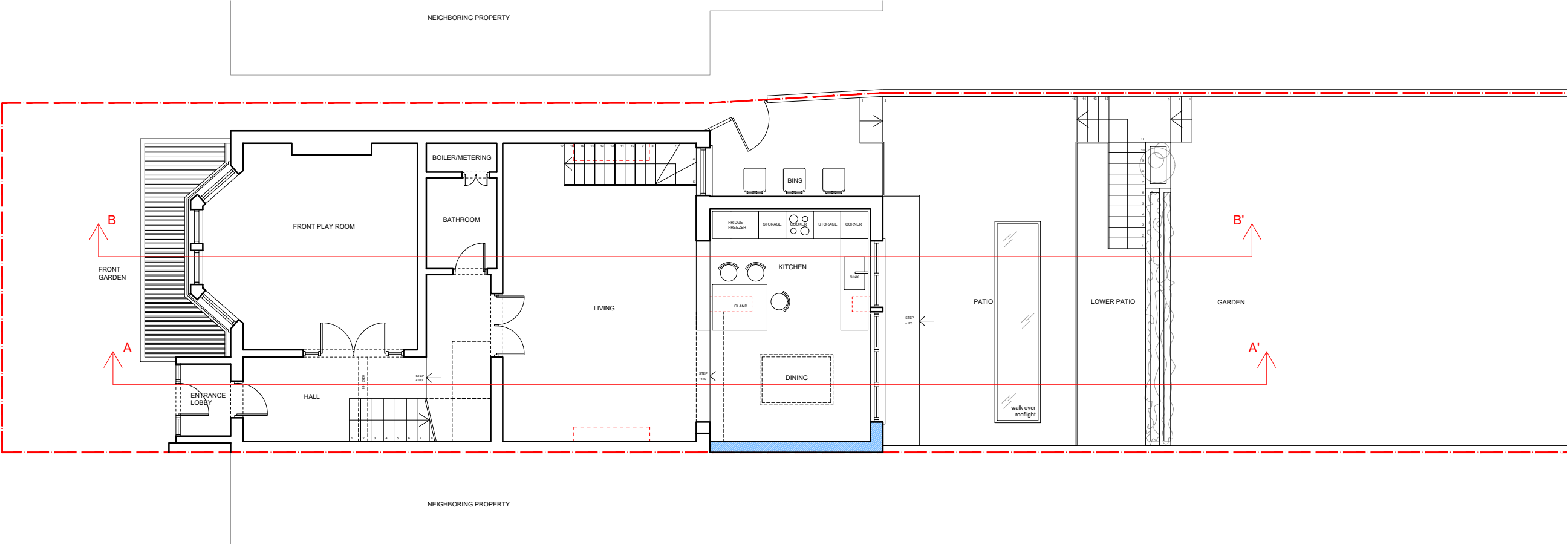
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						Sheet size A3	Rev. A	
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						Sheet size A3	Rev. A	
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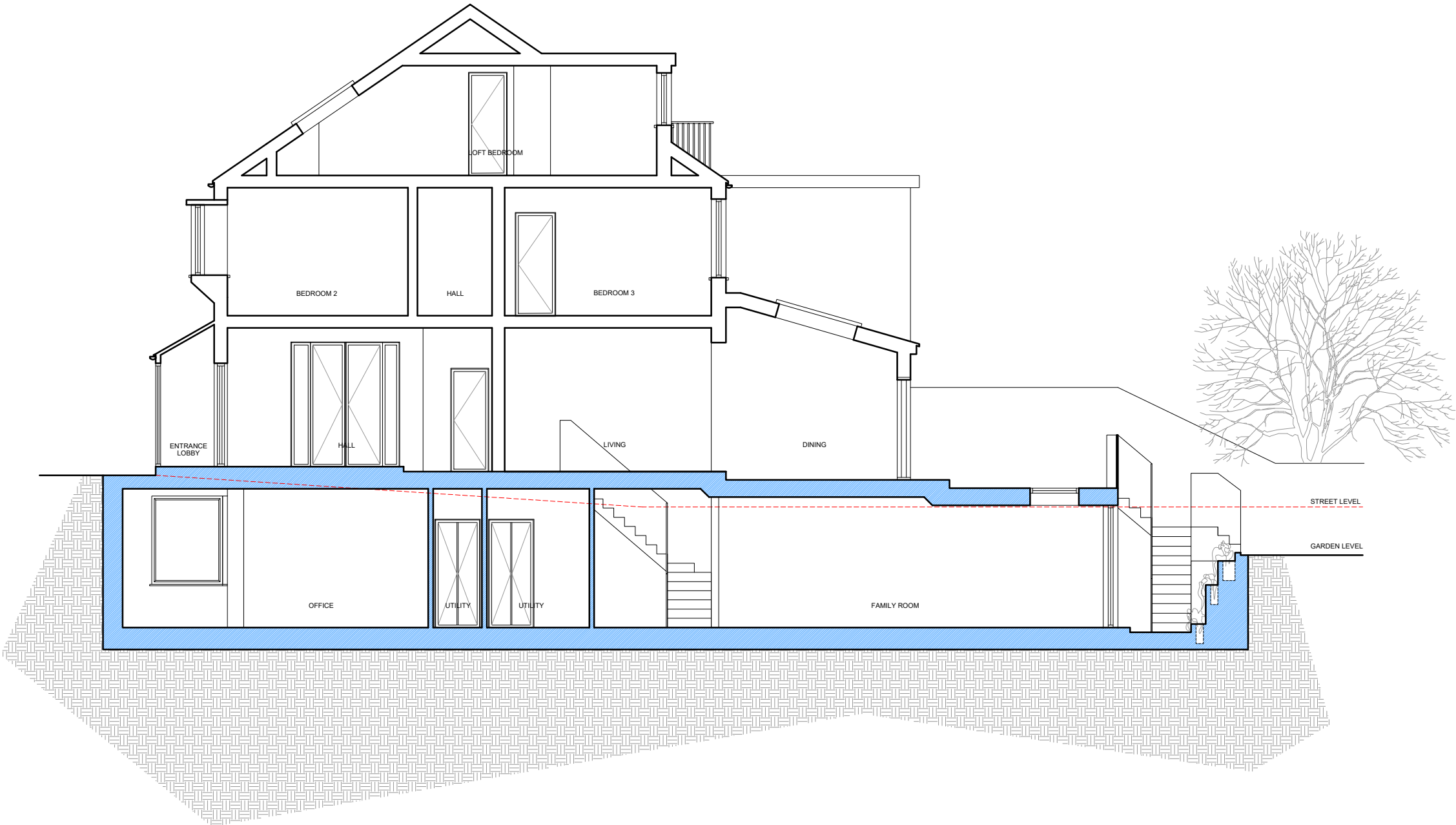
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PLANNING	A	- Scale changed to 1:100	57 KENILWORTH AVENUE	New Basement Conversion	PROPOSED REAR ELEVATION (GARDEN VIEW)	Sheet size	A3	Rev.	A	
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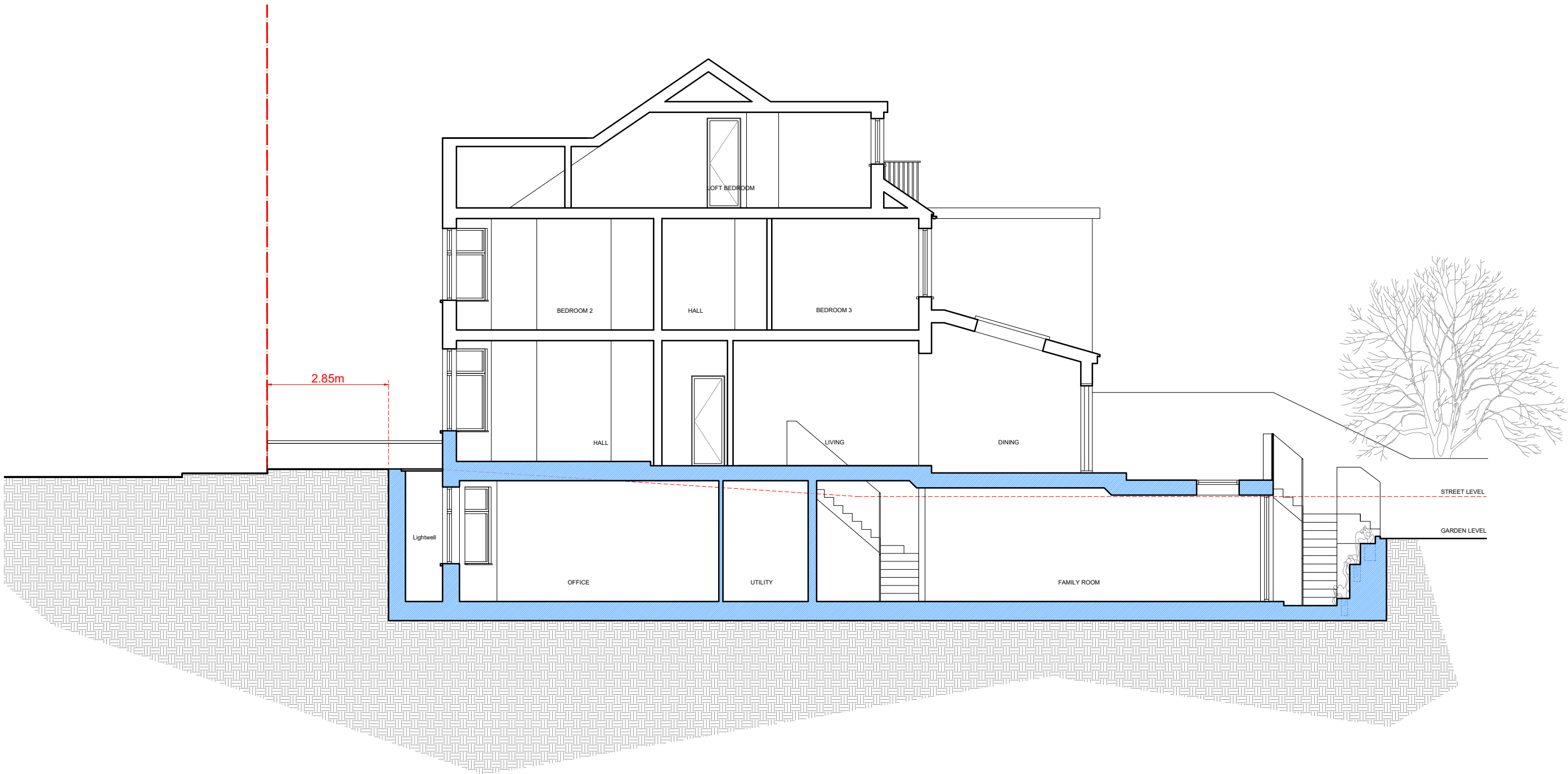
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	A	- Scale changed to 1:100	57 KENILWORTH AVENUE	New Basement Conversion	PROPOSED REAR ELEVATION	Sheet size A3	Rev. A	
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PLANNING	A	- Scale changed to 1:100	57 KENILWORTH AVENUE	New Basement Conversion	PROPOSED SECTION A-A'	Sheet size A3	Rev. A	
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STATUS: PLANNING <small>ALL DIMENSIONS TO BE CHECKED ON SITE. DO NOT SCALE FROM THIS DRAWING EXCEPT FOR THE PURPOSES OF LOCAL AUTHORITY PLANNING</small>	Rev No.	Date	Description	Drn by	Notes	Project: 57 KENILWORTH AVENUE	Project description: New Basement Conversion	Drawing: PROPOSED SECTION B-B'	Date 17.12.2019	Drn. by A.A	<div>  APT RENOVATION DESIGN & BUILD <small>Email: info@aptrenovation.co.uk Tel: +44 (0) 207 223 6417</small> </div> <div> <small>Unit 6, Zennor Road Balham, London SW12 0PS</small> <small>Company No: 8967475</small> </div>
									Sheet size A3	Rev. -	
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STATUS: PRELIMINARY	Rev No.	Date	Description	Drn by	Notes	Project: 57 Kenilworth Avenue Wimbledon, London SW19 7LP	Project description: New Basement Conversion	Drawing: EXISTING GROUND FLOOR PLAN	Date 17.12.2019	Drn. by E.K.	<div>APT RENOVATION</div> <div>DESIGN & BUILD</div> <div>Email: info@aptrenovation.co.uk Tel: +44 (0) 207 223 6417</div> <div>Unit 6, Zennor Road Balham, London SW12 0PS Company No: 8967475</div>
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Committee: Planning Applications Committee

Date: 23rd November 2022

Agenda item:

Wards: Hillside

Subject: Objection to the Merton (No.780) Tree Preservation Order 2022 at 50 Ridgway Place, Wimbledon, SW19 4SW.

Contact Officer Rose Stepanek: 0208 545 3815
rose.stepanek@merton.gov.uk

Recommendation:

That the Merton (No.780) Tree Preservation Order 2022 be confirmed without modification.

1. Purpose of report and executive summary

This report considers the objection that has been made to the making of this tree preservation order. Members must consider the objection before deciding whether or not to confirm the Order, with/without modification.

2. Planning History

- 2.1 On the 6 May 2022, the Council received a s.211 notification for the following tree work: 'Front Garden:- Ash tree along the front boundary - to fell. Two Elm trees (dead/dying) along the front boundary to fell. Rear Garden:- Mulberry tree to remove the split section and lift the lower canopy to balance the shape by removal of the three lowest major limbs. Holly tree with movement at the base and leaning over the neighbouring garden to fell Two Conifers in the centre to fell.' This was registered as 22/T1435. A s.211 notice gives the Local Planning Authority 6 weeks notice of intended tree work. This means that the Council either allows the work as described to take place after the expiry of 6 weeks, or if there is any aspect that is unacceptable, a tree preservation order must be made to protect a particular tree(s) in order to prevent the work from taking place.
- 2.3 In consideration of this notification, the majority of the work was found to be acceptable, but with the exception of the proposed removal of the large mature

Ash tree located on the front boundary, adjacent to Ridgway Place. The tree surgeon provided no reason for the proposed removal of this tree.

- 2.4 On the 13 June 2022, the Council issued a formal decision to allow the tree work with the exception of the Ash tree and the Merton (no.780) Tree Preservation order 2022 was made and took effect on the 8 June 2022. The plan is appended to this report.
- 2.5 On the 19 August 2022, a planning application (ref: 22/P2556) was submitted for the following proposed development: CONSTRUCTION OF SINGLE STOREY REAR AND SIDE EXTENSION; FORMATION OF A FRONT LIGHTWELL AND STEPS DOWN TO THE EXISTING BASEMENT LEVEL; EXTEND MAIN ROOF OVER EXISTING FLAT ROOF AT REAR AND RECONFIGURATION OF EXISTING DORMER WINDOWS; AND CONSTRUCTION OF NEW FRONT BOUNDARY TREATMENT.
- 2.6 This application is currently undetermined. However, the Ash tree referred to above is shown for retention. The tree report attached to the planning application has assessed this tree as a 'B' category tree and provides the following comments: 'Prominent boundary tree. Early symptoms of Ash Dieback Disease (ADB) within canopy. Slightly sparsely foliated. Currently of moderate landscape value, but of no more than medium-term potential.'

3. Legislative Background

- 3.1 Section 198 of the Town and Country Planning Act 1990 (as amended), empowers Local Planning Authorities to protect trees in the interests of amenity, by making tree preservation orders. Points to consider when considering a tree preservation order are whether the particular tree has a significant impact on the environment and its enjoyment by the public, and that it is expedient to make a tree preservation order.
- 3.2 When issuing a tree preservation order, the Local Planning Authority must provide reasons why the tree has been protected by a tree preservation order. In this particular case 8 reasons were given that include references to the visual amenity value of the tree to the area; that the tree has an intrinsic beauty; that the tree preservation order is in response to a s.211 notification; that the tree makes a significant contribution to the character and appearance to the local area; that the tree forms part of our collective heritage for present and future generations; that the tree is an integral part of the urban forest; that the tree contributes to the local bio-diversity; and protects against climate change.
- 3.3 Under the terms of the provisional status of an Order, objections or representations may be made within 28 days of the date of effect of the Order. The Council must consider those objections or representations before any decision is made to confirm or rescind the Order.
- 3.4 If the tree preservation order is not confirmed, the Ash tree can be removed irrespective of any indications to the contrary in the current planning application.

4. Objection to the Order

- 4.1 The Council has received an objection to the Order from the arboricultural agent acting on behalf of the owner of 50 Ridgway Place.
- 4.2 The objection has been summarised as follows:

- That the tree is exhibiting early symptoms of Ash Dieback Disease. The tree is considered to be in reasonable condition. The agent has carried out a risk assessment based on the Tree Risk Assessment Qualification Methodology developed by The International Society of Arboriculture and has determined the residual risk of this tree is **low**. It is anticipated that a greater risk may be applied to this tree in the next 5 – 10 years. The presence of a tree preservation order will restrict the timely intervention should the tree become dangerous in years to come.
- The agent has been commissioned to oversee all arboricultural elements of the site and has advised the tree should be retained as part of any re-development and that there is a benefit in retaining the tree. Consequently, the threat to the tree's retention caused by the previous s.211 notification is now lost.
- Considers that protection afforded by the conservation area is sufficient legal protection for the tree and that the tree preservation order should be revoked. As trees are a material consideration in the planning process, any disagreements in the future should be dealt with as a refusal of the application on arboricultural grounds.
- That a tree preservation order protects the amenity a tree provides and does not form part of the approach taken by the BS 5837:2012 that provides its method of evaluating tree in relation to the proposed development of a site. Therefore, a tree preservation order should be applied to trees because they are of value and that no additional weight should be given to its protected nature in the determination of a planning application.

5. Planning Considerations

5.1 The Tree Officer would respond to each of the objector's respective points as follows:

- If the disease is present as reported, it has been assessed as being a low risk. Both the Tree Council and the Forestry Commission advise a general presumption against felling living Ash trees, whether infected or not. However, decisions concerning appropriate management, including felling, should be taken as the disease progresses. For the present time, there is no reason why this tree cannot be retained. The legislation provides for speedy decisions in the event of a tree being found to be dead or dangerous, therefore this is not a reason to revoke the tree preservation order.
- The retention of the tree preservation order will ensure that the greatest care will be taken if any site works take place in the vicinity of the tree. It is the correct legal response to a s.211 notification of the proposed removal of a tree in a conservation area. The tree preservation order will allow the Council to seek a replacement place in the event of the Council approving the removal of this tree at any time in the future.
- A tree preservation order identifies trees of importance that should be retained in any potential development. This would remove any element of doubt in an evolving design for a development within a property and is not

a reason to revoke the tree preservation order. It would also eliminate any risk of the tree being shown for removal in any follow-up drawings that may be submitted to discharge a planning condition.

- This point is noted. However, this is not a reason to revoke this tree preservation order. By protecting this tree, the Council is identifying a tree of significance that provides a greater degree of visual amenity value than others that may be set back further within the site and are less visible to the public. Other trees of significance within any proposed development can be protected for other reasons that justify their retention and protection.

6. Officer Recommendations

- 6.1 The Merton (No.780) Tree Preservation Order 2022 should be confirmed without modification.

7. Consultation undertaken or proposed

None required for the purposes of this report

8. Timetable

N/A

9. Financial, resource and property implications

The Order may be challenged in the High Court and legal costs are likely to be incurred by Merton. However, it is not possible to quantify at this time, and may be recoverable from the property owners if the Court finds in favour of the Authority.

10. Legal and statutory implications

The current tree preservation order takes effect for a period of 6 months or until confirmed, whichever is the earlier. There is no right of appeal to the Secretary of State. Any challenge would have to be in the High Court.

11. Human rights, equalities and community cohesion implications

N/A

12. Crime and disorder implications

N/A

13. Risk Management and Health and Safety implications.

N/A

14. Appendices – the following documents are to be published with this report and form part of the report Background Papers

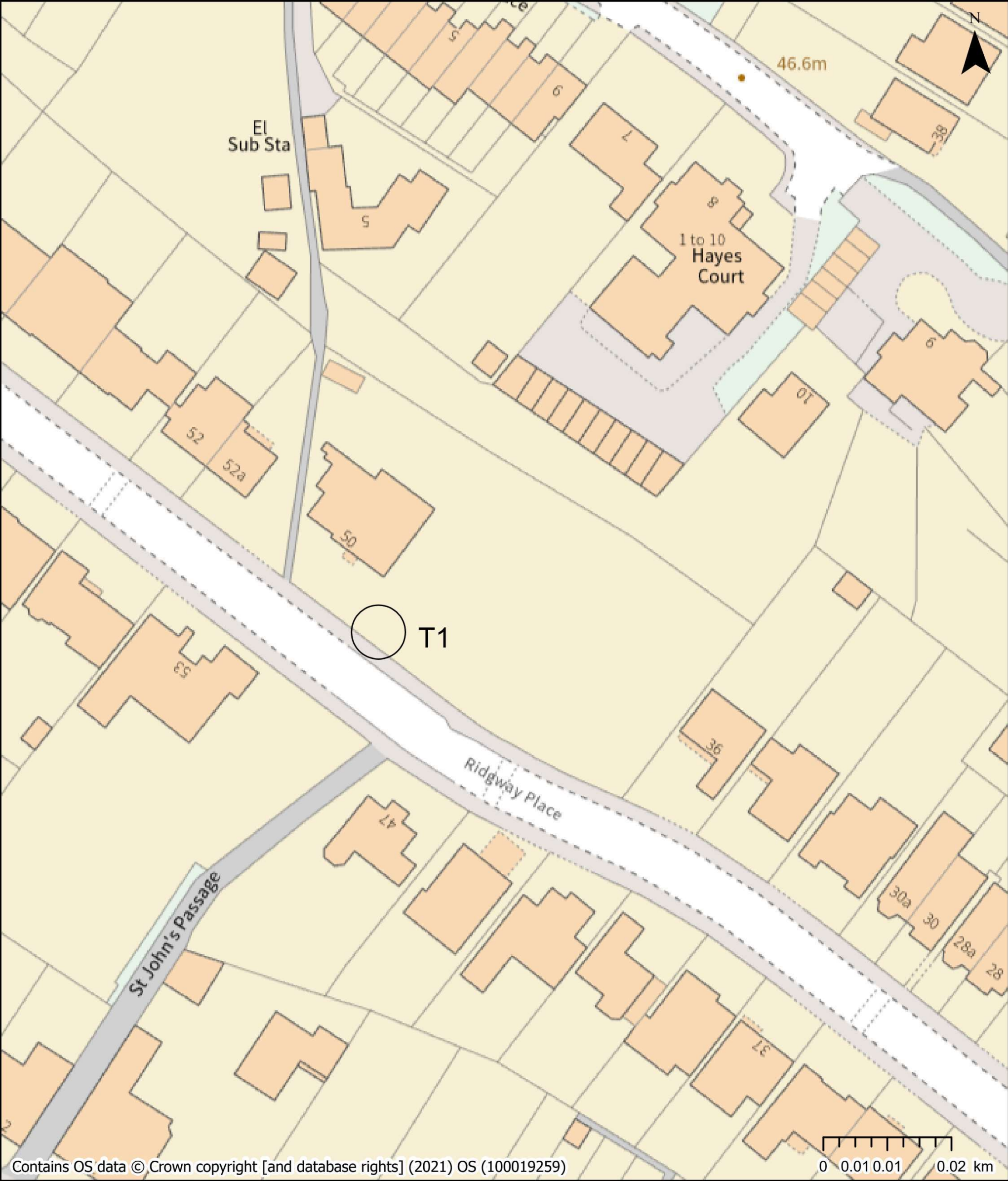
Tree Preservation Order plan

15. Background Papers

The file on the Merton (No.780) Tree Preservation Order 2022
Government Planning Practice Guidance on Tree Preservation Orders and trees in conservation areas.

Merton (No.780) Tree Preservation Order 2022 - 50 Ridgway Place

07/06/2022, 11:41:09



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Merton Borough Boundary

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Committee: Planning Applications

Date: 23rd November 2022

Subject: Planning Appeal Decisions

Lead officer: Head of Sustainable Communities

Lead member: Chair, Planning Applications Committee

Recommendation:

That Members note the contents of the report.

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 For Members' information recent decisions made by Inspectors appointed by the Secretary of State for Communities and Local Government in respect of recent Town Planning Appeals are set out below.
- 1.2 The relevant Inspectors decision letters are not attached to this report but can be viewed by following each individual link. Other agenda papers for this meeting can be viewed on the Committee Page of the Council Website via the following link:

[LINK TO COMMITTEE PAGE](#)

DETAILS

Application Number 21/P3609

Appeal number: APP/T5720/W/22/3290200

Site: Flat 9, 119 Arthur Road, Wimbledon SW19 7DR

Development: ERECTION OF MANSARD ROOF EXTENSION OVER EXISTING SINGLE STOREY REAR EXTENSION, WITH INSTALLATION OF 1 x VELUX WINDOW AND 2 x REAR DORMER WINDOWS..

Recommendation: Refuse (Delegated)

Appeal Decision: **DISMISSED**

Date of Appeal Decision: 20th October 2022

[click LINK TO DECISION NOTICE](#)

Alternative options

- 3.1 The appeal decision is final unless it is successfully challenged in the Courts. If a challenge is successful, the appeal decision will be quashed and the case returned to the Secretary of State for re-determination. It does not follow necessarily that the original appeal decision will be reversed when it is re-determined.
- 3.2 The Council may wish to consider taking legal advice before embarking on a challenge. The following applies: Under the provision of Section 288 of the Town & Country Planning Act 1990, or Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990, a person or an establishment who is aggrieved by a decision may seek to have it quashed by making an application to the High Court on the following grounds: -
 1. That the decision is not within the powers of the Act; or
 2. That any of the relevant requirements have not been complied with; (relevant requirements means any requirements of the 1990 Act or of the Tribunal's Land Enquiries Act 1992, or of any Order, Regulation or Rule made under those Acts).

1 CONSULTATION UNDERTAKEN OR PROPOSED

- 1.1. None required for the purposes of this report.

2 TIMETABLE

- 2.1. N/A

3 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 3.1. There are financial implications for the Council in respect of appeal decisions where costs are awarded against the Council.

4 LEGAL AND STATUTORY IMPLICATIONS

- 4.1. An Inspector's decision may be challenged in the High Court, within 6 weeks of the date of the decision letter (see above).

5 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 5.1. None for the purposes of this report.

6 CRIME AND DISORDER IMPLICATIONS

6.1. None for the purposes of this report.

7 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

7.1. See 6.1 above.

8 BACKGROUND PAPERS

8.1. The papers used to compile this report are the Council's Development Control service's Town Planning files relating to the sites referred to above and the agendas and minutes of the Planning Applications Committee where relevant.

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