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| CITY OF WESTMINSTER | | | |
| PLANNING APPLICATIONS SUB COMMITTEE | Date 5 June 2018 | Classification For General Release | |
| Report of Director of Planning | | Ward(s) involved Bayswater | |
| Subject of Report | 28 Westbourne Park Road, London, W2 5PH | | |
| Proposal | Variation of Condition 7 or planning permission dated 13 December 2017 (RN: 17/09058/FULL) for the erection of garden building at end of rear garden. NAMELY, to reword the condition to allow residents of the main dwelling and family members to, on occasions, use the garden room as sleeping accommodation. | | |
| Agent | Mr Marlon Deam | | |
| On behalf of | Vahid and Carole Farzad and Marina Elissa Corm | | |
| Registered Number | 18/01950/FULL | Date amended/ completed | 8 March 2018 |
| Date Application Received | 8 March 2018 | | |
| Historic Building Grade | Grade II | | |
| Conservation Area | Westbourne | | |

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

No.28 Westbourne Park Road is a Grade II listed semi-detached property within the Westbourne Conservation Area.

Permission and listed building consent were granted in December 2017 for the erection of a single storey garden building at the rear of the garden, set directly within the rear and side garden boundary walls. The structure measures 6m x 5.3m and will be 2.9m high; in the form of a garden pavilion and it will be rendered with a lead roof and lantern with 3no pairs of timber part glazed French doors on the garden elevation.

Condition 7 of this permission stated:

"The single storey outbuilding shall not be used as habitable accommodation including overnight sleeping and shall only be used for other purposes incidental to the enjoyment of the single family dwelling house at 28 Westbourne Park Road".

The applicant requests that this condition be varied to allow the family to use the outbuilding as

sleeping accommodation if needed, a use that is ancillary to the enjoyment of the main dwelling house.

Two objections from neighbours to the rear of the site in Westbourne Park Villas (one of whom objected to the original application) have been received, and these are supported by the South East Bayswater Residents Association on the grounds that if reference to 'overnight sleeping' is removed from the condition then the garden room could be sublet and rented out and used by AirBnB for example. This would therefore result in harm to neighbouring properties in terms of noise and nuisance.

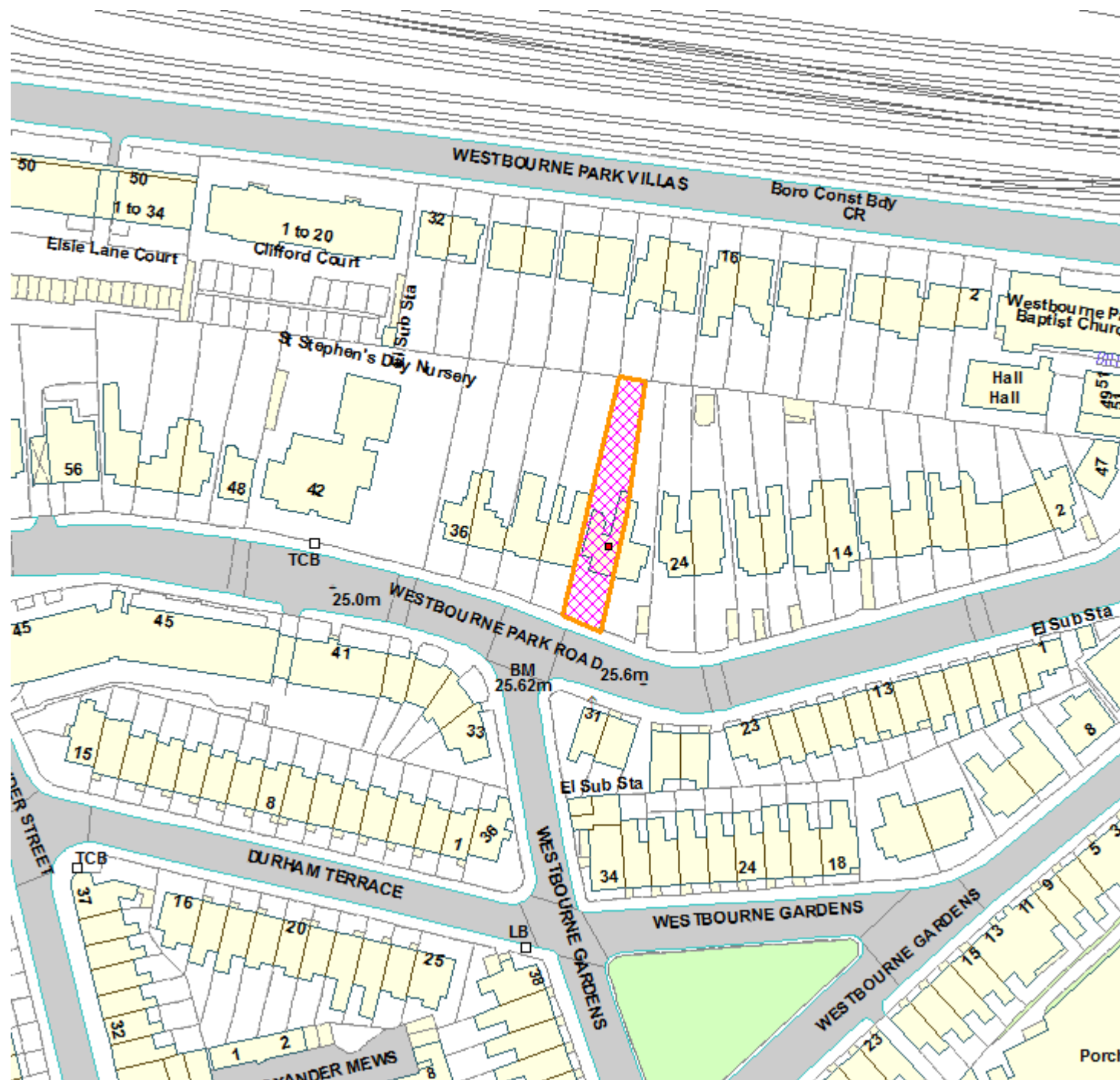
Any use of a garden room as sublet accommodation or as short term let accommodation by users such as AirBnB, or similar websites/ companies, would not be considered as ancillary to the enjoyment of the main dwelling house and would therefore not be covered by the appropriately worded condition. Should the outbuilding be used as such a change of use would have occurred requiring planning permission and would be controllable through planning enforcement action. In this instance it is therefore not considered that the objection could be sustained.

With regards to objections to additional noise and light pollution from the potential of overnight usage, the outbuilding is to be built of brick with no rear elevation windows and doors and therefore poses no harm to the residential properties to the rear in terms of escaping noise or light. Whilst the front (garden) elevation comprises windows and doors it is not considered that should the outbuilding be used by family members and friends of the occupiers of the main dwelling as sleeping accommodation, that this would result in significant noise levels, over and above what the outbuilding could be used for as currently approved. Whilst there is a small approved roof light within the centre of the roof, whilst this could in theory be lit overnight, given the substantial garden depths of the properties in Westbourne Park Road and Westbourne Park Villas, this minor illumination would cause no harm to the amenity of the occupiers of these properties indeed it would be no worse than a rooflight in a rear extension.

It is therefore considered that the rewording of the condition which would allow overnight sleeping for visiting members of the family and friends is acceptable and the objections received could not be sustained. The wording of Condition 7 is now to read:

"The single storey outbuilding hereby approved shall not be occupied at any time other than for purposes ancillary to the enjoyment of the main dwelling at 28 Westbourne Park Road".

3. LOCATION PLAN



4. PHOTOGRAPHS



Photo to show where rear garden extension is to be located

5. CONSULTATIONS

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Support objection from neighbours, on the grounds that if the wording of the condition is changed to allow overnight sleeping then this could result in usage by AirBnB customers and may result in additional noise and light pollution.

BAYSWATER RESIDENTS ASSOCIATION:

No response to date.

ADJOINING OWNERS/OCCUPIERS:

Total No. Consulted: 9; Total No. Responses: 2.

Two objections received on the grounds of additional noise and harm to amenity as a result of overnight sleeping, and that the outbuilding could be let on a short terms basis by AirBnB for example and this is uncontrollable.

SITE AND PRESS:

Yes.

6. RELEVANT PLANNING HISTORY

17/09058/FULL

Erection of garden building at end of rear garden.

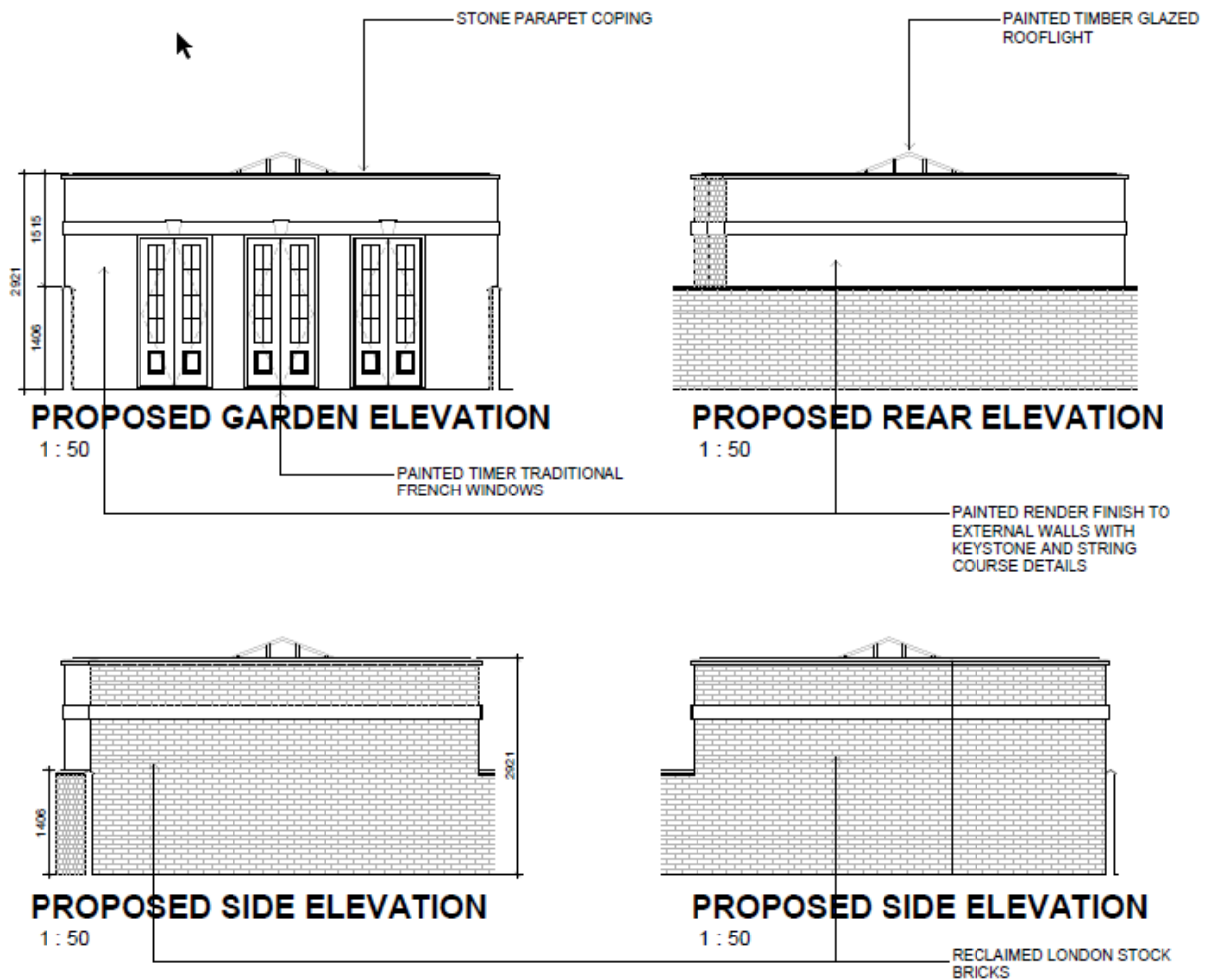
Application Permitted 13 December 2017

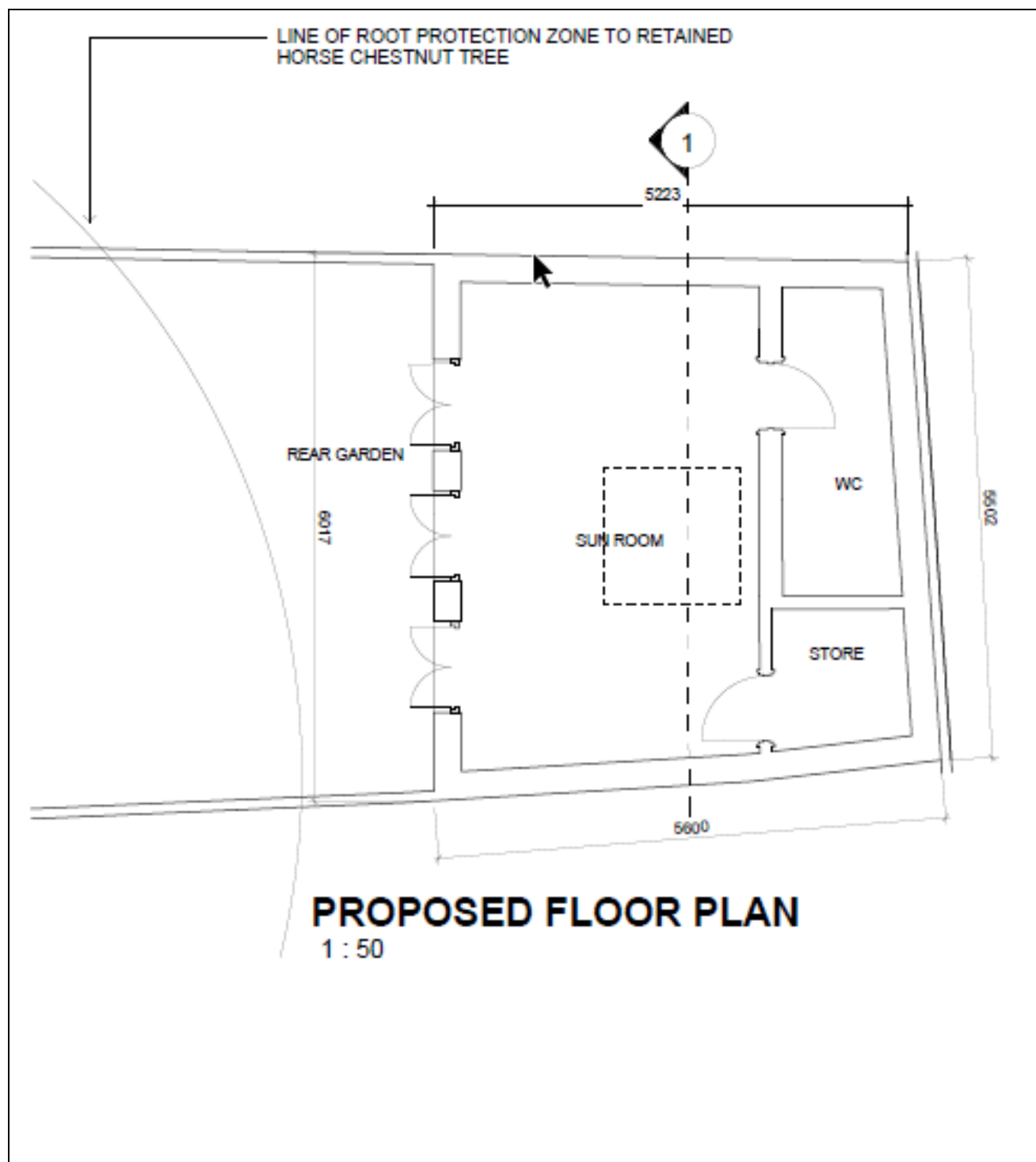
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT rhandley@westminster.gov.uk

7. KEY DRAWINGS

Drawings of approved rear extension.





DRAFT DECISION LETTER

Address: 28 Westbourne Park Road, London, W2 5PH,

Proposal: Variation of Condition 7 or planning permission dated 13 December 2017 (RN: 17/09058/FULL) for the erection of garden building at end of rear garden. NAMELY, to reword the condition to allow residents of the main dwelling and family members to, on occasions, use the garden room as sleeping accommodation.

Plan Nos: **Drawings and Documents Approved Under RN: 17/09058/FULL:** A107 02; Design and Access Statement dated 2 October 2017; Tree Survey, Arboricultural Impact Assessment and Method Statement.

As Amended by the Documents Hereby Approved: Covering Letter dated 8 March 2018, Site location plan.

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641 5939

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 carry out any building work which can be heard at the boundary of the site only:

- * between 08.00 and 18.00 Monday to Friday;
- * between 08.00 and 13.00 on Saturday; and
- * not at all on Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the

development contributes to the character and appearance of the Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 4 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 5 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. 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 what you have sent us. You must then carry out the work according to the approved details.

Reason:

To protect trees and the character and appearance of the site as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31CC)

- 6 You must plant one replacement trees in the first planting season after you complete the development. You must apply to us for our approval of the position, size and species of the replacement trees. You must also replace any replacement tree which dies, is removed or becomes seriously damaged or diseased within five years of the date we give our approval for the replacement trees, in the next planting season with another of similar size and species to the one originally planted. (C31KA)

Reason:

To protect the trees and the character and appearance of this part of the Westbourne Conservation Area. This is as set out in S25, S28 and S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17, DES 1 (A) and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R31DC)

- 7 The single storey outbuilding hereby approved shall not be occupied at any time other than for purposes ancillary to the enjoyment of the main dwelling at 28 Westbourne Park Road.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary

Development Plan that we adopted in January 2007.

- 8 This permission must be commenced no later than 13 December 2020.

Reason:

This permission authorises amendments to the original planning permission granted on 13 December 2017 (RN 17/09058/FULL) which must be commenced no later than the above date.

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 This approval is based on the retention of the Horse Chestnut to the rear garden.
- 3 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team
Environmental Health Service
Westminster City Hall
64 Victoria Street
London
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 4 To meet condition 5 the minimum protection we normally expect is plywood boarding at least 1.2 metres high. The boarding should go around the tree at a distance from the trunk which will keep machinery away from the branches. If this is not possible there should be at least two metres between the trunk of the tree and the boarding. (I33AA)

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.