

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 5 June 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Abbey Road	
Subject of Report	34 Finchley Road, London, NW8 6ES,		
Proposal	Excavation of basement level under building and rear garden with front and rear lightwells to create one self-contained flat (Class C3) and demolition and replacement of rear garden boundary wall with Lyndhurst Court.		
Agent	Obsidian London Limited		
On behalf of	Mr Sadiq Ayoub Bey		
Registered Number	15/03036/FULL	Date amended/ completed	13 November 2015
Date Application Received	8 April 2015		
Historic Building Grade	Unlisted		
Conservation Area	St John's Wood		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site comprises a 4 storey end of terrace building on the north east side of Finchley Road that is in use as 3 flats, with a dentist surgery at ground floor level. The building is not listed but is located within the St. John's Wood Conservation Area.

The application proposes the excavation of a basement floor level under the existing building and rear garden with front and rear lightwells for use as a new self-contained flat (Class C3) and demolition and replacement of the rear garden boundary wall with Lyndhurst Court.

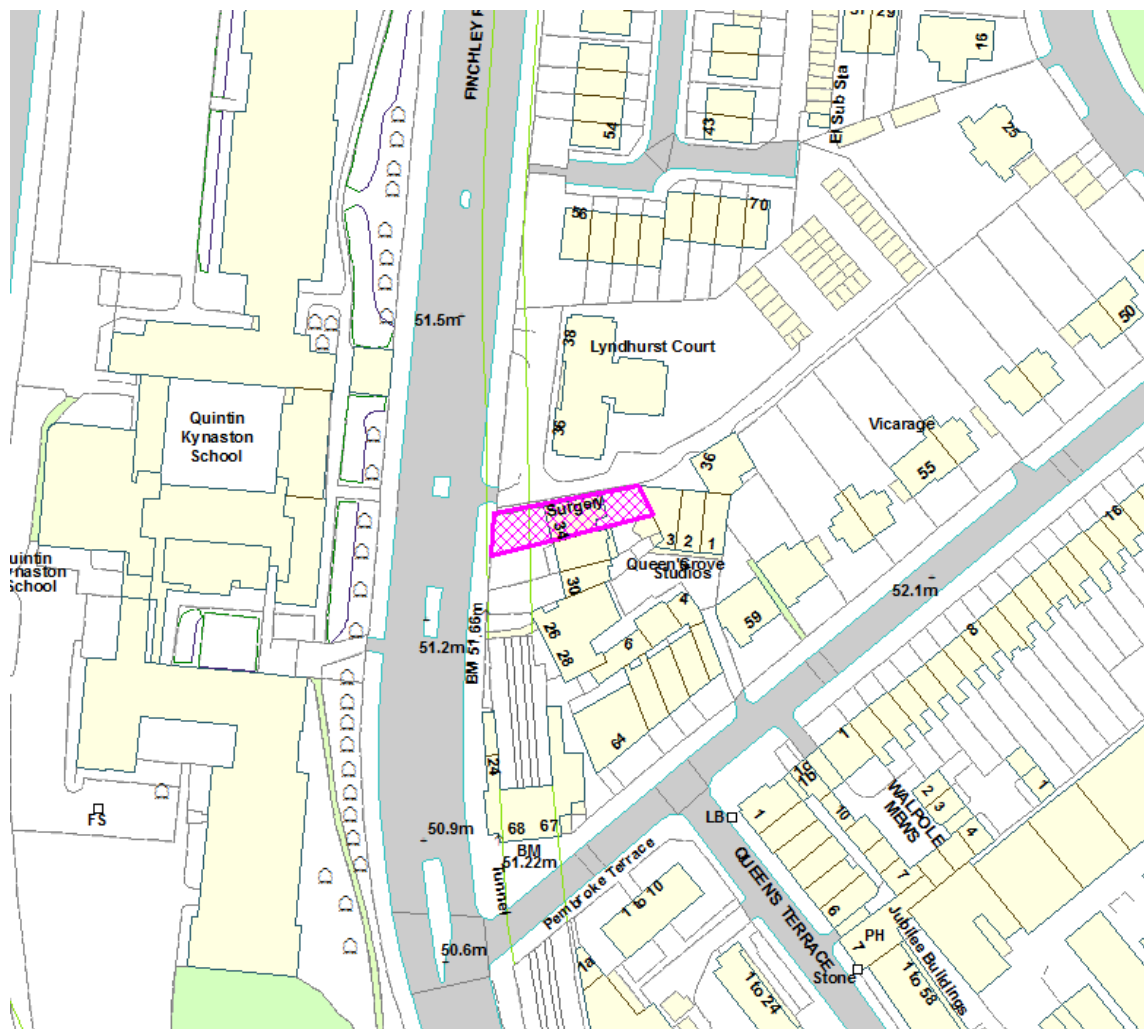
The key issues in this case are:

- The impact on the appearance of the building and the character and appearance of the St. John's Wood Conservation Area.
- The extent of compliance of the proposed basement with the Basement Development policy in the City Plan (CM28.1).

- The impact on the adjacent London Underground tunnel.
- The impact on neighbouring trees on or close to the application site.
- The impact on the amenity of neighbouring residents.
- The acceptability of the standard of accommodation provided by the proposed flat.

Subject to the recommended conditions, it is considered that the impacts of the proposed development can be adequately controlled, such that it would be acceptable in design, amenity, environment and transportation terms and compliant with the relevant policies in the Unitary Development Plan (UDP) adopted in January 2007 and the City Plan adopted in November 2016. Whilst the extent of the basement would not be fully compliant with the Basement Development policy (CM28.1), given it was submitted prior to the adoption of this policy and having regard to the existing circumstances of the site, not considered that permission could reasonably be withheld on this ground.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Front elevation (top) and rear elevation (bottom).

5. CONSULTATIONS

5.1.1 Responses to Consultation on Initially Submitted Scheme (July 2015)

ST JOHN'S WOOD SOCIETY

Objection. Proposals represent overdevelopment of the site and are not sustainable. No soil depth has been provided under the 'disused' rear garden. The full concrete front lightwell is inappropriate. A storage pit below the basement is not acceptable.

ARBORICULTURAL MANAGER

Objection. Tree report and tree protection plan are the same as submitted for previously refused application and need to be updated.

BUILDING CONTROL

Objection. The structural statement is a feasibility study only and does not detail the method by which the basement will be excavated and the existing structures supported during the process.

CLEANSING MANAGER

Any response to be reported verbally.

ENVIRONMENTAL HEALTH

No objection. Advice provided on natural and mechanical ventilation. Condition and informative recommended.

HIGHWAYS PLANNING MANAGER

No cycle parking or waste storage is proposed to be provided for the new flat. Recommend that these are secured by condition. Whilst no car parking is proposed, on-street parking occupancy in the vicinity is below the level of serious deficiency and therefore one additional car generated by the development can be absorbed on street. Conditions and informatives recommended.

ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 72.

Total No. of Replies: 1.

No. of Objections: 1.

No. in Support: 0.

- Scale of the proposal appears disproportionate to the size of the existing building.
- Rear portion of habitable space would appear to lack sufficient natural daylight.
- Drawings suggest that the foundations would extend below neighbouring mews property to the rear and applicant has no consent to build in this location.
- No detail of neighbouring mews property including levels have been provided and do not believe that the structural calculations and methodology are accurate.

ADVERTISEMENT/ SITE NOTICE

Yes.

5.1.2 Responses to Re-consultation on 1st Revised Scheme (November/ December 2015)

ST JOHN'S WOOD SOCIETY

Any response to be reported verbally.

ARBORICUTURAL MANAGER

Objection. Applicant needs to demonstrate that the London Underground tunnel is acting as a root barrier for the two trees of heaven to the front of the site, as is asserted.

Adequate tree protection measures may be possible to the front of the site, but it depends upon the degree to which the underground tunnel forms a root barrier.

Notwithstanding this a properly considered construction management/ site set up plan should be provided. The TPO birch tree in the grounds of Lyndhurst Court is a sufficient distance from the proposed basement so as not to be adversely affected. Note that 1.2m of soil depth is now proposed to the rear but concerned that the lightwell proposed is still large and there is some basement areas with no soil depth over them.

BUILDING CONTROL

Although the structural method statement does describe the way in which the basement may be excavated, there is little detailing of the sequencing of the underpinning or when and where temporary supports will be provided. Phasing details and sections should be provided.

HIGHWAYS PLANNING MANAGER

No cycle parking or waste storage is proposed to be provided for the proposed flat.

Recommend that these are secured by condition. Whilst no car parking is proposed, on-street parking occupancy in the vicinity is below the level of serious deficiency and therefore one additional car generated by the development can be absorbed on street. Conditions and informatives recommended.

LONDON UNDERGROUND LIMITED

No objection in principle, but note constraints on site as a result of the proximity of the underground tunnels and infrastructure. Condition recommended to reserve full details of the foundations, basement and ground floor structures and other below ground structures, including piling.

ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 72.

Total No. of Replies: 4.

No. of Objections: 4.

No. in Support: 0.

4 responses received raising objection on all or some of the following grounds:

Design

- Scale of the proposal appears disproportionate to the size of the existing building.

Amenity

- Rear portion of habitable space would appear to lack sufficient natural daylight.

Highways/ Parking

- Additional parking should be provided for the new flat.

- Applicant has continuously breached his lease by using other occupiers parking spaces.
- Applicant has not sought permission from other leaseholders in the block to provide a parking space for the new flat. Permission has not been given by the leaseholders to enable the applicant to offer a parking space on the front forecourt.

Other Matters

- Drawings suggest that the foundations would extend below neighbouring mews property to the rear and applicant has no consent to build in this location.
- No detail of neighbouring mews property including levels have been provided and do not believe that the structural calculations and methodology are accurate. Despite revision, the revised drawings fail to accurately show the neighbouring mews house.
- Construction materials should not be stored on the front forecourt during construction works.
- Concern that development will cause structural damage or water damage to the host building and neighbouring properties.
- Concern at proximity to the London Underground tunnel and potential for damage to it.
- Noise and disturbance from construction works.

5.1.3 Responses to Re-consultation on 2nd Revised Scheme (February 2018)

ST JOHN'S WOOD SOCIETY

Any response to be reported verbally.

ARBORICULTURAL MANAGER

Not convinced that an accurate section has been provided to demonstrate whether the London Underground tunnel is acting as a root barrier for the two Trees of Heaven that are to be retained to the front of the site. Cannot see that the tree protection measures during construction have been revised in light of earlier comments and restate earlier comments in terms of the practicality of the proposed tree protection measures. Remains content that the TPO Birch tree in Lydhurst Court is sufficiently distant from the proposed development so as not to be adversely affected. Restate concerns over depth of soil over basement below rear garden and the size of the proposed rear lightwell.

BUILDING CONTROL

No objection. Comments that as the development provides support for the highway, technical approval from the Local Highway Authority will be required.

ENVIRONMENTAL HEALTH

No objection in principle. To prevent noise and vibration disturbance to occupiers of the extended building, the development must be carried out in accordance with the mitigation measures set out in the submitted assessment. Conditions should be imposed to secure this. Advice provided on natural and mechanical ventilation. Condition and informatives recommended.

HIGHWAYS PLANNING MANAGER

No cycle parking or waste storage is proposed to be provided for the proposed flat. Recommend that these are secured by condition. Whilst no car parking is proposed, on-

street parking occupancy in the vicinity is below the level of serious deficiency and therefore one additional car generated by the development can be absorbed on street. Conditions and informatives recommended.

LONDON UNDERGROUND LIMITED

No objection in principle, but note constraints on site as a result of the proximity of the underground tunnels and infrastructure. Condition recommended to reserve full details of the foundations, basement and ground floor structures and other below ground structures, including piling.

TRANSPORT FOR LONDON

No comments. Note though that the development would be close to London Underground assets and advise that they have notified London Underground of the application.

ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 72.

Total No. of Replies: 9.

No. of Objections: 9.

No. in Support: 0.

9 responses received raising objection on all or some of the following grounds:

Design

- Proposal would cause immense disruption to this small block within the conservation area.

Highways/ Parking

- Other owners/ occupiers of the application site have not agreed to the use of parking space(s) on the front forecourt by occupiers of the proposed basement flat. Applicant therefore does not have the ability to provide parking on site.
- Adverse impact on London Underground tunnel.

Other Matters

- Disruption to water table may cause flooding of the basement of Lyndhurst Court.
- Adverse structural impact on the host building, possibly resulting in its collapse.
- Development could cause subsidence risk, possibly causing collapse of the neighbouring underground tunnel.
- Applicant, his architect, and structural advisor should be required to provide indemnity to neighbouring owners/ occupiers for structural damage that is not covered by insurance.
- Vibration assessment does not consider impact on lower floors of Lyndhurst Court.
- Adverse impact on air quality along Finchley Road.
- Restate previous objections.

ADVERTISEMENT/ SITE NOTICE

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site comprises a 4 storey end of terrace building on the north east side of Finchley Road that is in use as 3 flats, with a dentist surgery at ground floor level. The building is not listed but is located within the St. John's Wood Conservation Area.

The existing building, which originally would have been a Victorian end of terrace townhouse, appears to have been rebuilt in the post war period and features metal fenestration, with expressed concrete window surrounds to the front elevation and concrete lintels to the rear elevation and a concrete floor structure. The two neighbouring Victorian buildings in the same terrace facing Finchley Road are also much altered in terms of their original form and detailing, with No.32 featuring metal windows of varying sizes and dimensions and No.30 again featuring non-original fenestration and render to its facades.

The northern boundary of the site forms the northern boundary of the St. John's Wood Conservation Area and the 11 storey neighbouring residential block facing Finchley Road, Lyndhurst Court, is located outside the conservation area.

The application site has a front forecourt, which is used for car parking by the current leaseholders of the building. Within the front forecourt, adjacent to the northern side boundary wall, is a Tree of Heaven, which is not subject of a Tree Preservation Order (TPO), but is protected by virtue of being within the conservation area. There is a further Tree of Heaven within the front forecourt of Lyndhurst Court, which is protected by a TPO. To the rear of Lyndhurst Court there is a TPO Birch tree, adjacent to the rear garden of the application site. There are no trees within the rear garden of the application site, nor are there any trees in the neighbouring rear garden of No.32 to the south of the application site.

6.2 Recent Relevant History

5 September 2014 – Application refused for excavation of basement floor below existing building to form a 2 bedroom flat, excavation of rear garden to form 2 bedroom maisonette in new outbuilding comprising basement and ground floor levels and formation of front and rear lightwells (RN: 13/07122/FULL). Permission was refused on design, sub-standard residential accommodation, adverse tree impact and the adverse the development could have on the adjacent London Underground tunnel (see decision letter and associated drawings in the background papers).

11 February 2016 – Permission granted for use of the ground floor as a two bedroom flat (Class C3) (RN: 15/10316/FULL).

7. THE PROPOSAL

The application proposes the excavation of a basement floor level under the existing building and rear garden with front and rear lightwells for use as a new self-contained flat

(Class C3) and the demolition and replacement of the rear garden boundary wall with Lyndhurst Court.

The proposed front lightwell would project 1.5 metres from the existing front elevation, whilst the proposed rear lightwell would project 3 metres from the existing ground floor rear extension and would be 5.0 metres wide. Part, but not all, of the proposed basement where it extends below the rear garden would be covered by 1.2m of top soil and a drainage layer.

During the course of the application the scheme has been amended on two occasions and reconsultation subsequently carried on the amended versions of the scheme.

In November 2015 the scheme was amended to introduce a 1.2 metre soil depth over the majority of the basement below the rear garden; include the rebuilding of side boundary wall with Lyndhurst Court and to provide a structural method statement, internal daylight assessment, and revised arboricultural assessment.

Between August 2017 and February 2018 the scheme was amended again to set in the basement, where it would be below rear garden, from the majority of the side and rear boundary walls; omit a storage area below proposed basement floor (i.e. an area of two storey depth basement); and to provide additional supporting structural, noise transference and daylighting information.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The provision of a new residential unit is acceptable in land use terms and would accord with Policy H3 in the UDP and Policy S14 in the City Plan. The proposed unit would be a 3 bedroom 'family sized' unit and would have a floor area of approximately 130m² (GIA), which is in excess of the minimum standards set out in the Government's Technical Housing Standards (2014) and Policy 3.5 in the London Plan (March 2015).

A daylight assessment has been submitted with the application and this demonstrates that the level of natural light within the proposed flat would exceed the Building Research Establishment's (BREs) minimum standards for new residential accommodation.

The proposed flat would be capable of being naturally ventilated with windows within flats to the front and rear of the site. On this basis Environmental Health do not object to the

8.2 Townscape and Design

To the front elevation only a narrow lightwell would be visible in views from Finchley Road. The proposed lightwell would project 1.5 metres from the front elevation and would be enclosed by simple black painted metal railings. Lightwells are typical features within the St. John's Wood Conservation Area and in this case the lightwell proposed would be discreet as a result of its small size and the simple form of the railings proposed.

To the rear, the proposed basement extension would have a single lightwell measuring 3.0m (projection from building) x 5.0m (width), which would be held against the rear elevation of the existing building. Consequently, whilst the proposed lightwell would be generously proportioned, given its location, it would not be readily visible in the limited private views of the rear of the application site from neighbouring properties to the south east in the same terrace and from the upper floors of Lyndhurst Court to the north west. The lightwell would not be visible in any public views within the conservation area.

The scheme would deliver 1.2 metres of top soil over much of the basement, with a hard paved area closer to the existing building. The rear garden would therefore retain the appearance of a predominantly soft landscaped space and would be capable of supporting mature planting in future.

In conjunction with the proposed basement, it is proposed to replace the existing bowed and leaning brick wall between the rear garden and Lyndhurst Court with a like for like replacement wall. This is not objectionable in design terms provided the proposed brickwork matches that of the existing wall.

In conclusion in design terms, subject to the draft recommended conditions, the scheme is acceptable and the external manifestations of the proposed basement would maintain the appearance of the host building and the character and appearance of the St. John's Wood Conservation Area. The scheme therefore accords with Policies DES1, DES5 and DES9 in the UDP and Policies S25 and S28 in the City Plan.

8.3 Residential Amenity

In amenity terms, given the subterranean location of the proposed development, the scheme would not cause a material loss of light or increased sense of enclosure to neighbouring properties. There would be a degree to which the use of the proposed rear lightwell would cause overlooking to the rear garden, but this impact would not be so significant so as to warrant withholding permission.

The proposed rear lightwell would provide a small area of amenity space for the occupiers of the proposed flat, but the 15m² space within the lightwell would not be of such significant size that its use would give rise to a material increase in noise disturbance to neighbouring occupiers. Furthermore, the combined area of the proposed lightwell and ground floor garden, would be no greater than the existing rear garden area.

The proposed lightwells would introduce new glazing and this would introduce some additional light spill, but given the location of these windows relative to the existing windows in the building serving flats on the upper floors, it is not considered that the light spill that would be caused would amount to significant nuisance for neighbouring occupiers.

The proposals therefore accord with Policies ENV6 and ENV13 in the UDP and Policies S29 and S32 in the City Plan.

8.4 Transportation/ Parking

The applicant has offered to provide parking on the front forecourt of the property for the occupiers of the new flat. However, it is evident from the representations received from other occupiers in the application building, that the applicant is unlikely to be able to provide this space as the parking spaces are apparently already allocated to the leaseholders in the building. Given this, and as the Highways Planning Manager advises that in this location the level of serious deficiency for on-street parking occupancy has yet to be reached (occupancy has reached 63% during daytime hours and 32% overnight), the provision of one additional residential unit without any off-street parking is acceptable and would be in accordance with Policy TRANS23 in the UDP. In this context, objections on grounds of lack of parking cannot be supported as a ground on which to reasonably withhold permission.

Conditions are recommended to secure details of cycle parking and waste and recycling storage for the proposed flat to ensure compliance with Policy ENV12 in the UDP and Policy 6.9 in the London Plan (March 2015).

8.5 Economic Considerations

No economic considerations are applicable for a development of this size.

8.6 Access

The proposed residential unit would only be accessible via stairs within the existing building. Given the development relates to a single flat and as it would be a private residential dwelling and not a public building, this form of access is not a ground on which to reasonably withhold permission.

8.7 Other UDP/ Westminster Policy Considerations

8.7.1 Tree Impact

The Arboricultural Manager does not object to the basement below the rear garden as she is content that this part of the development would be sufficiently distant from the TPO Birch tree in the grounds of Lyndhurst Court so as not to cause it any harm.

The Arboricultural Manager does have concerns regarding the size of the rear lightwell and the extent of soil depth over the basement. However, as set out in Section 6.2, the size of the rear lightwell is considered to be acceptable in this discreet location within the conservation area and as per Section 8.7.2, the depth of soil over the proposed rear basement would be compliant with the requirements of Policy CM28.1 in the City Plan.

Despite the provision of some additional information by the applicant with regard to the position of the London Underground tunnel and associated structures below the front forecourt, which the applicant contends is acting as a root protection barrier for roots of the two Trees of Heaven, the Arboricultural Manager remains concerned that the scheme could harm these trees. However, on balance, given the limited size of the proposed lightwell, which would be sloped to further reduce the excavation required to construct it, it is not considered that the impact on these trees would be so significant so as to warrant withholding permission.

The tree protection measures proposed for the Trees of Heaven during the course of construction appear to be unresolved and there is at present and the Arboricultural Manager is concerned that the measures proposed would not adequately protect these trees during construction. Accordingly, a condition is recommended to secure full details of revised tree protection measures. A further condition is recommended to secure a landscaping plan to ensure the new landscaping maintains the character and appearance of this part of the conservation area. Subject to this recommended conditions, the proposal would accord with Policies ENV16 and ENV17 in the UDP and S38 in the City Plan.

8.7.2 Basement Development and Construction Impact

This application was initially submitted in April 2015, after the adoption of the 'Basement Development in Westminster' Supplementary Planning Document (SPD) in October 2014, but prior to the adoption of the 'Basement Development Policy' (CM28.1) as part of the amendments to the City Plan adopted in July 2016. The Cabinet Member for the Built Environment issued a Cabinet Member Statement on 23 October 2015 advising that the then emerging policy would be given some weight in the determination from 1 November 2015 onwards. Since the adoption of the policy in July 2016, it can now be afforded full weight. Nevertheless, this application is one of a small number of 'legacy' applications, where the proposed basement development was originally designed and conceived prior to both the publication of the draft policy in 2015 and prior to the adoption of the finalised policy in 2016. During the course of the application, officers have sought amendments to the scheme to ensure it is more compliant with the now adopted Basement Development Policy than when it was first submitted. Where the scheme deviates from the normal requirements of the Basement Development Policy, this is identified and considered in the following paragraphs in this section of the report.

The applicant has submitted a structural methodology and indicative structural drawings to indicate the method of construction and measures to be taken to ensure the existing building and neighbouring buildings and ground levels would be protected during construction. Building Control have reviewed these documents and do not object in principle to the structural methodology proposed. However, the submitted details do not though provide an investigation of the existing ground conditions or a separate flood risk assessment. It is recommended that these documents are secured by condition and that the condition requires the submission of a revised structural method statement should these documents demonstrate that the structural methodology currently proposed is not suitable on account of the ground conditions that are identified. Subject to the recommended condition, the proposed development would accord with Parts A.1, A.2(a), A.4 and B.7 of the Basement Development Policy. The condition would also address the concerns raised by neighbouring residents on structural and flood risk grounds.

In respect of Part A.2(b) of the Basement Development Policy, it is recommended that the impact of the construction works required to excavate and form the proposed basement are controlled by a condition requiring compliance with the Code of Construction Practice (CoCP), including monitoring of the construction works by the Environmental Inspectorate at the applicant's expense. A further condition is recommended to restrict the hours of works, including preventing any works of excavation on Saturdays. The recommended conditions would control the impact of the

development as far as is reasonably possible and would ensure that whilst disturbance to neighbours would not be prevented, it would be mitigated to the maximum extent that is reasonably possible. Accordingly, the recommended conditions would address the requirements of Parts A.2(b) and A.5 of the policy and the objections raised on construction impact grounds.

In this case the London Underground Metropolitan Line tunnels run below part of the front forecourt of the application site. London Underground have reviewed the structural information submitted with the application and are content that, subject to a condition requiring full details of piling and other sub-ground level structures (to be approved following consultation with them), the proposed basement would not cause harm to their transport infrastructure assets. As such, the application is in accordance with Part A.3 of the Basement Development Policy.

In respect of Part A.6, the site is not within an Archaeological Priority Area and therefore it would not have a significant impact on archaeological deposits.

In terms of Part B of the Basement Development Policy, having regard to the existing condition of the application site, the scheme would deliver an acceptable landscaping scheme to the front and rear of the site and would not result in the loss of existing trees on or close to the site (see full assessment of this issue in Section 8.7.1). The development would be required to meet building regulations and would be highly sustainable relative to the existing building on this site. The proposed basement flat would have lightwells to the front and rear providing natural ventilation to all of the habitable rooms in the flat such that it is not necessary for the flat to be provided with mechanical ventilation.

As the scheme is a 'legacy' application, submitted prior to consultation on and adoption of the Basement Development Plan, a drainage strategy has not been submitted with the application as it was not a validation requirement the time the application was initially submitted. Nevertheless, whilst the site is not within a 'Surface Water Flood Risk Hotspot', as identified in the 'Basement Development in Westminster' SPG (2014), the impact of the development on water runoff is still a material consideration in the assessment of basement development under the Basement Development Policy. A condition is therefore recommended requiring the submission of and compliance with a drainage strategy for the development, which has regard to the Sustainable Urban Drainage Strategy 'cascade' in Policy 5.13 in the London Plan (March 2016). Subject to the recommended condition, Part B.4 of the Basement Development Policy would be met.

In terms of Parts B.5 and B.6 of the policy, the proposed basement would have limited external manifestations, which would be discreet in terms of their location and scale, with only the small front lightwell being visible in public views within and into the conservation area (see full assessment in Section 6.2). Therefore, the proposed basement would have no adverse impact on the appearance of the building and the character and appearance of the St. John's Wood Conservation Area.

Part C of the Basement Development Policy seeks to control the size and extent of new basement development. Part C.1(a) requires basement development to not extend under more than 50% of the garden land ('garden land' is defined as the area of land not

covered by the 'original building', which is the building as it existed in 1948 unless the building was constructed after this date). In this case, whilst the proposed basement extends below much of the rear garden, the larger front garden would remain undeveloped, save for the shallow front lightwell that is proposed. Consequently, the proposed basement would not extend under more than 50% of the existing garden land and is therefore compliant with Part C.1(a).

Part C.1(c) requires basement development to leave a margin of undeveloped garden land proportionate to the scale of the development and the size of the garden around the entire site boundary except beneath the existing building. The policy defines 'undeveloped garden land' as land which does not have any impermeable surfacing installed. In this case, following amendment during the course of the application, the majority of the basement below the rear garden has been set in from the boundary of the site by between 0.78 and 0.23 metres. The extent of margin of undeveloped land is considered to be acceptable in the context of the size of this site and the setting in of the proposed basement from the rear boundary of the site with No. 1 Queens Grove Studios, has addressed the initial objections from the occupier of that mews house on structural grounds. A margin of undeveloped land would not be provided where the basement below the rear garden is proposed to be linked by a corridor to the basement below the existing building. However, given this area of the proposed garden is to be hard paved to provide access to the rest of the garden and will not have any soil depth (see following paragraph for consideration of these issues), it is considered that a set back from the boundary with No.32 Finchley Road is not necessary in this small corner of the site to ensure adequate drainage of the overall garden area. As such, in this instance, it is considered that site specific circumstances warrant allowing a basement that is in partial compliance with Part C.1(c) of the Basement Development Policy.

Part C.2 requires the provision of 1 metre of soil depth, plus at least a 200mm drainage layer over new basement development. The scheme has been amended during the course of the application to introduce this depth of soil depth and drainage layer over the majority of the proposed basement where it would extend below the rear garden, with the exception of the area immediately adjacent to the rear of the existing building. However, as the ground level immediately outside the rear of the building is lower than the rest of the garden, retention of a similar arrangement in the proposed scheme, with steps up to the reinstated higher garden level is considered acceptable in this case. As such, given the site specific reasons identified, partial compliance with Part C.2 of the Basement Development Policy is considered to be acceptable in this instance.

The proposed basement would be limited to a single storey in accordance with the requirements of Part C.3 of the policy.

Part D of the Basement Development policy is not relevant in this case as the proposed basement does not extend under the public highway.

8.7.3 Vibration Transference

Given the proximity of the proposed basement to the existing London Underground tunnel to the front of the site, during the course of the application the applicant was asked to provide a detailed assessment of the measures necessary to prevent vibration transference from the tunnel structure to the new basement and the existing building.

The applicant has submitted an assessment of this issue, which has been assessed by Environmental Health. Environmental Health are content that, subject to implementation of isolation measures to prevent vibration transference to the extended building, the proposed development and the existing building would not suffer significant vibration disturbance from the adjacent London Underground tunnel. A condition is recommended requiring full details of the indicative isolation measures shown in the submitted Noise and Vibration Assessment. Subject to this condition, the proposal would be compliant with Policy ENV6 in the UDP and Policy S32 in the City Plan.

8.8 London Plan

This application does not raise any 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

The proposed development is of insufficient scale to require an Environmental Impact Assessment. Relevant environmental impact considerations have been considered, where relevant, in other sections of this report.

8.12 Other Issues

Objection has been raised on grounds that the applicant, his architect, and structural advisor should be required to provide indemnity to owners and occupiers of neighbouring properties for structural damage that is not covered by insurance. However, this is not a valid planning ground for objection. Such issues are private matters for resolution between respective land owners and via party wall agreement.

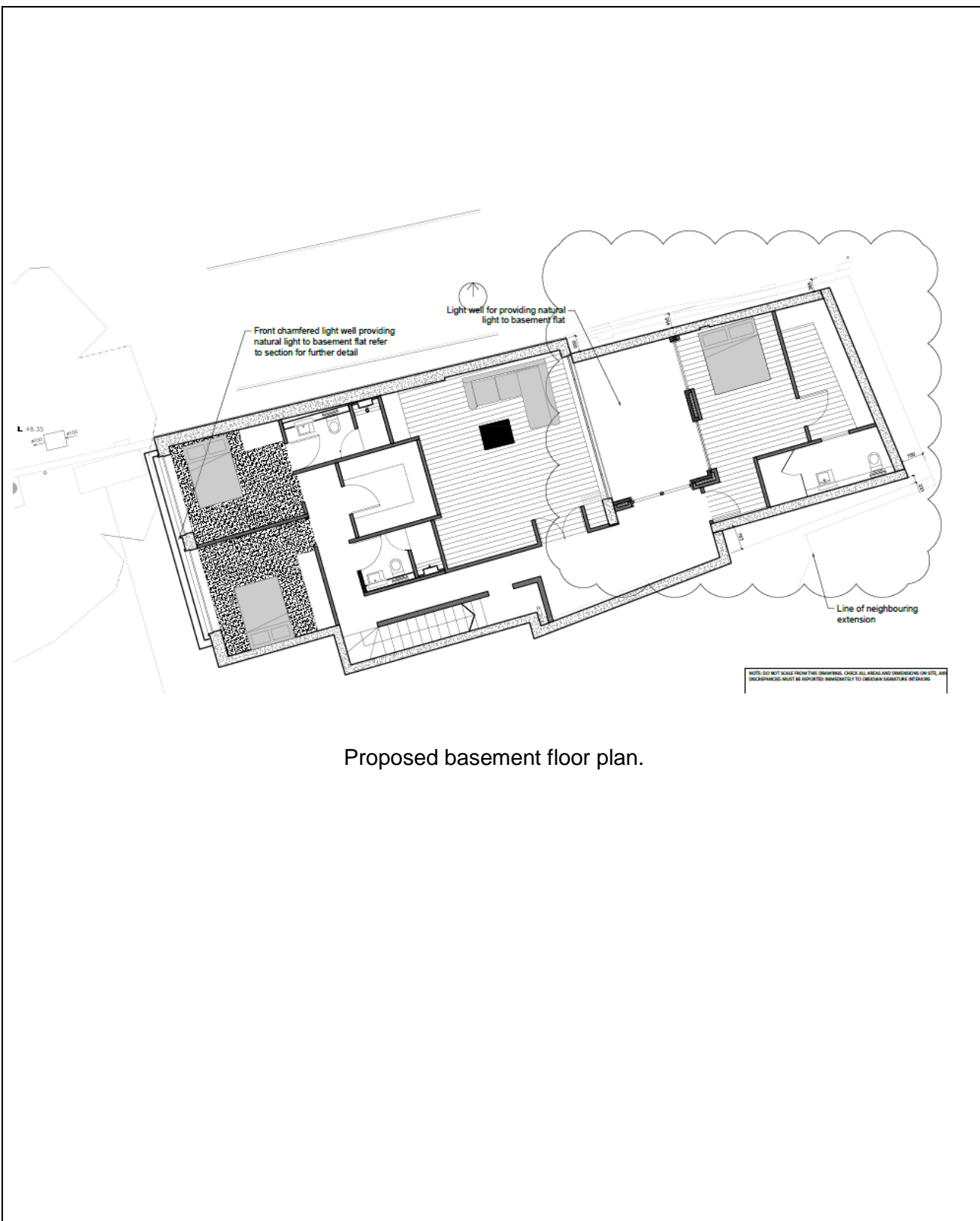
Concerns have been expressed with regard to the impact on air quality along Finchley Road of construction works. Whilst construction works may have some localised impacts on air quality, the impacts would not be so significant so as to warrant withholding permission. Once complete, the proposed development would have a negligible ongoing impact on air quality.

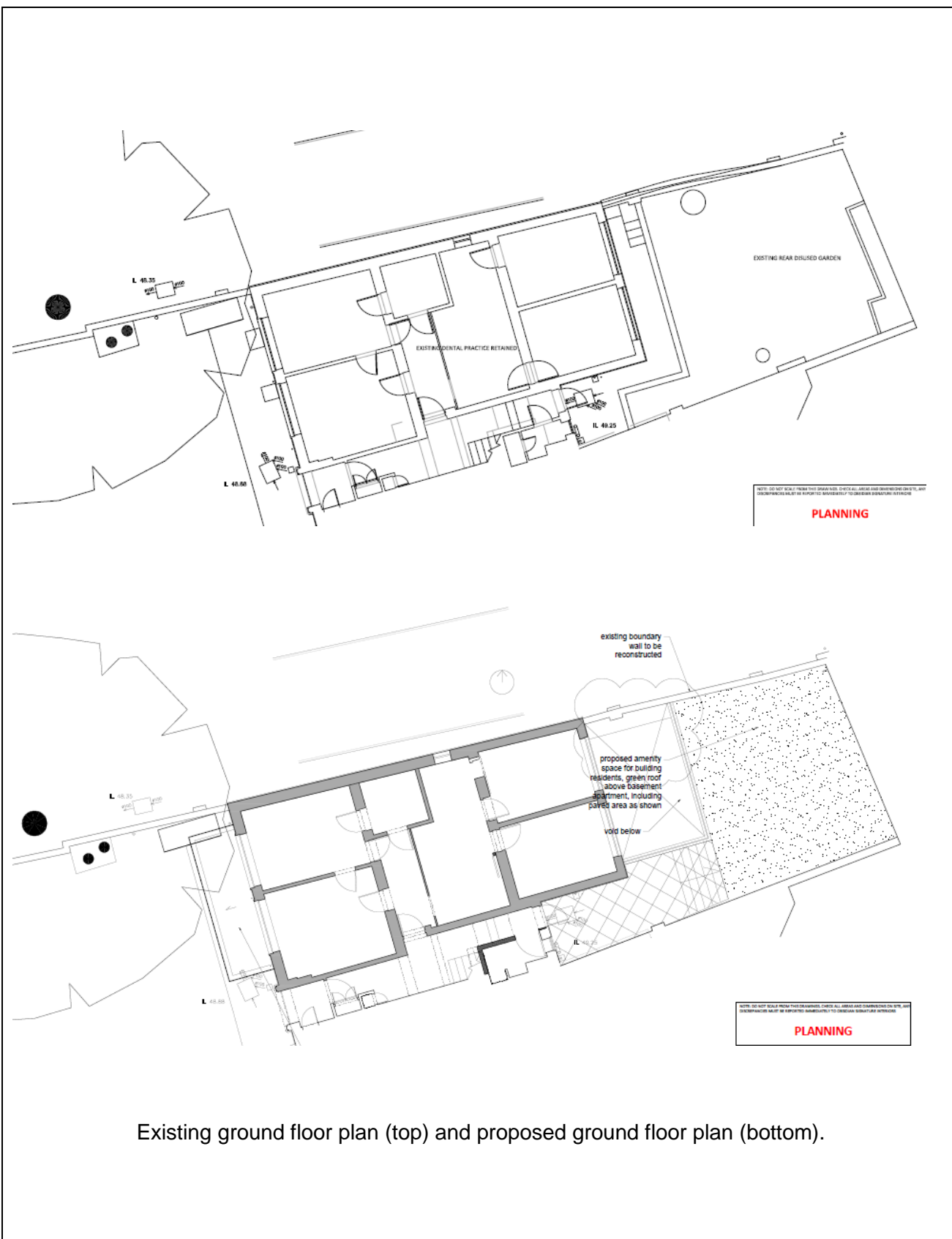
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

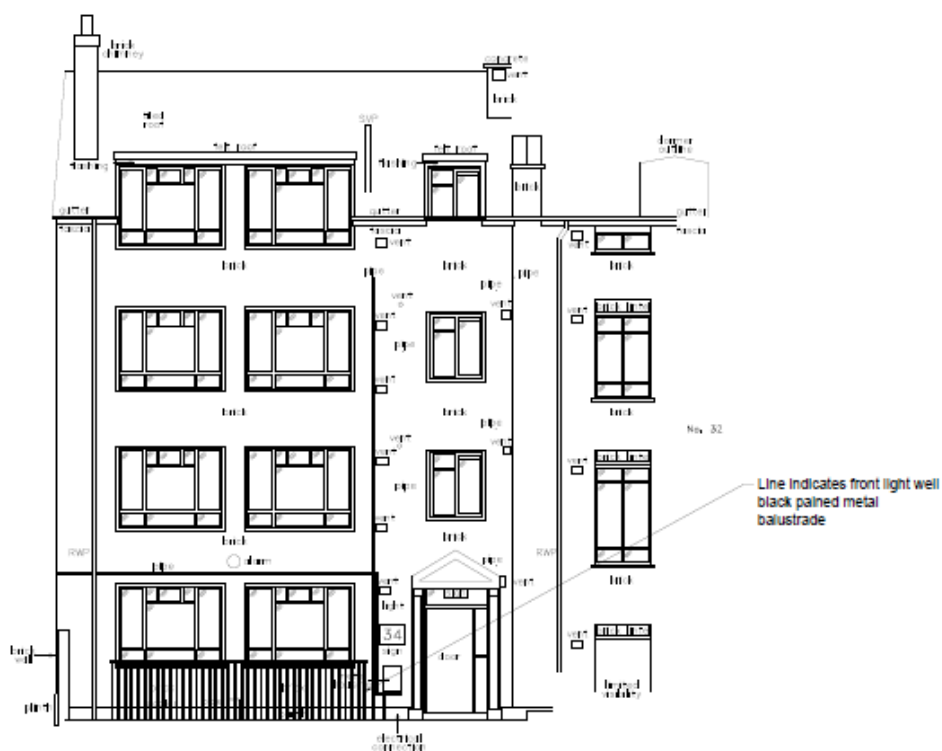
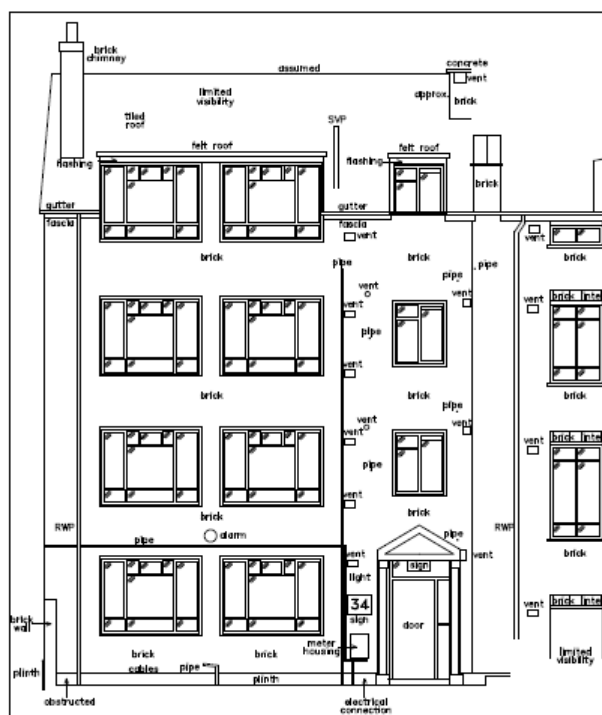
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9. KEY DRAWINGS

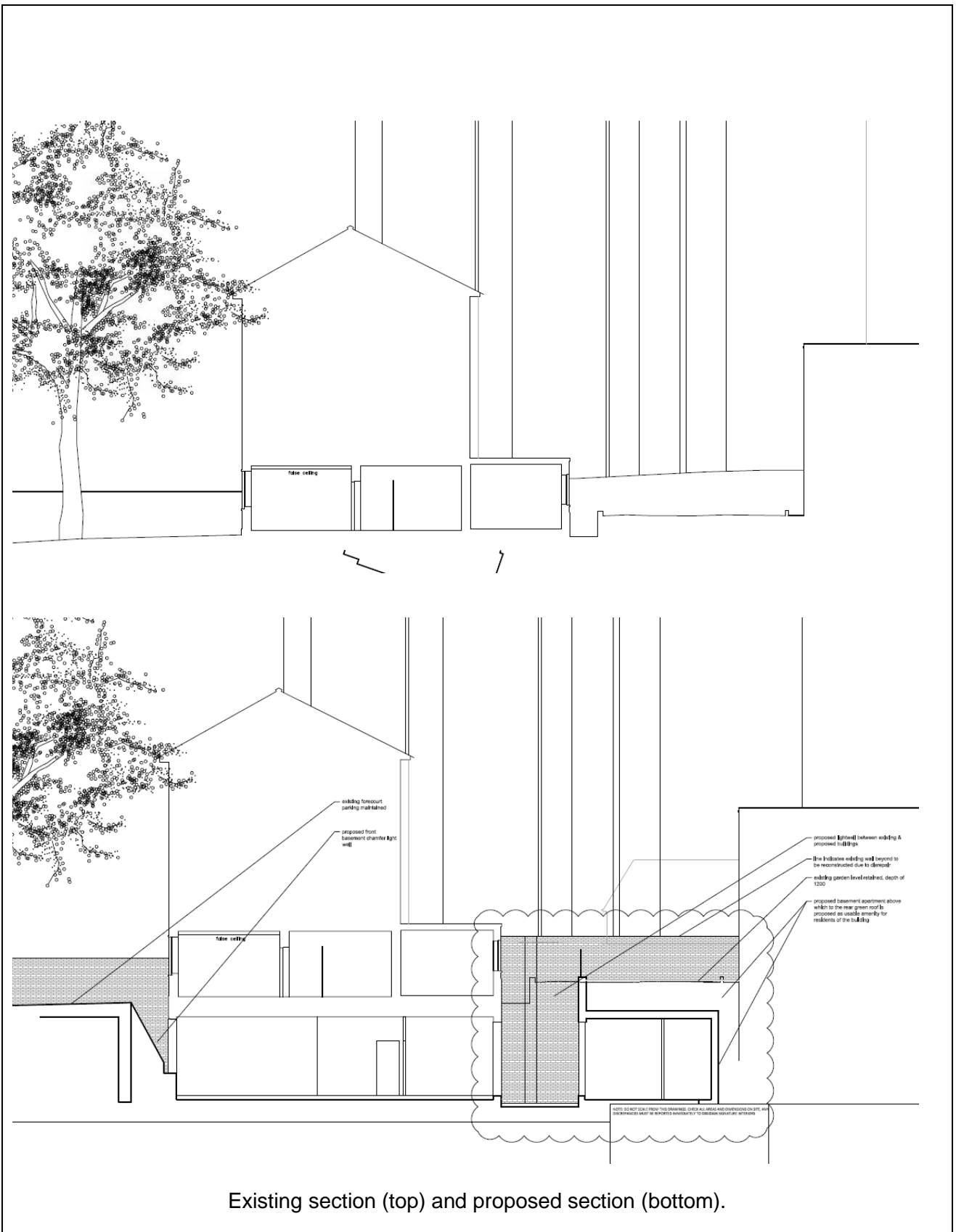




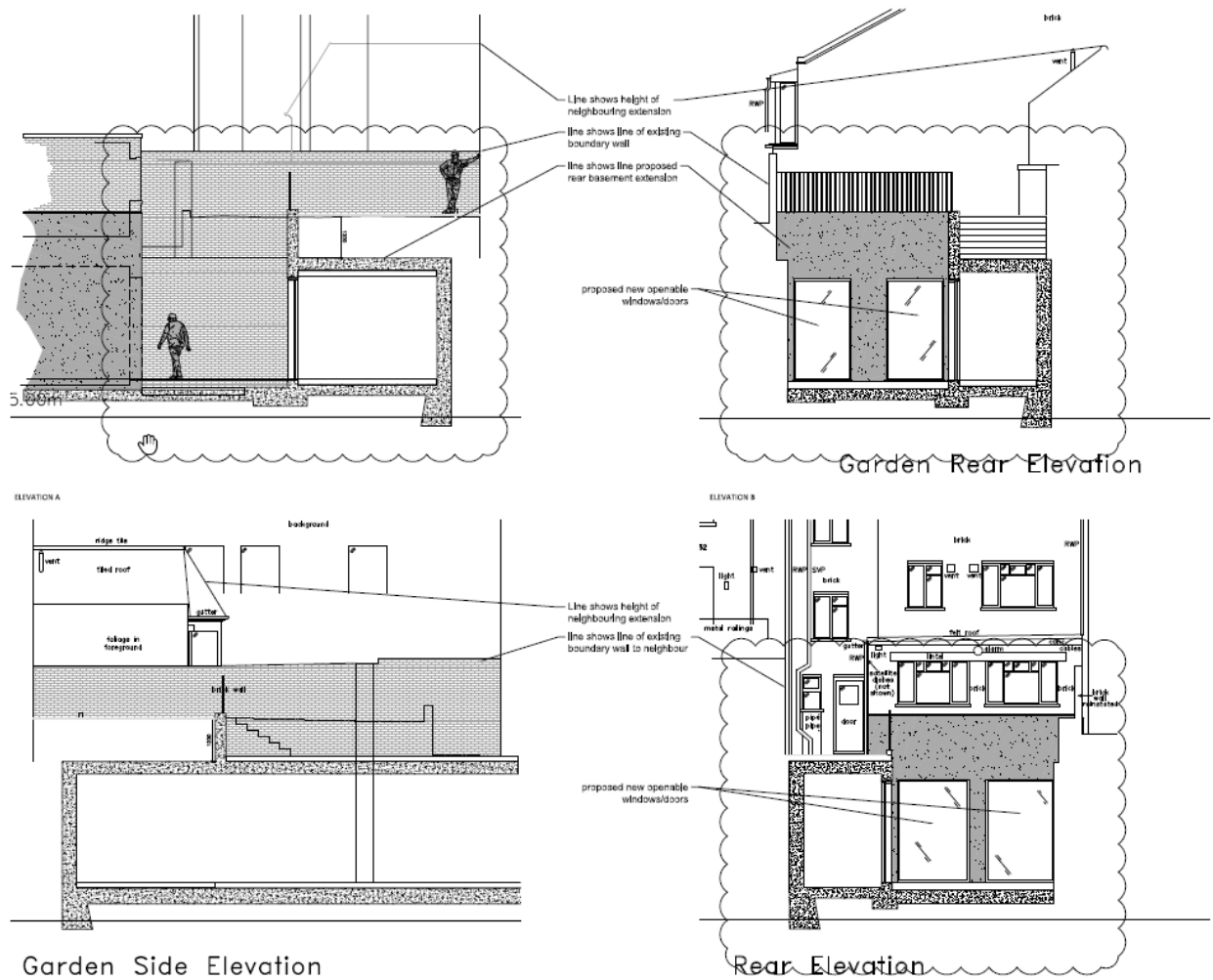
Existing ground floor plan (top) and proposed ground floor plan (bottom).



Existing front elevation (top) and proposed front elevation (bottom).



Existing section (top) and proposed section (bottom).



Proposed sections through rear lightwell and basement below rear garden.

DRAFT DECISION LETTER

Address: 34 Finchley Road, London, NW8 6ES,

Proposal: Excavation of basement level under building and rear garden with front and rear lightwells to create one self-contained flat (Class C3) and demolition and replacement of rear garden boundary wall with Lyndhurst Court.

Plan Nos: (EX)00, (EX)01, (EX)02, (EX)03, (EX)04 (PL)01 Rev.D, (PL)02 Rev.D, (PL)03, (PL)04 Rev.C, (PL)05 Rev.C, (PL)06, (PL)07, LUL tunnel alignment plan (un-numbered), Design and Access Statement dated April 2015 (as amended by revised drawings hereby listed), 'Assessment of Daylight Provision' report dated April 2017 (Rev.2), Noise and Vibration Assessment dated 5 July 2017 (Version 1.0), Arboricultural Assessment Report dated 25 September 2015 (Ref: 13350-AIA2-AS) and 13350-BT2 (for information - see Condition 9). Construction Method Statement and Sequence of Works dated 8 September 2015 (Ref: 13.069/rev A), Structural Design Sheets and Structural Drafting Package by Martin Redston Associates (both as amended by revised drawings hereby listed) (for information only - see Informative 2 and Condition 5).

Case Officer: Oliver Gibson

Direct Tel. No. 020 7641 2680

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 amendments listed on this decision letter, and any drawings approved subsequently by the local planning authority pursuant to any conditions on this decision letter.

Reason:

To avoid any doubt and in the interests of proper planning.

- 2 All new work on 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.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St. John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.18 to 10.19 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 3 The railings around the front and rear lightwells shall be painted black and maintained in that colour.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St. John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

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)

- 5 **Pre-Commencement Condition.** Prior to commencement of development, you must apply to us for approval of:

- (a) a site specific ground condition assessment,
- (b) a flood risk assessment, and;
- (c) a drainage strategy.

In the event that the findings of any of these reports identify the need to adopt a revised structural methodology for the construction of the proposed basement, you must also submit a revised structural methodology statement. You must not commence the development until we have approved the details that you send us. You must then carry out the development in accordance with the details that we approve.

Reason:

To ensure the basement development does not have an adverse impact on the environment in terms of flooding and water run off and to protect the character and appearance of the St. John's Wood Conservation Area. This is in accordance with Policies DES1 and DES9 in the Unitary Development Plan we adopted in January 2007, Policy CM28.1 in Westminster's City Plan adopted in November 2016, Policy 5.13 in the London Plan (March 2016) and the guidance in the 'Basement Development in Westminster' Supplementary Planning Document (October 2014).

- 6 **Pre-commencement Condition:** The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved

in writing by us which:

- a) provide details on all structures including basement construction;
- b) accommodate the location of the existing London Underground structures and tunnels;
- c) accommodate ground movement arising from the construction thereof;
- d) and mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted, which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason:

To ensure that the development does not have an adverse impact on existing London Underground transport infrastructure, in accordance with Policy 6.2 in the London Plan (March 2016) and the Mayor's Supplementary Planning Guidance 2012 'Land for Industry and Transport'.

- 7 **Pre-Commencement Condition.** Prior to commencement of development, you must apply to us for approval of full details of the vibration isolation methods to be incorporated into the basement design to demonstrate that the new residential unit and the existing units in the building will be protected against underground train vibration so as to reduce sound pressure and vibration unit values to those set out in the submitted Noise and Vibration Assessment dated 5 July 2017 (Version 1.0). You must not start work on the development until we have approved what you have sent us. You must then instal the vibration isolation methods we approve before the new residential unit is occupied and thereafter retain and maintain them for the lifetime of the development.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 8 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 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 9 **Pre Commencement Condition.** Notwithstanding the tree protection measures set out in the

Arboricultural Assessment Report dated 25 September 2015 (Ref: 13350-AIA2-AS) and 13350-BT2, 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 make sure that the trees on the site are adequately protected during building works. This is 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. (R31AC)

- 10 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within one planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any trees that form part of the landscaping scheme that we approve or find that they are dying, severely damaged or diseased within 5 years of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the St. John's Wood Conservation Area, and to improve its contribution to biodiversity and the local environment. 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. (R30CD)

- 11 You must provide a minimum of 1m soil depth (plus minimum 200mm drainage layer) and adequate overall soil volume above the top cover of the basement as shown on the drawings hereby approved. The soil depth and soil volume above the basement must thereafter be retained as approved.

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in S38, CM28.1 of Westminster's City Plan (November 2016), and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007.

- 12 You must apply to us for approval of details of secure cycle storage for the basement flat. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 13 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone occupying the basement flat.
(C14EC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 14 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

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 permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.

In respect of Condition 6, you are advised to contact London Underground Infrastructure Protection (020 7918 0016 or locationenquiries@tube.tfl.gov.uk) in advance of preparation of final design and associated method statements, in particular with regard to: demolition; excavation; construction methods.

- 4 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 6 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

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:
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Forms can be submitted to 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.

- 7 With reference to condition 4 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). These documents must be sent to environmentalsciences2@westminster.gov.uk.

Appendix A or B must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition.

You are urged to give this your early attention

- 8 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, perhaps by issuing regular bulletins about site progress.
- 9 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)
- 10 The Tree of Heaven and Birch tree adjacent to the site in the grounds of Lyndhurst Court are protected by Tree Preservation Orders. You must get our permission before you do anything to them. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I31AA)
- 11 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 may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I32AA)
- 12 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 phone our Highways Licensing Team on 020 7641 2560. (I35AA)

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.