

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 20 February 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Church Street	
<b>Subject of Report</b>	458 Edgware Road, London, W2 1EJ,		
<b>Proposal</b>	Retention of ground floor rear extension and shopfront alterations in connection with continued use as a restaurant (Class A3). (Retrospective Application).		
<b>Agent</b>	Mr SINAN AY		
<b>On behalf of</b>	Mr ALI KOCAKOL		
<b>Registered Number</b>	17/01027/FULL	<b>Date amended/ completed</b>	20 February 2017
<b>Date Application Received</b>	9 February 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

This application relates to an unlisted building located outside of a designated conservation area but within a secondary frontage of the Church Street / Edgware Road District centre. The premises are set over ground and basement levels and include part of the rear ground floor of 460 Edgware Road and its garden.

Permission is sought for the retention of works which have been undertaken without prior permission, namely the infilling of much of the garden area to the rear of 460 Edgware Road to provide additional restaurant floorspace and for alterations to the shopfront of 458 Edgware Road.

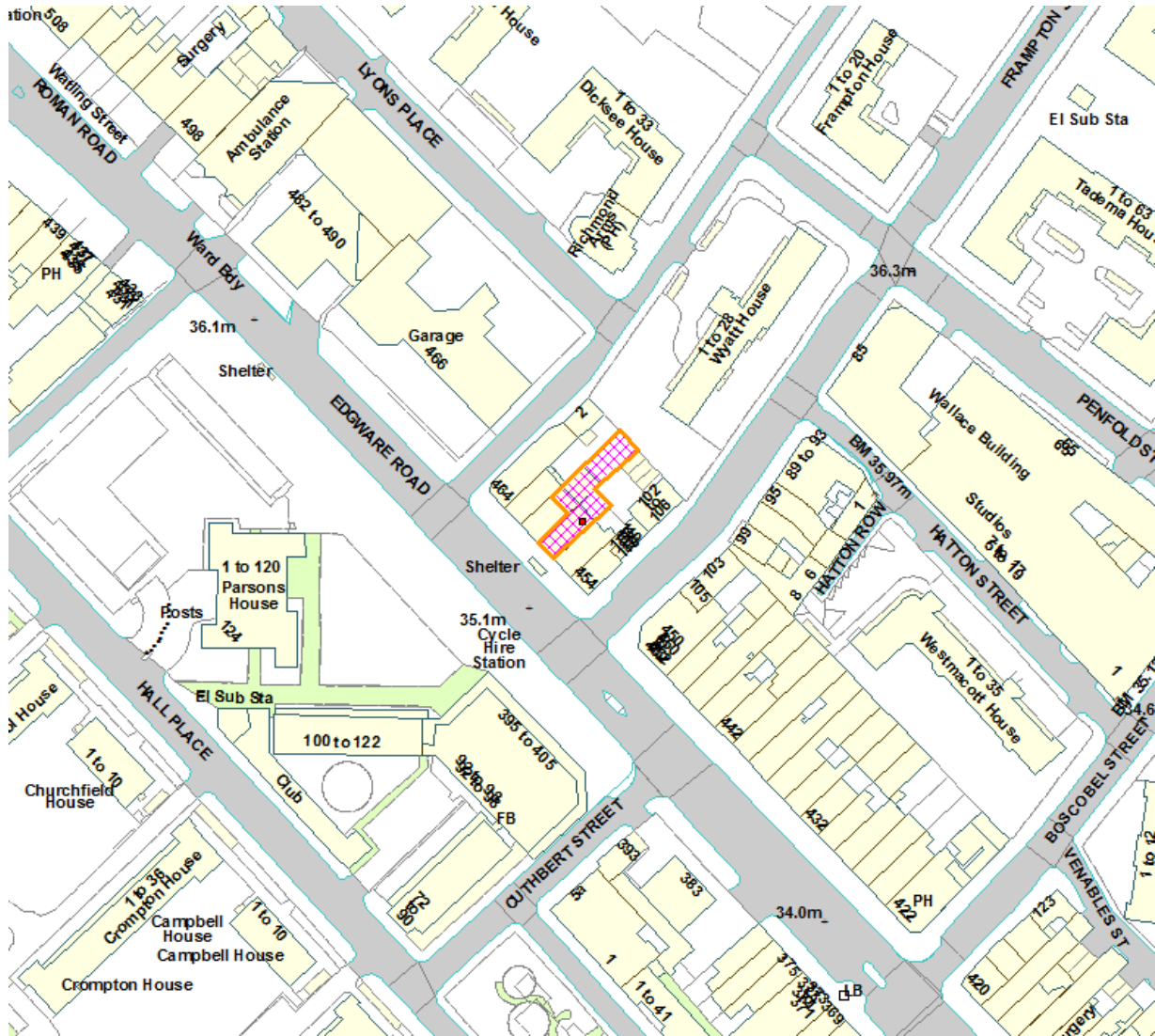
The key issues in the case are:

- The impact on the amenity of neighbouring residents.
- The acceptability of the additional restaurant floorspace in land use terms.
- The acceptability of the alterations and extensions in design and townscape terms.

On balance, it is considered that the works are acceptable and in accordance with policies in the Westminster City Plan (City Plan) and the Unitary Development Plan (UDP) and therefore the application is recommended for approval subject to the conditions as set out on the draft decision

letter.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Pre-existing photographs showing the rear yard (partially enclosed by a canopy)

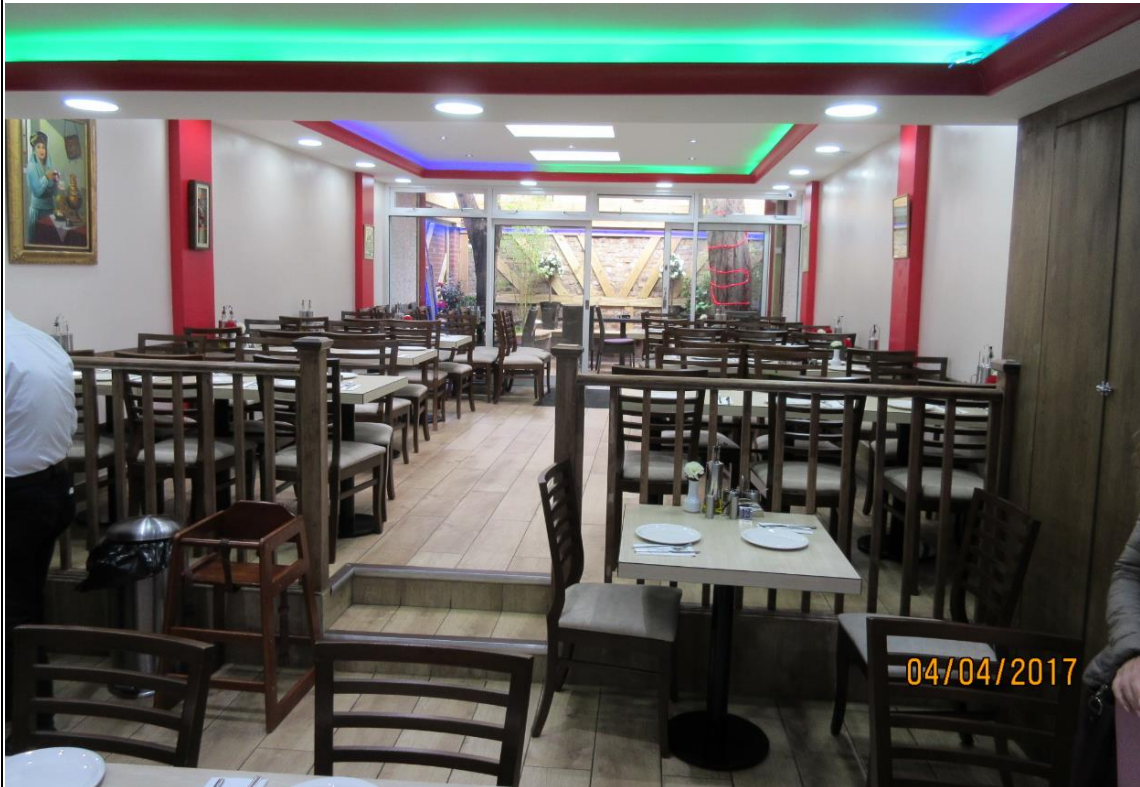




Edgware Road frontage



Extended restaurant area



## 5. CONSULTATIONS

### ST MARYLEBONE SOCIETY:

Object to the proposed roller shutter, which should be located behind the glass.

### CRIME DESIGN PREVENTION OFFICER:

No response to date.

### PLANNING ENFORCEMENT TEAM:

No response to date.

### ARBORICULTURAL OFFICER:

Insufficient information has been submitted to judge the impact of the development on the trees within the rear and adjacent to the site.

### BUILDING CONTROL:

Concerns in relation to means of escape and use of garden walls as internal building walls.

### ENVIRONMENTAL HEALTH:

No objection.

### ADJOINING OWNERS / OCCUPIERS:

No consulted: 293

No responses: 5 objections raising some or all of the following grounds:

#### Land Use:

- There are too many restaurants within the area with little diversity of choice.
- No overall scheme to bring variety to shop facilities in the area.

#### Amenity:

- Smells and smoke from restaurants often make opening a window offensive.
- Shisha is being smoked in rear garden which causes smell and noise disturbance to neighbours.

#### Other:

- Rubbish is left on the street.
- No fire exit or access from the extension area.
- Loss of green area.
- Reduction to property values.
- Extension built without consent, including unauthorised site access over adjacent owners land.
- Structural integrity of extension questioned.
- No party wall agreement.

### SITE NOTICE / PRESS ADVERT:

Yes.

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

458 Edgware Road is located outside of a conservation area has little architectural merit either at the front or the rear. The application relates to an existing restaurant located at ground and basement levels. The site doglegs to the rear so that it occupies the rear ground floor and garden of 460 Edgware Road. The rear of the site, was characterised by a long decked patio area, with tall boundary walls and what would appear to have been an unauthorised large retractable canopy structure. The general character of the rear of this terrace is utilitarian with general back of house areas for the street facing retail uses.

There are residential flats located on the upper floors of the host and surrounding buildings.

### **6.2 Recent Relevant History**

05/06480/FULL – planning permission granted 9 November 2005 for the erection of a rear ground floor extension to existing restaurant.

99/10702/FULL - Planning permission granted 7 December 1999 for installation of ventilation duct to rear of building.

TP/12564 - Planning permission granted 9 October 1975 for the use of No. 458 Edgware Road as a cafeteria.

## **7. THE PROPOSAL**

Permission is sought for the retention of a single storey extension to the restaurant at rear ground floor level which takes up a large proportion of the pre-existing yard. It is also proposed to retain an external roller shutter on the shopfront.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposals include the extension to the existing restaurant by approximately 41sqm. Prior to the works, the ground floor was approximately 121sqm and the basement 62sqm (totalling 183sqm).

The existing restaurant, which is located outside the Edgware Road stress area benefits from a planning permission in 1975 for use as a cafeteria. There are no conditions restricting the operation of the restaurant. The extension would increase floorspace by 41 square metres and provide approximately 36 additional covers. Prior to the extension being built, the restaurant utilised the rear garden area for customers and there were no conditions restricting the hours of opening or use of the garden area. Given that the outside space has been significantly reduced in size, and as there were no conditions restricting its use, it is considered unreasonable to condition the proposal. Given the pre-

existing situation, the proposed extension is not considered to cause significant harm to the amenity of adjoining owners/occupiers, indeed it may well have improved the situation, as only a limited number can now sit outside and cause noise disturbance.

An objection has been received on the grounds that the proposals do not increase diversity in the restaurant offer in the area, and that some form of strategy should be comprised. The Council cannot control what type of restaurant occupies a premises, only the use itself. No change of use is proposed and therefore this objection cannot be sustained.

## **8.2 Townscape and Design**

While this extension does not represent the highest standards of design as sought by UDP policy DES 1, it is located to the rear, in utilitarian surroundings and can only be seen in very minimal views from the surrounding area, notably Orchardson Street, and is therefore, on balance, considered acceptable. One area of concern is the rear parapet/soffit board which appears to accommodate the rear folding doors in that it has been painted red and this is visible from Orchardson Street. It is recommended that by way of an amending condition that this be painted black or to match adjacent brickwork.

One objection has been received on the grounds of loss of greening. Policy DES 5 resists the loss of garden space, however given the commercial use of the premises and as some outdoor space is retained, it is not considered that refusal on these grounds could be justified in this instance. It should also be noted that no planting has been lost, with the area which has been infilled previously fully decked over, retaining the two trees in planters.

In relation to the works to the shop frontage, which are acceptable in design terms, the roller shutter which has been installed is not considered acceptable and has received objections from the St Marylebone Society and is contrary to DES 5 and guidance in 'Shopfronts, Blinds and Signs'. It is considered to harm the streetscape adding clunky visual clutter to the most noticeable part of the building and creates an inactive frontage when closed. This does not meet S28 of the City Plan and DES 1 and DES 5 of the UDP and a condition securing its removal is recommended. An amending condition is also recommended showing revised plans of this.

## **8.3 Residential Amenity**

Objections have been received from neighbouring residents on the grounds of smoke and fumes. The works do not propose any alterations to the ventilation equipment for the restaurant, which would appear to be full height up the main rear elevation of the building, which would meet Environmental Health requirements (whom raise no objection to the proposals). The objection would appear to be a more general complaint about odour within the vicinity rather than specifically in relation to this site, it is therefore not considered that refusal on these grounds could be sustained.

Objection has also been raised in relation to the use of the rear yard for Shisha smoking. It is not considered that refusal on these grounds could be sustained, given that no change of use is proposed and as the external area has been considerably reduced as a

result of the proposal, and therefore limits the possibility for shisha smoking when compared to the size of the yard previously.

#### **8.4 Transportation/Parking**

No change to existing arrangements.

#### **8.5 Economic Considerations**

Any economic benefits of the development are welcomed.

#### **8.6 Access**

The building control officer has raised concerns in relation to emergency escape routes. While these comments are noted, planning permission could not be withheld on these grounds. Should new emergency access arrangements be needed to meet building regulations, a separate application for planning permission will be required. An informative is recommended to advise the applicant of this.

#### **8.7 Other UDP/Westminster Policy Considerations**

An objection has been received from the arboricultural officer on the grounds of insufficient information to support the application as no tree report has been submitted.

There are two existing trees located at the rear end of the garden located in raised permanent planters. It is apparent from photographs taken before and after the works having been undertaken, that no alterations have been made to the trees or their planters.

As suggested by the building control comments, the works have been undertaken using the existing boundary walls, therefore no additional excavation has been undertaken, with existing structures used to support the roof. As the works do not include any excavation it is not considered that a tree report is required in this instance.

#### **8.8 London Plan**

This application raises no strategic issues.

#### **8.9 National Policy/Guidance Considerations**

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

#### **8.10 Planning Obligations**

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



### 8.11 Environmental Impact Assessment

This application is of insufficient scale to require the submission of an Environmental Impact Assessment.

### 8.12 Other Issues

Objections have been raised on grounds for which permission could not be withheld including reduction in property values and the structural integrity of the building. An informative is however recommended to advise the applicant that they are likely to require building regulations approval for the extension.

Concerns have also been raised in relation to rubbish being left on the street. As the works relate to an existing restaurant, it is not considered that conditions in relation to waste could be sustained, the restaurant will need to comply with existing waste collections.

It has been noted that there was no party wall agreement for the alterations. Such matters are private and dealt with under separate legislation.

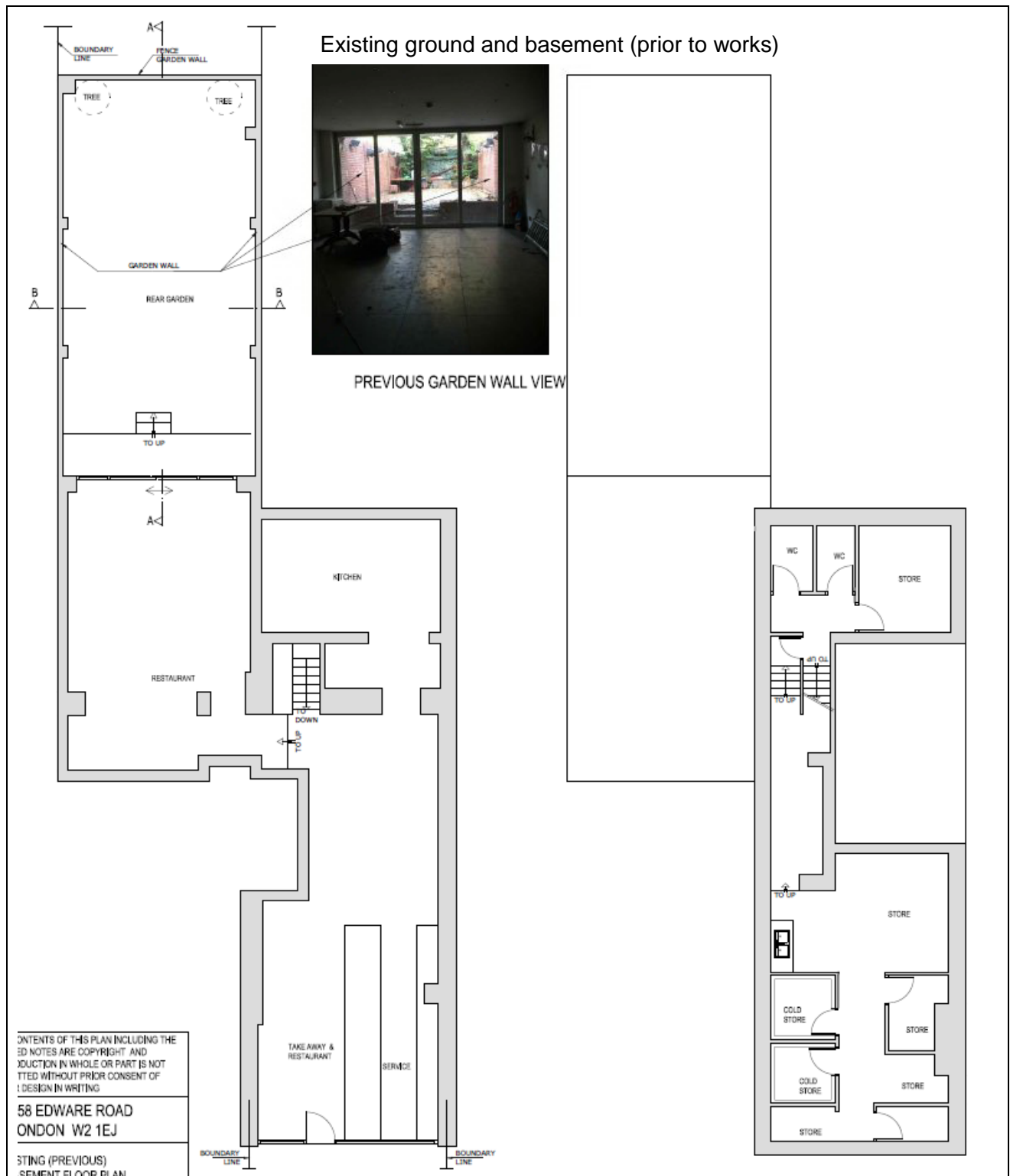
## 9. BACKGROUND PAPERS

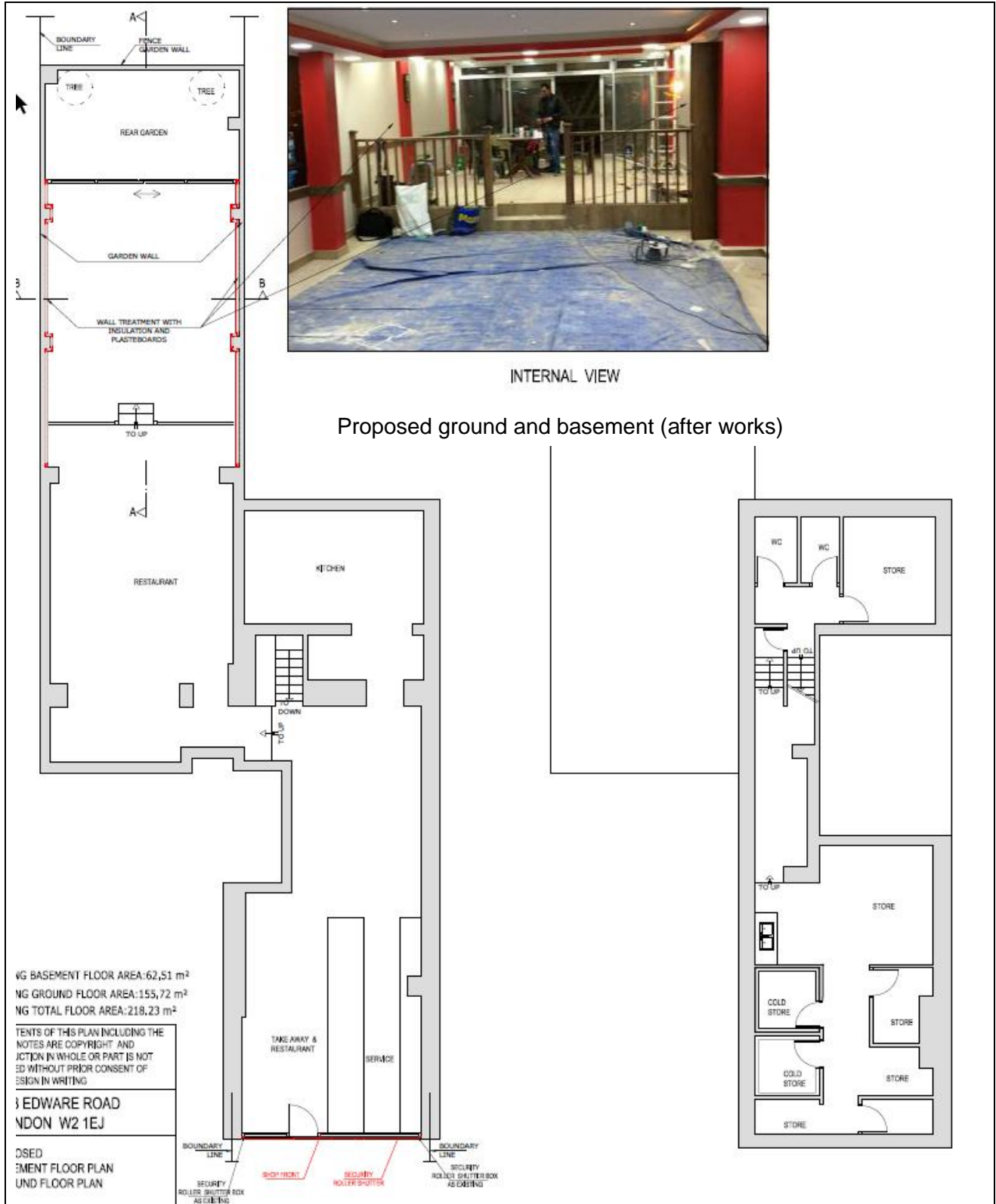
1. Application form
2. Response from The St Marylebone Society, dated 14 March 2017
3. Response from Building Control - Development Planning, dated 13 March 2017
4. Response from Environmental Health, dated 28 February 2017
5. Response from Building Control, dated 13 March 2017
6. Response from Arboricultural Officer, dated 10 April 2017
7. Letter from occupier of 6 Hatton Row, London, dated 4 March 2017
8. Letter from occupier of 333 Park West, Edgware Road, dated 14 March 2017
9. Letter from occupier of 458 Edgware Road, Flat 6, dated 14 March 2017
10. Letter from occupier of Lilestone Tenants Co-Operative, Wyatt House, Frampton Street, dated 15 March 2017
11. Letter from occupier of 72-74 Edgware Road, London W2 2EG, dated 16 March 2017

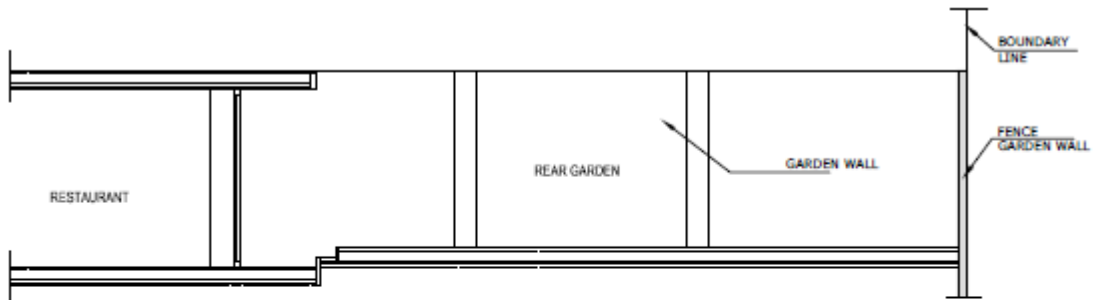
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT [kdavies1@westminster.gov.uk](mailto:kdavies1@westminster.gov.uk)

### 10. KEY DRAWINGS

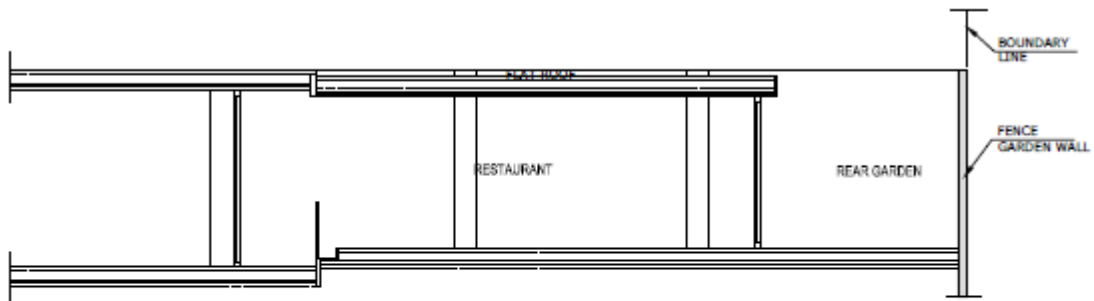






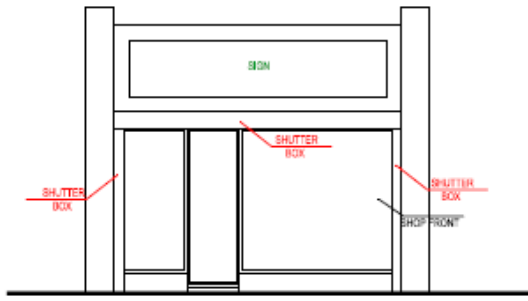
EXISTING SECTION A-A

SCALE: 1/100



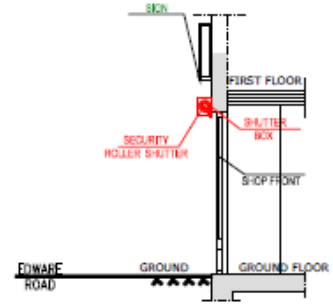
PROPOSED SECTION A-A  
(AS CURRENT)

SCALE: 1/100



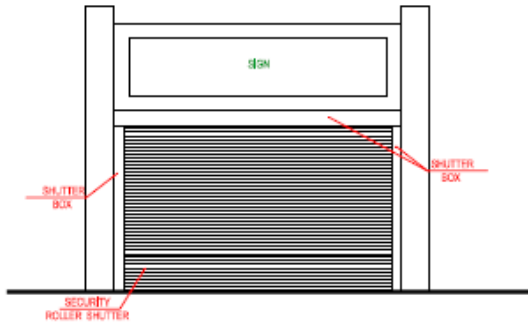
PROPOSED FRONT ELEVATION

(SHUTTER UP) SCALE: 1/100



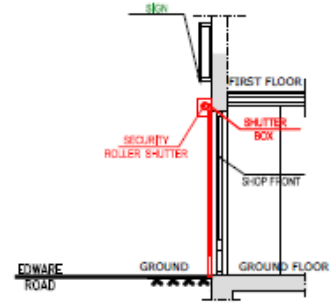
PROPOSED SECTION A-A

SCALE: 1/100



PROPOSED FRONT ELEVATION

(SHUTTER DOWN) SCALE: 1/100



PROPOSED SECTION A-A

SCALE: 1/100

**DRAFT DECISION LETTER**

**Address:** 458 Edgware Road, London, W2 1EJ,

**Proposal:** Retention of ground floor rear extension and shopfront alterations in connection with continued use as a restaurant (Class A3). (Retrospective Application).

**Plan Nos:** 002.17/01; 002.17/02; 002.17/03; 002.17/04; Site Location plan.

**Case Officer:** Rupert Handley

**Direct Tel. No.** 020 7641 2497

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

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

Reason:

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

- 2 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme the removal of the roller shutter to the shopfront. You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

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 S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 3 Within 3 months of the date of this permission, you must:
  - remove the roller shutter from the front elevation;
  - repaint the existing red parapet/ soffit board of the extension either black or painted to match the adjacent properties.

You must then retain the shop frontage and the rear extension in this condition thereafter.

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 S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

**Informative(s):**



- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 It is understood that you have been in discussions with Westminster Building Control Officers in relation to emergency means of escape. You are advised that should any additional external alterations be required, these are likely to require a new application for planning permission. You are also advised that you are likely to require Building Regulation approval for the extension.
- 3 You are advised that this permission does not grant approval of the roller shutter to the front elevation.