



City of Westminster

# Committee Agenda

Title:

**Planning Applications Sub-Committee (3)**

Meeting Date:

**Tuesday 6th March, 2018**

Time:

**6.30 pm**

Venue:

**Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR**

Members:

**Councillors:**

Andrew Smith (Chairman)  
Barbara Grahame  
Louise Hyams  
Robert Rigby



**Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda**

**Admission to the public gallery is by ticket, issued from the ground floor reception from 6.00pm. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**



**An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Tristan Fieldsend, Committee and Governance Officer.**

**Tel: 020 7641 2341; Email: [tfieldsend@westminster.gov.uk](mailto:tfieldsend@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

**Note for Members:** Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Head of Legal & Democratic Services in advance of the meeting please.

## **AGENDA**

### **PART 1 (IN PUBLIC)**

#### **1. MEMBERSHIP**

To note any changes to the membership.

#### **2. DECLARATIONS OF INTEREST**

To receive declarations by members and officers of the existence and nature of any personal or prejudicial interests in matters on this agenda.

#### **3. MINUTES**

To sign the minutes of the last meeting as a correct record of proceedings.

#### **4. PLANNING APPLICATIONS**

Applications for decision

##### **Schedule of Applications**

- |  |                          |
|--|--------------------------|
| <b>1. TROCADERO, 13 COVENTRY STREET, LONDON, W1D 7AB</b> | <b>(Pages 3 - 40)</b>    |
| <b>2. 1 HEATHCOCK COURT, LONDON, WC2R 0JT</b>            | <b>(Pages 41 - 68)</b>   |
| <b>3. 12 GARWAY ROAD, LONDON, W2 4NH</b>                 | <b>(Pages 69 - 106)</b>  |
| <b>4. 14 GARWAY ROAD, LONDON, W2 4NH</b>                 | <b>(Pages 107 - 138)</b> |
| <b>5. 55 CRAWFORD STREET, LONDON, W1H 4JQ</b>            | <b>(Pages 139 - 150)</b> |
| <b>6. 79 ST GEORGE'S SQUARE MEWS, LONDON, SW1V 3RZ</b>   | <b>(Pages 151 - 166)</b> |

**Stuart Love  
Chief Executive  
26 February 2018**

# Agenda Annex

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 6th March 2018  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

| Item No  | References  | Site Address  | Proposal   | Resolved |
|--|---|---|--|----------|
| 1.   | <b>RN(s) :</b><br>17/08541/FULL<br>17/08542/LBC<br><br>St James's     | Trocadero<br>13 Coventry<br>Street<br>London<br>W1D 7AB | Use of part basements, part ground and part first to eleventh floor levels as a hotel (Class C1) comprising up to 740 bedrooms; erection of entrance canopy on Shaftesbury Avenue and plant enclosures at levels 07 to 11 and associated works; erection of roof extensions, plant, pool and terraces at levels 12 and 13 for use as a restaurant and bar (Class A3 and A4). |          |
| <b>Recommendation</b><br>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:<br><br>i. The costs of implementing revisions to the traffic order to provide a shared coach and loading bay on Rupert Street and crossover works into the proposed loading bay;<br>ii. A Crossrail payment;<br>iii. An employment and training strategy for the demolition, construction and operational phases of the development;<br>iv. S106 monitoring costs.<br><br>2. If the S106 legal agreements has not been completed within six weeks of the date of the Committee resolution, then:<br><br>(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;<br><br>(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers<br><br>3. Grant conditional listed building consent.<br><br>4. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter. |   |   |  |          |
| Item No  | References  | Site Address  | Proposal   | Resolved |
| 2.   | <b>RN(s) :</b><br>17/09494/FULL<br><br>St James's                     | 1 Heathcock<br>Court<br>London<br>WC2R 0JT              | Use of part ground and the upper floors of the building as a hotel (Class C1) with ancillary cafe at ground floor level; extensions within existing lightwell; alterations to existing and new windows and doors to rear elevation; and installation of new and relocated plant and photovoltaics at roof level.   |          |
| <b>Recommendation</b><br>Grant conditional permission.   |   |   |  |          |
| Item No  | References  | Site Address  | Proposal   | Resolved |
| 3.   | <b>RN(s) :</b><br>17/01993/FULL<br>17/01994/LBC<br><br>Lancaster Gate | 12 Garway<br>Road<br>London<br>W2 4NH                   | Excavation of a basement floor below existing house and part of front and rear gardens, demolition and rebuilding of rear lower ground floor level conservatory, enlargement of front lightwell, insertion of rooflight with decorative metal grille over within front lightwell, internal alterations and removal of tree from rear garden.                                 |          |

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 6th March 2018  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

|                |   |   |  |                 |
|----------------|---|---|--|-----------------|
|                | <b>Recommendation</b>   |   |  |                 |
|                | 1. Grant conditional permission and conditional listed building consent.<br>2. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.             |   |  |                 |
| <b>Item No</b> | <b>References</b>   | <b>Site Address</b>                                       | <b>Proposal</b>  | <b>Resolved</b> |
| 4.             | <b>RN(s) :</b><br>16/06234/FULL<br>16/06235/LBC<br><br>Lancaster Gate   | 14 Garway<br>Road<br>London<br>W2 4NH                     | Excavation of a basement floor below existing house and part of front garden, insertion of rooflight with decorative metal grille over within front lightwell, internal alterations, including the insertion of 3 rooflights in the floor of rear extension between lower ground and new basement level and removal of tree from front garden. |                 |
|                | <b>Recommendation</b>   |   |  |                 |
|                | 1. Grant conditional permission and conditional listed building consent.<br>2. Agree the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter. |   |  |                 |
| <b>Item No</b> | <b>References</b>   | <b>Site Address</b>                                       | <b>Proposal</b>  | <b>Resolved</b> |
| 5.             | <b>RN(s) :</b><br>17/09223/FULL<br><br>Bryanston And<br>Dorset Square   | 55 Crawford<br>Street<br>London<br>W1H 4JQ                | Use of the ground floor and basement as an estate agent (Class A2).  |                 |
|                | <b>Recommendation</b>   |   |  |                 |
|                | Grant conditional permission  |   |  |                 |
| <b>Item No</b> | <b>References</b>   | <b>Site Address</b>                                       | <b>Proposal</b>  | <b>Resolved</b> |
| 6.             | <b>RN(s) :</b><br>17/10450/FULL<br><br>Tachbrook  | 79 St<br>George's<br>Square<br>Mews<br>London<br>SW1V 3RZ | Excavation of a basement beneath the footprint of the dwelling.  |                 |
|                | <b>Recommendation</b>   |   |  |                 |
|                | Grant conditional permission.   |   |  |                 |

# Agenda Item 1

|          |
|----------|
| Item No. |
|----------|

|          |
|----------|
| <b>1</b> |
|----------|

|  |  |  |                   |
|--|--|--|-------------------|
| <b>CITY OF WESTMINSTER</b>                 |  |  |                   |
| <b>PLANNING APPLICATIONS SUB COMMITTEE</b> | <b>Date</b><br>6 <sup>th</sup> March 2018  | <b>Classification</b><br>For General Release |                   |
| <b>Report of</b><br>Director of Planning   |  | <b>Ward(s) involved</b><br>St James's        |                   |
| <b>Subject of Report</b>                   | <b>Trocadero , 13 Coventry Street, London, W1D 7AB</b>   |  |                   |
| <b>Proposal</b>                            | Use of part basements, part ground and part first to eleventh floor levels as a hotel (Class C1) comprising up to 740 bedrooms; erection of entrance canopy on Shaftesbury Avenue and plant enclosures at levels 07 to 11 and associated works; erection of roof extensions, plant, pool and terraces at levels 12 and 13 for use as a restaurant and bar (Class A3 and A4). |  |                   |
| <b>Agent</b>                               | Savills  |  |                   |
| <b>On behalf of</b>                        | Criterion Capital Limited  |  |                   |
| <b>Registered Number</b>                   | 17/08541/FULL<br>17/08542/LBC  | <b>Date amended/ completed</b>               | 29 September 2017 |
| <b>Date Application Received</b>           | 22 September 2017  |  |                   |
| <b>Historic Building Grade</b>             | Grade II Listed Building   |  |                   |
| <b>Conservation Area</b>                   | Soho   |  |                   |

## 1. RECOMMENDATION

|  |
|--|
| <p>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:</p> <ul style="list-style-type: none"> <li>i. The costs of implementing revisions to the traffic order to provide a shared coach and loading bay on Rupert Street and crossover works into the proposed loading bay;</li> <li>ii. A Crossrail payment;</li> <li>iii. An employment and training strategy for the demolition, construction and operational phases of the development;</li> <li>iv. S106 monitoring costs.</li> </ul> <p>2. If the S106 legal agreements has not been completed within six weeks of the date of the Committee resolution, then:</p> <ul style="list-style-type: none"> <li>(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</li> <li>(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured;</li> </ul> |
|--|

if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

3. Grant conditional listed building consent.

4. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

The application relates to the Trocadero complex which occupies a prominent site within the West End. A large part of the building was formerly in leisure use but the majority of the upper floors are currently being converted to hotel use following a consent granted in 2012. The site is located within the Soho Conservation Area, the West End Stress Area and part of the building is Grade II listed.

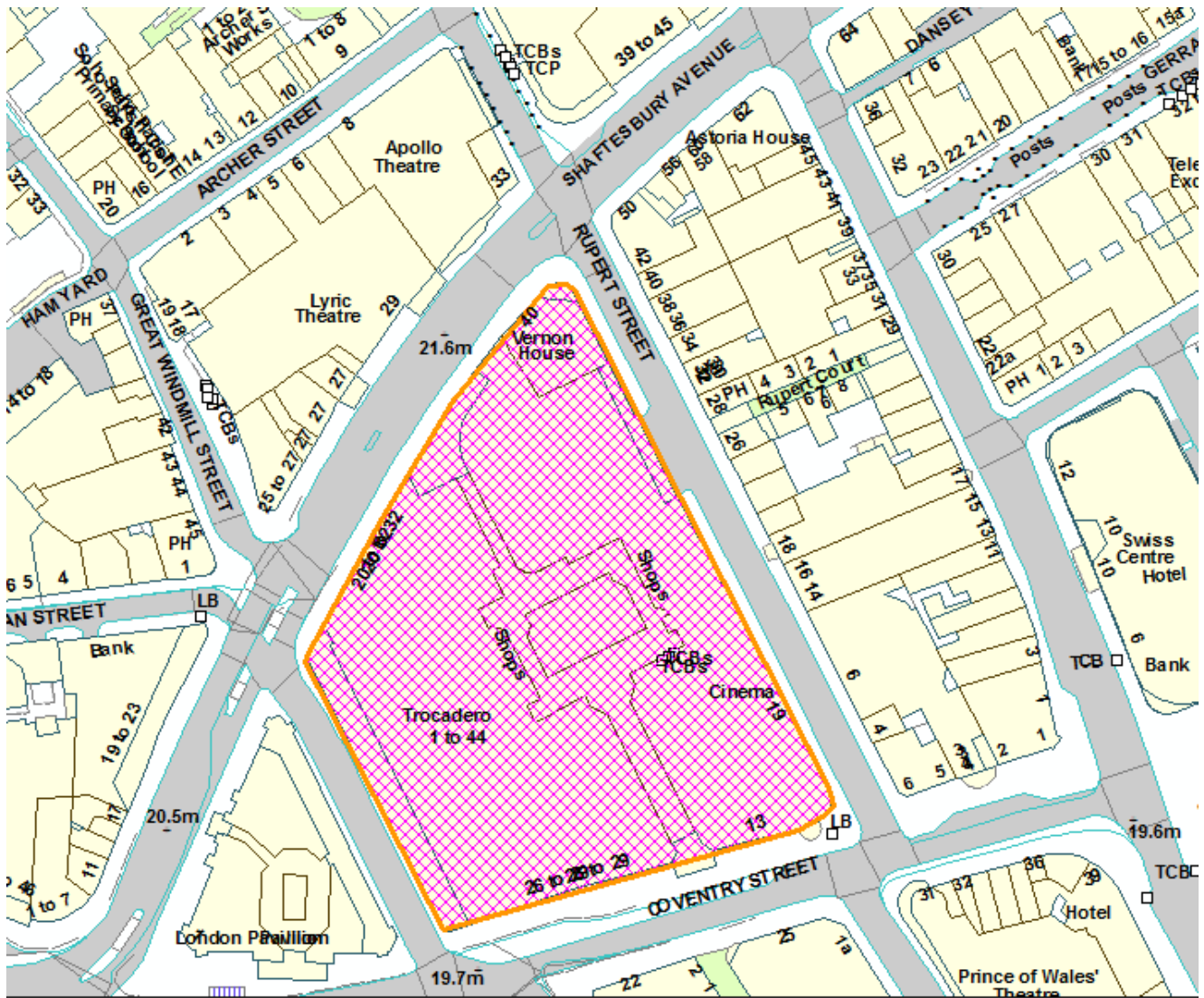
The principle of a hotel on this site has previously been accepted with permissions granted in 2008, 2010 and 2012. The permission granted in 2012 was based on a windowless room 'pod' concept providing 666 hotel rooms. This application incorporates additional floorspace including vacant space at first floor formerly occupied by Funland, conversion of the rear part of two ground floor retail units, and use of consented residential floorspace all for extended hotel purposes. This application involves an additional 74 rooms compared to the extant scheme. External alterations including a new roof top bar/restaurant, a three storey plant deck within the roof valley onto Coventry Street and minor alterations to the proposed hotel entrance on Shaftesbury Avenue and to the existing loading bay on Rupert Street are also proposed. The proposed roof top bar/restaurant would run independently from the hotel.

The key issues in this case are:

- \* The acceptability of the proposals in land use terms;
- \* The impact of the proposals on the highway network;
- \* The impact of the proposed works on the character and appearance of the Soho Conservation Area;
- \* The impact of the proposals on the amenity of neighbouring residents.

The proposals would provide a new hotel, providing visitor accommodation within an appropriate location within the Central Activities Zone. The application is considered acceptable in land use, design, highways and amenity terms and is subsequently recommended for approval, subject first to the completion of a legal agreement to secure the benefits set out above.

### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and/or database rights 2013. All rights reserved License Number LA 100019597



4. PHOTOGRAPHS





## 5. CONSULTATIONS

### GREATER LONDON AUTHORITY

The revised application does not raise any new strategic issues.

### ENGLISH HERITAGE

Authorisation received.

### THE SOHO SOCIETY

No objection but believes that another hotel is unwanted and that it represents a missed opportunity to provide a proper entrance for Crossrail 2. Believes that the site is an ideal location for affordable housing.

### WESTMINSTER SOCIETY

Welcome the proposals.

### CROSSRAIL

Any comments to be reported verbally.

### THE THEATRES TRUST

No objections to the redevelopment of the Trocadero but seek assurances that the construction work involved, and the operation of the hotel and roof terraces, will not affect the operation of the Apollo, Lyric, Gielgud or Prince of Wales Theatres. Requests that a construction management plan is secured by condition and that appropriate conditions are imposed to limit the impacts of noise and music emitted from the outdoor terraces.

### MET POLICE

Any comments to be reported verbally.

### ENVIRONMENTAL HEALTH

No objections raised.

### HIGHWAYS PLANNING MANAGER

No objections provided all servicing takes place off-street.

### CLEANSING MANAGER

No objections raised.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 309; Total No. of Replies: 2.

One letter of support and one letter of objection on the grounds of:

\* Disturbance during construction.

\* Noise from the hotel and its roof top bar and from congestion and noise at street level queuing.

\* Requests that the developer liaises with adjacent theatres during the construction period to ensure no noisy works are carried out during theatre performances

\* Requests that a noise assessment and report is produced to ensure that any noise from the proposed bar, restaurant and queues on Shaftesbury Avenue is not audible in adjacent theatres

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The Trocadero complex occupies the street block bounded by Coventry Street, Rupert Street, Shaftesbury Avenue and Great Windmill Street and comprises four Grade II listed buildings known as Lyons Corner House, Lyons Corner House Extension, Scott's Corner building and Avenue Mansions. The other buildings on the site are unlisted, are modern and of generally little merit, with the exception of Vernon House on the corner of Shaftesbury Avenue and Rupert Street (which falls outside of the application site). The whole of the block falls within the Soho Conservation Area, the Central Activities Zone (CAZ), the West End Special Retail Policy Area (WESPRA) and the West End Stress Area. Part of the site lies within the Strategic Viewing Corridor 2: Primrose Hill to the Palace of Westminster.

The Trocadero complex comprises a variety of uses primarily permitted either as part of the original mixed use concept approved by the Greater London Council in 1980, as part of an extensive scheme of refurbishment and extensions approved by the City Council in 1989 or as part of a 1995 permission for the use of the third to eighth floors as an indoor theme park with ancillary retail and restaurant facilities (Segaworld). New infill elevations were constructed in Coventry Street, Great Windmill Street, Shaftesbury Avenue and Rupert Street in the 1980s. The Trocadero accommodates the following land uses:

*Sub Basement* – Golden Nugget casino (sui generis), Rainforest Café (Class A3), CCTV operation room, communal areas and plant rooms (sui generis).

*Basement* - Rainforest Café (Class A3), Platinum Lace (bar and nightclub - sui generis), a vacant cinema (formerly The Other Cinema - Class D2), Dstrkt nightclub (sui generis), vacant Class A1 retail, vacant D1 (formerly Titanic Exhibition) and vacant horror-themed multi-media use (Pasaje del Terror) (Class D2).

*Basement Mezzanine* - Bar Rumba (sui generis), vacant retail (Class A1) and (vacant) bookmakers (William Hill) accommodation (Class A2).

*Ground Floor* - Rainforest Café (Class A3), Five Guys (Class A3), Bubba Gump (Class A3/A1), retail outlets in the former mall (Class A1), Picturehouse cinema entrance (Class D2), communal areas and service bay.

*First Floor* – Bubba Gump (Class A3/A1), vacant (formerly Funland (sui generis), vacant restaurant (Class A3), Picturehouse cinema, vacant Imax cinema (Class D2), serviced apartments (Class C1) and communal areas.

*First Mezzanine* - Golden Nugget Casino (sui generis), vacant (formerly Funland (sui generis)) and office (Class B1).

*Second Floor* – vacant (formerly Funland (sui generis)), Picturehouse cinema (Class D2), Golden Nugget Casino (sui generis) and serviced apartments (Class C1).

*Third Floor* - vacant (formerly Segaworld (sui generis)), Golden Nugget casino (sui generis), Picturehouse cinema (Class D2) and office (Class B1).

*Fourth Floor* - vacant (formerly Segaworld (sui generis)), Golden Nugget casino (sui generis), UGC cinema (Class D2) and serviced apartments (Class C1).

*Fifth Floor* - Picturehouse cinema (Class D2).

*Sixth, Seventh and Eighth Floors* - vacant (formerly Segaworld (sui generis)).

Funland was an indoor amusement park with ten-pin bowling, dodgems, arcade machines and sports bar that closed in 2011. Segaworld was an indoor theme park with virtual reality rides that closed in 1999. The Imax Cinema was a 3-dimensional cinema on a large screen that closed in April 2000.

The principal pedestrian access to the building was originally from Coventry Street through the former mall area. There are secondary entrances and exits from Piccadilly Underground Station at basement level and from Shaftesbury Avenue.

## 6.2 Recent Relevant History

The London Trocadero was created in the early 1980s under a Greater London Council permission issued on 22 January 1980. Following this a major scheme of refurbishment works was approved by the City Council on 24 November 1989 which permitted, inter alia, alterations and extensions to allow for an expanded mixed use complex incorporating retail, restaurant, entertainment, cinema and office uses. This scheme was substantially completed by the end of 1992.

Permission was subsequently granted in October 1995 to use the second to sixth floors of Lyons Corner House and the third to eighth floors above the main atrium and flanking Rupert Street as an indoor theme park (a sui generis use) with ancillary retail and restaurant facilities. The indoor theme park was known as Segaworld.

Planning permission for the partial demolition and redevelopment of the Trocadero for use as a 471 bedroom hotel, eight residential units, retail (Class A1) uses and a restaurant (Class A3), Community Arts Space and provision of a replacement facade on Shaftesbury Avenue and alteration to the existing facade on Rupert Street was granted in October 2008.

Planning permission was granted in July 2010 for the use of part second to seventh floor levels as a 495 bedroom hotel. New retail (Class A1) at ground and first floor level on Shaftesbury Avenue, reconfiguration of the loading bay on Rupert Street and use of part basement, ground and second to fifth floors of 40 Shaftesbury Avenue (Vernon House) for residential purposes (4 x 1-bed, 4 x 2-bed and 1 x 3-bed flats).

Planning permission was granted in November 2012 for the erection of a two storey extension at eighth and ninth floor levels; use of part basement, sub-basement, part ground to ninth floor levels as a hotel (Class C1) comprising of 527 bedrooms and 56 aparthotel rooms with a rooftop bar and associated terraces at eighth and ninth floor levels; use of part ground, first and first floor mezzanine levels (Rupert Street frontage) for residential purposes (Class C3) comprising 1x1, 6x2, 1x3 bedroom flats, use of part ground and first floor levels as a retail unit (Class A1). Reconfiguration of the loading bay on Rupert Street, alterations to the shopfronts on Shaftesbury Avenue and internal alterations at all floor levels. This permission has been partly implemented.

## 7. THE PROPOSAL

The proposal involves the use of the existing internal vacant parts of the Trocadero building for hotel and restaurant/bar use. Compared to the hotel permission granted in 2012, this application incorporates additional floorspace including vacant space at first floor formerly occupied by Funland, conversion of the rear part of two ground floor retail units, and use of consented residential floorspace all for extended hotel purposes. This application involves an additional 74 rooms compared to the scheme currently being implemented. The proposals involve a new roof level extension and minor alterations to the proposed hotel entrance on Shaftesbury Avenue, including relocation of the existing entrance to Bar Rumba. Alterations to the existing loading bay on Rupert Street are also proposed. A three storey plant deck is proposed within the roof valley between the side return facade of the Grade II listed Lyons Corner House extension and the adjoining 1980s infill development. The proposed roof top bar/restaurant would run independently from the hotel.

The changes in floorspace, as compared to the partly implemented scheme, are shown in the following table.

| Use                     | Existing/as approved GIA sqm) | Proposed GIA (sqm) | +/-    |
|-------------------------|-------------------------------|--------------------|--------|
| A1 retail               | 353                           | 47                 | -306   |
| Sui generis Funland     | 2,556                         | 0                  | -2,556 |
| A3/A4 restaurant/bar    | 410                           | 1,612              | +1,202 |
| C1 hotel                | 20,189                        | 25,791             | +5,601 |
| Sui generis (Bar Rumba) | 23.6                          | 0                  | -23.6  |
| C3 residential          | 791                           | 0                  | -791   |

The key part of the proposal involves the provision of a 740 bed hotel with its main entrance on Shaftesbury Avenue, and a secondary access, for use by coach parties and staff on Rupert Street. The hotel is also accessible at basement level from Piccadilly underground station.

Basement levels 2 and sub-basement 2 provide staff changing rooms and facilities, back-of-house offices and linen store. Basement level 1 provides a lobby entrance for guests accessing the hotel from the underground, a 'grab & go' café and associated kitchen and seating area. A small business lounge for guests is provided at basement

mezzanine level and the main lobby area and self-check-in facilities are located at ground floor level. The ground floor lobby also includes an entrance lobby to the 'sky bar' lifts together with back of house facilities including luggage stores and the hotel manager's office. 52 of the rooms proposed are fully accessible. A sky bar/restaurant with terraced area at 12<sup>th</sup> and 13<sup>th</sup> floor levels is also proposed.

All of guestrooms are proposed to be 'pod' type rooms without windows.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Hotel use

Hotels are important to support the visitor and business economy, and they have strong links with other activities in central London such as shopping, theatre and other cultural and entertainment activities. In addition to providing 740 rooms, the proposal also provides a restaurant/bar which would run independently from the hotel and would be open to the public. This is discussed in further detail below.

Policy S23 of Westminster's City Plan directs new hotels to the CAZ and to those streets which do not have a predominantly residential character. Policy TACE 2 of the UDP is also permissive towards new hotels in the CAZ that do not have a predominantly residential character where (i) no adverse environmental and traffic effects would be generated and (ii) adequate on-site facilities are incorporated within developments proposing significant amounts of new visitor accommodation, including spaces for the setting down and picking up of visitors by coaches and for taxis serving the hotel.

It is considered that whilst there are some residential properties on Rupert Street, this part of the West End does not have a predominantly residential character. In these circumstances, the introduction of a new hotel on this site is considered acceptable in principle in land use terms.

The application is supported by a draft Operational Management Statement which includes measures designed to ameliorate the impact of the hotel and entertainment uses on residents' amenities and local environment quality and this is discussed below. The impact of the proposals on traffic and parking is set out in section 8.4.

The hotel will have 740 en-suite bedrooms with an average size of approximately 9-17sqm. The supporting documentation states that the hotel is to provide high quality affordable visitor and business accommodation. Ancillary facilities in the form of a 'grab and go' cafe facility at basement level 1 are also proposed.

The size of the hotel is considered appropriate to the character and scale of the surrounding area, which has a mix of uses including a large number of entertainment uses. The hotel will also provide affordable accommodation for visitors to this part of Central London, which is considered welcome in view of the closure of the nearby Regents Palace Hotel (which had 920 private and shared bedrooms) in December 2006. On the basis of the above, the hotel is unlikely to generate adverse environmental effects that would harm the character and function of the area.

The size and type of accommodation proposed is also similar to the previous permission which has now been implemented. Whilst an additional 74 rooms are proposed compared to the 2012 scheme, this increase in bed spaces is as a result of the proposed hotel use of the vacant space formerly occupied by Funland at first floor level. The replacement of this former entertainment space with hotel bed spaces is not considered contentious and the principle of an hotel in this location is therefore considered acceptable.

#### Retail use

The proposals also involve the loss of 306sqm of Class A1 retail space. The majority of this space is located at the rear of two ground floor retail units located on Coventry Street. UDP SS5 states that A1 uses at ground, basement or first floor level in the CAZ will be protected. City Plan policy S21 seeks to protect existing retail uses throughout Westminster, except where it can be demonstrated that the unit is unviable through long term vacancy, despite attempts to let. The areas involved form part of a unit formerly occupied by HMV, who vacated the site in 2013, and the remainder is at the rear of a unit currently occupied by Kingdom of Sweets. These areas were to be kept in retail use in the last permission on this site.

The area formerly occupied by HMV has now become a fragmented retail space as the remainder of this former unit has, since the last permission on this site, been converted to restaurant use and is now occupied by Five Guys. The space at the rear of Kingdom of Sweets is some 39m from the Coventry Street entrance and deep within the building. The loss of the rear part of Kingdom of Sweets would still retain a retail unit of over 400sqm.

The text to Policy SS5 also states that 'changes of use above, below or adjoining an A1 use should not jeopardise the long-term A1 use of a ground floor shop by, for example, diminishing essential ancillary storage/office space, or by reducing the size of a shop unit. Any of these will make it difficult to retain an A1 use in the ground floor unit.' In this regard, it is not considered that the loss of these spaces at ground floor level would have any material harm on local shopping character and function.

#### Restaurant and Entertainment Use

The proposals involve a 'grab and go' breakfast area at basement level and a restaurant/bar area at levels 12 and 13. The breakfast area would operate as a coffee shop with no hot food preparation and would be for use by both hotel and non-hotel guests. It will perform the dual function of being a secondary hotel reception for guests coming from the tube station access. As such this element of the proposals is considered to operate as ancillary hotel space.

The proposed roof level restaurant and bar, The Skybar, would run independently from the hotel. In total, this area involves 1,612sqm of floor area (GEA) and therefore falls to be considered within Policies TACE 10 and S24 of the City Plan. Policy TACE 10 states that entertainment uses over 500m<sup>2</sup> will only be permissible in exceptional circumstances. Policy S24 states that 'new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact residential amenity, health and safety, local environmental quality and the character and function of the area'. The

policy also states that new large scale late night entertainment uses measuring in excess of 500sqm (GEA), will not generally be appropriate within Westminster.

The area occupied as a bar is significantly smaller than the areas formerly occupied by Funland and Segaworld (some 13,000sqm) on the first to seventh floors and in this regard it would be difficult to argue that the impact of the restaurant/bar would be harmful in this location. Overall there would be a significant reduction in entertainment floorspace within the West End Stress Area and this is welcomed in policy terms.

Whilst there are some residential properties on Rupert Street and on the opposite site of Coventry Street, none of the occupiers have objected to the proposal. Concerns have however been raised from both the Theatres Trust and Nimax Theatres on the grounds that the creation of a terrace at roof level will increase noise levels, increase congestion and create noise at street level queuing.

With regard to noise from the roof level terrace, this area is set back some 60m from Shaftesbury Avenue, and approximately some 80m from the Lyric, the nearest theatre, and it is not considered that in this location that noise from guests using the terraced area would result in any adverse noise or disturbance to the operation of the theatres. Although this element of the scheme is larger than the approved roof terrace for this site, it is fully screened from Shaftesbury Avenue by the proposed roof extension.

The nearest residential properties are within Rupert Street to the east of the site. There are also residential flats on the upper floors of Coventry House directly opposite the application site on the south side of Coventry Street. These residents would be some 30m from the proposed terrace. Drawings submitted with the application indicate that the terrace could be intensively used and the applicant suggests that the roof top bar and restaurant would have a capacity of 1,200. In this regard, it is considered that the hours of use of the terrace should be limited until 23:00 hours daily and the applicant has agreed to such a condition, and to a condition requiring windows and doors to the terrace area to be closed at 23:00. With these conditions in place it is considered that the impact on adjacent residential occupiers from noise from the use of the terrace would be minimised.

The application is supported by an acoustic report which proposes some emission limits for noise from the rooftop bar, but without an end user a detailed assessment has not been carried out. Standard noise conditions regarding internal noise limits are proposed and Environmental Health suggest the need for a supplementary acoustic report to demonstrate that these limits can be met. The acoustic report also suggests a music noise limiter, which would be a condition of any future premises licence.

The applicant has also requested opening hours until 02:00 daily in line with two other nearby licensed premises who operate to the similar hours, namely; Bar Rumba (within the Trocadero complex) which operates to a terminal hour of 03:00 and Sophie's restaurant and cocktail bar on Great Windmill Street which operates to a terminal hour of 01:30. It is acknowledged that the proposed hours would have a later terminal hour than the previous consent on this site which limited the approved roof top bar to operate only until midnight. However, access to the roof bar is via a dedicated entrance on Shaftesbury Avenue which also has a substantial lobby area to enable queuing to take place off-street. As there are no residential properties on this part of Shaftesbury



Avenue, the hours proposed are considered to be acceptable and would not adversely impact on either residential amenity or the character of the area.

The majority of hotels within Central Westminster provide bars and restaurants that are also open to members of the public, and the bar area will still form an integral part of the hotel operation (for serving snacks and drinks etc). Given the location of hotel bedrooms directly beneath, it will be in the interests of the hotel to ensure that these areas are properly managed. In addition, it is considered that appropriate conditions can be attached to ensure that the restaurant/bar area does not cause an unacceptable impact, including restrictions on hours that the terrace can be used, limiting noise levels from within the bar and the submission of an operational management plan to address concerns regarding queuing.

#### Cinema uses

The Trocadero currently contains two cinemas, namely the two screen 'Other Cinema' (accessed from Rupert Street) and the multi-screen Picturehouse cinema. Both cinemas fall outside the demise of the application site and are to be retained as part of these proposals. The site also includes the space previously occupied by the IMAX cinema at first floor which closed in April 2000 for financial reasons. Although UDP Policy TACE 5 seeks to retain existing arts and cultural uses (including cinemas), in determining the previous consents for this site, it was accepted that the IMAX was not financially viable, and its loss was mitigated by the benefits of new hotel accommodation and in bringing a vacant building back into use. The 2012 permission involved the conversion of the former IMAX to hotel floorspace and in implementing that consent, all parts of the former IMAX, including its shell and core, seats and fittings, have now been removed and as such there is no cinema here to protect.

#### Loss of consented residential floorspace

Policy S14 of the City Plan seeks to optimise housing delivery in the borough. It states that proposals that would result in the reduction in the number of residential units will not be acceptable, except where:

- the Council considers that reconfiguration or redevelopment of affordable housing would better meet affordable housing need;
- a converted house is being returned to a family-sized dwelling or dwellings;
- two flats are being joined to create a family-sized dwelling.

In addition to the Council's own policies, London Plan Policy 3.4 requires development proposals to optimise housing output and Policy 3.3 of the London Plan requires the City Council to seek to achieve and exceed a minimum annual delivery of 770 additional dwellings.

In this case the permission granted in 2012 required, as a result of the mixed use policy in place at that time, an equivalent amount of residential floorspace to be provided to off-set the uplift of hotel floorspace. The 2012 hotel permission therefore also involved the provision of 8 flats on-site. Whilst works have now commenced to implement the 2012 hotel/residential planning permission, the development is far from completion and the premises are clearly not ready for occupation for residential use. Therefore, whilst the proposal would result in a reduction of some 730sqm consented residential floorspace relative to the implemented permission contrary to adopted policies, in

practice, it would not actually result in the loss of any existing housing stock. In this instance, the use of this space for hotel purposes is considered acceptable in principle.

The Soho Society believe that the site is an appropriate location for affordable housing, however, no such proposed use has been put forward for consideration, and as the current application involves only an uplift of hotel and restaurant/bar floorspace, a residential requirement is not triggered by the Council's mixed use policies.

## 8.2 Townscape and Design

The proposals involve a roof extension, alterations to the Shaftesbury Avenue façade and new plant at roof level as set out below:

### Roof Extensions

The proposed roof extension would be situated in the same location as previously but will make better use of the available space by extending further south across the roofscape and by raising the approved roof terrace to link directly with the eighth storey to allow views over the London skyline. The roof extension is a mansard type on three sides which reduces the impact of the extension in street views. However, the south-east elevation facing the roof terrace will feature a large, stepped, glazed façade. Dormer windows on the north-east roof slope, above the Rupert Street façade, will align with the fenestration of the floors below.

Along the south-west roof slope the dormers will be of a simple design with openings covered at night with sliding perforated screens to reduce their visual impact and to prevent an incongruous 'lantern' effect in night-time views from Piccadilly. The rear roof slope, facing north-west towards Shaftesbury Avenue, will incorporate vents to serve back of house facilities. These will be narrow and concealed within the roof plane to minimise their impact in views of this elevation from Denman Street.

The effect of the proposal on the view of the Palace of Westminster from Primrose Hill (4A.2) would be negligible. The small amount which would appear in the view is unlikely to be noticed, even with a zoomed lens, because it is beyond much taller buildings and set well to the left of the Elizabeth Tower (Big Ben).

### Proposed Elevations

The approved new Shaftesbury Avenue façade is to have a full width canopy added over the entrance doors and it is also proposed to add translucent film to the inside face of the window glazing on the upper floors of this façade as well as to the upper floor windows of some of the other buildings forming part of the Trocadero complex. Other minor changes include the installation of concertina doors rather than roller shutters to the Rupert Street service entrance. These will have a minimal impact on the character of the conservation area but the proposed panelled doors would be an improvement over the more utilitarian roller shutter in design terms.

### Roof Plant Area

A three storey plant deck is proposed to site within the roof valley between the side return facade of the Grade II listed Lyons Corner House extension and the adjoining 1980s infill development. Only part of the proposed plant screen would be visible in limited views from Haymarket, and due to its set back position the plant screen would

not be visible in views of the listed buildings along Coventry Street. It will obscure high level views from the plain upper floor windows in the western return elevation of the building Lyons Corner House extension, but these views are already obscured by the 1980s roof extension opposite and otherwise overlook an unremarkable lightwell area.

Subject to approval of the detailed design and materials of the screen, the visible element of the plant screen would not be harmful to the appearance or special architectural interest of the Grade II listed Lyons Corner House extension, being visible only in a single and partial view of the building from Haymarket. It would also maintain the setting of the corner building at No. 7-14 Coventry Street.

### **Conclusion**

The design of the proposed alterations and extensions will ensure that the development maintains the appearance and special architectural interest of the listed buildings, the character and appearance of the Soho Conservation Area, the setting of the surrounding Chinatown, Regent Street, Leicester Square and Haymarket Conservation Areas, and the protected vista of the Palace of Westminster from Primrose Hill.

### **8.3 Residential Amenity**

The closest affected residential properties are within Rupert Street to the east of the site. There are also residential flats on the upper floors of Coventry House directly opposite the application site on the south side of Coventry Street.

#### Sunlight/daylight

The bulk of the new floor at roof level is only marginally greater than the height and bulk of the existing roof level plant room and the applicant's submitted daylight and sunlight report demonstrates that none of the windows tested would be adversely affected as a result of these proposals.

#### Noise from Construction

Concerns have been raised from both the Theatres Trust and Nimax Theatres on the grounds of disturbance during construction. They also seek assurances that during construction that the operation of the Apollo, Lyric, Gielgud or Prince of Wales Theatres will not be affected.

Construction matters are now exclusively covered by the Code of Construction Practice (COCP) and the Environmental Inspectorate. The COCP categorise developments into three levels, and this scheme, as a Level 1 development will require the submission of a Site Environmental Management Plan (SEMP).

The applicant also argues that substantive demolition has already been undertaken under the previously permitted scheme, and that to their knowledge no complaints have been received in relation to this work. As construction works will be undertaken during normal working hours it is anticipated that there will be no disturbance to the theatre operations other than on Wednesday afternoon matinees. The applicant also confirms that they met with Nimax Theatres in August 2017 to discuss the proposals prior to submission and confirms that they will seek to continue ongoing engagement with Nimax Theatres during the construction period. In these circumstances, it is considered that the issue of construction noise has been satisfactorily addressed.

### Quality of Accommodation Proposed

The majority of the bedroom accommodation proposed is formed of 'pod' type rooms without windows. Whilst this type of accommodation is unusual, the principle of windowless accommodation was previously considered acceptable. Environmental Health have raised no objection to window-less hotel rooms.

### **8.3 Transportation/Parking**

It is anticipated that, given the site's excellent public transport links, and direct access from Piccadilly underground, that most visitors will arrive by tube. No car parking spaces are proposed in line with UDP car parking standards for new hotels.

#### **Servicing**

Policy TRANS20 requires servicing and delivery to be adequately accommodated on-site and off-street and Policy S42 is similarly worded. There is an existing off-street servicing bay onto Rupert Street which is to be increased in capacity as part of the proposed works. These works will involve alterations to the existing crossover into the loading bay and these works will be secured by legal agreement.

The Delivery and Service Plan (DSP) submitted with the application estimates some 95 deliveries to the site per day (of which 9 are associated with the rooftop bar/restaurant). Both the DSP and the Transport Statement suggest that the development should be served by a combination of off-street servicing and use of on-street facilities. However, the view of the Highways Planning Manager is that there is no reason why servicing should not be entirely off-street in accordance with the previous permission on this site. The applicant has agreed with this approach and a revised DSP is to be secured by condition to demonstrate that all servicing can be undertaken in the loading bay.

#### **Coach parking**

The provision of an off-street coach bay cannot be provided due to the constraints of the site and so it is proposed to provide a shared on-street coach waiting/loading bay at the southern end of Rupert Street which is to be secured through by legal agreement. Visitors arriving by coach will be able to access the hotel via a secondary hotel entrance on Rupert Street. There is no proposal to provide a taxi rank due to the constraints of the site.

#### **Cycle parking**

It is proposed to provide 62 cycle racks in the basement which is less than the requirements set out in the London Plan, however, the Highways Planning Manager considers this number to be acceptable.

### **8.4 Economic Considerations**

The economic benefits generated are welcomed.

### **8.5 Access**

The proposed development has been designed to meet the requirements of the Building Regulations and incorporates the principles of inclusive design. All entrances to the

proposed hotel are level with the public pavement and the main core is fitted with wheelchair accessible lifts that provide flush access to all floors.

## 8.6 Other UDP/Westminster Policy Considerations

### Plant

Three areas for plant are proposed, one at roof level on the corner of Coventry Street and Rupert Street, a three storey plant deck within the roof valley at seventh floor level on Coventry Street and at roof level on Shaftesbury Avenue. The application is supported by an acoustic report. The Environmental Health officer has assessed the submitted acoustic report and raises no objection to the proposals subject to conditions relating to plant noise and vibration and restricting noise levels from generators (C50AB). However, as the plant scheme design is at an early stage, the applicant will need to provide a supplementary acoustic report to demonstrate that the selected equipment will operate in accordance with the standard noise condition. Subject to these conditions, it is not considered that the plant operation would adversely affect the amenities of existing, or future, residents.

### Refuse /Recycling

Dedicated waste storage areas are proposed at basement level 2 which provides adequate facilities for waste and recycling facilities for the hotel. These facilities will be secured through condition.

### Sustainability

Sustainability and Energy Statements, prepared by Foreman Roberts have been submitted in support of the proposed development. These assess the proposals' compliance with policies and principles for sustainable development and energy efficiency.

Policies 5.1 to 5.9 of the London Plan focus on how to mitigate climate change and the carbon dioxide emissions reduction targets that are necessary across London to achieve this. Developments are required to make the fullest contribution to tackling climate change by minimising carbon dioxide emissions (be lean), adopting sustainable design and construction measures and prioritising decentralised energy (be clean), including renewables (be green). London Plan Policy 5.2 sets out carbon reduction targets which apply to major developments and requires a 35% reduction of CO2 emissions over the baseline emissions to be achieved by the development.

Policies S28 and S40 of Westminster's City Plan require major development to reduce energy use and emissions that contribute to climate change during the life-cycle of the development and to maximise onsite renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions.

The Energy and Sustainability report sets out passive design measures (thermal insulation, secondary glazing retrofitted to existing glazing and the subsequent improvements to air tightness) and the use of energy efficient building services (high efficiency chillers and lighting, variable speed control, heat recovery, daylight sensing etc) to improve the building's performance and to reduce CO2 emissions. In addition, the applicant proposes to include air-source heat pumps. This results in total cumulative CO2 savings of 65%, set against the 35% target of policy.

**Air Quality**

The submitted Air Quality Assessment concludes the development is likely to be air quality neutral for building emissions. However, the final plant selections have not been made and therefore Environmental Health recommend the attachment of a condition requiring the submission of an Air Quality Neutral assessment once the final plant has been selected.

**8.7 London Plan**

The London Plan contains hotel-related objectives. These include the provision of 40,000 additional hotel bedrooms by 2031, to improve the quality, variety and distribution of visitor accommodation and facilities (Policy 4.5). The need to accommodate a wide range of provision is highlighted. The proposed 740 hotel bedrooms will help meet London Plan targets.

The mayor considers that the application raises no strategic issues.

**8.8 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.

**8.9 Planning Obligations**

The draft 'Heads' of agreement are proposed to cover the following issues:

- i. The costs of implementing revisions to the traffic order to provide a shared coach and loading bay on Rupert Street and crossover works into the proposed loading bay;
- ii. Crossrail payment (currently calculated at £98,332 but to be deducted from the Mayoral CIL as allowed by the SPG)
- iii. An Employment and Training Strategy for the demolition, construction and operational phases of the development;
- iv. Monitoring costs

The estimated CIL payment is:

Mayoral CIL £113,129  
Borough CIL £372,366

**8.10 Environmental Impact Assessment**

The proposal is of an insufficient scale to require an Environmental Impact Assessment.

**9. BACKGROUND PAPERS**

1. Application form
2. Letter from Historic England dated 17 October 2017
3. Letter from Greater London Authority dated 6 February 2018
4. Response from Westminster Society, dated 12 October 2017

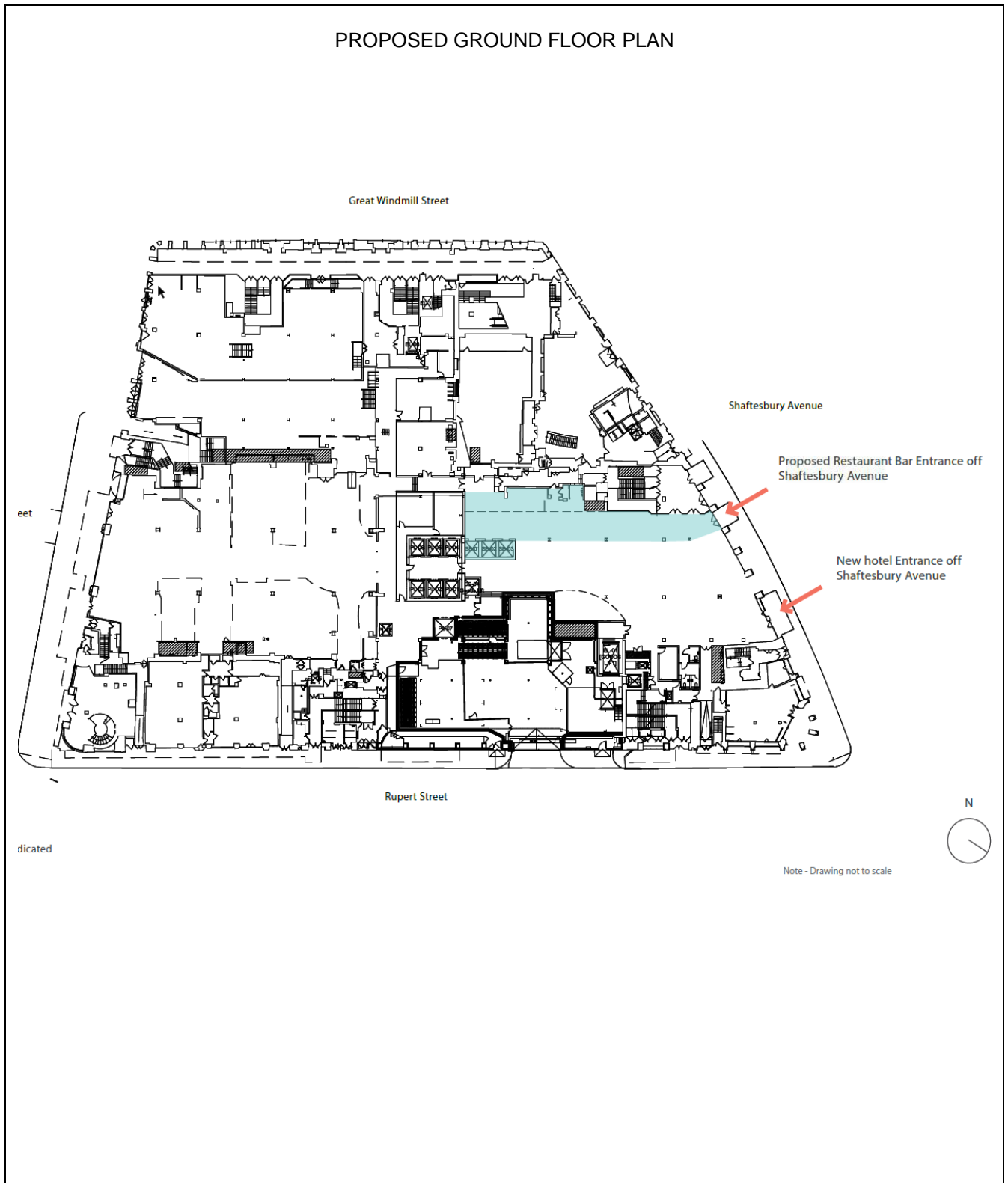
5. Response from Soho Society dated 13 November 2017
6. Response from Environmental Health dated 1 November 2017
7. Response from Cross London Rail Links Ltd (1), dated 5 October 2017
8. Response from Cleansing dated 15 February 2018
9. Letter from occupier of The Theatres Trust dated 26 October 2017
10. Letter from occupier of Flat 17, 59 Rupert Street, dated 22 November 2017
11. Letter from occupier of Nimax Theatres, 11 Maiden Lane, dated 6 December 2017
12. Response from Highways Planning Manager dated 7 December 2017 and 14 February 2018

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

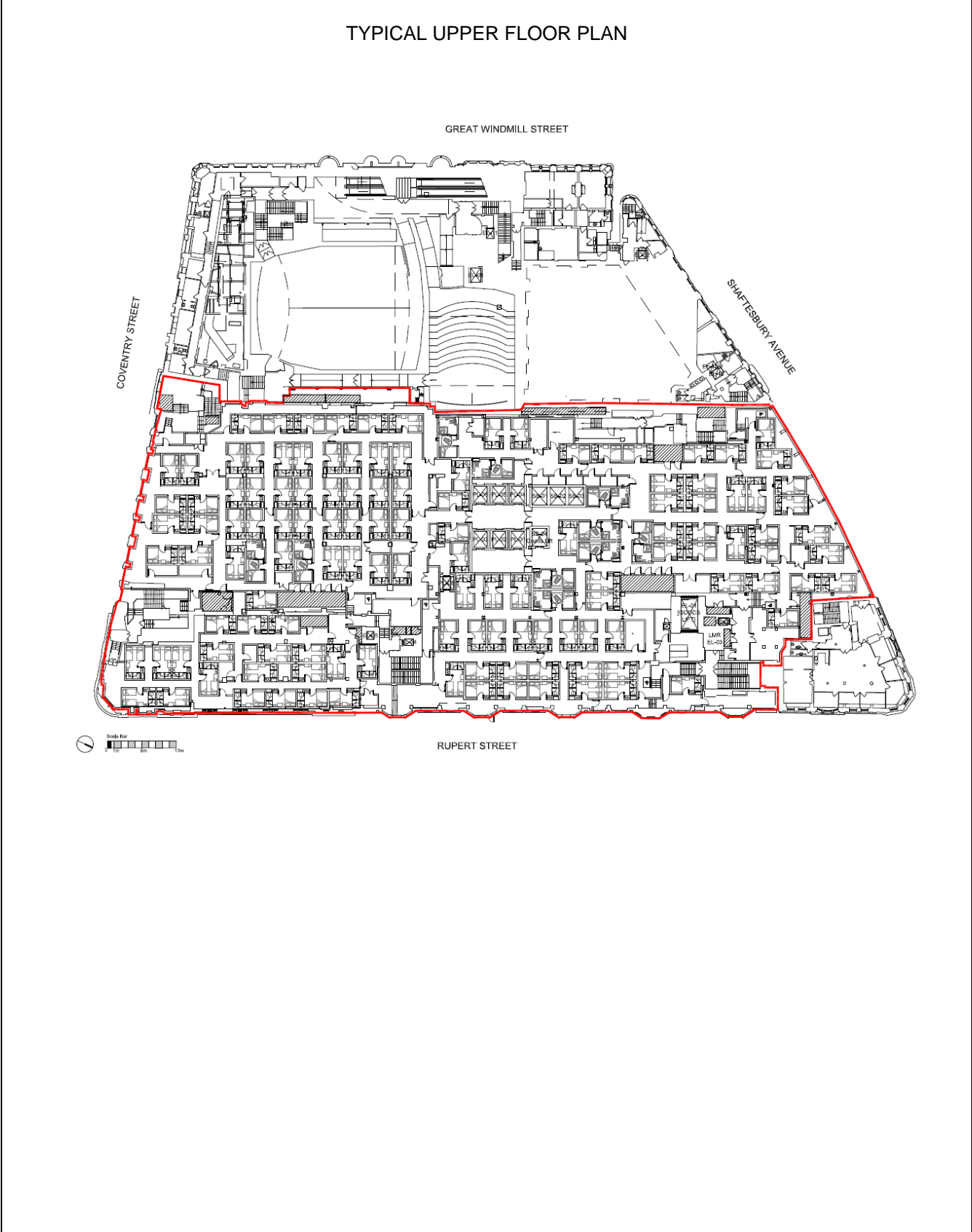
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT [jpalme@westminster.gov.uk](mailto:jpalme@westminster.gov.uk)



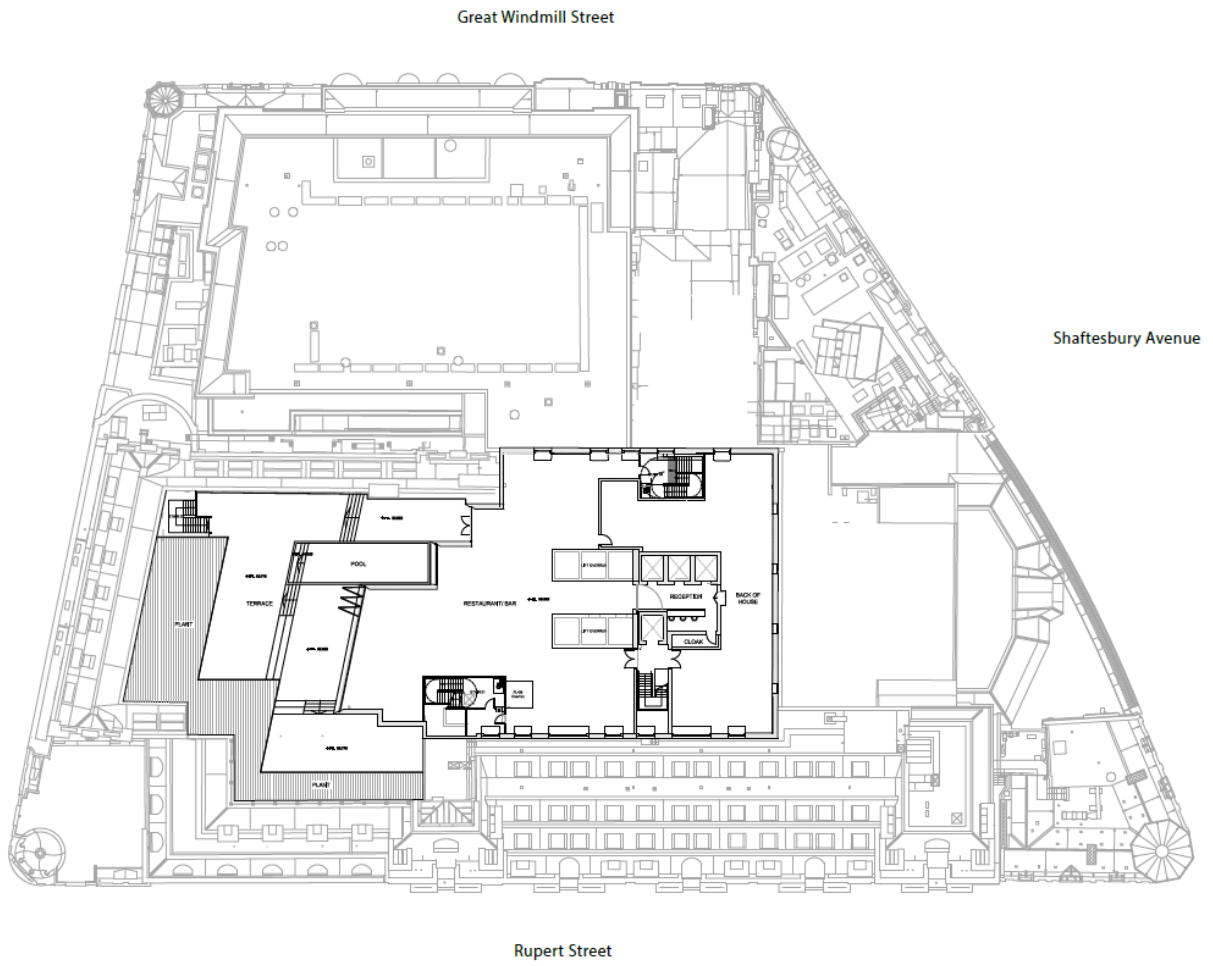
**10. KEY DRAWINGS**



TYPICAL UPPER FLOOR PLAN

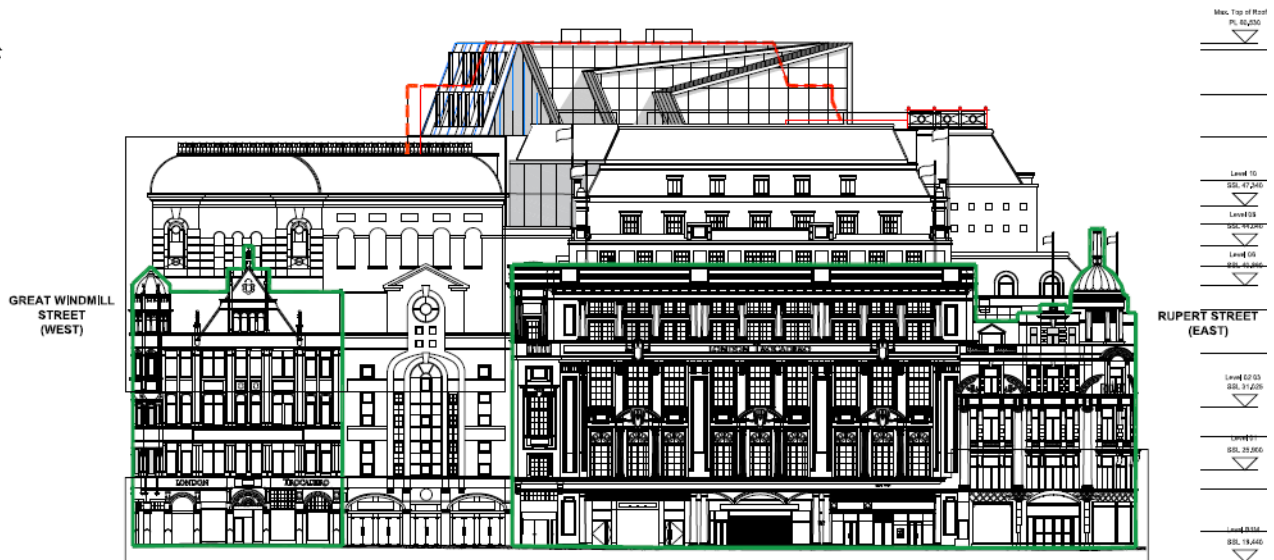


PROPOSED ROOF LEVEL RESTAURANT/BAR



Note - Drawing

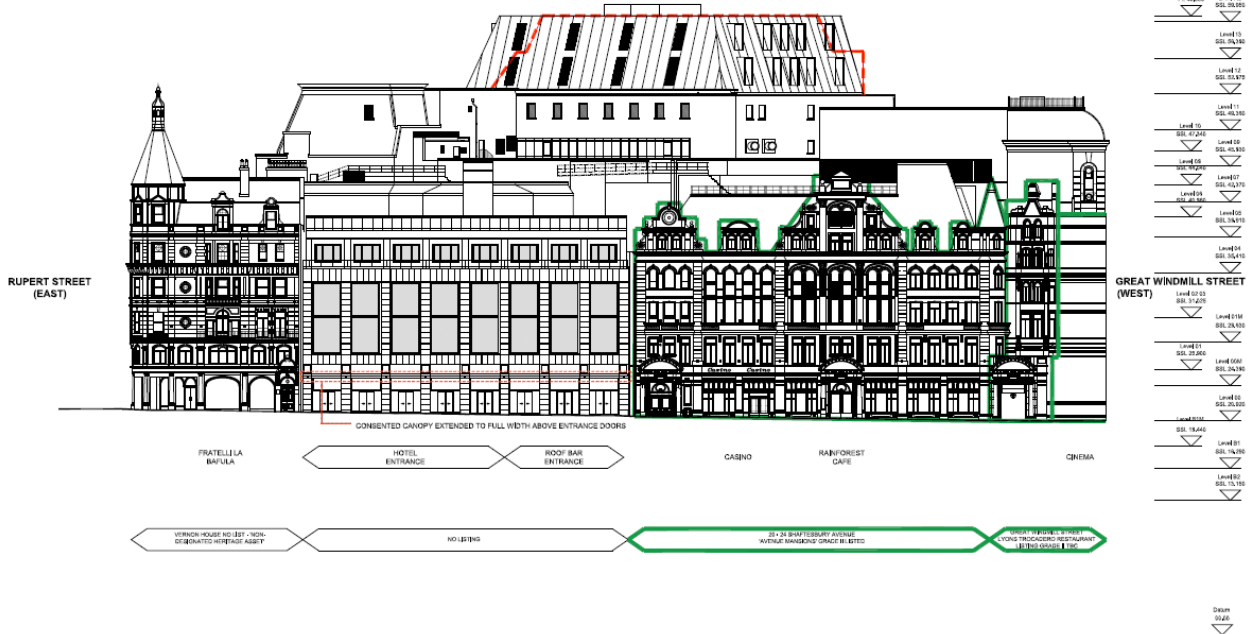
PROPOSED COVENTRY STREET ELEVATION



7-14 COVENTRY STREET LYONS CORNER HOUSE GRANGE LISTED
NO LISTING
7-14 COVENTRY STREET LYONS CORNER HOUSE EXTENSION GRANGE LISTED
7-14 COVENTRY STREET LYONS CORNER HOUSE GRANGE LISTED

Scale Bar

### PROPOSED SHAFTESBURY AVENUE ELEVATION



ROOF LEVEL VISUAL



**DRAFT DECISION LETTER**

**Address:** Trocadero , 13 Coventry Street, London, W1D 7AB

**Proposal:** Use of part basements, part ground and part first to eleventh floor levels as a hotel (Class C1) comprising up to 740 bedrooms; erection of entrance canopy on Shaftesbury Avenue and plant enclosures at levels 07 to 11 and associated works; erection of roof extensions, plant, pool and terraces at levels 12 and 13 for use as a restaurant and bar (Class A3 and A4).

**Reference:** 17/08541/FULL

**Plan Nos:** 16-352-103 Rev D

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

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

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

**Reason:**

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

- 2 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area. This is as set out in STRA 28, 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. (R26BD)

- 3 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

**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 Soho Conservation Area. This is as set out in STRA 28, 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. (R26BD)

- 4 You must apply to us for approval of detailed drawings (at scales 1:10) of the following parts of the development



1. All new plant screening;
2. The new canopy on the Shaftesbury Avenue façade – including its height and distance from Shaftesbury Avenue;
3. Each new window and external door type (with 1:1 details of a typical example of each)
4. Each new decorative screen for the windows in the roof extension (with 1:1 details of a typical example of each)

You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these detailed drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable, that it contributes to the character and appearance of this part of the Soho Conservation Area and in the interests of public safety (Part 2). This is as set out in TRANS2, TRANS3, STRA 28, 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. (R26BD)

- 5 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 4 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26DD)

- 6 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 4 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26DD)

- 7 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 residents. This is as set out in STRA 16, STRA 17 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AB)

- 8 The hotel and restaurant/bar use allowed by this permission must not begin until you have completed the alterations to the loading bay as set out in the approved drawings. Thereafter you must use the parking, access, loading, unloading and manoeuvring areas shown on the approved drawings only for those purposes.

Reason:

To ensure the loading bay is provided as set out on the approved drawings and to make sure that the service bay will be available for all types of vehicles for which it has been designed, to avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in STRA 24, STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 9 You must provide the waste and recycleable material stores shown on drawing no 16-352-103 Rev D before you use the building for hotel or restaurant/bar use. You must clearly mark it and make it available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in STRA 35 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CB)

- 10 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., ,

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., ,

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre

outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing L A90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in STRA 17 of our Unitary Development Plan that we adopted in January 2007, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 11 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.

- 12 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 10 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in STRA 17 of our Unitary Development Plan that we adopted in January 2007, by contributing to reducing excessive ambient noise levels.

- 13 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant/bar use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest., ,

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant/bar use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and

other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest., ,

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: (a) The location of most affected noise sensitive receptor location and the most affected window of it; (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (d) The lowest existing LA90, 15 mins measurement recorded under (c) above; (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition; (f) The proposed maximum noise level to be emitted by the activity.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 14 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the internal activity within the restaurant/bar will comply with the Council's noise criteria as set out in Condition 13 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 15 You must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the hotel or restaurant/bar use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the hotel and restaurant/bar is in use. (C05JB)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29

and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 16 You must provide each bicycle space shown on the approved drawings prior to the use of the building for either hotel or restaurant/bar use and these spaces shall only be used for the parking of bicycles of people visiting, living or working at the development.,

Reason:

To provide bicycle parking spaces for people using the development as set out in STRA 21, TRANS 10 and TRANS 11 of our Unitary Development Plan that we adopted in January 2007.

- 17 You must provide the environmental sustainability features (environmentally friendly features) as set out in your Energy Statement dated July 2017 before you start to use any part of the development., , You must not remove any of these features, unless we have given you our permission in writing.

Reason:

To make sure that the development provides the environmental sustainability features included in your application, as set out in STRA 32, STRA 33 and ENV 1 of our Unitary Development Plan that we adopted in January 2007. (R44AA)

- 18 No goods, including fuel, delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway. You may accept or despatch such goods (other than collection of compacted waste) only if they are unloaded or loaded within the loading bay area.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in STRA 24, STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AB)

- 19 All deliveries and collections to the loading bay can only take place between 08:00 and 18:00 hours on Monday to Fridays and 08:00 and 12:00 on Saturdays. No deliveries or collections to the loading bay shall take place on Sundays or Bank Holidays. Outside of these hours the loading bay door must remain closed.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 20 Prior to the occupation of the development, you shall submit and have approved in writing by the local planning authority, a detailed servicing management strategy for the development. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the local

planning authority.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 21 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 22 You must apply to us for approval of a method statement setting out how the hotel pods are to be installed and the works of making good following their installation. You must not start work on this part of the development until we have approved what you have sent us. You must then install the pods/make good in accordance with the method statement.

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 Soho Conservation Area. This is as set out in STRA 28, 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. (R26BD)

- 23 The use of the roof terrace areas hereby approved can only take place between 10:00 and 23:00 hours daily.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 24 No music or amplified sound played on the roof top terrace areas shall be audible outside the premises at any time.

Reason:

To protect neighbouring residents from noise nuisance, as set out in CS23, CS28 and CS31 of our Core Strategy that we adopted in January 2011 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 25 Customers shall not be permitted within the roof top restaurant/bar before 10:00 or after 02:00 hours the following morning.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 26 All doors and windows within the restaurant/bar shall be remain closed between the hours of 23:00 and 10:00

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 27 You must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 28 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises., ,  
(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power., ,  
(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

- 29 You must apply to us for approval of details to demonstrate how the development will meet the required air quality neutral benchmarks of the Greater London Authority SPG on Sustainable Design and Construction. You must then carry out the work according to these details.

Reason:

To make sure that the development provides the air quality mitigation measures included in your application as set out in S31 of Westminster's City Plan (November 2016)

- 30 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 people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 31 You must not cook raw or fresh food in the area marked 'grab and go' at basement level. (C05DA)

Reason:

We do not have enough information to decide whether it would be possible to provide extractor equipment that would deal properly with cooking smells and look suitable. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05DC)

**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 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available,



can be found on the council's website at: , [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil) , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an Assumption of Liability Form immediately. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a Commencement Form , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk) , Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.

- 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 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 5 Conditions 10 & 11 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 6 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 7 With reference to condition 30 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](mailto: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 You may need separate licensing approval for the roof top bar/restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 9 As this development involves demolishing the buildings on the site, we recommend that you survey the buildings thoroughly before demolition begins, to see if asbestos materials or other contaminated materials are present - for example, hydrocarbon tanks associated with heating systems. If you find any unexpected contamination while developing the site, you must contact:

Contaminated Land Officer  
Environmental Health Consultation Team  
Westminster City Council  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

Phone: 020 7641 3153  
(I73CA)

- 10 Under condition 31 you must not cook food in any way which is likely to cause a nuisance by smell. You must not, for example, grill, fry, toast, braise, boil, bake, hot smoke or roast food. But you can reheat food by microwave or convection oven as long as you do not need extractor equipment., , If you want to remove this condition you will need to send us full details of all the extractor equipment needed to get rid of cooking fumes. We will also consider the design and effect on neighbouring properties of any new ducts. (I72AA)

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.

**DRAFT DECISION LETTER**

**Address:** Trocadero , 13 Coventry Street, London, W1D 7AB

**Proposal:** Use of basement, ground and levels 01 to 11 as a hotel (Class C1) comprising up to 740 bedrooms; Erection of entrance canopy on Shaftesbury Avenue, plant decks at levels 07 to 11 and associated works; Erection and extensions of terraces at roof levels 12 and 13 for use as a restaurant and bar (Class A3 and A4).

**Reference:** 17/08542/LBC

**Plan Nos:**

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

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

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

Reason:

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

- 2 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 5 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 6 You must apply to us for approval of detailed drawings (at scales 1:10) of the following parts of the development

1. All new plant screening;
2. The new canopy on the Shaftesbury Avenue façade;
3. Each new window and external door type (with 1:1 details of a typical example of each),
4. Each new decorative screen for the windows in the roof extension (with 1:1 details of a typical example of each),

You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these detailed drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant

supplementary planning guidance, representations received and all other material considerations., , The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building., , In reaching this decision the following were of particular relevance:, S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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.

|          |
|----------|
| Item No. |
| <b>2</b> |

|  |  |  |                 |
|--|--|--|-----------------|
| <b>CITY OF WESTMINSTER</b>                 |  |  |                 |
| <b>PLANNING APPLICATIONS SUB COMMITTEE</b> | <b>Date</b><br>6 March 2018  | <b>Classification</b><br>For General Release |                 |
| <b>Report of</b><br>Director of Planning   |  | <b>Ward(s) involved</b><br>St James's        |                 |
| <b>Subject of Report</b>                   | <b>1 Heathcock Court, London, WC2R 0JT</b>   |  |                 |
| <b>Proposal</b>                            | Use of part ground and the upper floors of the building as a hotel (Class C1) with ancillary cafe at ground floor level; extensions within existing lightwell; alterations to existing and new windows and doors to rear elevation; and installation of new and relocated plant and photovoltaics at roof level. |  |                 |
| <b>Agent</b>                               | Mr Phillip Taylor  |  |                 |
| <b>On behalf of</b>                        | Mr Bev King  |  |                 |
| <b>Registered Number</b>                   | 17/09494/FULL  | <b>Date amended/ completed</b>               | 25 October 2017 |
| <b>Date Application Received</b>           | 25 October 2017  |  |                 |
| <b>Historic Building Grade</b>             | Unlisted   |  |                 |
| <b>Conservation Area</b>                   | Covent Garden  |  |                 |

**1. RECOMMENDATION**

Grant conditional permission.

**2. SUMMARY**

1 Heathcock Court forms part of 415 Strand. Planning permission is sought to change the use of part ground and the six upper floors from office to hotel use to provide a 118-bed hotel with ancillary café. The application includes infill extensions within two lightwells, alterations to fenestration and new and replacement plant and photovoltaics at roof level.

The key issues for consideration are:

- The impact of the proposed works on the character and appearance of the building and the Covent Garden Conservation Area.
- The land use implications of the proposal;
- The impact of the proposal on the amenity of surrounding residents; and
- The impact of the proposals on the surrounding highway network.

The proposed hotel use is considered acceptable in design, conservation, land use, amenity and highway terms in accordance with the City Plan Strategy and Unitary Development Plan (UDP) policies

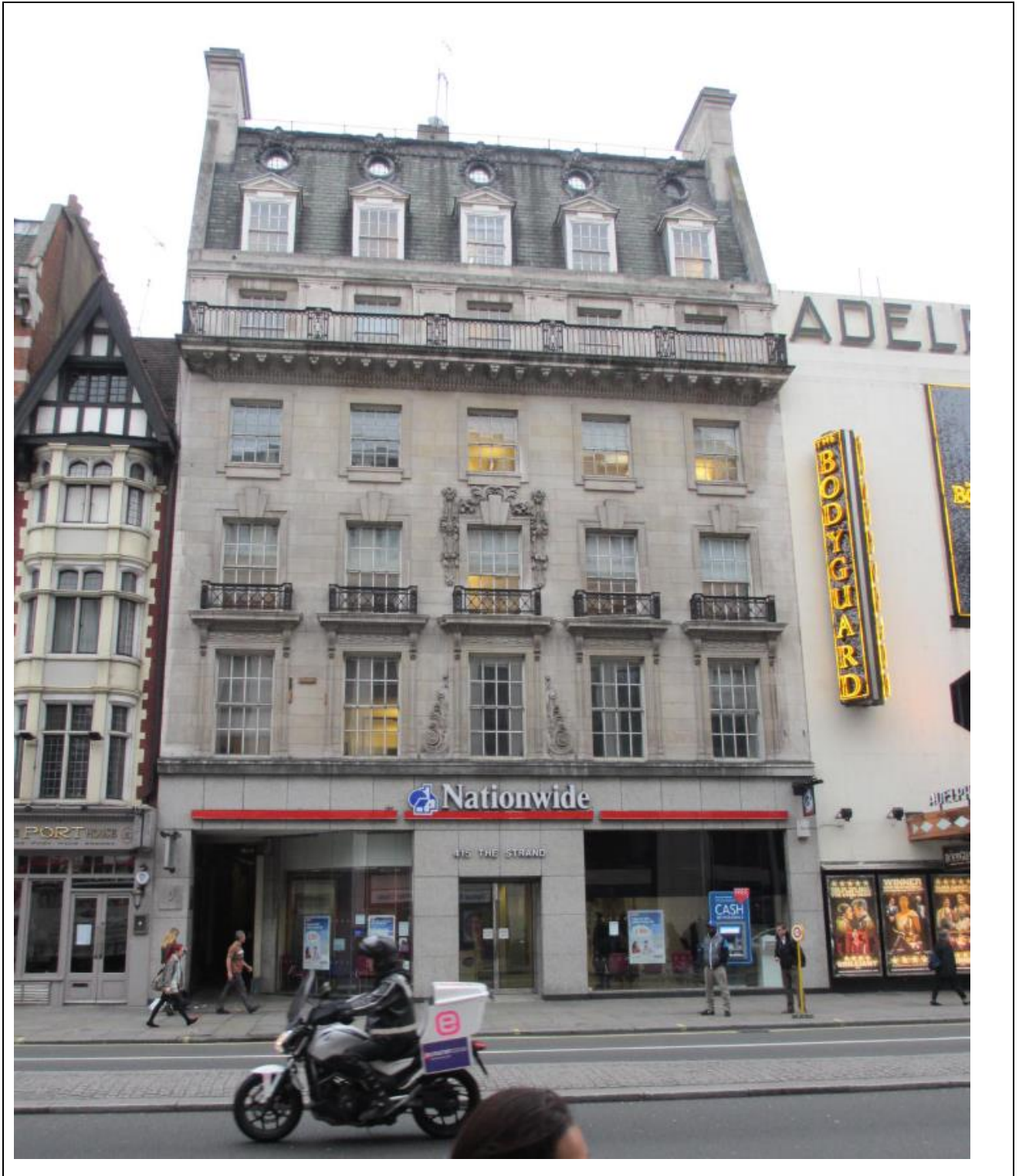
### 3. LOCATION PLAN



Existing Block Plan  
Scale 1:1000

This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and/or

4. PHOTOGRAPHS





## 5. CONSULTATIONS

### COVENT GARDEN COMMUNITY ASSOCIATION

Object to the introduction of a hotel use in this location in a small, narrow, pedestrian residential court (Exchange Court). Planning permission was recently granted for a hotel at 418-422 Strand and 50 Bedford Street which also faces onto Exchange Court. The current application is for a much more intensive use, in addition to the hotel use already permitted.

Potential noise, disturbance and overlooking impacts on local residents. The Hotel entrance and activity would take place in the quiet, narrow pedestrianised passageway Heathcock Court. These passageways are valued by the local residential community, and are highly characteristic of this part of the conservation area. Increasing footfall in the passageway would harm the character of the conservation area whilst creating unprecedented disturbance in these residential areas.

The applicant has not identified a clear process for managing taxis and private hire vehicles arrivals/ departures including measures to deter coaches. Increase in servicing and delivery needs will result in an obstruction to the Strand, and noise and disturbance associated with increased deliveries. The installation of plant at rooftop level will further compound noise and disturbance to residents in the area.

Infilling and extending the lightwells will increase the building's massing, resulting in an increased built-up character given the building's location in a narrow passageway.

The proposals indicate the existing gates from Strand to Heathcock Court will be removed so hotel guests can access the hotel entrance which will give rise to security implications.

### COVENT GARDEN AREA TRUST

Any response to be reported verbally.

### THEATRES TRUST

Any response to be reported verbally.

### CRIME PREVENTION DESIGN ADVISOR

Any response to be reported verbally.

### ENVIRONMENTAL HEALTH

No objection subject to conditions.

### HIGHWAYS PLANNING MANAGER

The proposed hotel use will result in higher levels of activity at different times to the existing office use, however, the activity of guests arriving and departing the site (both vehicular and pedestrian) will not result in a significant detrimental impact on highway safety or operation.

Nine cycle parking spaces are proposed which exceeds London Plan Policy 6.9.

No off-street servicing is provided which is not consistent with policies S42 of the Westminster's City Plan or TRANS20 of the UDP. All servicing will need to comply with on-street restrictions. There are single yellow lines in the vicinity where servicing can occur, but these are already in high demand from other surrounding users and transporting goods along the footway may obstruct pedestrian movement, however, the current B1 use is serviced in a similar fashion.

No provision for coach party arrivals or departures is provided which may result in coaches stopping on the public highway and obstruct traffic (including buses). No additional space is available on-street to provide coach facilities for the proposed use. A Servicing and Operational Management Plan would be required prior to occupation of the hotel to identify process, internal storage locations, scheduling of deliveries and staffing as well as a clear process for managing coach party arrivals and departures.

Alterations are proposed to the elevations and lighting within Heathcock Court which is public highway. Details should be secured by condition.

#### CLEANSING OFFICER

No objection subject to condition.

#### ADJOINING OWNERS/OCCUPIERS

No. Consulted: 77

No. Replies: 2

One letter received on behalf of the 21 residents of Turner House (which overlooks the back of proposed development) raising no objection provided that the following comments are met:

#### Amenity

- privacy: opaque lower-half windows for floors three upwards;
- noise: no loud roof-level noise, no parties, no one externally to the premises, treble glazed non-openable windows;
- smartening up the back outside exterior of the building;
- no one loitering out the back of the premises which can cause late night disturbance to residents;
- installation of a bottle crusher.

The Adelphi Theatre seek to ensure that protective measures are secured to ensure that the Theatre is not adversely affected by noise and vibration.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

1 Heathcock Court forms part of 415 Strand. It is located on the northern side of the Strand and oversails the entrance to Heathcock Court a pedestrianised alleyway to the western side which runs through to Maiden Lane.

The building comprises basement, ground and six upper floors. The basement and front half of the ground floor are in use as a building Society (class A2) with an entrance on the Strand, this does not form part of the application. The application relates to the rear part of the ground floor, accessed from Heathcock Court, at the centre of the building and the six upper floors which are currently in office use (Class B1). The rear of the building faces onto a publicly accessible courtyard, opposite the rear of The Porter House Public House and Turner House, a residential block of flats above.

The building dates from the early 20th century, it is not listed, but is adjacent to the Grade II listed Adelphi Theatre and 409-410 Strand. It lies within the Covent Garden Conservation Area and the Core Central Activities Zone (CAZ).

### 6.2 Recent Relevant History

31 August 1995 - Certificate of lawfulness for the existing use of the second to sixth floors as class B1 offices granted.

22 January 2007 – Permission was granted for the installation of two gates, one at either end of Heathcock Court. This included a condition to ensure that the gates were left open between the hours of 7am and 7pm to ensure that public access was maintained.

## 7. THE PROPOSAL

Planning permission is sought for the use of part ground and the upper floors of the building as a 118-bed hotel (Class C1) with an ancillary cafe at ground floor level.

Infill extensions are proposed within the two flank lightwells. A glazed extension is proposed in the northern lightwell to provide a stair core, with the southern infill extension to provide bedroom accommodation with no glazing. New windows and doors are proposed to the rear at ground, second, third and fifth floor levels and all windows to the rear elevation will contain obscure glass to the lower pane and contain secondary glazing. New and relocated plant and photovoltaics are proposed at roof level.

The application has been submitted on behalf of Z-hotels. It is their intention to provide high quality, limited service, affordable hotel accommodation, with an ancillary cafe facility at ground floor level.

## DETAILED CONSIDERATIONS

### 7.1 Land Use

The existing and proposed land uses can be summarised as follows.

|                   | Existing GIA (sqm) | Proposed GIA (sqm) |
|-------------------|--------------------|--------------------|
| Office (class B1) | 1,756              | 0                  |
| Hotel (class C1)  | 0                  | 1,954              |
| Total             | 1,756              | 1,954              |

(Applicants calculations)

#### Loss of office use

The proposal will result in the loss of 1,756sqm of office floorspace. Policy S20 of Westminster's City Plan (November 2016) relates to offices and seeks to restrict the loss of office space to housing, however, the loss of offices to other commercial uses is acceptable. The proposal is therefore in accordance with this policy.

#### Hotel use

Policy S23 of the City Plan and TACE 2 of the UDP relate to new hotels, which are directed to the Core CAZ. Policy TACE 2 states that within the CAZ, in streets that do not have a predominantly residential character, planning permission will be granted for new hotels where no environmental and traffic effects would be generated and adequate on-site facilities are incorporated within developments proposing significant amounts of new visitor accommodation, including spaces for the setting down and picking up of visitors by coaches and taxis serving the hotel.

The proposal is for a high intensity 118-bedroom hotel by Z-hotels whose concept is to achieve a feeling of comfort and luxury within a limited floor area. The hotel bedrooms are of a compact size (between 7sqm - 13sqm) with 60 rooms (51%) without windows. This is an established concept within Z-hotels who currently have four other hotels in Westminster at 17 Moor Street, 5 Lower Belgrave Street, 2 Orange Street and 23 Gloucester Place and a further permitted scheme on Bedford Street.

The hotel entrance and reception will be located at ground floor level half way along Heathcock Passage, away from the residential windows of Turner House. The reception will be staffed 24 hours a day and provide natural surveillance to this part of the passage. Heathcock Court is covered by a Gating Order, allowing the highway to be gated between 12 midnight and 0700, daily. This application does not alter this order. The applicant has confirmed that 'out of hours' access into the hotel by guests and staff will be via a swipe-card entry system for both gates and includes a video/call entry system for visitors which will be monitored by the hotel reception on a 24hr basis.

The café at ground floor level will provide 35 covers (approximately 36sqm) and provide breakfast, hot and cold drinks and light snacks. The applicant states that the café will cater for hotel guests and up to two of their visitors and will be closed at 23.00. No other facilities such as a spa/gym, meeting rooms or restaurant/bar often associated with hotels are proposed and hotel guests are therefore likely to be out for most of the day.

The proposed hotel is considered an appropriate use in this central area of Westminster, close to many of London's top tourist attractions and with good access to public transport. The applicant states that the primary function of the hotel operation will be to ensure that guests benefit from a quiet environment during night time hours. Therefore, it is in the hotels interests to ensure that noise disturbance from hotel guests is kept to a minimum. It is recommended that an operational management plan and a servicing management plan be secured by condition to ensure that the proposed hotel would not have a significant effect on residential amenity or local environmental quality.

Concern has been raised regarding the cumulative impact of hotel developments within the area. Whilst other hotel uses have been approved in the area recently, it is not considered that there is an over proliferation of hotel use and the proposal would complement the existing multifaceted mix of uses in the Covent Garden area as well as cater for tourist and business travellers. It is considered that this location within the Core CAZ and Covent Garden would be appropriate for a new hotel use.

The Adelphi Theatre is located next door to the application site. Understandably they have sought to ensure that protective measures are secured to ensure that the theatre is not adversely affected by noise and vibration from the development. It will also be necessary for the applicant to demonstrate that the hotel has proper soundproofing to ensure that hotel guests are not disturbed by activities within the theatre. It is therefore recommended that our standard noise conditions are used to ensure that the plant and machinery and the internal noise environment within the hotel meets policies ENV 6 and ENV 7 of the UDP. Furthermore a condition specifically requiring details of soundproofing measures for the hotel to ensure compliance with ENV 6 is recommended.

The servicing and highways implications of the development are detailed in section 7.4 of this report.

## **7.2 Townscape and Design**

The proposed external works include the infilling of the two lightwells at the sides of the building. One infill extension is proposed above first floor level adjacent to the Adelphi Theatre (the ground floor is already infilled as is part of the first floor level), and the other is proposed above first floor level adjacent to no. 417 Strand. Infilling the lightwell with a small setback at the party wall with no. 417 Strand and introducing a glazed extension in the east lightwell to accommodate a staircase, is considered acceptable in design terms. Given the enclosed locations of the two lightwells, the infill extensions would only be visible from limited views within the public realm. They would not be visible in long views up and down the Strand or from Maiden Lane.

Rationalisation of plant and the addition of PV panels are proposed at roof level. The proposed vent shaft at 6th floor level and proposed roof top plant and associated enclosures would not rise any higher than the existing roof top plant enclosure. At the rear of the building, the proposed windows would match the existing fenestration pattern with the brickwork arch retained and introduced where necessary.

The proposals in the passage include new lighting and the introduction of fenestration at ground floor level which are considered to improve the quality of the space and are welcomed in design terms.

The proposals are considered acceptable in design and conservation terms and comply with policies in chapter 12 of the NPPF, strategic policies S25 and S28 in Westminster's City Plan and UDP Policies DES 1, DES 5, DES 6, DES 9 and DES 10.

### **7.3 Residential Amenity**

Policy S29 of the City Plan and ENV 13 of the UDP aim to protect the amenity of residents from the effects of development. Policy ENV13 states that the Council will resist proposals that would result in a material loss of daylight/sunlight, particularly to dwellings, and that developments should not result in a significant increased sense of enclosure, overlooking or cause unacceptable overshadowing.

The City Council generally has regard to the standards for daylight and sunlight as set out in the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight' (as revised 2011). The applicant has submitted a sunlight and daylight report using the methodology set out in the BRE guidelines in relation to the nearest, most affected residential properties at 1-5 Exchange Court; Turner House; 406-408 Strand and 12 Maiden Lane. The report confirms that the proposed extensions will comply with BRE guidelines and there will be no material loss of sunlight or daylight in relation to all surrounding residential properties

The CGCA and one letter on behalf of residents of Turner House have raised concern about overlooking and noise from the rear windows of the proposed hotel. The windows to the rear elevation looking towards Turner House will have obscure glass in the lower pane up to 1.75m in height to protect the privacy of residents opposite. All rooms will have comfort cooling and it is proposed to introduce secondary glazing and have sealed non-openable windows to prevent noise outbreak.

Plant is proposed at main roof level. Environmental Health have raised no objection to the proposal subject to conditions to secure full details and a supplementary acoustic report when plant has been selected, location and hours finalised, and the attenuation measures are available to confirm compliance with the Council's standard noise condition.

The application is therefore considered acceptable in amenity terms in accordance with policies C29, C32, of the City Plan and ENV13, ENV6 and ENV7 of the UDP.

### **7.4 Transportation/Parking**

#### **Servicing and deliveries**

The existing building currently has no vehicular access and no off-street servicing or parking. Servicing and refuse collection is currently undertaken on-street. Although policies S42 of the City Plan and TRANS20 of the UDP require the provision of off-site

servicing arrangements in new developments, it is accepted that this is not possible as part of this scheme which does not involve comprehensive redevelopment of the site.

It is proposed to service the hotel from The Strand using the on street servicing bay (7.00 - 10.30am only). The applicant estimates that a maximum of five deliveries will be required per day for food, beverages and linen. Whilst on-street servicing is not an ideal solution, given the existing uncontrolled servicing arrangements for the offices, it is considered that planning permission could not reasonably be withheld on servicing grounds. Subject to the submission of a Servicing and Operational Management Plan, it is considered that the hotel use would not generate an unacceptable level of highways disruption sufficient to warrant refusal.

The Highways Planning Manager requests details of how coaches and taxis will be managed. The applicant has confirmed that bookings for coach parties will not be accepted. In addition to a Servicing and Management Plan, a further condition is recommended to explicitly rule out coach parties, to ensure that any future change would need approval by the Council.

#### **Cycle Parking**

Nine secure cycle parking spaces are proposed at ground floor level which exceeds London Plan Policy 6.9 which requires 1 cycle parking space per 20 bedrooms (6 spaces). It is recommended that this be secured by condition.

#### **Heathcock Court**

The Gating Order to Heathcock Court will remain. Improved lighting, new fenestration and enhanced finishes are proposed at ground floor level within Heathcock Court which are welcomed and it is recommended that full details be secured by condition.

### **7.5 Economic Considerations**

The economic benefits associated with the creation of a new hotel are welcomed.

### **7.6 Access**

The proposed development has been designed to meet the requirements of the Disability Discrimination Act (DDA) and incorporates the principles of inclusive design. Level access is proposed into the building with lift access to all floor levels. Six hotel bedrooms (5%) are proposed to be fully wheelchair accessible, with a further 6 rooms (5%) being adaptable in accordance with the London Plan's requirement for 10% of rooms to be wheelchair accessible. The accessible bedrooms are dispersed throughout the hotel to give a choice of room options.

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

#### **Sustainability**

The applicant has submitted an Energy and Renewables Statement in support of their application. The existing building envelope will be improved and the development will

incorporate energy efficient mechanical and electrical elements including a combined heat and power unit (CHP) and 57sqm of PV cells at roof level, which will achieve a 36.6% improvement in carbon emissions based on the current Building Regulations (2013).

### **Refuse /Recycling**

The waste store is proposed to be located at ground floor level. The Cleansing Manager is satisfied that the refuse and recycling storage requirements for the development can be met. The waste store is currently accessed through the cycle store which is not considered an appropriate arrangement, and it is therefore recommended that the detailed design of the refuse store be secured by condition

## **7.8 London Plan**

This application raises no strategic issues.

## **7.9 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.

## **7.10 Planning Obligations**

Planning obligations are not relevant in the determination of this application. The applicant has agreed to provide an employment and training opportunities strategy for the hotel use and it is recommended that this be secured through a Grampian condition.

The estimated CIL payment is £59,632.79 (£45,737.27 Westminster CIL and £13,895.52 Mayor's CIL).

## **7.11 Other Issues**

### **Crime and security**

The hotel will have a 24-hour reception which will provide active surveillance of Heathcock Court. Improved lighting is proposed at ground floor level within Heathcock Court which will enhance the environment of this area and it is recommended that these works be secured by condition. The installation of Z- Hotels own CCTV system covering the hotel entrances is proposed and again it is recommended that details be secured by condition.

## **8. BACKGROUND PAPERS**

1. Application form.
2. Memorandum from Environmental Health dated 16 November 2017.



3. Memorandum from Highways Planning Manager dated 10 January 2018.
4. Memorandum from Cleansing dated 10 January 2018.
5. Letter from Covent Garden Community Association dated 12 December 2017.
6. Letter from occupier of Flat 11, Turner House, dated 28 November 2017.
7. E-mails from Dentons on behalf of The Adelphi Theatre dated 15 January and 31 January 2018.

(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: **MATTHEW MASON** BY EMAIL AT [MMASON@WESTMINSTER.GOV.UK](mailto:MMASON@WESTMINSTER.GOV.UK)

9. KEY DRAWINGS



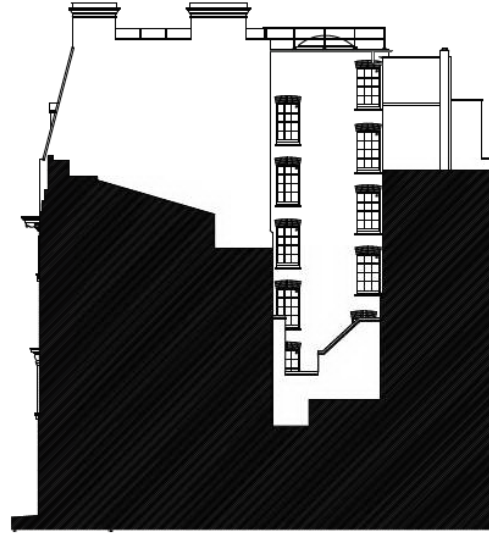
Existing elevation 01 - facing the Strand



Existing elevation 02 - rear courtyard

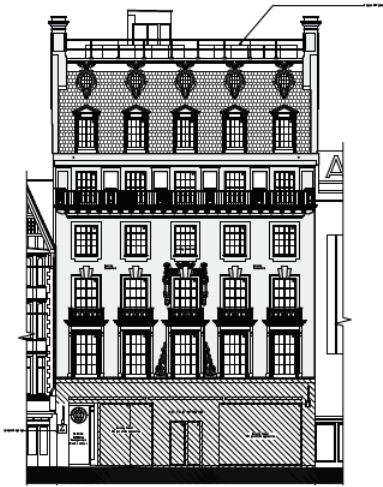


Existing elevation 03 - facing south-west

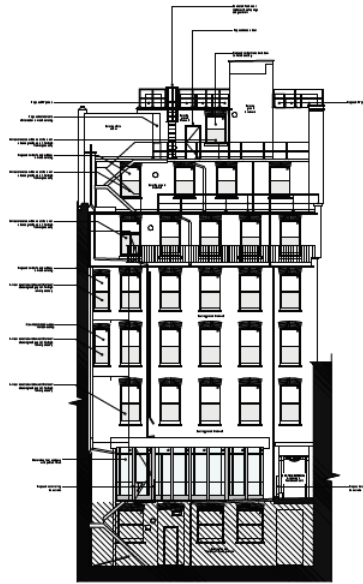


Existing elevation 04 - facing north-east

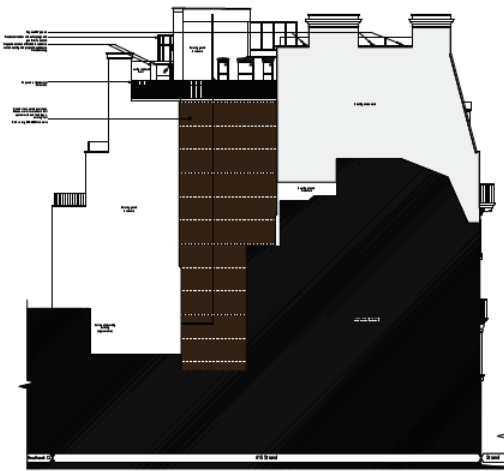
Existing Elevations



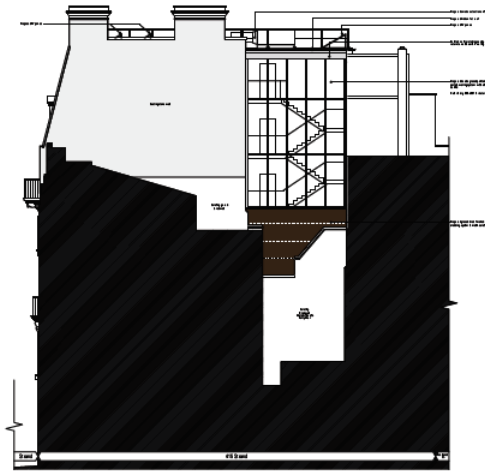
Proposed elevation 01 - facing Strand



Proposed elevation 02 - facing rear courtyard

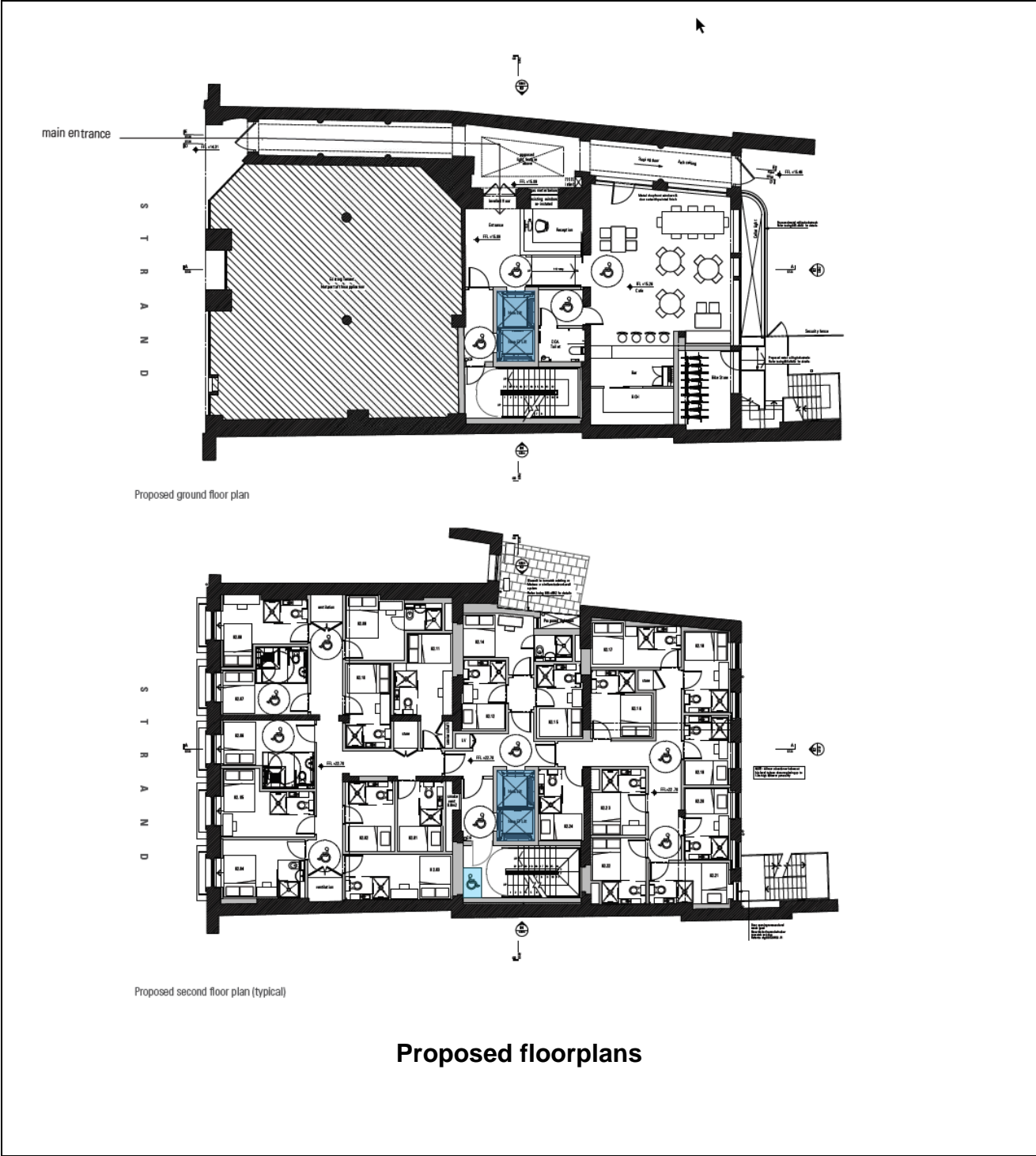


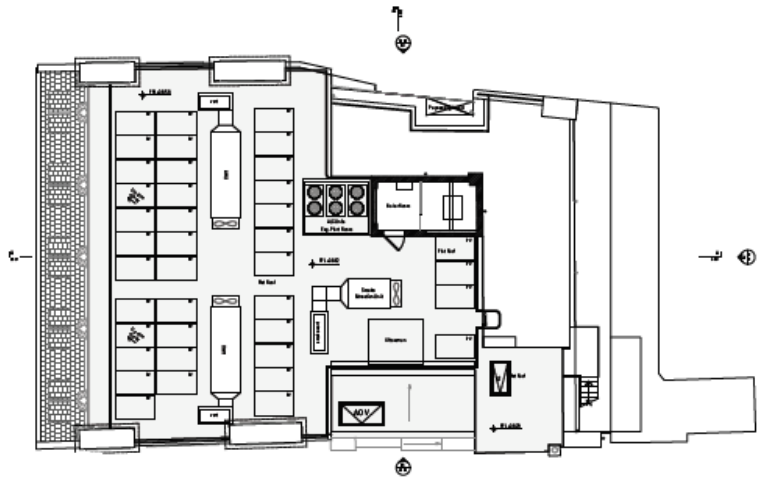
Proposed elevation 03 - facing south-west



Proposed elevation 04 - facing north-east

### Proposed Elevations





Proposed roof level

### Proposed roofplan

**DRAFT DECISION LETTER**

**Address:** 1 Heathcock Court, London, WC2R 0JT

**Proposal:** Use of part ground and the upper floors of the building as a hotel (Class C1) with ancillary cafe at ground floor level; extensions within existing lightwell; alterations to existing and new windows and doors to rear elevation; and installation of new and relocated plant and photovoltaics at roof level.

**Reference:** 17/09494/FULL

**Plan Nos:** 885\_EXS01/P1; 885\_EXGAB1/P1; 885\_EXGA00/P1; 885\_EXGA01/P1; 885\_EXGA02/P1; 885\_EXGA03/P1; 885\_EXGA04/P1; 885\_EXGA05/P1; 885\_EXGA06/P1; 885\_EXGARF/P1; 885\_EXGE01/P1; 885\_EXGE02/P1; 885\_EXGE03/P1; 885\_EXGE04/P1; 885\_EXGS01/P1; 885\_EXGS02/P1; 885\_EXGS03/P1; 885\_EXGS04/P1; 885\_S01/P1; 885\_GAB1/P1; 885\_GA00/P2; 885\_GA01/P1; 885\_GA02/P1; 885\_GA03/P1; 885\_GA04/P1; 885\_GA05/P1; 885\_GA06/P1; 885\_GARF/P1; 885\_GE01/P1; 885\_GE02/P1; 885\_GE03/P1; 885\_GE04/P1; 885\_GS01/P1; 885\_GS02/P1; 885\_GS03/P1; 885\_dW01/P1; 885\_dE01/P1; 885\_dE02/P1; Planning statement by Planning Resolution; Design and Access Statement dated October 2017; Heritage Statement dated October 2017; Energy and Renewables statement dated 31 March 2017; BREEAM Pre-Assessment dated 3 October 2017; Acoustic and Vibration Survey dated 14 March 2017 Rev P1; Sustainable Design and Construction Statement dated 24 October 2017 Rev D; Transport Statement dated October 2017 Rev 01; Sunlight & Daylight Report dates 29 March 2017; Air Quality Assessment, prepared by Air Quality Consultants; Delivery and Servicing Management Plan dated January 2018 Rev 01.

**Case Officer:** Julia Asghar

**Direct Tel. No.** 020 7641 2518

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

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: , o between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , o not at all on Sundays, bank holidays and public holidays. , , You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and , o not at all on Saturdays, Sundays, bank holidays and public holidays. , , Noisy work must not take place outside these hours unless otherwise agreed through a Control of

Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Covent Garden 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 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

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 Covent Garden 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)

- 5 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

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 Covent Garden 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)

- 6 The glass that you put in the lower pane of the windows in the rear elevation at first to sixth floor level must not be clear glass, and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

## Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 7 Customers shall not be permitted within the ancillary cafe before 0600 or after 2300 each day. (C12AD)

## Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE2 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

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

## Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness



of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 9 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 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.

- 10 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 8 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels.

- 11 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the hotel use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest., , (2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the hotel use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest., , (3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: (a) The location of most affected noise sensitive receptor location and the most affected window of it; (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a)

above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (d) The lowest existing LA90, 15 mins measurement recorded under (c) above; (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition; (f) The proposed maximum noise level to be emitted by the activity.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 12 No music shall be played in the hotel such as to be audible outside the premises.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 13 The design and structure of the development shall be of such a standard that it will protect hotel guests 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 hotel guests of the development from the intrusion of external noise.

- 14 You must not cook raw or fresh food on the premises. (C05DA)

Reason:

The plans do not include any kitchen extractor equipment. For this reason we cannot agree to unrestricted use as people using neighbouring properties would suffer from cooking smells. This is as set out in S24 and S29 of Westminster's City Plan (November 2016) and ENV 5 of our Unitary Development Plan that we adopted in January 2007. (R05EC)

- 15 You must apply to us for approval of a Servicing and Operational Management Plan prior to occupation. The plan should identify process, internal storage locations, scheduling of deliveries and staffing, and a

clear process for managing taxis and private hire vehicles arrivals/, departures including measures to deter coaches. You must not commence the hotel use until we have approved what you have sent us. The Servicing and Operational Management Plan must thereafter be maintained and followed by the occupants for the life of the development.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 16 The hotel shall not knowingly accept bookings from parties using a vehicle with a capacity of 14 or more persons to travel to and from the premises.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 17 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 18 You must apply to us for approval of details of how waste is going to be stored on the site. 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 waste store in line with the approved details, and clearly mark it and make it available at all times to everyone using the building. You must not use the waste store for any other purpose. (C14CD)

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)

- 19 You must apply to us for approval of details of secure cycle storage for the hotel use. 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.

- 20 You must apply to us for approval of details of the following parts of the development :- , (i) detailed design and methodology of work to Heathcock Passage including full details of lighting (including luminance/lux levels)., (ii) CCTV cameras to hotel entrances., , You must not occupy the hotel until we have approved what you have sent us. You must then carry out the work according to these details. (C26DB)

## Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

- 21 You must not use any part of the development until we have approved appropriate arrangements to secure the following., , i)An employment and training opportunities strategy for the hotel use., , In the case of each of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements. (C19BA)

## Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 of Westminster's City Plan (November 2016) and in STRA7 of our Unitary Development Plan that we adopted in January 2007. (R19AC)

- 22 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application., , Photovoltaics, , You must not remove any of these features. (C44AA)

## Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44AC)

- 23 You must apply to us for approval of details of a supplementary acoustic report and sound insulation measures demonstrating that the hotel bedrooms will comply with the Council's internal noise criteria as set out in Condition 13 of this permission. You must not allow the public to occupy any hotel room until we have approved what you have sent us and the sound insulation measures have been installed.

## Reason:

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

- 24 **Pre Commencement Condition.** No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority. The plan shall provide the following details:; (i) a construction programme including a 24 hour emergency contact number; ; (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);; (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;; (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);; (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and; (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works. ; (vii) details of mitigation measures to reduce impact on the neighbouring theatre during matinee performances.; (viii) details of liaison with the neighbouring Adelphi Theatre.; You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

**Reason:**

To protect the environment of neighbouring residents, businesses and the Adelphi Theatre as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

**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 Under condition 22, we are likely to accept a legal agreement under section 106 of the Town and Country Planning Act to secure an employment and training opportunities strategy for the hotel use. Please look at the template wordings for planning obligations (listed under 'Supplementary planning guidance') on our website at [www.westminster.gov.uk](http://www.westminster.gov.uk). Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition. (I77AA)
- 3 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)

- 4 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 6 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 7 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)
- 8 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)
- 9 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)
- 10 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 11 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.

- 12 Please contact a Metropolitan Police Crime Prevention Design Adviser about suitable security measures for your development. You should also check whether any measures will need planning approval., , You should contact:, David Fisher on 020 8217 3813 or by email docomailbox.ne@met.police.uk, , He is based at:, Lower Ground, Bow Road Police Station , 111-117 Bow Road , London E3 2AN , (I74AA)
- 13 Conditions 9 and 11 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 14 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil) , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form** , CIL forms are available from the planning on the planning portal: , <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.**
- 15 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point., , If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)
- 16 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)

|          |
|----------|
| Item No. |
| <b>2</b> |

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.



This page is intentionally left blank

# Agenda Item 3

Item No.

3

|  |  |  |                  |
|--|--|--|------------------|
| <b>CITY OF WESTMINSTER</b>               |  |  |                  |
| <b>PLANNING APPLICATIONS COMMITTEE</b>   | <b>Date</b><br>6 March 2018  | <b>Classification</b><br>For General Release |                  |
| <b>Report of</b><br>Director of Planning | <b>Ward(s) involved</b><br>Lancaster Gate  |  |                  |
| <b>Subject of Report</b>                 | 12 Garway Road, London, W2 4NH   |  |                  |
| <b>Proposal</b>                          | Excavation of a basement floor below existing house and part of front and rear gardens, demolition and rebuilding of rear lower ground floor level conservatory, enlargement of front lightwell, insertion of rooflight with decorative metal grille over within front lightwell, internal alterations and removal of tree from rear garden. |  |                  |
| <b>Agent</b>                             | Savills  |  |                  |
| <b>On behalf of</b>                      | Mr & Mrs Marco Arosio  |  |                  |
| <b>Registered Number</b>                 | 17/01993/FULL & 17/01994/LBC   | <b>Date amended</b>                          | 27 November 2017 |
| <b>Date Application Received</b>         | 6 March 2017   |  |                  |
| <b>Historic Building Grade</b>           | II   |  |                  |
| <b>Conservation Area</b>                 | Bayswater  |  |                  |

## 1. RECOMMENDATION

1. Grant conditional permission and conditional listed building consent.
2. Agree reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

The application site forms one half of a grade II listed 1830's semi-detached villa pair located within the Bayswater Conservation Area.

Planning permission and listed building consent were granted on 13 December 2016 (RNs: 16/05395/FULL and 16/05396/LBC) for the excavation of a basement extension under the building and part of the front and rear gardens, with front and rear lightwells. The decision to grant permission and consent was subsequently the subject of a Judicial Review, which cited three linked grounds in relation to the City Council's assessment of the impact of the development in terms of flood risk, particularly from surface water flooding, given the site is located within a 'surface water flood risk hotspot' in the 'Basement Development in Westminster' Supplementary Planning Document (October

2014). The grounds for the Judicial Review are set out in further detail in Section 6.2 of this report. The Judicial Review was not contested and the Consent Order was sealed by the court on 9 March 2017 thereby quashing the permission and consent granted on 13 December 2016.

Prior to the permission and consent that were quashed in March 2017, two earlier appeals against non-determination had been dismissed on 22 September 2015 and 20 May 2016 for excavation of basement extensions of differing detailed design. In both of these decisions, the Inspector and City Council concluded that the principle of the basement extension was acceptable; albeit it is recognised that this was prior to the adoption of the 'basement development' policy, CM28.1 in the City Plan in July 2016, and this report re-examines the acceptability of the principle of basement development below this listed building in light of the adoption of this policy. The dismissed appeals identified elements of the detailed design, in relation to the front and rear lightwells, which were not appropriate in listed building and conservation area terms.

The applications for permission and consent that have now been submitted propose the excavation of a basement below the existing house and part of the front and rear gardens, demolition and rebuilding of the rear lower ground floor level conservatory, enlargement of the front lightwell, insertion of a rooflight with a decorative metal grille over within front lightwell, internal alterations and the removal of tree from rear garden.

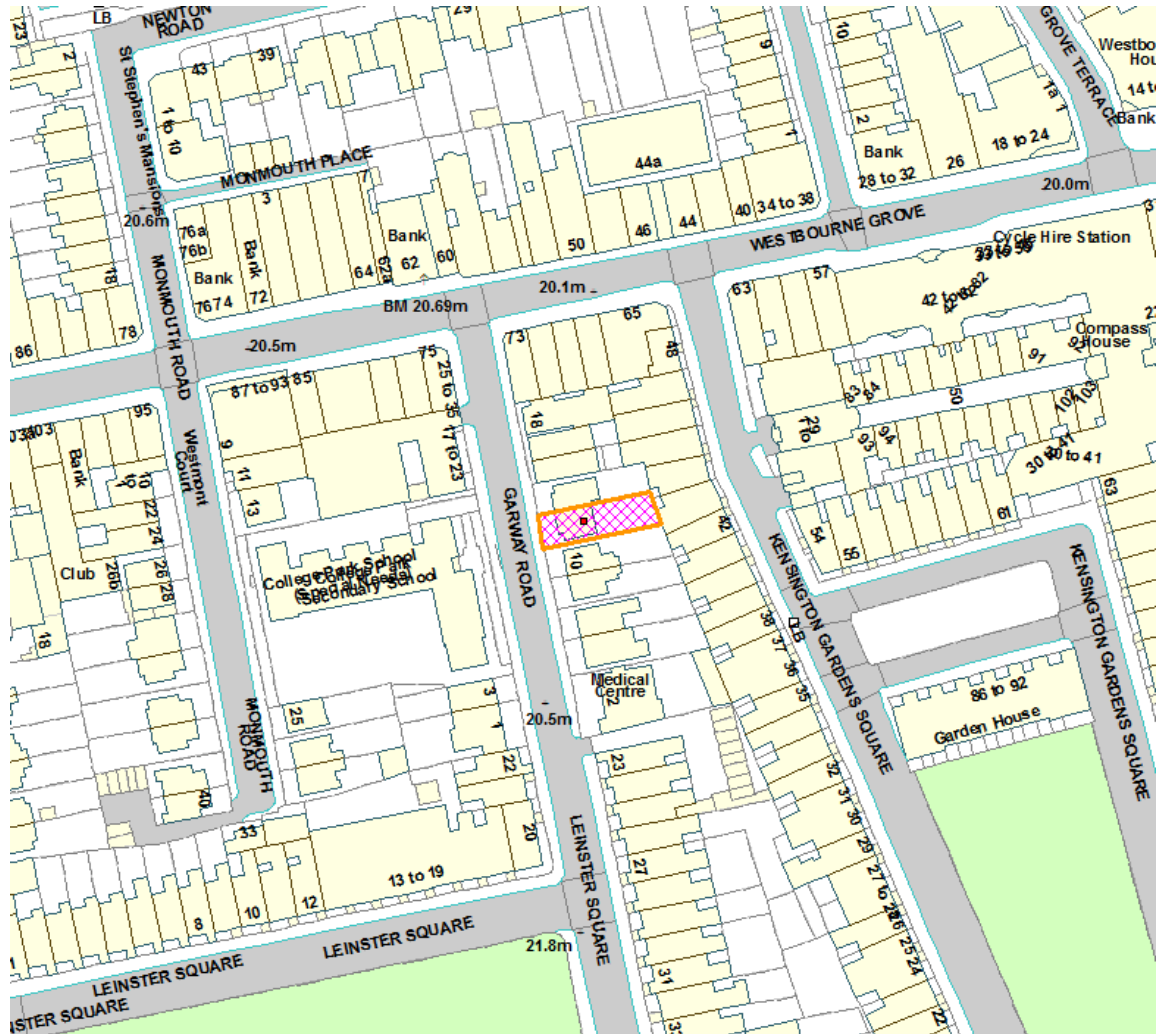
Also of note is that an application for the excavation of a basement extension below the neighbouring property at No.14 Garway Road, which comprises the other half of this semi-detached villa pair, is also on this committee meeting agenda (Item 4).

The key considerations in this case are:

- The impact of the proposed internal and external alterations on the significance of the listed building and the setting of the listed paired villa.
- The impact of the proposed external alterations on the character and appearance of the Bayswater Conservation Area.
- The compliance of the proposed basement with the basement development policy (CM28.1 in the City Plan), including the impact of the development on flood risk and the appropriateness of the structural methodology in terms of its suitability to the ground conditions in this location and its ability to safeguard the host listed building and its neighbour at No.14.
- The impact of the proposed development on trees on the site and adjacent to it.
- The impact on the amenity of neighbouring residents.

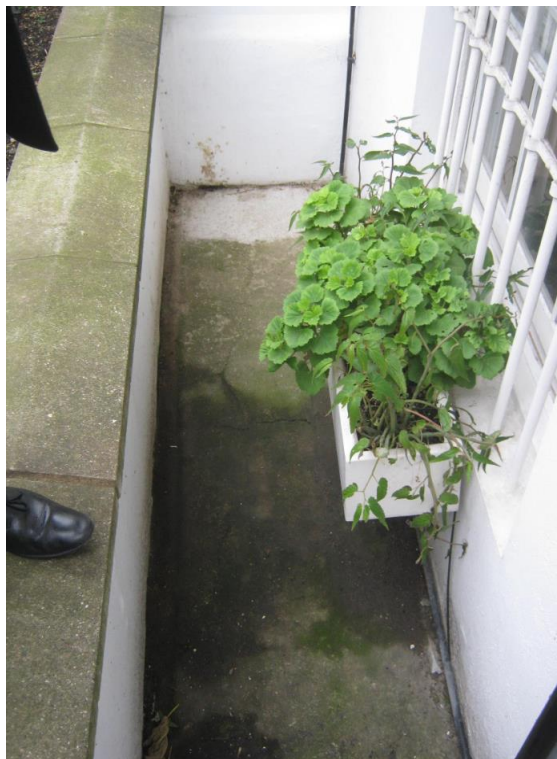
For the detailed reasons set out in this report, it is not considered that the proposed development would harm the significance of the host listed building, the setting of neighbouring listed buildings including No.14 Garway Road or the character and appearance of the Bayswater Conservation Area. Furthermore, the current application demonstrates general compliance with the basement development policy (Policy CM28.1 in the City Plan) and is also acceptable in land use, amenity and environment terms. Accordingly, the proposed development would comply with the relevant policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan). Therefore, it is recommended that planning permission and listed building consent are granted subject to the conditions set out in the draft decision letters appended to this report.

### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and/or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



Front elevation with No.12 on right (top) and existing front lightwell (bottom).





Existing lower ground floor level conservatory (top) and rear patio area (bottom).

## 5. CONSULTATIONS

### WARD COUNCILLORS (LANCASTER GATE)

Any response to be reported verbally.

### BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally.

### ARBORICULTURAL MANAGER:

Proposal results in loss of a bay tree in the rear garden, which is considered regrettable, but has previously been accepted as part of the scheme considered at appeal. Trial excavations demonstrate that roots of the Sycamore in adjacent garden are unlikely to be affected by rear excavation. Trees to be retained to the rear must be protected during works. Proposed basement below the front garden would have an undeveloped margin and a soil depth of 1300mm above it and this is welcomed. The undeveloped margin at the rear would be offset/ provided on one side of the basement only and there would be no soil depth provided over the rear section of the basement. Considers that the offsetting of the undeveloped margin and lack of soil depth are contrary to Policy CM28.1 in the City Plan (the 'basement development' policy). Notes though that the excavation to the rear would be below the existing sunken patio/ shallow lightwell. On balance raises no objection, but recommends landscaping and replacement tree planting is secured by condition.

### BUILDING CONTROL

Further to the provision of further information in April 2017 and November 2017 the following comments have been provided. The structural stability, geology and hydrology issues have all been adequately covered in the submitted documents.

#### Structural Stability:

- While engineering and structural matters are controlled through the Building Act 1984, Building Regulation 2010 and the party Wall Act 2005, the feasibility report submitted illustrates that the basement can be achieved, whilst structurally supporting the building, with piles and steel framing for lateral support.
- The buildings do not have any visible damage from wartime bombing. The basement will provide a firm base for the buildings above.

#### Geology:

- A site investigation in 2014 with 6m deep test excavations showed that the subsoil was firm to stiff London clay, so there would be no damming effect from the concrete construction of the basement.

#### Hydrology:

- The site does not fall within a sea or river floodplain and there is a low chance of flooding by extreme rainfall. The site investigation shows that surface water only flows in the top 1.6m of permeable soil.
- The proposed basement would be constructed in London clay which has a very low rate of absorption. The basement will result in the replacement of the existing drainage system and will allow for the increased capacity of storage for drainage in line with the Building Regulations. The new system will have a sump system, to deal with any water ingress through the wall or from under the slab.

- The proposal would not increase flood risk to other properties and this property could be 'operated' safely.

**CLEANSING MANAGER**

No objection. Condition recommended.

**ENVIRONMENT AGENCY**

Any response to be reported verbally.

**HIGHWAYS PLANNING MANAGER**

No objection. Conditions and informatives recommended.

**HISTORIC ENGLAND**

Do not consider it necessary to be consulted.

**LONDON AND MIDDLESEX ARCHAEOLOGY SOCIETY (LAMAS)**

Strong objection to the insertion of a basement under the whole site was deemed wholly inappropriate.

**ANTICENT MONUMENT SOCIETY**

Any response to be reported verbally.

**COUNCIL FOR BRITISH ARCHAEOLOGY**

Any response to be reported verbally.

**THE GEORGIAN GROUP**

Any response to be reported verbally.

**SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS**

Any response to be reported verbally.

**TWENTIETH CENTURY SOCIETY**

Any response to be reported verbally.

**THE VICTORIAN SOCIETY**

Any response to be reported verbally.

**THAMES WATER**

Any response to be reported verbally.

**ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED****Consultation on Originally Submitted Scheme (April/ May 2017)**

No. Consulted: 24.

Total No. of Replies: 3.

No. of Objections: 2.

No. of Support: 1.

Objection raised on all or some of the following grounds:



#### Design, Conservation and Listed Building Issues:

- Clerestorey windows and lay-lights should be omitted from the front lightwell in accordance with the appeal decision dated 20 March 2016.
- Concern that the basement would adversely affect the hierarchy of the listed building, contrary to Policy CM281(B)(6). Note that the 'Basement Development in Westminster' SPD adopts a 'case by case' approach to basements development below listed buildings having regard to the impact on the significance of the building.
- Note that the number of floors is part of the list description and consider that the hierarchy and significance of the building would be harmed.
- Submitted Heritage Statement fails to address the issue of hierarchy of spaces within the building.
- Consider that the scheme would cause less than substantial harm, as defined by Para 134 of the NPPF, but that this is not outweighed by any public benefits.
- Applicants approach to assessing harm to the heritage asset does not accord with the NPPF.
- 'Basement Development in Westminster' SPD advises that the structural method statement should be prepared by a CARE accredited engineer with expertise in historic buildings, but the appointed engineers do not appear to have this qualification. This risks harm to the heritage asset.

#### Flood Risk Issues:

- Adverse impact on drainage from basement.
- Adverse impact on flood risk.
- Application should be accompanied by a flood risk assessment in compliance with CM28.1 in the City Plan and the 'Basement Development in Westminster' SPD as is located within a Surface Water Hotspot.
- CMS submitted by the applicant is not a flood risk assessment.  
In absence of a flood risk assessment it is not possible to determine what mitigation measures are required.

#### Other Issues:

- Loss of green space from rear garden.
- Harm to retained trees and loss of trees.
- Removal of tree would reduce privacy of neighbours.
- Noise and disturbance from construction works.
- Additional light spill from larger windows, doors and rooflights.
- Security lights, if installed, would cause light pollution.

One email received from a neighbouring occupier stating they share a party wall and they support the proposal.

#### Consultation on Revised Scheme Including Flood Risk Assessment dated 21 November 2017 (December 2017/ January 2018)

No. Consulted: 3.

Total No. of Replies: 1.

No. of Objections: 1.

No. of Support: 0.

Objection received from the represent of the three freeholders of 14 A, B and C Garway Road maintain the grounds for objection raised in their earlier representation dated 2 May 2017.

ADVERTISEMENT/ SITE NOTICE

Yes.

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site comprises a grade II listed, early 1830's semi-detached single bay house with side flanking wing. It has attractive brick with stucco detailing and comprises lower ground, ground and two upper floors, below a shallow pitched roof. The building is in use as a single dwelling house.

The house is broadly symmetrical to No.14 and together they form a typical Regency villa composition. These remaining examples of the earlier forms of development within Bayswater positively contribute to the architectural and historical character and appearance of the Bayswater Conservation Area in which they are located.

In terms of the wider context, the neighbouring semi-detached pair to the south at Nos.8 and 10 Garway Road are also grade II listed. Opposite the site is the relatively recently rebuilt College Park School, whilst to the rear of the site the terrace properties facing Kensington Gardens Square are also grade II listed.

### **6.2 Recent Relevant History**

9 March 2017: Consent Order granted quashing the permission and listed building consent of 13 December 2016. The complainant's grounds for bringing the Judicial Review that led to the Consent Order were that in granting planning permission and listed building consent the City Council:

- i. Failed to comply with Policy CM28.1 in the City Plan, which requires the submission of a flood risk assessment for basement development in 'surface water flood risk hotspots', as defined in the 'Basement Development in Westminster' SPD (October 2014);
- ii. Failed to adequately consider all relevant material considerations, namely, it did not have regard to impact of the development on surface water flooding (including cumulatively with No.14); and the impact of the proposed development on flood risk
- iii. Made an error of fact by granting permission and consent on the basis that objections relating to flood risk had been satisfactorily addressed by officers, members and at the previous appeal relating to No.14 Garway Road (see Item 4 on this committee agenda).

13 December 2016: Permission and listed building consent granted under delegated powers for 'Excavation of a basement extension under building and front and rear gardens, with front and rear lightwells' (RNs: 16/12221/FULL and 16/12222/LBC). These decisions were later quashed (see above).

20 May 2016: Non-determination appeals in respect of planning and listed building consent applications for 'Basement extension under the house and part of the garden' were dismissed (RNs: 15/09360/FULL and 15/09361/LBC).

In dismissing the appeal, the Inspector had concerns regarding the clerestory windows and lay-lights/ rooflights within the front lightwell. The Inspector stated *'Light would play on the façade of the building from the clerestory windows, and this would appear out of place and disturb the appearance of the building after dark... There would also be lay-lights in the floor of the basement area and these together with the windows would be visible from the house and the front steps, and the interests of listed buildings is not confined only to those places accessible to the general public'*.

The Inspector also raised concerns regarding the lack of soil depth within the front garden area to be reinstated. The Inspector had regard to the 'Basement Development in Westminster' SPD and noted that whilst an SPD compliant depth of 1 metre plus a 200mm drainage layer was not necessarily required, the depth proposed was not sufficient. The Inspector concluded that *'The risk is that the garden area would not suit or support the level of soft landscaping necessary to even go some way to softening the harsh and intrusive lines of the enlarged basement lightwell and its glazing, in addition to which, in listed buildings, hiding inappropriate or jarring details by planting would not overcome the harm that would have been caused. Whilst the proposals result in only a 'modest increased depth' as was suggested by the previous Inspector, this modest visual increase would have an adverse effect on the appearance of the designated heritage assets of the listed building and the wider conservation area'*.

22 September 2015: Non-determination appeals in respect of planning and listed building consent applications for "Excavation of basement extension, demolition and rebuilding of single storey rear extension, removal and replacement of front garden boundary wall and railings" were dismissed on design and listed building grounds (see appeal decision in background papers) (RNs: 14/11717/FULL and 14/11718/LBC).

In dismissing the appeal, the Inspector concluded that the removal of an original window and introduction of French doors to the front elevation at lower ground floor level and the enlargement of the existing front lightwell would harm the special interest of the listed building. To the rear the Inspector had concerns regarding the size and design of the rear lightwell. She stated that it *'...would be a much wider and deeper feature than the one at the front, in part to include an external staircase to the rear garden. It would not directly abut the original listed building but nonetheless it would be a very large and incongruous feature, which the Council aptly describes as having a moat effect'*. For these reasons the Inspector concluded that the rear lightwell proposed would diminish and detract from listed building and its garden setting.

However, whilst the appeal was dismissed, the Inspector did note that *'...the basement proposal would not harm the listed buildings structural integrity, plan form, or hierarchy of spaces. I therefore find no objection in principle to the overall size of the basement,*

*even though it would extend beyond the listed building's existing footprint'. The Inspector also concluded that the removal of the Bay tree from the rear garden was not objectionable subject to a replacement tree being secured by condition.*

In determining the appeal, the Inspector did not apply Policy CM28.1, which was at that stage a draft policy, which was not being applied by the City Council to proposals for basement development received before November 2015. The Inspector did though provide the following commentary in terms of compliance with the then emerging policy:

*'It is also the case that the proposed lightwell arrangement would not accord with emerging basement Policy CM28.1 part A9 in failing to protect the character and appearance of the building, garden setting or surrounding area as the lightwell would not be sensitively designed or discreetly located. However, the shortcomings identified in this Decision adversely affect the listed building and its setting, and as a result the emerging Policy is not determinative of these Appeals, since the adopted policy and Supplementary Planning Document are sufficient with regard to the specifics of the proposal. The apparent anomaly between the stated implementation date of November 2015 and the guidance in the Framework need not be addressed'.*

22 September 2015: Non-determination appeals in respect of planning and listed building consent applications for: "Installation of five roof lights to main roof, one roof light to flat roof, one window to side elevation at lower ground floor level, removal of window in side elevation at second floor level, erection of front porch and front boundary treatment and associated internal alterations" were part dismissed/ part allowed (14/11841/FULL and 14/11842/LBC).

The Inspector resolved to refuse the rooflights within the main roof of the building, but allowed the other alterations proposed by the appeals, subject to conditions. In terms of the rooflights, in dismissing this part of the appeal the Inspector concluded that *'adding so many rooflights would harm rather than preserve the listed building's special interest'.*

## **7. THE PROPOSAL**

Permission and listed building consent are sought for the excavation of a basement extension below the existing house and part of the front and rear gardens, demolition and rebuilding of the rear lower ground floor level conservatory, enlargement of the front lightwell, insertion of a rooflight with decorative metal grille over within front lightwell, internal alterations and removal of a Bay tree from the rear garden.

The current scheme is similar to the scheme quashed following Judicial Review (see Section 6.2), but the design of the basement has been amended to take into account the requirements of Policy CM28.1 in the City Plan and a flood risk assessment has been submitted in support of the application.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The enlargement of the existing dwelling house accords with Policy H3 in the UDP and is acceptable in land use terms.

## **8.2 Townscape and Design**

### **8.2.1 Legislative and Policy Context**

In term of national legislative context, Section 16 of the Planning (Listed Buildings and Conservation Area) Act 1990 (as amended) requires local planning authorities to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historical interest which it possesses, when considering whether to grant listed building consent.

Section 66 of the same act requires the local planning authority to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest it possesses, when considering whether to grant planning permission for development affecting a listed building or its setting.

Section 72 of that act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

In design, conservation and historic building terms Policies DES1, DES5, DES9 and DES10 in the UDP and Policies S25, S28 and CM28.1 in the City Plan are relevant.

### **8.2.2 Significance of the Affected Heritage Assets**

No.12 Garway Road, along with its semi-detached pair, dates from the mid-nineteenth century and represents the first phase of townscape development on this site. The semi-detached villa layout was a typical form of development during this mid-nineteenth century period and alongside rows of terraced housing were and remain the predominant form of development in this part of Bayswater/ Westbourne.

To the front façade the two semi-detached villas exhibit a high degree of symmetry with a main four storey block flanked by lower entrance wings. A hipped roof with oversailing eaves has a central party wall with chimney stacks. The villas comprise lower ground floor, a raised ground floor and two upper floors and the front façade exhibits a classical hierarchy with raised ground floor appearing as the main floor level, with diminishing window sizes to the upper floors. The lower ground floor windows are subordinate in prominence. The symmetry of the villas is less evident to the rear, where later extensions have altered the original form.

In terms of the interior the principal ground floor layout retains much of its historic plan form and character with cornices and traditional joinery surviving. The double door between the two main rooms is likely to be a later alteration. The main staircase, within the side bay retains its original detailing with an open string balustrade and a curtail step with volute newel post at its base. The room to the rear of the staircase is likely to form part of a later extension of the side wing.

The first floor layout again maintains its historic cellular floor plan, with front and rear rooms divided by a stair flight from first to second floor. Original joinery survives at this

level. The floor plan of the side wing appears to have undergone modification and extension and these secondary areas are now used to provide ensuite facilities.

At second floor level while two main rooms survive these spaces have undergone some alteration including the introduction of a bathroom within the front room and the addition of a wide dormer in the side of the roof.

The lower ground floor is where the greatest degree of change to the layout and historic floor plan has occurred. While the stair flight down from the ground floor appears to be in its original location and may retain some original fabric, the historic plan form has been heavily eroded with the removal of the cross wall between front and back rooms; the removal of sections of wall between the entrance wing and the main house; and the addition of a modern rear conservatory extension accessed via a double-width door opening in the rear wall. The effect of these changes has been to create a modern open plan layout to this floor level.

In terms of the significance of No.12 Garway Road as a designated heritage asset, it is considered that its external appearance, along with its pair at No.14, make an important contribution to the historic and architectural character of the townscape, exhibiting the original appearance of a first phase of development in the area. The paired villa design, with classical elements is also reflective of late Georgian/ early Victorian development, which is found elsewhere within the conservation area and makes a very important contribution to the area's character and appearance. Thus the external appearance of the building has significance both in terms of historical value and in terms of aesthetic value.

The interior of No.12 also contributes to its significance with a discernible hierarchy of spaces and traditional plan form, which are common features within properties of this period. There are also numerous elements of surviving historic fabric and/ or later complementary fabric. It is considered that the ground floor spaces and the main staircase make the greatest contribution to the significance of the interior, having undergone the least amount of modification. The second floor and to a greater degree the lower ground floor make a lesser contribution to the significance of the building, having undergone quite considerable alteration, particularly in the case of the lower ground floor. The interior elements which contribute to the building's significance do so in terms of historical value and aesthetic value, but the degree of significance varies with elements such as the ground floor and staircase making a far greater contribution than areas such as the lower ground floor.

In terms of the significance of the Bayswater Conservation Area, this is a large conservation area which can be characterised as primarily residential and of nineteenth century date; however, it is composed of sub-areas and in this instance Garway Road sits within the western extent of the conservation area, which is predominantly mid to late nineteenth century speculative housing in the form of villa style properties and to a greater extent terraced housing. The conservation area has historic and aesthetic value revealing the westward expansion of London in the Victorian period. Unquestionably the appearance of Nos.12 and 14 Garway Road underpin and reinforce this character and appearance.

Objection has been raised on grounds that the proposed basement would harm the significance of the listed building, particularly in terms of the hierarchy of spaces within the listed building and as it would add to the number of floors within the building relative to those described in the list description.

In this case the principle of forming a basement extension below the existing building and parts of the front and rear gardens is considered acceptable. This is because the proposal would not result in the loss of historic fabric of significance at lower ground floor level, as there is little internal fabric of interest at this floor level, and as the hierarchy of the original floors within the building would remain, with the internal link to the new basement confined to a discreetly located single staircase below the existing stair at lower ground floor level.

In addition to the basement having no adverse impact on the significance of the interior; its discreet external manifestations are such that there would be no adverse impact on the external appearance of the building, which would thus maintain its significance and that of the wider conservation area (see Sections 8.2.3 and 8.2.4).

In terms of the structural impact of the proposed basement on the existing listed building, basements can be safely constructed below existing structures through specialist design and construction, including hand excavation, sequential underpinning and temporary support for the internal structure. One objector notes that the structural engineer that drafted the submitted structural methodology does not appear to be a Conservation Accreditation Register for Engineers (CARE) accredited engineer. However, this is recommended by the 'Basement Development in Westminster' SPD and is not a requirement. Building Control have considered the submitted structural methodology and are content that it is sufficient to demonstrate that the proposed basement can be constructed without structural harm occurring to the heritage asset. The detailed structural design will be subject to building regulations approval. In this context the objections raised on structural grounds by neighbours and the LAMAS cannot be supported as a ground on which to withhold permission.

### **8.2.3 Alterations to Front Lightwell and Garden**

When concluding her opinions on the front lightwell, the first Inspector made the following statement on its potential to be considered favourably:

*'Subject to appropriate detailing of hard and soft landscaping to the front garden area, a modest increase in the depth of the light-well would not necessarily appear incongruous or detract from the listed building's setting, but that would not overcome the harm arising from loss of the existing window'.*

The second appeal Inspector agreed with the City Council's view that the use of clerestory windows beneath the garden facing the house would not be appropriate to the setting of the houses. Clerestory windows do not form part of this proposal, notwithstanding the neighbour's statement in their objection that they do.

The front lightwell now proposed would be more enclosed with a higher retaining wall to the front garden. The proposed lightwell would be rectangular in form with a metal grille measuring 1m deep by 1.8 m wide located directly in front of the existing lower ground

floor window in the floor of the lightwell. Below this grille, a rooflight is proposed to provide natural light to the front of the proposed basement. As above, the clerestory windows, which formed part of the previously refused proposal, in the side of retaining wall to the lightwell are no longer proposed and the historic sash window within the front elevation of the building at lower ground floor level will be retained.

Given the height of the retaining wall to the front of the lightwell, the less open character of the lightwell and its design (now a rooflight with a metal grille over), the proposed lightwell overcomes the concerns raised by the Inspectors in the earlier appeal schemes with regard to its detailed design and form. A condition is recommended to require further details of the design of the grille within the lightwell. The associated landscaping within the front garden area is also significantly improved from the earlier appeal schemes with 1.3m of soil and drainage depth provided over the basement where it projects below the front garden area and the structure of the basement designed to allow drainage from this area out under the highway (i.e. the soil within this area would not be isolated like a planter). As such, the concerns expressed by the previous Inspectors in respect of the landscaped setting of the listed building have been addressed in the current scheme.

As such, the external manifestations of the front of the proposed basement would have an acceptable visual impact in terms of the listed building, preserving its setting, as well as the character and appearance of the Bayswater Conservation Area.

#### **8.2.4 Alterations to Rear Elevation**

The demolition and rebuilding of the glazed rear extension, which was erected around 2010 is acceptable in principle and there would be no adverse impact on the significance or setting of the listed building as a consequence of this element of the application given that it involves the demolition and replacement of a modern addition to the building.

The rear lightwell proposed as part of the appeal determined in September 2015 was found by the Inspector to be excessive in size and had the effect of creating a 'moat' effect around the base of the rear of the building. As part of the subsequent scheme dismissed at appeal scheme in May 2016 the rear lightwell had been substantially reduced in scale and its relationship to the original building improved, such that the Inspector did not find the lightwell in the second appeal scheme harmful to the significance of the listed building or the character or appearance of the Bayswater Conservation area.

The reduced size of the rear lightwell and more discreet location in front of the closet wing remains the same as the second appeal scheme in the current application. Given the discreet location of the lightwell and its small size, it is not considered that it is contrary to the Policy CM28.1(B)(5), which was adopted after the determination of the second appeal.

#### **8.2.5 Design, Conservation and Listed Building Conclusion**

It is considered that the development proposed by the current planning and listed building consent applications preserves the overall character of the building's setting, its features of interest and the character of the Bayswater Conservation Area. Thus the



alterations to the listed building are considered to accord with Policies DES 1, DES 5, DES 9 and DES10 in the UDP and Policies S25, S28 and CM28.1 (where relevant to design and heritage assets) in the City Plan. The proposal is also consistent with the relevant guidance provided in the 'Repairs and Alterations to Listed Buildings' SPG (1995) and the 'Basement Development in Westminster' SPD (2014) (in respect of design and heritage asset considerations – see also Section 8.7.1 of this report).

In line with the requirements of the NPPF, the significance of affected heritage assets has been considered and the impact on significance of the proposals has been assessed. It is concluded that the significance of the listed pair and of the conservation area would not be adversely affected by the proposals.

### **8.3 Residential Amenity**

Given the subterranean location of the proposed extension and the fact the proposed rear extension replaces an extension of the same size in the same location, the alterations and extensions proposed do not give rise to significant amenity concerns.

Concern has been expressed by one neighbouring occupier that the loss of the Bay tree to the rear would result in additional overlooking and noise disturbance as the rear of the site would be less effectively screened compared to the existing situation. However, the loss of this tree has already been accepted at appeal and as such, permission could not reasonably be withheld on the basis of the privacy/ noise attenuation screening that the retention of this tree would provide.

The perceived loss of privacy from a greater extent of glazing is not considered to harm amenity. The existing conservatory will be removed and rebuilt, resulting in no net increase, while the new basement windows would be set within a narrow light well with very limited views out. As such, the additional glazing proposed at basement level would not result in a material increase in overlooking to neighbours.

Noise and disturbance arising from construction works is to be controlled by a condition limiting the hours of works, which will be more restrictive in respect of particularly noisy works of excavation, which will not be permitted at weekends.

As such, the scheme accords with Policies S29 and S32 in the City Plan and Policy ENV6 and ENV13 in the UDP and is acceptable in amenity terms.

### **8.4 Transportation/Parking**

The proposed development does not raise any significant transportation or parking considerations.

The Cleansing Manager and the Highways Planning Manager have suggested conditions relating to waste storage and the opening of doors over the highway, but as the scheme represents an extension of an existing dwellinghouse and not the creation of a new dwelling and as the scheme does not propose any doors or gates opening over the highway, these conditions have not been included in the draft decision letters.

### **8.5 Economic Considerations**

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

## **8.6 Access**

The proposed development would not alter the existing means of access to this private residential dwelling.

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

### **8.7.1 Basement Development**

The 'Basement Development' policy in the City Plan (CM28.1) is split into four parts with not all parts and sub-sections being applicable in every case of basement development. In this case, parts A to C are relevant, whilst part D is not as the proposed basement does not extend under the highway.

In terms of parts A(1) and A(2) of the policy, the applicant has provided a site investigation report, a structural methodology prepared by a suitably qualified structural engineer and a flood risk assessment.

The structural methodology submitted has been assessed by Building Control who are content that the methodology proposed is appropriate for the ground conditions on this site and would safeguard the structural stability of the listed building and its nearby neighbours. Building Control officers have visited the site and are content that there are no signs of historical damage to the building that would mean the structural methodology proposed is not appropriate. As such, part A(3) of Policy CM28.1 has been satisfied.

Part A(4) of Policy CM28.1 requires that all applications for basement development will not increase or otherwise exacerbate flood risk on the site or beyond. It is the assessment of this aspect of the scheme determined in December 2016, which led to the permission and consent being Judicially Reviewed and subsequently quashed in March 2017. Objection has been received relating to the potential of flooding both within the building and increasing surface water flooding and stating that the flood risk assessment initially submitted is inadequate. Following the submission of a more detailed flood risk assessment in November 2017 the scheme has been the subject of further consultation, but the objector maintains their objection on this ground.

Due to the location of the site within Surface Water Flood Risk Hotspot 'No.10 – Bayswater', where there is a 1 in 100 year risk of flooding as a result of extreme rainfall leading to surface water flooding, in accordance with the requirements of Policy CM28.1 and the supplementary guidance in the 'Basement Development in Westminster' SPD, the current application is accompanied by a flood risk assessment (see copy of this document in the background papers). Other supporting documents with the current application have also been corrected from previous application to show the site within the 'hotspot' area.

Paragraph 6.3.6 of the 'Basement Development in Westminster' SPD states that basement development beneath gardens may result in increased surface water runoff through reducing infiltration capacity. Furthermore, the reduction in ground capacity may

reduce the ability to act as a store for rainwater. The guidance adds that self-contained basement dwellings should be located outside of surface water 'hotspots', to reduce vulnerability to surface water flooding where possible.

Furthermore, the reasoned justification for City Plan Policy CM28.1 states that basements are more susceptible to flooding, both from surface water and sewage than conventional extensions, adding that fitting basements with positive pumped devices will ensure that they are protected from sewer flooding.

The proposed basement would not significantly increase the impermeable area of the site as it is largely contained below the existing building and the hard paved front lightwell and patio areas. Only where the basement extend below part of the front garden area would this increase impermeable area for water infiltration on the site. However, as identified in the application documents and by Building Control this is not a large area of additional impermeable area and the site is located above London Clay meaning that only the top 1.6m of top soil is readily permeable at present. Given these factors and as the scheme would allow for the replacement of 1.3m of soil and drainage layer over the front part of the basement where it would be below the front garden, it is not considered that the proposed basement would materially increase the surface water flood risk to other properties within the Surface Water Flood Risk Hotspot.

In terms of the proposed basement itself, the following measures are proposed by the applicant's engineer to ensure the new basement accommodation is resilient to future episodes of surface water flooding:

- The basement development will be entirely tanked (i.e. sealed from water ingress);
- Where perched groundwater is encountered (during site investigation / construction) a sump will be installed to eliminate any residual groundwater;
- A positive pumped sump will be permanently installed;
- Installation of a pump discharge to the foul sewer, along with 24hr attenuation storage;
- External floor levels to the lightwell will be set below the internal finished floor of the new accommodation;
- The soil area within the front garden area will be linked to adjoining areas of soil to allow drainage of water from this area in the event of water infiltration into the front garden. A condition is recommended to secure details of how this is to be designed.

In addition, the applicant has confirmed that a trial pit will be completed prior to undertaking the work to identify the level of the water table. The design of the foundations will have to satisfy the requirement of the Building Regulations which require the water table to be considered.

On the basis of the considerations set out in the preceding paragraphs, the proposed development would not exacerbate existing levels of flood risk and the mitigation measures identified are considered to be adequate through maintaining the surface water infiltration capacity of the site and through incorporating suitable resistance and resilience measures within the design of the basement. For these reasons, it is considered that the proposal accords with part A(4) despite the site being located within

a surface water flooding 'hot spot'. Accordingly, the objection raised on flood risk ground cannot be supported as a ground on which to withhold permission.

In terms of part A(5) of Policy CM28.1, which relates to construction impact of basement development, as noted in Section 8.3, it is recommended that the hours of construction works are controlled by condition. A further condition is recommended pursuant to the requirements of Policy CM28.1 in the City Plan, to require the construction works to construct the proposed basement to be carried out in accordance with the Code of Construction Practice, including the funding of monitoring of the site by the Environmental Inspectorate at the applicant's expense. The applicants have confirmed that they do not object to the recommended condition.

In respect of part A(6), which relates to the impact on archaeological deposits, the site is not within an Archaeological Priority Area and is a 'Tier 3' development under Historic England's Archaeological Risk Model. Accordingly, the proposal poses a negligible risk to archaeological remains and further assessment is therefore not required.

Part B(1) of the policy requires the provision of *'a satisfactory landscaping scheme, incorporating planting and permeable surfacing as appropriate'*. The provision of a soil and drainage layer depth of 1.3m over the element of the basement under the front garden allows for flexibility in terms of planting and this will allow an appropriate landscaping scheme to be delivered pursuant to the recommended landscaping condition. The permeable area to the rear will not be reduced from the existing arrangement and the landscaped area will remain the same and therefore the rear garden will be capable of providing landscaping commensurate with the existing situation.

The impact of the proposed development on trees is considered in Section 8.7.2 of this report and the loss of the Bay tree to the rear is considered acceptable subject to its replacement being secured by condition. Subject to this condition and a condition to secure details of tree protection measures during construction, part B(2) of the policy has been met.

The applicant's Design and Access Statement sets out that the highest levels of sustainability possible, having regard to the need to retain the historic fabric of the building, will be employed in delivery of the proposed development. This will include energy efficient insulation where possible, energy efficient boiler, use of water efficient fixtures and fittings and use of materials with a reduced carbon footprint, such as those that are recycled or recyclable. This approach is consistent with the requirements of part B(3) of policy CM28.1.

Part B(4) requires the inclusion of sustainable urban drainage measures to reduce peak run off and to reduce the general risk of flooding. The measures proposed have been set out earlier in this section of the report in respect of part A(4) of the policy and these are sufficient to ensure that the proposed development would not contribute to increased flood risk.

Parts B(5) and B(6) require basement development to protect the character and appearance of the existing building and surrounding area and to protect heritage assets. The impacts of the proposed development in these regards are considered separately in

Section 6.2 of this report and have been found to be acceptable and in compliance with Policy CM28.1, the NPPF and other relevant policies within the development plan.

Part B(7) of CM28.1 requires the installation of a suitable pumped device to prevent sewer flooding. As set out earlier in this section of the report in respect of Part A(4) of the policy, the scheme would include such a pump and is therefore compliant with part B(7).

The final relevant part of Policy CM28.1 is part C. Part C(1) seeks to limit the size of basement development so that it extends beneath no more than 50% of the garden land and would leave a margin of undeveloped garden land proportionate to the scale of the development around the entire site boundary except where it is beneath the existing building. The proposed basement would extend under less than 50% of the garden land on the site. To both sides at the front and along the whole southern side of the site the extent of the basement would be compliant, with the basement proportionately set in from the site boundaries. To the front, the proposed basement would extend to the front edge of the site at the boundary with the highway. However, given this is a relatively small area, as a policy compliant soil depth is to be provided and as the soil volume is to be linked to other areas of soil around the perimeter to aid drainage, this is not considered to be such a significant departure from the policy requirement so as to warrant withholding permission.

To the rear the proposed basement would extent to the boundary with No.14 where it would be below the existing rear patio. However, given this is currently an impermeable surface and as the purpose of this part of the policy is to ensure the set back of basements from site boundaries to allow for the soak away of water, it is not considered that permission could reasonably be withheld in relation to this aspect of the proposed basement, as the aim of this part of the policy would not be undermined.

Part C(2) requires the provision of 1m of soil depth and a 200mm drainage layer over basements where they extend beyond existing buildings. To the front of the site, the proposal incorporates 1.3m of soil and drainage layer over the front part of the basement and this is compliant with this part of the policy. To the rear, where the proposed basement would be below the existing impermeable patio area there is no soil depth proposed. However, in this instance the patio area is shallow in projection from the house and acts as a shallow lightwell so as to allow access to the lower ground floor. In this context, and as a large area of garden would be undisturbed, it is not considered that permission could reasonably be withheld on the basis of this limited conflict with this particular part of Policy CM28.1.

In terms of part C(3), the proposed basement extension would be limited to a single storey and therefore it is compliant with this part of the policy.

In summary, the proposed basement is considered to be largely compliant with the Basement Development policy CM28.1, except where specifically identified in this section of the report. The area of transgression with the precise requirements of parts C(1) and (2) are though sufficiently minor for the reasons set out so as not to warrant withholding permission.

### **8.7.2 Arboricultural Issues**

The removal of the Bay tree within the rear garden was accepted by the Inspectors in the two previous appeal decisions in 2015 and 2016 and the Arboricultural Manager does not object to the loss of this tree, provided a replacement tree is secured by condition. A condition to secure a replacement tree is recommended, as well as conditions to secure details of tree protection measures for other trees on or close to the site during construction works and to secure a landscaping scheme for the front and rear gardens following completion of the development. Subject to these conditions, it is considered that the scheme would accord with Policies ENV16 and ENV17 in the UDP.

#### **8.8 London Plan**

The 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. Where relevant these issues have been considered elsewhere in this report.

#### **8.12 Other Issues**

None relevant.

### **9. BACKGROUND PAPERS**

1. Application form.
2. Letter from Historic England dated 14 March 2017.
3. Memo from the Cleansing Manager dated 15 March 2017.
4. Email from the London and Middlesex Archaeological Society 11 April 2017.
5. Memo from the Highways Planning Manager dated 29 March 2017.
6. Memo from the Arboricultural Manager dated 20 December 2017.
7. Memo from Building Control dated 23 February 2018.
8. Email from the occupier of 14 Garway Road dated 19 March 2017.
9. Email from the occupier of 43 Kensington Garden Square dated 31 March 2017.
10. Email from the occupiers of 14 A, B, C Garway Road dated 2 May 2017 and attached documents (Appendix 1 and Appendices A to F).
11. Appeal decision letter dated 22 September 2015 and relevant drawings.
12. Appeal decision letter dated 20 May 2016 and relevant drawings.
13. Judicial Review Consent Order dated 9 March 2017 quashing planning permission

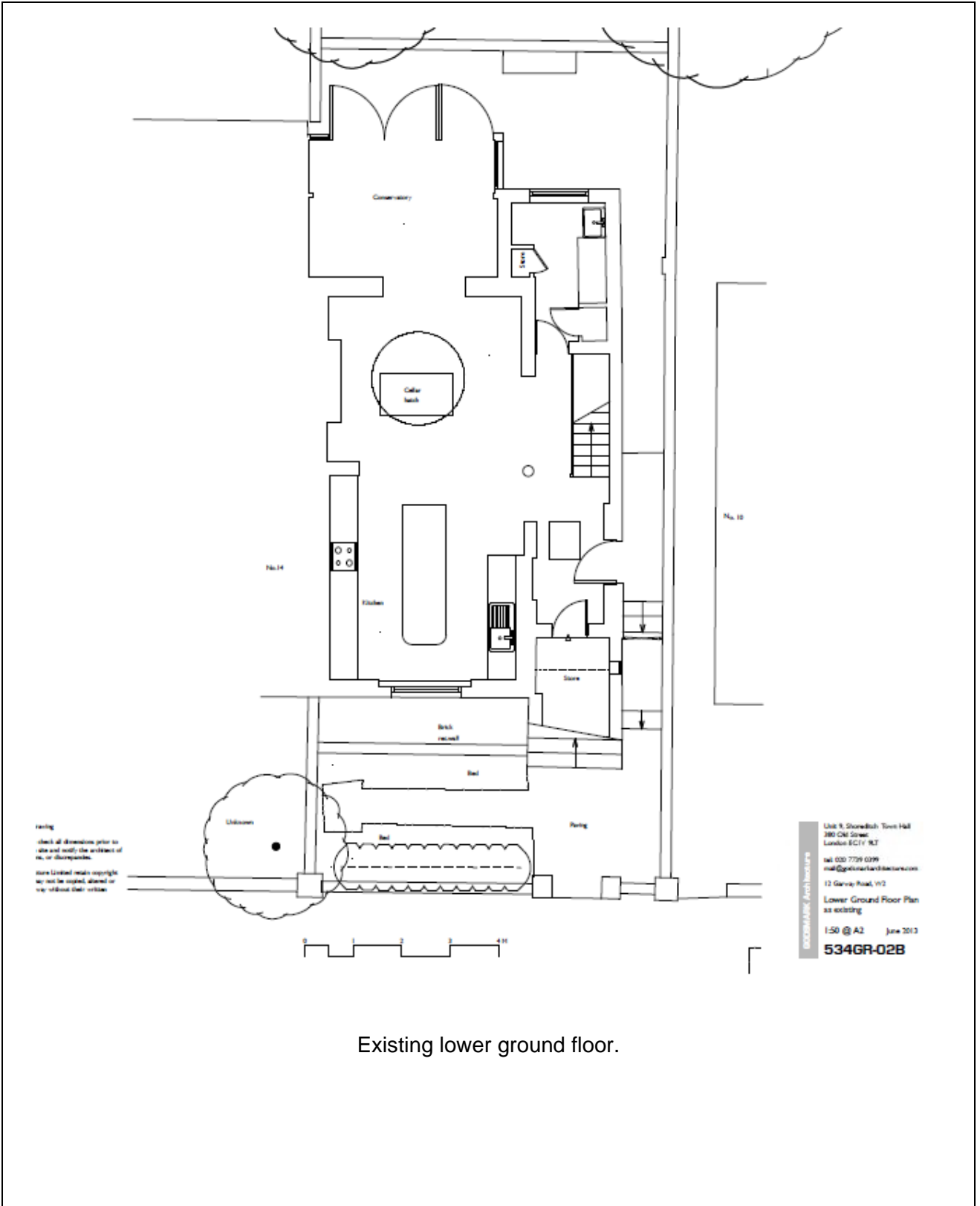
|          |
|----------|
| Item No. |
| <b>3</b> |

- and listed building consent dated 13 December 2016.
14. Copy of planning permission and listed building consent dated 13 December 2016 and relevant drawings.
  15. Copy of applicant's Flood Risk Assessment dated 21 November 2017 prepared by Lyons O'Neil Structural Engineers.

(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: OLIVER GIBSON BY EMAIL AT <a href="mailto:ogibson@westminster.gov.uk">ogibson@westminster.gov.uk</a> . |
|---|

**10. KEY DRAWINGS**

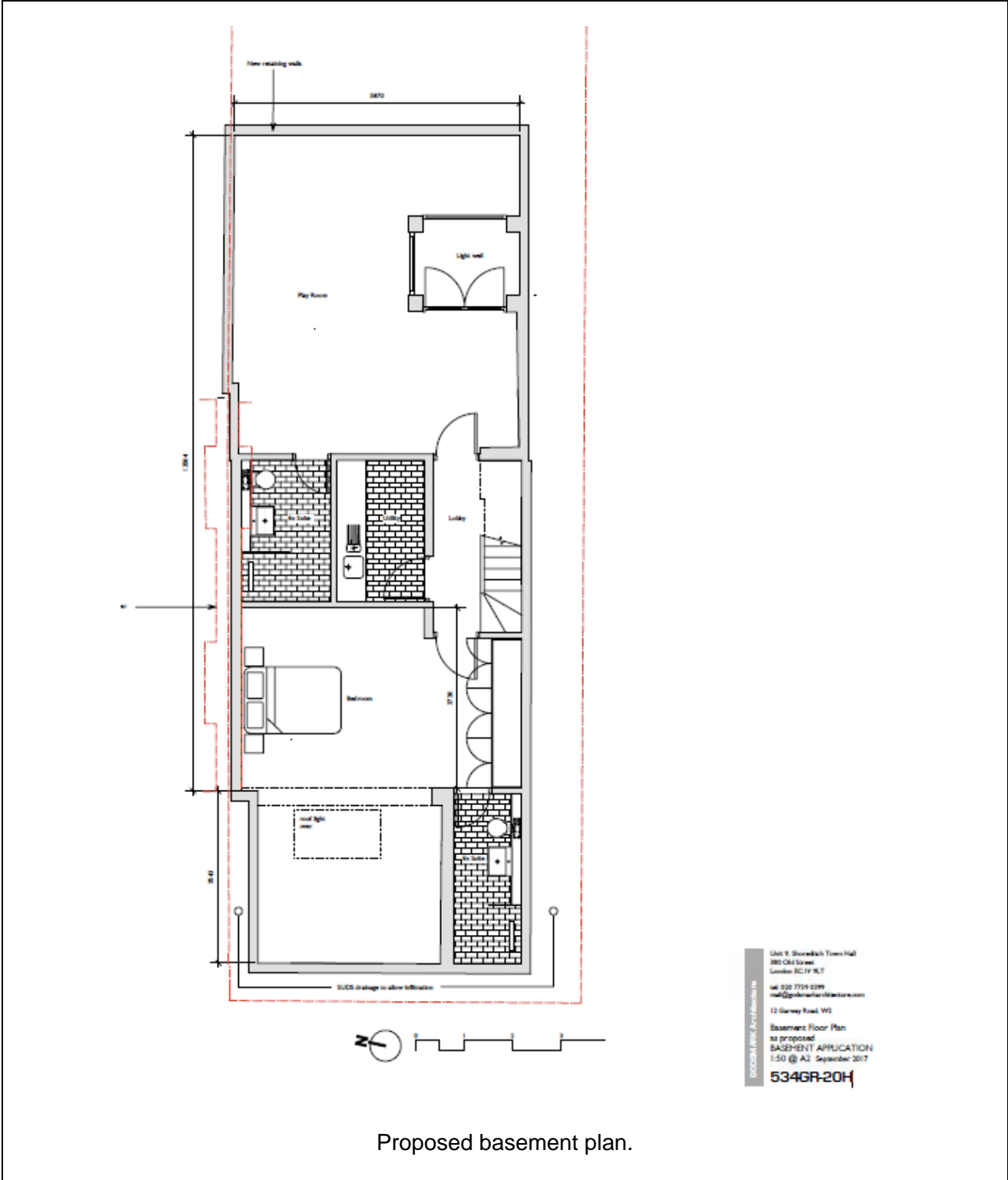


Existing lower ground floor.

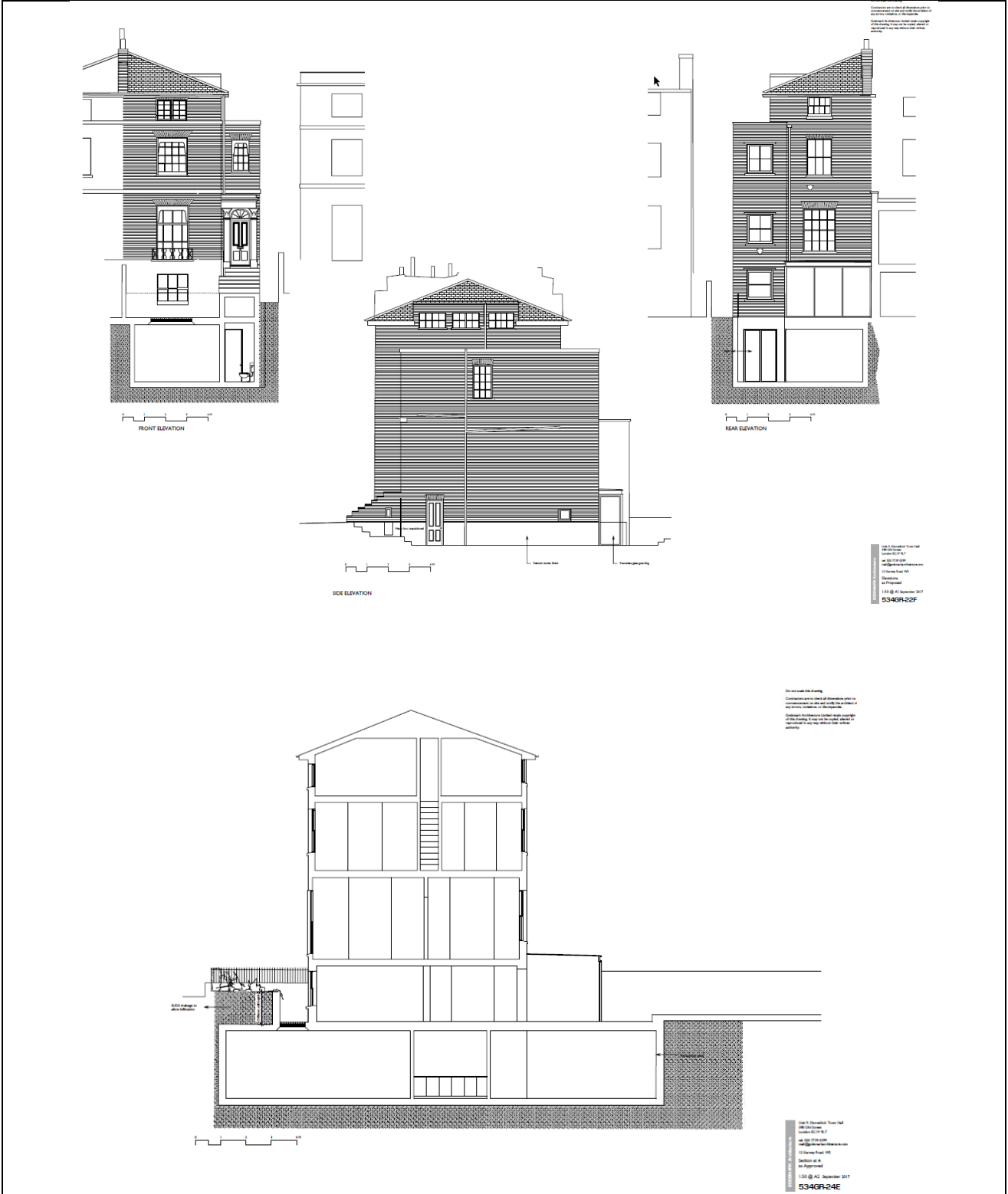




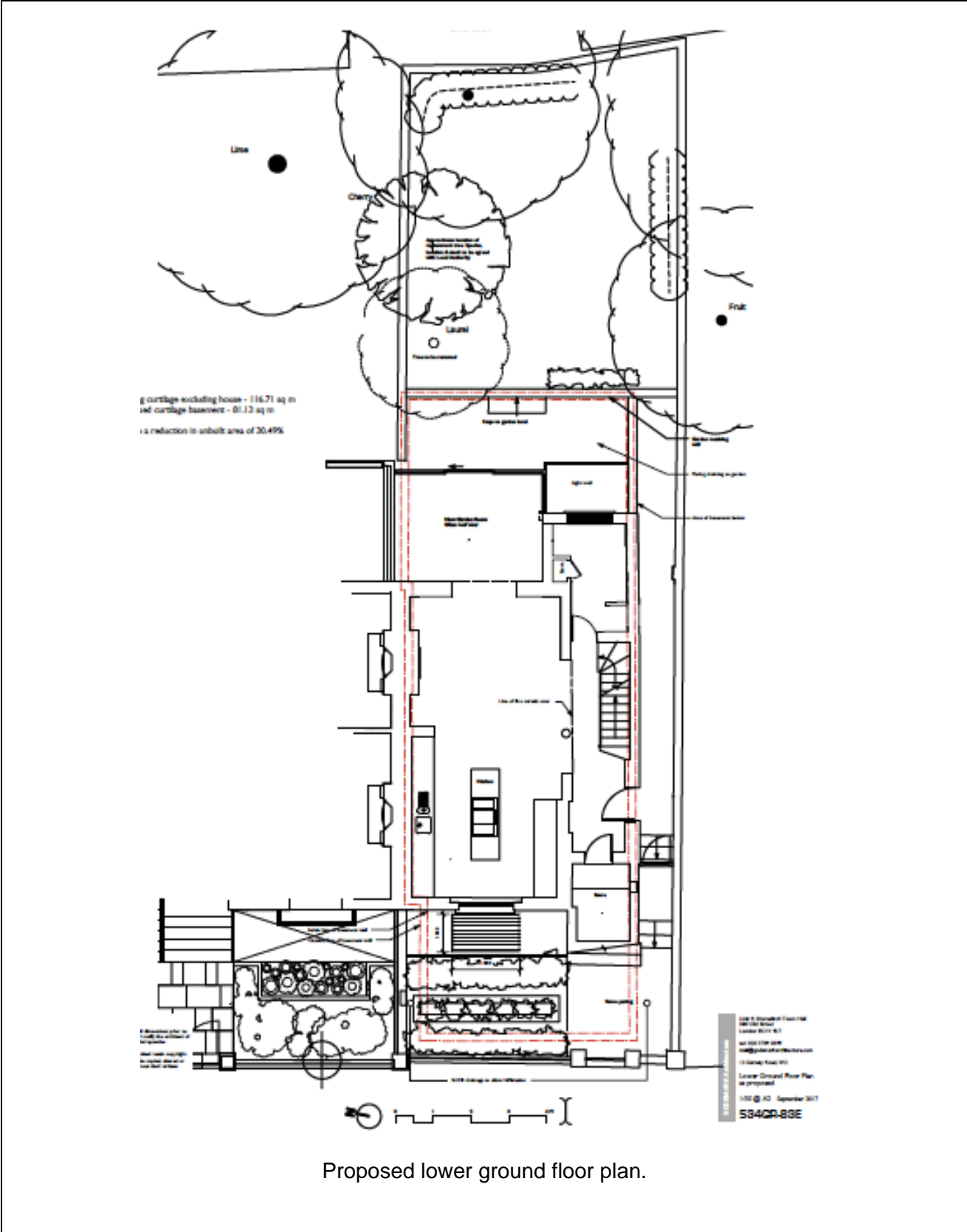
Existing front, rear and side elevations (top) and existing section (bottom).



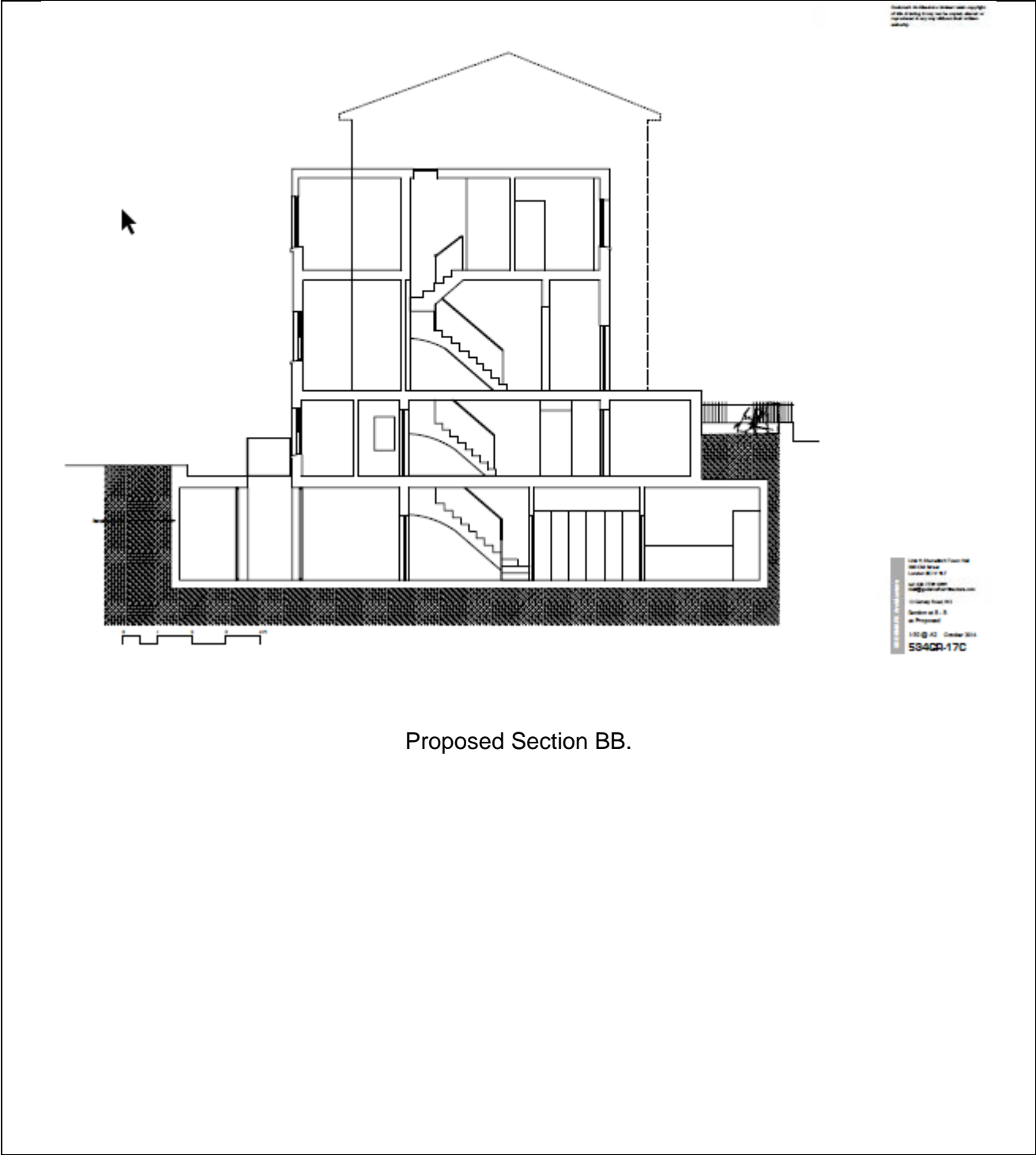
Proposed basement plan.



Proposed front, rear and side elevations (top) and proposed Section AA (bottom).



Proposed lower ground floor plan.



Proposed Section BB.

**DRAFT DECISION LETTER**

**Address:** 12 Garway Road, London, W2 4NH,

**Proposal:** Excavation of a basement below existing house and part of front and rear gardens, demolition and rebuilding of rear lower ground floor level conservatory, enlargement of front lightwell, insertion of rooflight with decorative metal grille over within front lightwell and removal of tree from rear garden.

**Plan Nos:** 534GR-01, 534GR-02B, 534GR-03, 534GR-06, 534GR-07, 534GR-11, 534GR-17C, 534GR-18D, 534GR-20H, 534GR-22F, 534GR-24E, 534GR-56 and 534GR-83E. Design and Access Statement dated February 2017, Listed Building Assessment dated October 2015, letter from Savills dated 6 March 2017, Flood Risk Assessment dated 21 November 2017, Construction Method Statement dated February 2017 (Rev.C) (for information only - see Informative 11), Tree Survey and Arboricultural Impact Assessment ('Revised October 2015').

**Case Officer:** John Wilman

**Direct Tel. No.** 020 7641 5961

**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 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in 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)

|          |
|----------|
| Item No. |
| <b>3</b> |

- 3 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)

- 4 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 Bayswater 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 You must apply to us for approval of detailed drawings of the following parts of the development: Decorative grille to front lightwell shown in context with surrounding paving and rooflight below. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings and you must not occupy the basement extension until the grille has been installed. Thereafter the grille must be permanently retained in accordance with the details we approve. (C26DB)

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 Bayswater 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)

- 6 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. The landscaping scheme must include the provision of at least one tree to replace the Bay tree that is to be removed from the rear garden. 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 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 Bayswater 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)

- 7 **Pre Commencement Condition.** Notwithstanding the content of the submitted arboricultural assessment, you must apply to us for approval of the ways in which you will protect the trees which you are keeping, as shown on drawing 534GR-83E. 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. The tree protection must follow the recommendations in section 7 of British Standard BS5837: 2005. You must then carry out the work according to the approved details. (C31AC)

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in 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)

- 8 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 were it extends beyond the front of the building and the front lightwell, 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.

- 9 You must apply to us for approval of detailed drawings of the following parts of the development:

- The sustainable urban drainage system to be incorporated into the design of the structure of the front part of the basement to enable the flow of water through the areas of soil around the perimeter of the basement structure and below the highway.

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

Reason:



|          |
|----------|
| Item No. |
| <b>3</b> |

To reduce flood risk and improve 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.

**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 When you apply to us for approval of tree protection measures during construction works you must include details of an auditable system of arboricultural site supervision and record keeping prepared by an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications and experience needed to be registered. The details of such supervision must include:
  - o identification of individual responsibilities and key personnel.
  - o induction and personnel awareness of arboricultural matters.
  - o supervision schedule, indicating frequency and methods of site visiting and record keeping
  - o procedures for dealing with variations and incidents.

You must produce written site supervision reports after each site monitoring visit, demonstrating that you have carried out the supervision and that the tree protection is being provided in accordance with the approved scheme. If any damage to trees, root protection areas or other breaches of tree protection measures occur then details of the incident and any mitigation/amelioration must be included You must send copies of each written site supervision record to us within five days of the site visit.
  
- 3 When you apply to us to for approval of details of landscaping you must include section drawing(s) demonstrating how the soil above the basement will be connected to adjacent, unexcavated soil volumes.
  
- 4 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)

|          |
|----------|
| Item No. |
| <b>3</b> |

- 5 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I32AA)
  
- 6 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)
  
- 7 You may need to seek technical approval for the works prior to commencement of development if they comprise a structure that is supporting the highway. You should contact Andy Foster on 020 7641 2541 in Engineering and Transportation Projects to progress the application for works to the highway.
  
- 8 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
  
- 9 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, perhaps by issuing regular bulletins about site progress.
  
- 10 With reference to condition 3 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](mailto: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

- 11 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

|          |
|----------|
| Item No. |
| <b>3</b> |

Council in an in depth way in which it would at a building control stage 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 listed 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.

**DRAFT DECISION LETTER**

**Address:** 12 Garway Road, London, W2 4NH,

**Proposal:** Excavation of a basement below existing house and part of front and rear gardens, demolition and rebuilding of rear lower ground floor level conservatory, enlargement of front lightwell, insertion of rooflight with decorative metal grille over within front lightwell and internal alterations.

**Plan Nos:** 534GR-01, 534GR-02B, 534GR-03, 534GR-06, 534GR-07, 534GR-11, 534GR-17C, 534GR-18D, 534GR-20H, 534GR-22F, 534GR-24E, 534GR-56 and 534GR-83E. Design and Access Statement dated February 2017, Listed Building Assessment dated October 2015, letter from Savills dated 6 March 2017, Flood Risk Assessment dated 21 November 2017, Construction Method Statement dated February 2017 (Rev.C) (for information only - see Informative 3), Tree Survey and Arboricultural Impact Assessment ('Revised October 2015').

**Case Officer:** John Wilman

**Direct Tel. No.** 020 7641 5961

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

- 1 The works 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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 You must apply to us for approval of detailed drawings of the following parts of the development: Decorative grille to front lightwell shown in context with surrounding paving and rooflight below. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings and you must not occupy the basement extension until the grille has been installed. Thereafter the grille must be permanently retained in accordance with the details we approve. (C26DB)

|          |
|----------|
| Item No. |
| <b>3</b> |

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building.

In reaching this decision the following were of particular relevance:

S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3 and 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:

- \* any extra work which is necessary after further assessments of the building's condition;
- \* stripping out or structural investigations; and
- \* any work needed to meet the building regulations or other forms of statutory control.

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents.

|          |
|----------|
| Item No. |
| <b>3</b> |

It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (159AA)

- 3 This consent 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 in an in depth way in which it would at a building control stage 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 listed 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. If this results in alterations to the impact of the development on the listed building, then further listed building consent may be required, as set out in Informative 2.

This page is intentionally left blank

# Agenda Item 4

Item No.

4

| CITY OF WESTMINSTER                      |  |  |                  |
|--|--|--|------------------|
| <b>PLANNING APPLICATIONS COMMITTEE</b>   | <b>Date</b><br>6 March 2018  | <b>Classification</b><br>For General Release |                  |
| <b>Report of</b><br>Director of Planning |  | <b>Ward(s) involved</b><br>Lancaster Gate    |                  |
| <b>Subject of Report</b>                 | 14 Garway Road, London, W2 4NH,  |  |                  |
| <b>Proposal</b>                          | Excavation of a basement floor below existing house and part of front garden, insertion of rooflight with decorative metal grille over within front lightwell, internal alterations, including the insertion of 3 rooflights in the floor of rear extension between lower ground and new basement level and removal of tree from front garden. |  |                  |
| <b>Agent</b>                             | Manalo & White Architects  |  |                  |
| <b>On behalf of</b>                      | Mr Helio Romero de Diego   |  |                  |
| <b>Registered Number</b>                 | 16/06234/FULL & 16/06235/LBC   | <b>Date amended</b>                          | 27 November 2017 |
| <b>Date Application Received</b>         | 07.07.2016   |  |                  |
| <b>Historic Building Grade</b>           | II   |  |                  |
| <b>Conservation Area</b>                 | Bayswater  |  |                  |

## 1. RECOMMENDATION

1. Grant conditional permission and conditional listed building consent.
2. Agree reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

The application site forms one half of a grade II listed 1830's semi-detached villa pair located within the Bayswater Conservation Area.

Planning permission and listed building consent are sought for the excavation of a basement floor below the existing house and part of the front garden, insertion of a rooflight with decorative metal grille over it within front lightwell, internal alterations, including the insertion of three rooflights in the floor of rear extension between lower ground and new basement levels and removal of a Mulberry tree from within the front garden.



The current applications for planning permission and listed building consent follow the dismissal of an appeal against non-determination of earlier planning and listed building consent applications for a similar development, including a basement extension with alterations to the front lightwell, formation of a rear lightwell and demolition and reconstruction of the modern rear extension on 20 May 2016. The current applications seek to overcome the grounds that the Inspector gave for dismissing the earlier appeal, as well as addressing the requirements of the subsequently adopted basement development policy in the City Plan, Policy CM28.1.

Also of note is that an application for the excavation of a basement extension below the neighbouring property at No.12 Garway Road, which comprises the other half of this semi-detached villa pair, is also on this committee meeting agenda (Item 4). The applications at No.12 Garway Road follow the quashing in March 2017 of the planning permission and listed building dated 13 December 2016 that were granted for development including a basement extension with front and rear lightwells. Full details of the planning history for No.12 Garway Road can be found in the report on this agenda for the current applications at that address.

The key considerations in this case are:

- The impact of the proposed internal and external alterations on the significance of the listed building and the setting of the listed paired villa.
- The impact of the proposed external alterations on the character and appearance of the Bayswater Conservation Area.
- The compliance of the proposed basement with the basement development policy (CM28.1 in the City Plan), including the impact of the development on flood risk and the appropriateness of the structural methodology in terms of its suitability to the ground conditions in this location and its ability to safeguard the host listed building and its neighbour at No.14.
- The impact of the proposed development on trees on the site and adjacent to it.
- The impact on the amenity of neighbouring residents.

For the detailed reasons set out in this report, it is not considered that the proposed development would harm the significance of the host listed building, the setting of neighbouring listed buildings including No.12 Garway Road or the character and appearance of the Bayswater Conservation Area. Furthermore, the application demonstrates general compliance with the basement development policy (Policy CM28.1 in the City Plan) and is also acceptable in land use, amenity and environment terms. Accordingly, the proposed development would comply with the relevant policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan). Therefore, it is recommended that planning permission and listed building consent are granted subject to the conditions set out in the draft decision letters appended to this report.

3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and/or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



Front elevation (No.14 to left of photograph) (top) and rear elevation as seen from No.12 (bottom).





Existing front lightwell.

## 5. CONSULTATIONS

### WARD COUNCILLORS (LANCASTER GATE)

Any response to be reported verbally.

### BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally.

### ARBORICULTURAL MANAGER

Mulberry tree in front garden is small but attractive and until recent pruning without notification to the Council it made a positive contribution to the character and appearance of the conservation area. Difficult to object to its removal given its current condition but it should be replaced. Support soil depth proposed over basement below front garden but soil depth should be the same across whole of the front garden (i.e. omitting the stepped lightwell) and this soil volume should be linked to surrounding volumes of soil and not treated as a 'planter'. Tree protection measures in the application documents need amendment and updating and it is suggested that details of tree protection measures and a landscaping scheme for the site are secured by condition.

### BUILDING CONTROL

Further to the provision of further information in April 2017 and November 2017 the following comments have been provided. The structural stability, geology and hydrology issues have all been adequately covered in the submitted documents.

#### Structural Stability:

- While engineering and structural matters are controlled through the Building Act 1984, Building Regulation 2010 and the party Wall Act 2005, the feasibility report submitted illustrates that the basement can be achieved, whilst structurally supporting the building, with piles and steel framing for lateral support.
- The buildings do not have any visible damage from wartime bombing. The basement will provide a firm base for the buildings above.

#### Geology:

- A site investigation in 2014 with 6m deep test excavations showed that the subsoil was firm to stiff London clay, so there would be no damming effect from the concrete construction of the basement.

#### Hydrology:

- The site does not fall within a sea or river floodplain and there is a low chance of flooding by extreme rainfall. The site investigation shows that surface water only flows in the top 1.6m of permeable soil.
- The basements are constructed in London clay which has a very low rate of absorption. The basement will result in the replacement of the existing drainage system and will allow for the increased capacity of storage for drainage in line with the Building Regulations. The new system will have a separate sump system for each property, to deal with any water ingress through the wall or form under the slab.
- The proposal would not increase flood risk to other properties and this property could be 'operated' safely.

**ENVIRONMENT AGENCY**

Any response to be reported verbally.

**ENVIRONMENTAL HEALTH**

No objection in principle. The rooms in the basements and lower ground floor are acceptable for habitable use on proportionality grounds if these are used with rest of the premises as part of a single family dwelling. If new basement rooms are used as staff accommodation or separate habitable use this would likely fail the Housing Health and Safety Rating System test under the Housing Act 2004 and be subject to enforcement action by the Residential Enforcement Team. Advice provided on means of escape and ventilation matters and conditions and informatives recommended.

**HIGHWAYS PLANNING MANAGER**

No objection. Conditions and informatives recommended.

**HISTORIC ENGLAND**

Do not consider it necessary to be consulted.

**THAMES WATER**

Any response to be reported verbally.

**ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**Consultation on Originally Submitted Scheme (July/ August 2016)

No. Consulted: 68.

Total No. of replies: 3.

No. of objections: 3.

No. of support: 0.

Three emails received from two respondents raising objection on all or some of the following grounds:

**Amenity**

- Loss of privacy.
- Light pollution from increased glazing.
- Noise disturbance from use of proposed basement.

**Other Matters**

- Harm to/ loss of trees.
- Noise disturbance from construction works.

Consultation on Revised Scheme Including Flood Risk Assessment dated 21 November 2017 (December 2017/ January 2018)

No. Consulted: 5.

Total No. of Replies: 2.

No. of Objections: 2.

No. of Support: 0.

Two objections received raising objection on all or some of the following grounds:

#### Amenity

- Loss of privacy.
- Light pollution from increased glazing.
- Noise disturbance from use of proposed basement.

#### Other Matters

- Harm to/ loss of trees.
- Noise disturbance from construction works.
- Objection received from the representative of the three freeholders of 14 A, B and C Garway Road stating that they maintain the grounds for objection raised in their earlier representations made on the planning application. (Note that the City Council has no record of earlier representations on this planning application and has written to the objector on 22 February 2018 requesting that they make a copy of their earlier representation, if one was made, available for consideration).

#### ADVERTISEMENT/ SITE NOTICE

Yes.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises a grade II listed, early 1830's semi-detached single bay house with side flanking wing. It has attractive brick with stucco detailing and comprises lower ground, ground and two upper floors, below a shallow pitched roof. The rear elevation is dominated by a large two storey predominantly glazed extension, which replaced an earlier addition to the building of similar scale. The building is in use as a single dwelling house.

The house is broadly symmetrical to No.12 and together they form a typical Regency villa composition. These remaining examples of the earlier forms of development within Bayswater positively contribute to the architectural and historical character and appearance of the Bayswater Conservation Area in which they are located.

In terms of the wider context, the neighbouring semi-detached pair, to the south of No.12 at Nos.8 and 10 Garway Road, are also grade II listed. Opposite the site is the relatively recently rebuilt College Park School, whilst to the rear of the site the terrace properties facing Kensington Gardens Square are also grade II listed.

### 6.2 Recent Relevant History

20 May 2016: Non-determination appeals in respect of planning and listed building consent applications for 'Excavation of a new basement floor beneath the existing lower ground floor and front garden with rooflights and clerestory windows to front lightwell and removal of tree from front garden' were dismissed (RNs: 15/05881/FULL and 15/05882/LBC).

In dismissing the appeal, the Inspector had concerns regarding the clerestory windows and lay-lights/ rooflights proposed within the front lightwell. The Inspector concluded that they *'...would allow light to play on the façade of the building ...and this could appear out of place and disturb the appearance of the building after dark... There would also be lay-lights in the floor of the basement area and these together with the windows would be visible from the house and the front steps, and the interests of listed buildings is not confined only to those places accessible by the general public. As it is there would be a risk of harm to the character and appearance of the conservation area from light spillage'*.

The Inspector also agreed with the City Council that the positioning of one of the proposed internal lay-lights/ rooflights within the original building at lower ground floor level was unacceptable in listed building terms. The Inspectors comments on the positioning of the internal lay-lights were as follows: *'The one near the cooking range is shown inboard of the walls of the chimney breast to a sufficient degree and the precise arrangement could be conditioned. The one by the front doors however is over large and does not have any visible margin, and as such would appear as an incongruous feature, risking being seen in the same views as the front elevation of the building, and in that location the possibility of lighting from underneath would be harmful, not in denoting a basement, but in the intrusive and unusual effect. The external lay-light would have a similar harmful effect'*.

The Inspector was not convinced that the Mulberry tree must be retained, but he was clear that *'...there would be a need to maintain at least the existing level of planting'*. The Inspector concluded that the City Council was right to be sceptical that the appeal scheme would have the ability to reintroduce meaningful landscaping and that this would result in harm to the character and appearance of the Bayswater Conservation Area.

The Inspector concluded that whilst there was harm as a result of the areas of concern identified above, the harm was less than substantial harm as per paragraph 134 of the NPPF.

26 November 2012: Permission and listed building consent granted for installation of recessed letter box and call point to existing brickwork pier; removal of flower bed in front garden and installation of new gate to side boundary entrance. Installation of storage cupboard below front flower beds within front lightwell (RNs: 12/08641/FULL and 12/08642/LBC).

18 August 2011: Permission and listed building consent granted for installation of new security gate, and retention of new drainage pipework locations, flower bed in front garden and lights to front basement lightwell elevation (RN: 11/01782/FULL and 11/01783/LBC).

5 January 2010: Permission and listed building consent granted for infill of window opening on side (north) elevation at lower ground floor level and formation of new window opening on side (north) elevation at lower ground floor level (RNs: 09/08439/FULL and 09/08440/LBC).

29 September 2009: Permission and listed building consent granted for alterations during the course of construction to a scheme granted planning permission 22 June



2004 (RN: 04/03270) for removal of existing dormer windows and rear conservatory. Erection of new conservatory to rear and works to alter existing internal layout; namely, revised design of alterations and extensions (RNs: 09/05941/FULL and 09/05942/LBC).

22 June 2004: Permission and listed building consent were granted for removal of existing dormer windows and rear conservatory. Erection of new conservatory to rear and works to alter existing internal layout (RNs: 04/03270/FULL and 04/02383/LBC).

## **7. THE PROPOSAL**

Planning permission and listed building consent are sought for the excavation of a basement floor below existing house and part of the front garden, insertion of a rooflight with decorative metal grille over it within front lightwell, internal alterations, including the insertion of three rooflights in the floor of rear extension between lower ground and new basement levels and removal of a Mulberry tree from within the front garden.

The current applications for planning permission and listed building consent follow the dismissal of an appeal against non-determination of earlier planning and listed building consent applications for a similar development, including a basement extension with alterations to the front lightwell, formation of a rear lightwell and demolition and reconstruction of the modern rear extension on 20 May 2016. The current applications seek to overcome the grounds that the Inspector gave for dismissing the earlier appeal, which are set out in section 6.2 of this report, as well as addressing the requirements of the subsequently adopted basement development policy in the City Plan, Policy CM28.1.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The enlargement of the existing dwelling house accords with Policy H3 in the UDP and is acceptable in land use terms.

### **8.2 Townscape and Design**

#### **8.2.1 Legislative and Policy Context**

In term of national legislative context, Section 16 of the Planning (Listed Buildings and Conservation Area) Act 1990 (as amended) requires local planning authorities to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historical interest which it possesses, when considering whether to grant listed building consent.

Section 66 of the same act requires the local planning authority to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest it possesses, when considering whether to grant planning permission for development affecting a listed building or its setting.

Section 72 of that act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

In design, conservation and historic building terms Policies DES1, DES5, DES9 and DES10 in the UDP and Policies S25, S28 and CM28.1 in the City Plan are relevant.

### 8.2.2 Significance of the Affected Heritage Assets

No.14 Garway Road, along with its semi-detached pair, dates from the mid-nineteenth century and represents the first phase of townscape development on this site. The semi-detached villa layout was a typical form of development during this mid-nineteenth century period and alongside rows of terraced housing were and remain the predominant form of development in this part of Bayswater/ Westbourne.

To the front façade the two semi-detached villas exhibit a high degree of symmetry with a main four storey block flanked by lower entrance wings. A hipped roof with oversailing eaves has a central party wall with chimney stacks. The villas comprise lower ground floor, a raised ground floor and two upper floors and the front façade exhibits a classical hierarchy with raised ground floor appearing as the main floor level, with diminishing window sizes to the upper floors. The lower ground floor windows are subordinate in prominence. The symmetry of the villas is less evident to the rear, where later extensions have altered the original form. This is particularly the case where a two storey full width extension obscures the whole of the rear of the original building at lower ground and ground floor level.

In terms of the interior the principal ground floor layout retains much of its historic plan form and character with cornices and traditional joinery surviving. The double door between the two main rooms is likely to be a later alteration. The main staircase, within the side bay retains its original detailing, albeit unlike No.12, the original handrail and balustrade have been lost. The room to the rear of the staircase is likely to form part of a later extension of the side wing.

The first floor layout again maintains its historic cellular floor plan, with front and rear rooms divided by a stair flight from first to second floor. Original joinery survives at this level.

At second floor level while two main rooms survive these spaces have undergone some alteration including the introduction of en-suite bathroom to both rooms.

The lower ground floor is where the greatest degree of change to the layout and historic floor plan has occurred. While the stair flight down from the ground floor appears to be in its original location and may retain some original fabric, the historic plan form has been heavily eroded with the removal of the cross wall between front and back room and the addition of a modern two storey rear extension accessed via an almost full width opening in the rear wall. The effect of these changes has been to create a modern open plan layout to this floor level, which has little relationship to the plan form of the original building.

In terms of the significance of No.14 Garway Road as a designated heritage asset, it is considered that its external appearance, along with its pair at No.12, make an important

contribution to the historic and architectural character of the townscape, exhibiting the original appearance of a first phase of development in the area. The paired villa design, with classical elements is also reflective of late Georgian/ early Victorian development, which is found elsewhere within the conservation area and makes a very important contribution to the area's character and appearance. Thus the external appearance of the building has significance both in terms of historical value and in terms of aesthetic value.

The interior of No.14 also contributes to its significance with a discernible hierarchy of spaces and traditional plan form, which are common features within properties of this period. There are also numerous elements of surviving historic fabric and/ or later complementary fabric. It is considered that the ground floor front room, main staircase and first floor make the greatest contribution to the significance of the interior, having undergone the least amount of modification. The second floor, rear room at ground floor level (which opens in to the modern double height extension), and to a greater degree the lower ground floor make a lesser contribution to the significance of the building, having undergone quite considerable alteration, particularly in the case of the lower ground floor. The interior elements which contribute to the building's significance do so in terms of historical value and aesthetic value, but the degree of significance varies with elements such as the front portion of the ground floor, staircase enclosure and first floor making a far greater contribution than areas such as the lower ground floor.

In terms of the significance of the Bayswater Conservation Area, this is a large conservation area which can be characterised as primarily residential and of nineteenth century date; however, it is composed of sub-areas and in this instance Garway Road sits within the western extent of the conservation area, which is predominantly mid to late nineteenth century speculative housing in the form of villa style properties and to a greater extent terraced housing. The conservation area has historic and aesthetic value revealing the westward expansion of London in the Victorian period. Unquestionably the appearance of Nos.12 and 14 Garway Road underpin and reinforce this character and appearance.

Having regard to the preceding assessment of the significance of the listed building, it is considered that in this case the principle of forming a basement extension below the existing building and part of the front garden is acceptable in listed building terms. This is because the proposal would not result in the loss of historic fabric of significance at lower ground floor level, as there is little internal fabric of interest at lower ground floor level (the historic, but non-original range at lower ground floor level is to be reinstated in the rear chimney breast), and as the hierarchy of the original floors within the building would remain, with the internal link to the new basement within the original portion of the building confined to a discreetly located single staircase below the existing stair at lower ground floor level. As per the 2016 appeal scheme, the current scheme does include internal lay-lights within the floor of the modern rear extension, but these are located outside the volume of the original building and, as per the Inspector's findings in the 2016 appeal decision, this arrangement, in what is an overtly modern element of the building, is not considered to adversely affect the significance of the listed building.

In addition to the basement having no adverse impact on the significance of the interior; its discreet external manifestations are such that there would be no adverse impact on

the external appearance of the building, which would thus maintain its significance and that of the wider conservation area (see Sections 8.2.3 and 8.2.4).

In terms of the structural impact of the proposed basement on the existing listed building, basements can be safely constructed below existing structures through specialist design and construction, including hand excavation, sequential underpinning and temporary support for the internal structure. It is noted that the structural engineer that drafted the submitted structural methodology does not appear to be by a Conservation Accreditation Register for Engineers (CARE) accredited engineer. However, this is recommended by the 'Basement Development in Westminster' SPD and is not a requirement. Building Control have considered the submitted structural methodology and are content that it is sufficient to demonstrate that the proposed basement can be constructed without structural harm occurring to the heritage asset. The detailed structural design will be subject to building regulations approval.

### **8.2.3 Alterations to Front Lightwell and Garden**

In light of the 2016 appeal decision the applicant has omitted the clerestory windows in the front wall of the lightwell in the current scheme (see Inspector's comments in Section 6.2.2) and has consolidated the previously proposed rooflights into a single rooflight located directly in front of the existing lower ground floor French doors. Over the rooflight a metal grille is proposed. Grilles are a normal part of the architectural vocabulary of cellars and lightwells, and provided the design is appropriate to the period of the building, then it will not stand out as a utilitarian feature. A condition is recommended to secure details of the proposed grille.

The omission of the clerestory windows proposed in the 2016 appeal scheme has allowed the current scheme to deliver a soil and drainage layer depth of 1.29m over the front part of the basement and the structure of the basement is to be designed to allow drainage from this area out under the highway (i.e. the soil within this area would not be isolated like a planter). As a result, the garden area in front of the reinstated stepped front lightwell will be able to support a suitable replacement landscaping scheme that addresses the concerns of the Inspector in the 2016 appeal. This would include a replacement tree for the existing Mulberry tree, which the applicant has agreed to replace (see Section 8.7.2).

As such, the external manifestations of the front of the proposed basement would have an acceptable visual impact in terms of the listed building, preserving its setting, as well as the character and appearance of the Bayswater Conservation Area.

### **8.2.4 Design, Conservation and Listed Building Conclusion**

It is considered that the development proposed by the current planning and listed building consent applications preserves the overall character of the building's setting, its features of interest and the character of the Bayswater Conservation Area. Thus the alterations to the listed building are considered to accord with Policies DES 1, DES 5, DES 9 and DES10 in the UDP and Policies S25, S28 and CM28.1 (where relevant to design and heritage assets) in the City Plan. The proposal is also consistent with the relevant guidance provided in the 'Repairs and Alterations to Listed Buildings' SPG

(1995) and the 'Basement Development in Westminster' SPD (2014) (in respect of design and heritage asset considerations – see also Section 8.7.1 of this report).

### **8.3 Residential Amenity**

Given the subterranean location of the proposed extension, the alterations and extensions proposed do not give rise to significant amenity concerns.

Concern has been expressed by one neighbouring occupier that the development would result in increased overlooking and noise disturbance from use of the enlarged dwellinghouse. However, the increases in glazing would be negligible with three rooflights proposed within the building to the rear and one rooflight within the front lightwell. As such, there would not be any material increase in overlooking or noise disturbance to neighbouring residents as a result of the proposed development.

Noise and disturbance arising from construction works is to be controlled by a condition limiting the hours of works, which will be more restrictive in respect of particularly noisy works of excavation, which will not be permitted at weekends.

Many of the grounds for objection in amenity terms relate to the proposed development at No.12 Garway Road and the impact of that scheme, which includes the removal of a Bay tree from the rear garden of No.12. The current application for No.12 is also on this committee agenda, and the report for that item (Item 3) considers the impact of that development on the amenity of neighbouring residents.

As such, the scheme at No.14 accords with Policies S29 and S32 in the City Plan and Policy ENV6 and ENV13 in the UDP and is acceptable in amenity terms.

### **8.4 Transportation/Parking**

The proposed development does not raise any significant transportation or parking considerations.

The Highways Planning Manager has suggested conditions relating to waste storage and the opening of doors over the highway, but as the scheme represents an extension of an existing dwellinghouse and not the creation of a new dwelling and as the scheme does not propose any doors or gates opening over the highway, these conditions have not been included in the draft decision letters.

### **8.5 Economic Considerations**

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

### **8.6 Access**

The proposed development would not alter the existing means of access to this private residential dwelling.

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

### 8.7.1 Basement Development

The 'Basement Development' policy in the City Plan (CM28.1) is split into four parts with not all parts and sub-sections being applicable in every case of basement development. In this case, parts A to C are relevant, whilst part D is not as the proposed basement does not extend under the highway.

In terms of parts A(1) and A(2) of the policy, the applicant has provided a site investigation report, a structural methodology prepared by a suitably qualified structural engineer and a flood risk assessment.

The structural methodology submitted has been assessed by Building Control who are content that the methodology proposed is appropriate for the ground conditions on this site and would safeguard the structural stability of the listed building and its nearby neighbours. Building Control officers have visited the site and are content that there are no signs of historical damage to the building that would mean the structural methodology proposed is not appropriate. As such, part A(3) of Policy CM28.1 has been satisfied.

Part A(4) of Policy CM28.1 requires that all applications for basement development will not increase or otherwise exacerbate flood risk on the site or beyond. Although not an objection received in respect of this application, the application at No.12 Garway Road, which is under consideration concurrently with the application at No.14, has been the subject of objection on grounds that the proposed basement would increase the potential of flooding within the building and increase surface water flooding in the area. This scheme was not initially accompanied by a full Flood Risk Assessment, but was amended in November 2017 by the addition of a Flood Risk Assessment, which has now been assessed by officers and has been the subject of further consultation.

Due to the location of the site within Surface Water Flood Risk Hotspot 'No.10 – Bayswater', where there is a 1 in 100 year risk of flooding as a result of extreme rainfall leading to surface water flooding, in accordance with the requirements of Policy CM28.1 and the supplementary guidance in the 'Basement Development in Westminster' SPD, the current application is accompanied by a flood risk assessment (see copy of this document in the background papers).

Paragraph 6.3.6 of the 'Basement Development in Westminster' SPD states that basement development beneath gardens may result in increased surface water runoff through reducing infiltration capacity. Furthermore, the reduction in ground capacity may reduce the ability to act as a store for rainwater. The guidance adds that self-contained basement dwellings should be located outside of surface water 'hotspots', to reduce vulnerability to surface water flooding where possible.

Furthermore, the reasoned justification for City Plan Policy CM28.1 states that basements are more susceptible to flooding, both from surface water and sewage than conventional extensions, adding that fitting basements with positive pumped devices will ensure that they are protected from sewer flooding.

The proposed basement would not significantly increase the impermeable area of the site as it is largely contained below the existing building and the hard paved front

lightwell and patio areas. Only where the basement extend below part of the front garden area would this increase impermeable area for water infiltration on the site. However, as identified in the application documents and by Building Control this is not a large area of additional impermeable area and the site is located above London Clay meaning that only the top 1.6m of top soil is readily permeable at present. Given these factors and as the scheme would allow for the replacement of 1.29m of soil and drainage layer over the front part of the basement where it would be below the front garden, it is not considered that the proposed basement would materially increase the surface water flood risk to other properties within the Surface Water Flood Risk Hotspot.

In terms of the proposed basement itself, the following measures are proposed by the applicant's engineer to ensure the new basement accommodation is resilient to future episodes of surface water flooding:

- The basement development will be entirely tanked (i.e. sealed from water ingress);
- Where perched groundwater is encountered (during site investigation / construction) a sump will be installed to eliminate any residual groundwater;
- A positive pumped sump will be permanently installed;
- Installation of a pump discharge to the foul sewer, along with 24hr attenuation storage;
- The soil area within the front garden area will be linked to adjoining areas of soil to allow drainage of water from this area in the event of water infiltration into the front garden. A condition is recommended to secure details of how this is to be designed.

In addition, the applicant has confirmed that a trial pit will be completed prior to undertaking the work to identify the level of the water table. The design of the foundations will have to satisfy the requirement of the Building Regulations which require the water table to be considered.

On the basis of the considerations set out in the preceding paragraphs, the proposed development would not exacerbate existing levels of flood risk and the mitigation measures identified are considered to be adequate through maintaining the surface water infiltration capacity of the site and through incorporating suitable resistance and resilience measures within the design of the basement. For these reasons, it is considered that the proposal accords with part A(4) despite the site being located within a surface water flooding 'hot spot'.

In terms of part A(5) of Policy CM28.1, which relates to construction impact of basement development, as noted in Section 8.3, it is recommended that the hours of construction works are controlled by condition. A further condition is recommended pursuant to the requirements of Policy CM28.1 in the City Plan, to require the construction works to construct the proposed basement to be carried out in accordance with the Code of Construction Practice, including the funding of monitoring of the site by the Environmental Inspectorate at the applicant's expense. The applicants have confirmed that they do not object to the recommended condition.

In respect of part A(6), which relates to the impact on archaeological deposits, the site is not within an Archaeological Priority Area and is a 'Tier 3' development under Historic

England's Archaeological Risk Model. Accordingly, the proposal poses a negligible risk to archaeological remains and further assessment is therefore not required.

Part B(1) of the policy requires the provision of '*a satisfactory landscaping scheme, incorporating planting and permeable surfacing as appropriate*'. The provision of a soil and drainage layer depth of 1.29m over the element of the basement under the front garden allows for flexibility in terms of planting and this will allow an appropriate landscaping scheme to be delivered pursuant to the recommended landscaping condition. The Arboricultural Manager has raised concern that a lesser depth of soil will be provided over the basement where the lightwell is stepped, but this is a replication of the existing form of the front lightwell and this is therefore not objectionable. As set out in Section 8.7.2, the landscaping scheme for the front garden must include a replacement tree for the Mulberry tree that is to be removed. The permeable area to the rear will not be reduced from the existing arrangement as the proposed basement would not extend beyond the existing rear building line. The landscaped area will remain the same and therefore the rear garden will be capable of providing landscaping commensurate with the existing situation. Subject to conditions and a condition to secure details of tree protection measures during construction and a replacement tree for the Mulberry tree that is to be removed, part B(2) of the policy has been met.

The applicant's Design and Access Statement sets out that the highest levels of sustainability possible, having regard to the need to retain the historic fabric of the building, will be employed in delivery of the proposed development. This will include use of water efficient fixtures and fittings and use of materials with a reduced carbon footprint, such as those that are recycled or recyclable. This approach is consistent with the requirements of part B(3) of policy CM28.1.

Part B(4) requires the inclusion of sustainable urban drainage measures to reduce peak run off and to reduce the general risk of flooding. The measures proposed have been set out earlier in this section of the report in respect of part A(4) of the policy and these are sufficient to ensure that the proposed development would not contribute to increased floor risk.

Parts B(5) and B(6) require basement development to protect the character and appearance of the existing building and surrounding area and to protect heritage assets. The impacts of the proposed development in these regards are considered separately in Section 6.2 of this report and have been found to be acceptable and in compliance with Policy CM28.1, the NPPF and other relevant policies within the development plan.

Part B(7) of CM28.1 requires the installation of a suitable pumped device to prevent sewer flooding. As set out earlier in this section of the report in respect of Part A(4) of the policy, the scheme would include such a pump and is therefore compliant with part B(7).

The final relevant part of Policy CM28.1 is part C. Part C(1) seeks to limit the size of basement development so that it extends beneath no more than 50% of the garden land and would leave a margin of undeveloped garden land proportionate to the scale of the development around the entire site boundary except where it is beneath the existing building. The proposed basement would extend under less than 50% of the garden land on the site. To both sides at the front and along the whole southern side of the site the



extent of the basement would be compliant, with the basement proportionately set in from the site boundaries. To the front, the proposed basement would extend to the front edge of the site at the boundary with the highway. However, given this is a relatively small area, as a policy compliant soil depth is to be provided and as the soil volume is to be linked to other areas of soil around the perimeter to aid drainage, this is not considered to be such a significant departure from the policy requirement so as to warrant withholding permission. To the rear the proposed basement would not extend beyond the existing rear building line and therefore it would be compliant with this part of the policy.

Part C(2) requires the provision of 1m of soil depth and a 200mm drainage layer over basements where they extend beyond existing buildings. To the front of the site, the proposal incorporates 1.29m of soil and drainage layer over the front part of the basement and this is compliant with this part of the policy.

In terms of part C(3), the proposed basement extension would be limited to a single storey and therefore it is compliant with this part of the policy.

In summary, the proposed basement is considered to be largely compliant with the Basement Development policy CM28.1, except where specifically identified in this section of the report. The area of transgression with the precise requirements of part C(1) is though sufficiently minor for the reasons set out so as not to warrant withholding permission.

#### **8.7.2 Arboricultural Issues**

As set out in Section 6.2, the Inspector in the previous appeal relating to this site did not consider that the case had been made to justify the retention of the Mulberry tree and in this context the Arboricultural Manager does not object to the loss of this tree, provided a replacement tree is secured by condition. A condition to secure a replacement tree is recommended, as well as conditions to secure details of tree protection measures for other trees on or close to the site during construction works, which the Arboricultural Manager considers need refinement from the details provided with the application, and to secure a landscaping scheme for the front and rear gardens following completion of the development. Subject to these conditions, it is considered that the scheme would accord with Policies ENV16 and ENV17 in the UDP.

#### **8.8 London Plan**

The 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. Where relevant these issues have been considered elsewhere in this report.

### 8.12 Other Issues

None relevant.

## 9. BACKGROUND PAPERS

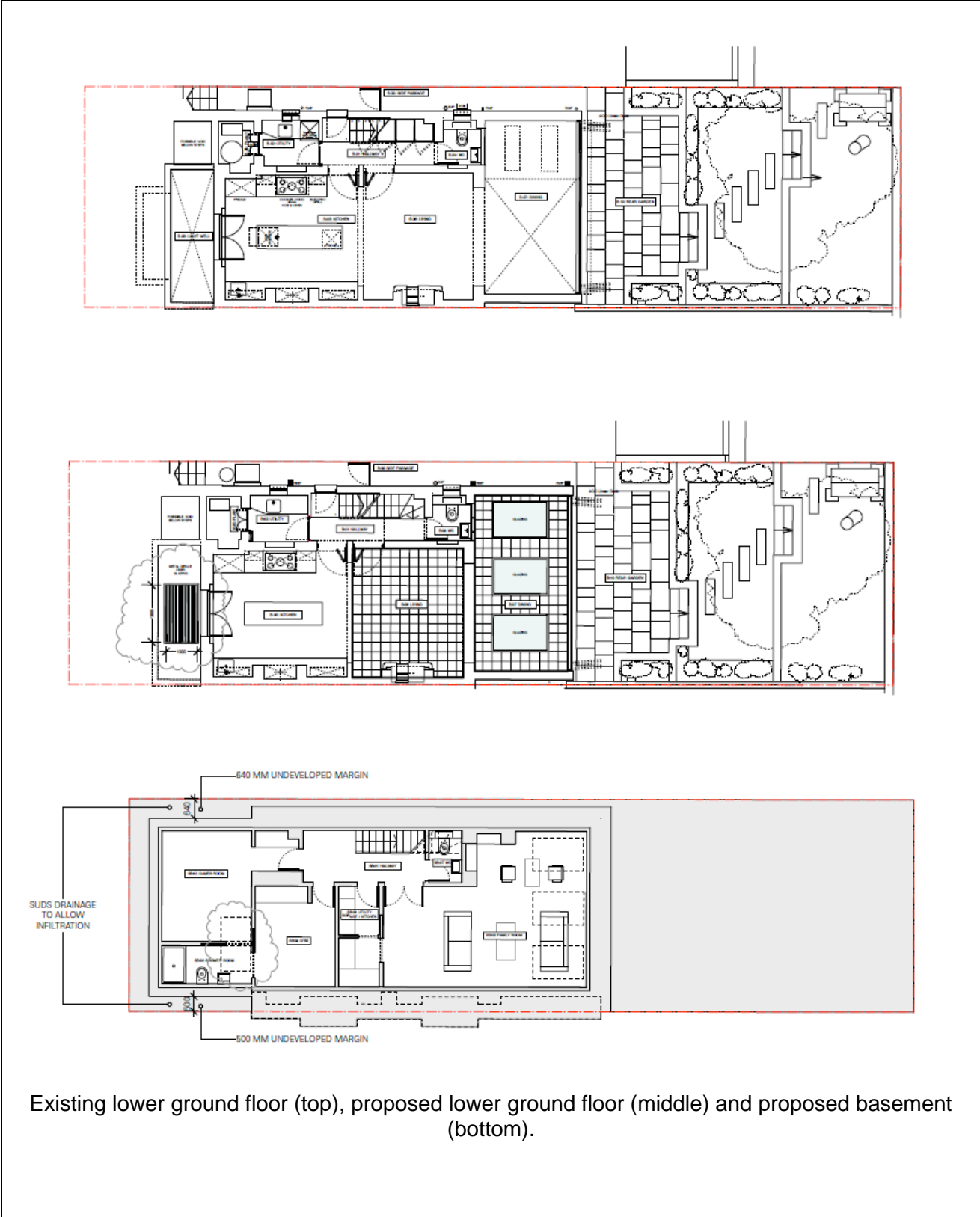
1. Application form.
2. Memo from Environmental Health dated 4 August 2016.
3. Memo from the Arboricultural Manager dated 20 December 2017.
4. Memo from Building Control dated 23 February 2018.
5. Memo from the Highways Planning Manager dated 19 February 2018.
6. Emails from the occupier of Ground Floor, 46 Kensington Gardens Square dated 6 August 2016, 5 June 2017 and 28 December 2017.
7. Email from the occupier of 46 Kensington Gardens Square dated 3 June 2017.
8. Email from the occupier of 14C Garway Road on behalf of the freeholders of 14A, B and C Garway Road dated 31 January 2018.
9. Email from case officer to occupier of 14C Garway Road dated 22 February 2018.
10. Appeal decision dated 20 May 2016 and associated drawings.
11. Copy of applicant's Flood Risk Assessment dated 21 November 2017.

### Selected relevant drawings

(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 OLIVER GIBSON ON 020 7641 2680 OR BY EMAIL AT [ogibson@westminster.gov.uk](mailto:ogibson@westminster.gov.uk).

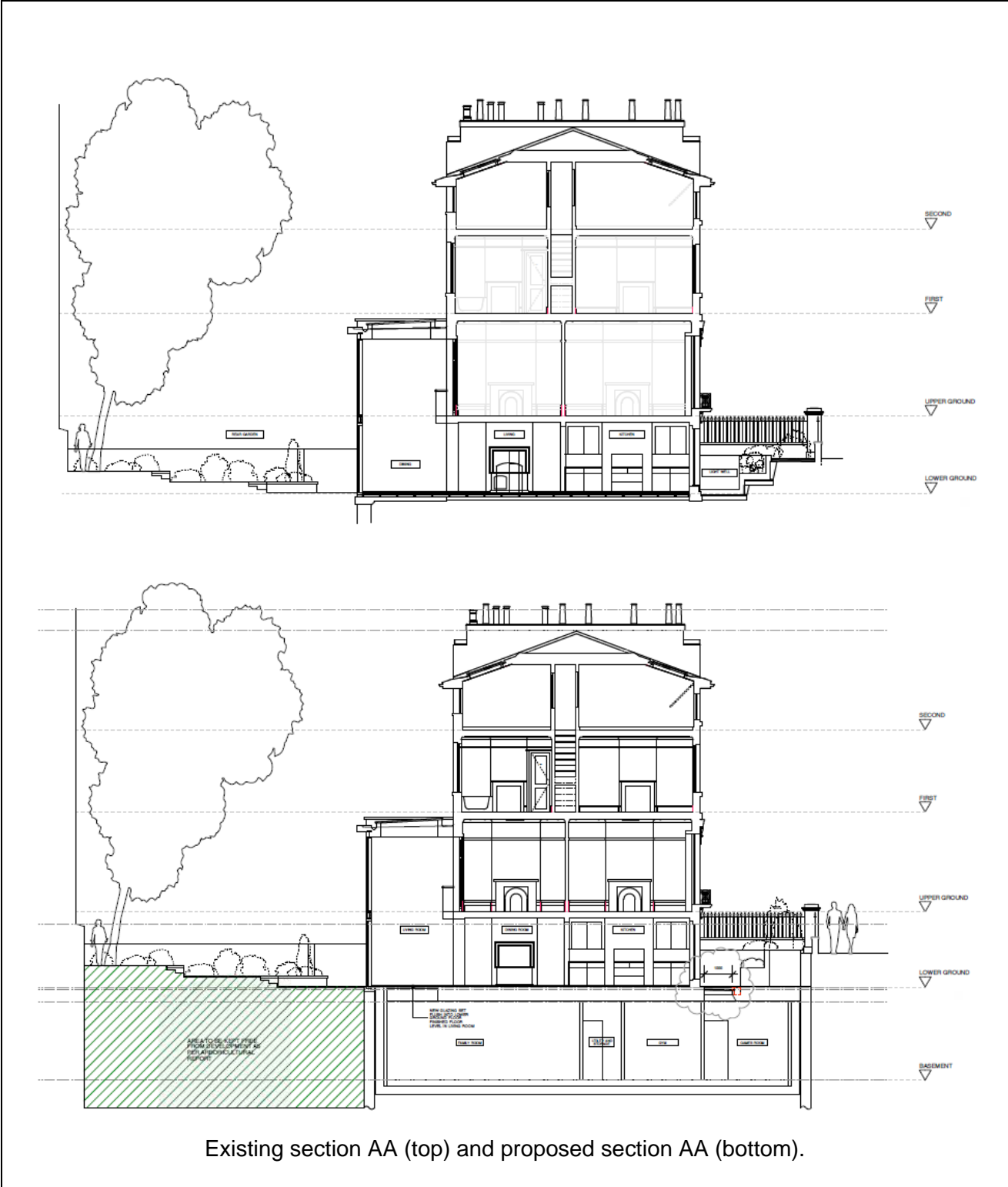
10. KEY DRAWINGS



Existing lower ground floor (top), proposed lower ground floor (middle) and proposed basement (bottom).



Existing front and rear elevations (top) and proposed front and rear elevations (bottom).



**DRAFT DECISION LETTER**

**Address:** 14 Garway Road, London, W2 4NH,

**Proposal:** Excavation of a basement floor below existing house and part of front garden, insertion of rooflight with decorative metal grille over within front lightwell, internal alterations, including the insertion of 3 rooflights in the floor of rear extension between lower ground and new basement level and removal of tree from front garden.

**Plan Nos:** 838/01/0100 P2, 825/01/0200 P2, 825/01/0202 P2, 825/01/0301 P2, 825/01/0302 P2, 825/01/0303 P2, 825/01/0304, 825/03/0210 P4, 825/03/0211 P6, 825/03/0210 P4, /82503/0211/P6, 825/03/0212 P5, 825/03/0213 P3, 825/03/0311 P5, 825/03/0312 P4, 825/03/0313 P4, 825/03/0314 P4, 825/03/0315 P6, Design and Access Statement and Historic Building Impact Assessment dated June 2016, Flood Risk Assessment dated 21 November 2017, Construction Method Statement dated June 2016 (Rev.A) (for information only - see Informative 11), Arboricultural & Method Statement 17 June 2015 and 3062-BT1 (For information only).

**Case Officer:** John Wilman

**Direct Tel. No.** 020 7641 5961

**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 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in 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 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)

- 4 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 Bayswater 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 You must apply to us for approval of detailed drawings of the following parts of the development: Decorative grille to front lightwell shown in context with surrounding paving and rooflight below. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings and you must not occupy the basement extension until the grille has been installed. Thereafter the grille must be permanently retained in accordance with the details we approve. (C26DB)

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 Bayswater 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)

- 6 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. The landscaping scheme must include the provision of at least one tree to replace the Mulberry tree that is to be

|          |
|----------|
| Item No. |
| 4        |

removed from the front garden. 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 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 Bayswater 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)

- 7 **Pre Commencement Condition.** Notwithstanding the content of the submitted arboricultural assessment, you must apply to us for approval of the ways in which you will protect the trees which you are keeping, as shown on drawing 13062-BT1. 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. The tree protection must follow the recommendations in section 7 of British Standard BS5837: 2005. You must then carry out the work according to the approved details. (C31AC)

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in 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)

- 8 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 were it extends beyond the front of the building and the front lightwell, 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.

- 9 You must apply to us for approval of detailed drawings of the following parts of the development:

- The sustainable urban drainage system to be incorporated into the design of the structure of the front part of the basement to enable the flow of water through the areas of soil around the perimeter of the basement structure and below the highway.

You must not start any work on these parts of the development until we have approved what



you have sent us. You must then carry out the work according to these detailed drawings.  
(C26DB)

Reason:

To reduce flood risk and improve 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.

**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 When you apply to us for approval of tree protection measures during construction works you must include details of an auditable system of arboricultural site supervision and record keeping prepared by an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications and experience needed to be registered. The details of such supervision must include:
  - o identification of individual responsibilities and key personnel.
  - o induction and personnel awareness of arboricultural matters.
  - o supervision schedule, indicating frequency and methods of site visiting and record keeping
  - o procedures for dealing with variations and incidents.

You must produce written site supervision reports after each site monitoring visit, demonstrating that you have carried out the supervision and that the tree protection is being provided in accordance with the approved scheme. If any damage to trees, root protection areas or other breaches of tree protection measures occur then details of the incident and any mitigation/amelioration must be included You must send copies of each written site supervision record to us within five days of the site visit.

- 3 When you apply to us to for approval of details of landscaping you must include section drawing(s) demonstrating how the soil above the basement will be connected to adjacent, unexcavated soil volumes.

4

You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)

- 5 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I32AA)
- 6 Some of the trees on the site are protected by a Tree Preservation Order. 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. (I30AA)
- 7 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)
- 8 You may need to seek technical approval for the works prior to commencement of development if they comprise a structure that is supporting the highway. You should contact Andy Foster on 020 7641 2541 in Engineering and Transportation Projects to progress the application for works to the highway.
- 9 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 10 With reference to condition 3 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](mailto: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

|          |
|----------|
| Item No. |
| <b>4</b> |

11 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 in an in depth way in which it would at a building control stage 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 listed 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.

**DRAFT DECISION LETTER**

**Address:** 14 Garway Road, London, W2 4NH,

**Proposal:** Excavation of a basement floor below existing house and part of front garden, insertion of rooflight with decorative metal grille over within front lightwell and internal alterations, including the insertion of 3 rooflights in the floor of rear extension between lower ground and new basement level.

**Plan Nos:** 838/01/0100 P2, 825/01/0200 P2, 825/01/0202 P2, 825/01/0301 P2, 825/01/0302 P2, 825/01/0303 P2, 825/01/0304, 825/03/0210 P4, 825/03/0211 P6, 825/03/0210 P4, /82503/0211/P6, 825/03/0212 P5, 825/03/0213 P3, 825/03/0311 P5, 825/03/0312 P4, 825/03/0313 P4, 825/03/0314 P4, 825/03/0315 P6, Design and Access Statement and Historic Building Impact Assessment dated June 2016, Flood Risk Assessment dated 21 November 2017, Construction Method Statement dated June 2016 (Rev.A) (for information only - see Informative 3), Arboricultural & Method Statement 17 June 2015 and 3062-BT1 (For information only).

**Case Officer:** John Wilman

**Direct Tel. No.** 020 7641 5961

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

- 1 The works 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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 You must apply to us for approval of detailed drawings of the following parts of the development: Decorative grille to front lightwell shown in context with surrounding paving and rooflight below. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings and you must not occupy the basement extension until the grille has been installed. Thereafter the grille must be permanently retained in accordance with the details we approve. (C26DB)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building.

In reaching this decision the following were of particular relevance:

S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3 and 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:
  - \* any extra work which is necessary after further assessments of the building's condition;
  - \* stripping out or structural investigations; and
  - \* any work needed to meet the building regulations or other forms of statutory control.

|          |
|----------|
| Item No. |
| <b>4</b> |

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents.

It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

- 3 This consent 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 in an in depth way in which it would at a building control stage 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 listed 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. If this results in alterations to the impact of the development on the listed building, then further listed building consent may be required, as set out in Informative 2.

This page is intentionally left blank

# Agenda Item 5

|          |
|----------|
| Item No. |
|----------|

|          |
|----------|
| <b>5</b> |
|----------|

|  |   |  |                 |
|--|---|--|-----------------|
| <b>CITY OF WESTMINSTER</b>                 |   |  |                 |
| <b>PLANNING APPLICATIONS SUB COMMITTEE</b> | <b>Date</b><br>6 <sup>th</sup> March 2018                           | <b>Classification</b><br>For General Release           |                 |
| <b>Report of</b><br>Director of Planning   |   | <b>Ward(s) involved</b><br>Bryanston And Dorset Square |                 |
| <b>Subject of Report</b>                   | 55 Crawford Street, London, W1H 4JQ                                 |  |                 |
| <b>Proposal</b>                            | Use of the ground floor and basement as an estate agent (Class A2). |  |                 |
| <b>Agent</b>                               | ASK Planning  |  |                 |
| <b>On behalf of</b>                        | Winchester International Limited                                    |  |                 |
| <b>Registered Number</b>                   | 17/09223/FULL   | <b>Date amended/ completed</b>                         | 27 October 2017 |
| <b>Date Application Received</b>           | 17 October 2017   |  |                 |
| <b>Historic Building Grade</b>             | Unlisted  |  |                 |
| <b>Conservation Area</b>                   | Portman Estate  |  |                 |

## 1. RECOMMENDATION

|                                       |
|---------------------------------------|
| Grant conditional planning permission |
|---------------------------------------|

## 2. SUMMARY

This application relates to a vacant ground and basement floor retail unit within the Portman Estate Conservation Area. The site lies within the Central Activities Zone, and within a non-core frontage of the Crawford Street/Seymour Place/York Street local shopping centre.

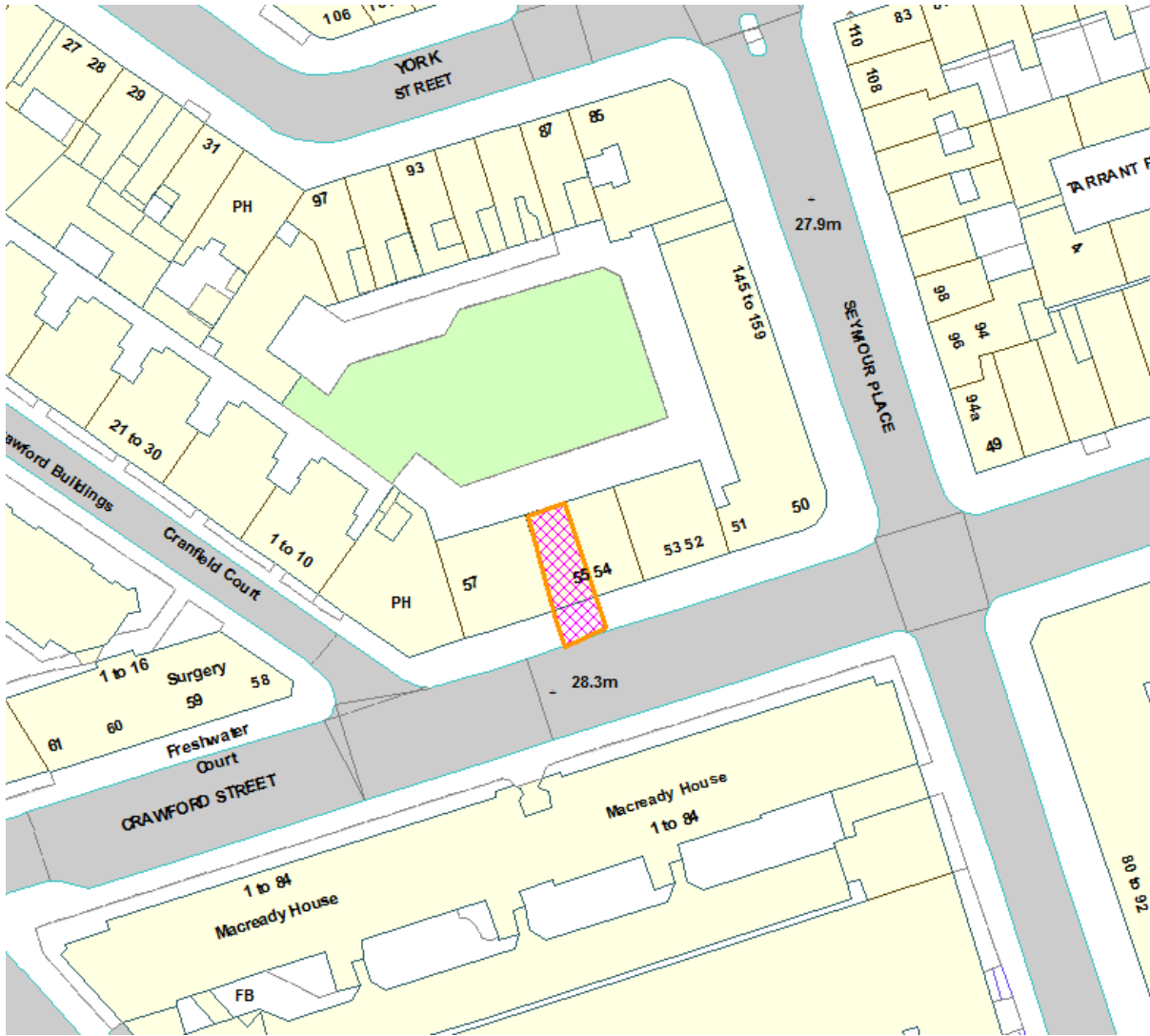
The submission seeks permission for use of the ground and basement floors as an estate agent (Class A2) and the main issue is the acceptability of the loss of the A1 retail unit.

In 2010 permission was refused for the use of the basement as a restaurant, on the grounds of harm to the retail character and function of the area and adverse impact on amenity. The decision was upheld at appeal, and the inspector considered that the proposal would subdivide the ground and basement level into two planning units, which would compromise the viability of the ground floor as a retail unit.

The application site has been vacant for approximately two years, although the unit has not been marketed during this time. Given this lack of marketing evidence, the application is considered to be contrary to City Plan policy S21. However, the proposal meets the tests of UDP policy SS7 as it would not result in three or more adjoining non-retail premises in this part of Crawford Street. Given the number of other retail uses along Crawford Street shopping parade, it is not considered that the proposed estate agency use would harm the vitality or viability of the parade or wider area. It is recommended that conditional planning permission be granted.

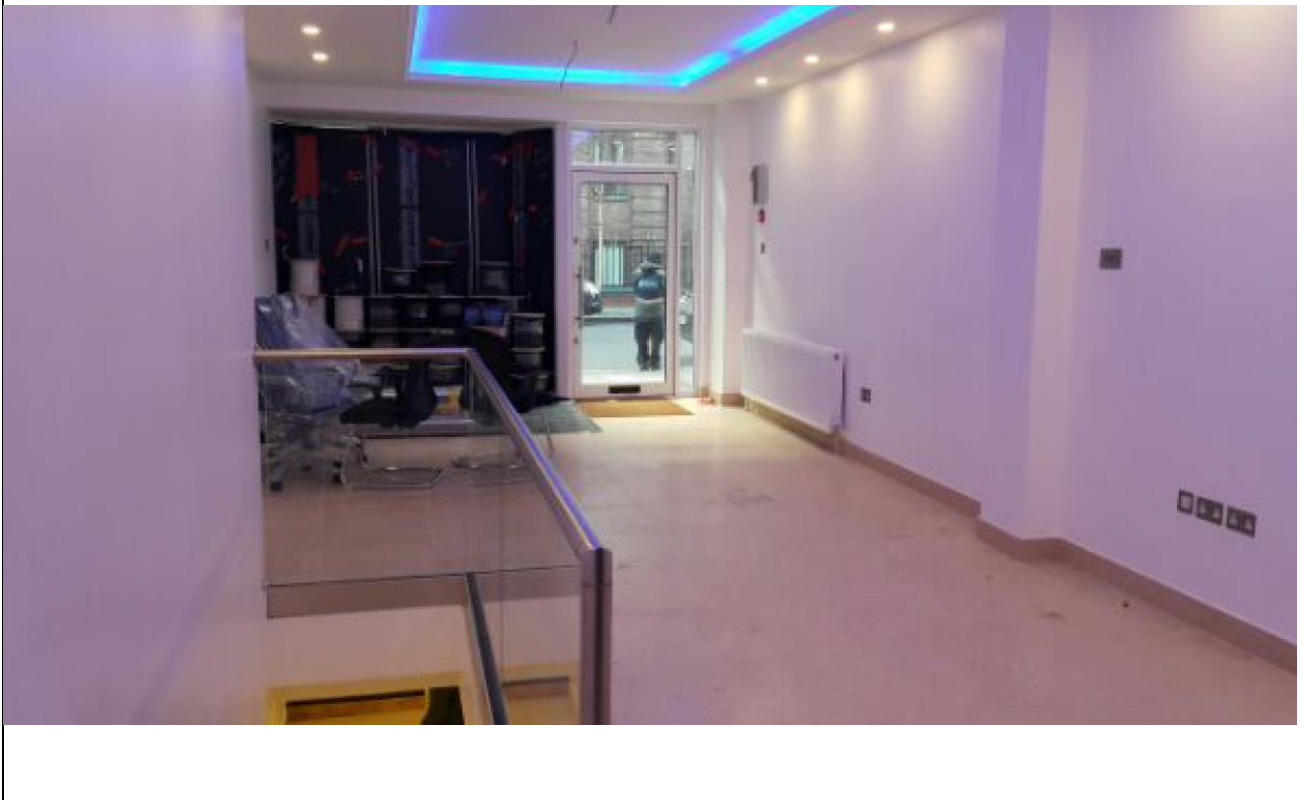


### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



## 5. CONSULTATIONS

### MARYLEBONE ASSOCIATION

No comment

### CLEANSING MANAGER

Raises no objection subject to conditions to secure details of waste and recycling storage.

### ADJOINING OWNERS / OCCUPIERS

No. Consulted: 31; No. comments: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is 55 Crawford Street, which is an unlisted building located in the Portman Estate Conservation Area. The site lies within the Central Activities Zone, and within a non-core frontage of the Crawford Street/Seymour Place/York Street local shopping centre.

The basement and ground floor of the site are currently vacant, and were last occupied by 'Al-Madina Express', a café in Class A1 retail use. The upper floors of the property are occupied as residential flats and to the rear, there is emergency access at basement level, to a communal courtyard garden which belongs to the residents of Seymour Buildings.

### 6.2 Recent Relevant History

#### 10/02339/FULL

Planning permission was refused on 2 June 2010 for the "Use of the basement as restaurant (Class A3) and installation of low level extract duct with extractor grill above rear external door." for the following reasons:

- loss of a retail in the non--core frontage of a local shopping centre would harm the retail character and function of the area.
- proposed use would result in the loss of amenity to the area and adjoining residential properties, in particular by way of noise and disturbance and fumes from cooking.

The decision to refuse this application was appealed ref. X5990/A/10/2141890. The appeal was dismissed. The inspector notes that there was ambiguity as to the lawful use of the ground floor premises which at the time, was in use as a café/retail/takeaway whilst the basement was in use as a restaurant. Paragraphs 6 and 7 of the appeal decision raise concerns that the proposal would result in the subdivision of a single planning unit which was considered to result in the loss of ancillary retail floorspace thereby compromising the viability of the ground floor retail use, contrary to Council policy. Further to this, the inspector considered that the restaurant use at basement level

would result in harm to neighbours amenity by way of noise and odour from extract equipment, and from customers.

08/02812/FULL

Planning permission was refused on 23 May 2008 for “Removal of part of existing restaurant shopfront and replacement set back to create an outside space and to erect an awning with side panels.” for design and amenity reasons

03/04882/FULL

Planning permission was refused on 15 September 2003 for “Use of the basement as a cafe and 'shisha parlour' (for smoking a shisha pipe) (sui generis) in association with the middle eastern cafe (Class A1) at ground floor level.” for the following reasons:

- The proposal would lead to the loss of a retail floor space on a main shopping frontage which would harm the retail character and function of the area.
- The proposed use would result in the loss of amenity to adjoining residential properties, in particular by way of noise and disturbance and fumes from smoking.

01/02850/FULL

Planning permission refused on 11 July 2001 for “Use of basement and ground floor as a restaurant (Class A3) and installation of full height extract duct at rear.” for the following reasons:

- Loss of amenity by increased noise and odour nuisance and late night activity.
- The proposal would result in the loss of a retail floorspace within a Main shopping frontage
- Rear extract would harm the character and appearance of the building and area.

**7. THE PROPOSAL**

The application proposes the use of the ground floor and basement as an estate agency (Class A2)

Typically, the change of use from class A1 (retail) to class A2 (financial and professional services) would be allowed under permitted development rights, however in January 2017 the Council imposed an Article 4 direction to remove these permitted development rights. It follows that full planning permission is required to change the use of the unit from class A1 retail to class A2 estate agents.

**8. DETAILED CONSIDERATIONS**

**8.1 Land Use**

The lawful use of the property is for retail (Class A1) use. The site is located in the Crawford Street/Seymour Place and York Street Local Centre. It should be noted that since the 2010 appeal decision there has been a material change in policy. UDP policies STRA10, and SS1 have been deleted and the Council’s City Plan has now been adopted.

Westminster City Plan: Strategic Policies; Policy S21 states that existing retail will be protected throughout Westminster, except where the council considers that the unit is not viable, as demonstrated by long term vacancy despite reasonable attempts to let.

Whilst the unit has been vacant for approximately 2 years no evidence of marketing has been submitted with the application, and as such, the Council considers that the proposal would be contrary to policy S21.

There have been a number of applications for restaurant/café uses on this site, all of which have been refused. The most recent application for restaurant use, submitted in 2010, was refused on the grounds of harm to the retail character and function of the area. The decision was upheld at appeal in 2011, however, the inspector concluded in paragraph 9 of the appeal decision, that there would be no presumption in principle against the loss of retail, provided that the viability of the centre is maintained. In the same paragraph, the inspector notes that no empirical evidence or subjective assessments were made by either the applicant or the Council as to whether the viability of the shopping centre would be impacted. The inspector concluded that since the 2010 application would subdivide the ground and basement level into two planning units, this would compromise the viability of the ground floor as a retail unit.

The applicant argues that the loss of retail floorspace would not impact on the viability of the shopping centre or parade; that the number of estate agencies within the vicinity is limited and that there is a variety of retail provision for both residents and visitors.

Policy SS7 (C) of the Unitary Development Plan states that outside the Core Frontages, permission will be granted for the loss of an A1 use at ground floor level if the proposal:

- a) would not be detrimental to the character of function of the centre, nor have a harmful effect on the vitality or viability of the centre;
- b) would not reduce the range of local convenience shops or have a detrimental effect on local shopping facilities;
- c) would not result in more than three non-A1 units located consecutively in a frontage; and
- d) would not undermine the balance of A1 to non-A1 uses within the frontage or centre as a whole.

The following land uses currently occupy the Crawford Street Shopping parade between Homer Street and Seymour Place:

|                        |                                 |
|------------------------|---------------------------------|
| 50-51 Crawford Street: | A1 (Audio-visual shop)          |
| 52 Crawford Street:    | A1 (Supermarket)                |
| 53 Crawford Street:    | A1 (Dry cleaners)               |
| 54 Crawford Street:    | Sui generis (Health and beauty) |
| 55 Crawford Street:    | A1 (Vacant, application site)   |
| 56 Crawford Street:    | A1 (Pharmacy)                   |
| 57 Crawford Street:    | D1 (Dental clinic)              |
| 58 Crawford Street:    | A3 (Restaurant)                 |

The use of 55 Crawford Street for non-A1 purposes would therefore not lead to three or more non-A1 units consecutively in the frontage. The parade would continue to offer a

range of A1 uses that serve visiting members of the public, including a local convenience store at No. 52, and in this regard it is considered that the proposal would satisfy the tests of policy SS7 (C).

On balance, it is considered that the change of use to A2 would not result in unacceptable harm to the vitality and viability of the parade since an estate agent would still serve visiting members of the public. Furthermore, since the ground and basement floors would be retained as a single planning unit, the proposal would not impact on the long term viability of the site. It is considered that the loss of the retail unit is acceptable in accordance with the tests set out in policy SS7.

## **8.2 Townscape and Design**

There would be no external changes to the premises, and therefore no harm to the character or appearance of the area. A condition is proposed to prevent the windows from being obscure glazed and to ensure the provision of a window display.

## **8.3 Residential Amenity**

It is not considered that the proposed use would give rise to any harm to neighbours living conditions.

## **8.4 Waste & Recycling**

Details of waste and recycling storage are to be secured by condition.

## **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

## **8.6 London Plan**

This application raises no strategic issues.

## **8.7 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.

## **8.8 Planning Obligations**

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

## **9. BACKGROUND PAPERS**

1. Application form
2. Appeal decision dated 16<sup>th</sup> March 2011 ref. APP/X5990/A/10/2141890 by David Kaiserman
3. Response from Cleansing dated 16 January 2018

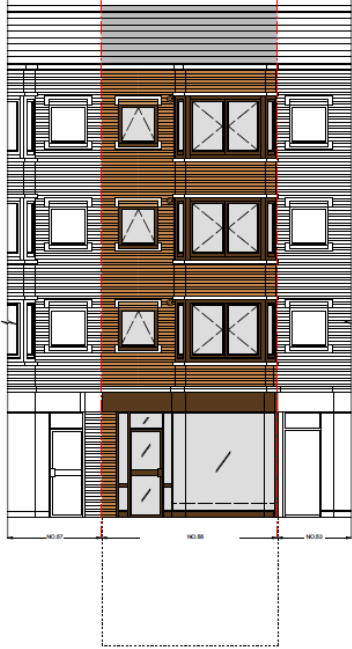
|          |
|----------|
| Item No. |
| <b>5</b> |

(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: JO PALMER BY EMAIL AT [jpalme@westminster.gov.uk](mailto:jpalme@westminster.gov.uk)

10. KEY DRAWINGS

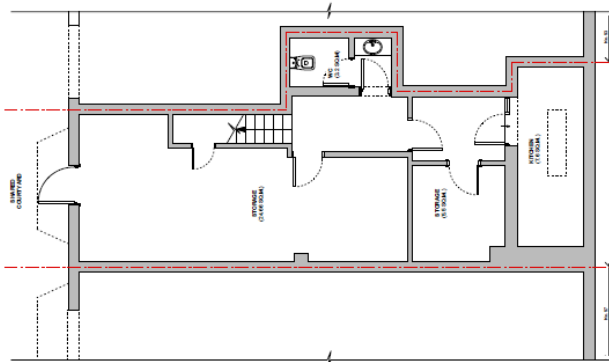
EXISTING PLANS AND ELEVATIONS



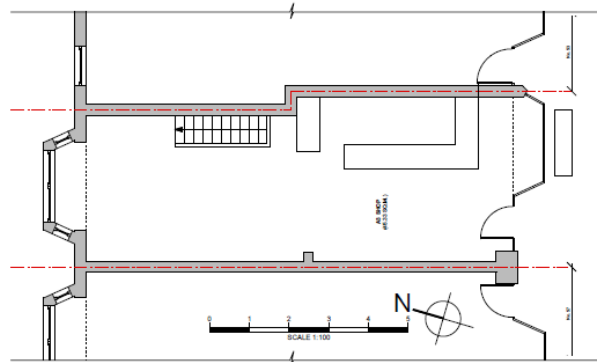
EXISTING SOUTH ELEVATION (FRONT)



EXISTING NORTH ELEVATION (REAR)



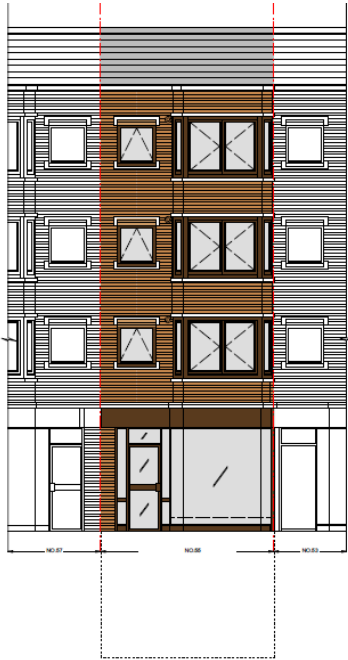
EXISTING LOWER GROUND FLOOR PLAN



EXISTING GROUND FLOOR PLAN



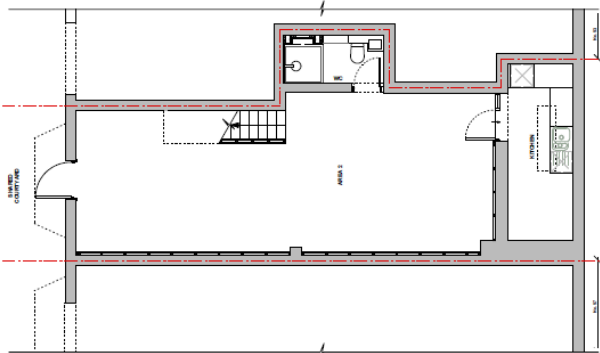
**PROPOSED PLANS AND ELEVATIONS**



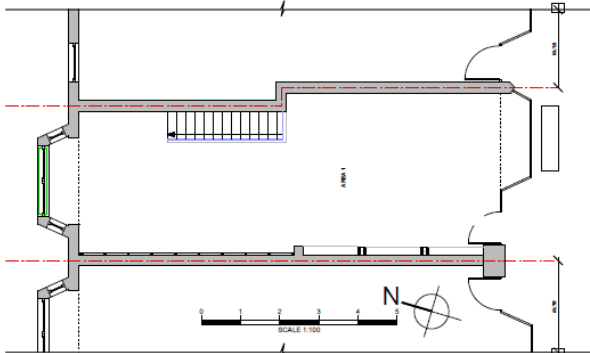
PROPOSED SOUTH ELEVATION (FRONT)



PROPOSED NORTH ELEVATION (REAR)



PROPOSED LOWER GROUND FLOOR PLAN



PROPOSED GROUND FLOOR PLAN

**DRAFT DECISION LETTER****Address:** 55 Crawford Street, London, W1H 4JQ**Proposal:** Use of the ground floor and basement as an estate agent (Class A2).**Reference:** 17/09223/FULL**Plan Nos:** 0361(PL)01**Case Officer:** Gemma Bassett**Direct Tel. No.** 020 7641 2814**Recommended Condition(s) and Reason(s)**

|   |   |
|---|---|
| 1 | The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.  |
|   | Reason:<br>For the avoidance of doubt and in the interests of proper planning.  |
| 2 | 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 using the A2 unit. (C14EC)           |
|   | Reason:<br>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)   |
| 3 | You must not occupy the premises for A2 use until a detailed scheme for the shop windows of the unit has been submitted to and approved in writing by the local planning authority. The scheme shall include the area immediately behind the windows, shall not include any obscured glass and shall define any display panels within the windows. The development shall thereafter be carried out in accordance with the approved scheme and no further modifications shall be made. |
|   | 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 Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and   |

|          |
|----------|
| Item No. |
| <b>5</b> |

|  |  |
|--|--|
|  | 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) |
|  |  |

**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.

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.

# Agenda Item 6

|          |
|----------|
| Item No. |
| 6        |

|  |   |  |                  |
|--|---|--|------------------|
| <b>CITY OF WESTMINSTER</b>                 |   |  |                  |
| <b>PLANNING APPLICATIONS SUB COMMITTEE</b> | <b>Date</b><br>6 March 2018                                     | <b>Classification</b><br>For General Release |                  |
| <b>Report of</b><br>Director of Planning   |   | <b>Ward(s) involved</b><br>Tachbrook         |                  |
| <b>Subject of Report</b>                   | <b>79 St George's Square Mews, London, SW1V 3RZ</b>             |  |                  |
| <b>Proposal</b>                            | Excavation of a basement beneath the footprint of the dwelling. |  |                  |
| <b>Agent</b>                               | Boyer Planning  |  |                  |
| <b>On behalf of</b>                        | Mr Keith Khoo   |  |                  |
| <b>Registered Number</b>                   | 17/10450/FULL   | <b>Date amended/ completed</b>               | 23 November 2017 |
| <b>Date Application Received</b>           | 23 November 2017  |  |                  |
| <b>Historic Building Grade</b>             | Unlisted  |  |                  |
| <b>Conservation Area</b>                   | Pimlico   |  |                  |

## 1. RECOMMENDATION

|                               |
|-------------------------------|
| Grant conditional permission. |
|-------------------------------|

## 2. SUMMARY

|  |
|--|
| <p>79 St George's Square Mews is unlisted mews building located within the Pimlico Conservation Area. Permission is sought for the excavation of a basement beneath the footprint of the dwelling.</p> <p>The main issue for consideration is the impact on the amenity of neighbouring residents.</p> <p>Objections have been received from local residents primarily on the grounds of disruption and potential for damage during the course of the basement excavation and construction.</p> <p>As set out in this report, the proposed development is considered to accord with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan) and is therefore acceptable in land use, design and amenity terms. As such, the application is recommended for approval subject to the conditions as set out on the draft decision letter.</p> |
|--|

### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



Front Elevation

## 5. CONSULTATIONS

### WESTMINSTER SOCIETY:

No response to date.

### THAMES WATER:

The applicant should be advised to take measures with regards to waste water.

### BUILDING CONTROL:

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 108

Total No. of replies: 3 (objections)

In summary, the neighbouring residents object to the proposal on the following grounds:

- Risk of subsidence to neighbouring properties;
- Damage to adjoining properties during construction;
- Noise disturbance, dust and dirt during construction, and there would be a cumulative impact with other similar developments nearby;
- The existing depth of the basement (which has been infilled) is unknown;
- Potential for flooding and impact on groundwater, the area was formerly swamp land;
- The proposals could set a precedent for other similar excavations on the Mews; and
- The timing of submission was cynical as neighbours may be away.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

79 St George's Square Mews is an unlisted mews building located within the Pimlico Conservation Area. It makes a positive contribution to the character and appearance of the conservation area, and is identified in the Pimlico Conservation Area Audit as an 'unlisted building of merit'.

The site is located within Flood Zone 3, but is in an area that benefits from flood defences.

### 6.2 Recent Relevant History

On 9 August 2017 a Certificate of Lawful Development was issued confirming the proposed 'installation of a replacement door and windows at ground level on the front elevation' would be permitted development. (RN: 17/06538/CLOPUD)

On 30 March 2017 a Certificate of Lawful Development was refused for the proposed 'removal of rubble to clear existing basement, no excavation works are proposed' on the

grounds insufficient information regarding the existence of a basement had been provided. The applicant had contended that a basement level already exists but it was not clear that this was the case. (RN: 17/00821/CLOPUD)

**7. THE PROPOSAL**

Permission is sought for the excavation of a basement beneath the footprint of the dwelling.

The proposal would increase residential floorspace and this is summarised below:

|                  | <b>Existing GIA (sqm)</b> | <b>Proposed GIA (sqm)</b> | <b>+/-</b> |
|------------------|---------------------------|---------------------------|------------|
| C3 (residential) | 104                       | 140                       | 36         |

**8. DETAILED CONSIDERATIONS**

**8.1 Land Use**

The application property is a single family dwelling house and the additional residential floorspace created would enlarge it. This would raise no land use implications.

**8.2 Townscape and Design**

A single storey basement is proposed. It would result in no external manifestations and the excavation works are not considered harmful to the significance of the building. The proposal would not impact on the character or appearance of the conservation area.

**8.3 Residential Amenity**

The subterranean nature of the excavation means that once complete the basement itself would have no amenity impact on neighbouring properties. The impact of basement excavation and construction is discussed in section 8.12.

**8.4 Transportation/Parking**

The proposal does not represent an increase in residential units. There is no requirement for the provision of cycle or car parking.

**8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

**8.6 Access**

Access arrangements will remain unchanged.



## 8.7 Other UDP/Westminster Policy Considerations

### **Refuse /Recycling:**

The proposal does not represent any increase in residential units, it is not considered necessary to require details of waste storage to be submitted.

## 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.

The development is not CIL liable, less than 100 square metres of floorspace would be created.

## 8.11 Environmental Impact Assessment

The application is of insufficient scale to trigger the requirement of an EIA.

## 8.12 Other Issues

### **Basement**

The proposals are considered to be in accordance with the Council's basement policy, CM28.1 of the City Plan, as set out below.

#### *Part A. 1-4*

These parts of the policy relate to ground conditions, structural methodology, the Code of Construction Practice, structural stability and flood risk. Objections have been received from neighbouring residents on the grounds of potential structural damage to adjoining properties and increased risk of flooding. One resident states it is not known precisely what the ground conditions underneath the property are.

The applicant has provided an assessment of ground conditions for this site and this has informed the structural methodology prepared by an appropriately qualified structural engineer. These documents have been reviewed by Building Control who advise that the structural methodology proposed is appropriate for the ground conditions that are likely to be on this site. The engineer employed by the applicant used numerous sources of data to analyse what the conditions underneath the property are likely to be, and this included exploratory holes at the site. It is understood that there was a previous basement level underneath the property but this level was infilled, and so the precise nature of what the existing structure is underneath the property is not fully known at this stage, and cannot be known until the excavation works are completed. However, as far as is reasonable and

practicable at this stage, the applicant has satisfactorily investigated the site and surmised the likely existing ground conditions and provided a suitable structural methodology report in light of it.

It should be noted that the purpose of the structural methodology report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act. Therefore, we are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course. This report will be attached for information purposes to the draft decision letter.

In terms of construction impact, the applicant has provided a signed proforma Appendix A confirming that they agree to comply with the City Council's Code of Construction Practice (CoCP). A condition is recommended to ensure that the applicant complies with the COCP and that the construction works are monitored for compliance by the Environmental Inspectorate at the applicant's expense.

A flood risk assessment has been provided as part of the submission and this demonstrates that flood risk would not be exacerbated by the development in this location, which is in Flood Zone 3 but benefits from local flood defences. These defences mean the site is protected against flooding from the Thames to a standard of at least 0.1% Annual Probability. In terms of surface water flooding, the flood risk assessment notes that there is a risk of surface water flooding in the event of local drainage systems failing, but the addition of the basement would not worsen this, and measures will be taken to mitigate the risk.

*Part A. 5*

Objections have been received from neighbouring residents regarding the impact of construction work associated with the proposed basement and general disturbance associated with construction activity. The proposed hours of working condition recommended to be attached states that no piling, excavation and demolition work is undertaken on Saturdays, Sundays, bank holidays and public holidays. This condition is consistent with environmental protection legislation and will help to alleviate disturbance to neighbours.

Concerns have also been raised in relation to the cumulative impact of other developments in the Mews. The City Council adopted its Code of Construction Practice (CoCP) at the end of July 2016 and if permission is granted, the applicant will be required to comply with the CoCP. This is a fundamental shift in the way the construction impacts of developments are dealt with relative to the position prior to July 2016. Previously conditions were attached to planning permissions requiring Construction Management Plans to help protect the amenity of neighbours during construction. The CoCP expressly seeks to move away from enforcement via the planning system. It recognises that there is a range of regulatory measures available to deal with construction impacts, and that planning is the

least effective and most cumbersome of these. The Environmental Inspectorate has been resourced in both numbers and expertise to take complete control over the monitoring of construction impacts.

The CoCP strongly encourages early discussions between developers and those neighbouring the development site. It notes that this should be carried out after planning permission is granted and throughout the construction process. By providing neighbours with information about the progress of a project, telling them in good time about when works with the potential to cause disruption will take place and being approachable and responsive to those with comments or complaints will often help soothe the development process.

The concerns of the neighbouring residents are at the heart of why the City Council has adopted its new Policy in relation to basements (CM28.1) and created the new CoCP. While the comments from the neighbours are noted, it is considered that the CoCP will adequately ensure that the development is undertaken in such a manner as to ensure that the impact is mitigated as far as possible.

A condition is recommended requiring evidence to be submitted of compliance with the CoCP. This must be submitted before work starts on site, subject to which the proposals are considered acceptable.

*Part A. 6*

The site is not in an archaeological priority area and therefore part 6 does of the policy does not apply.

*Part B. 1 and 2*

The proposal does not involve the loss of trees within the rear garden, nor are there nearby trees of concern, and the landscaping of the rear garden is considered acceptable.

*Part B. 3*

The proposals do include details in relation to explaining the basement will be naturally ventilated, no plant is proposed.

*Part B. 4 and 7*

As the basement is only underneath the existing building, the basement would not impact on local drainage.

*Part B. 5 and 6*

The proposals have no external manifestations and would not negatively impact on the conservation area (see Section 8.2 of this report).

*Part C. 1 and 2*

The basement would do not extend under garden land

*Part C. 3*

A single basement is proposed which is considered acceptable and in accordance with this part of the policy.

*Part D*

The basement does not extend under the highway, therefore this part of the policy does not apply in this case.

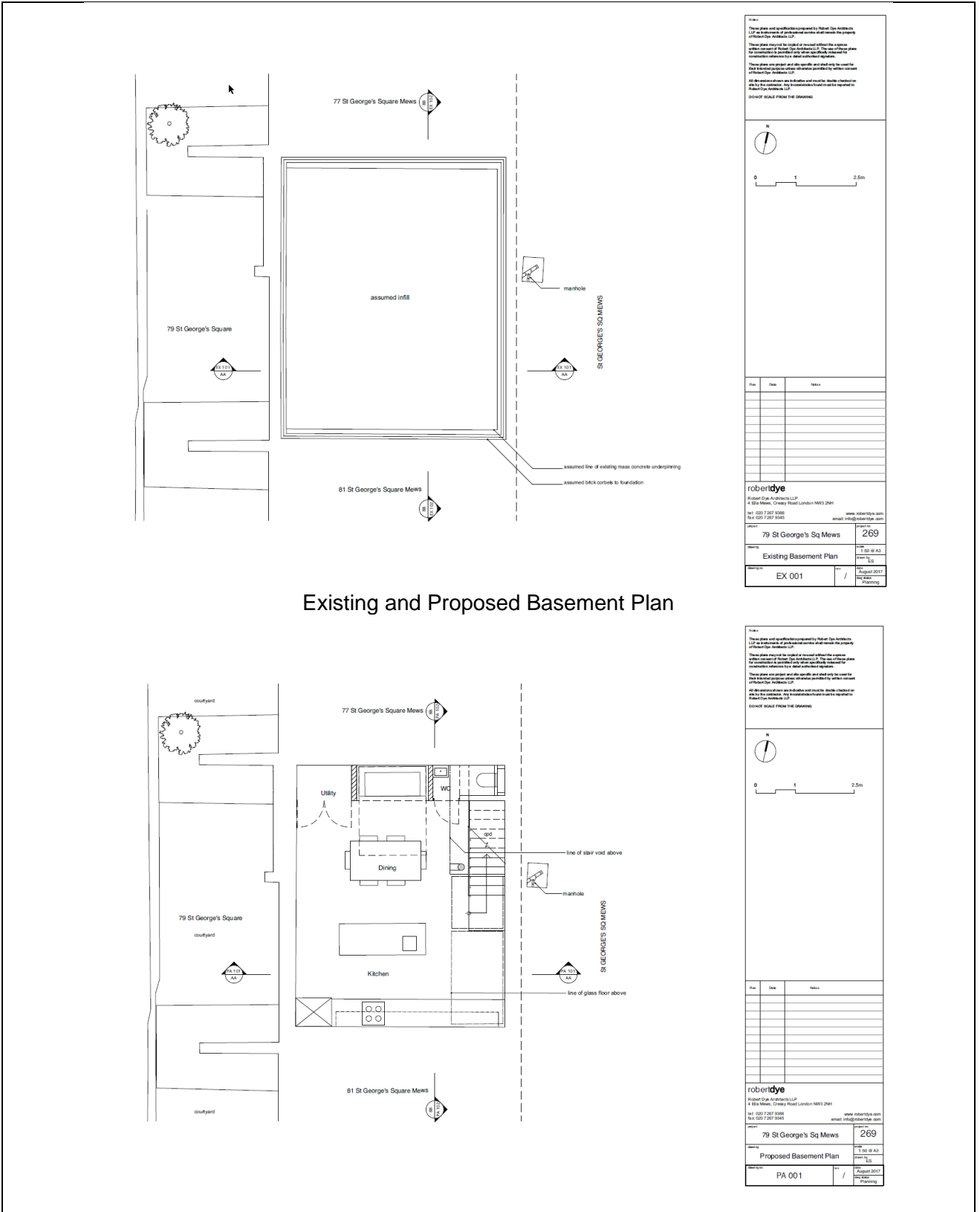
**9. BACKGROUND PAPERS**

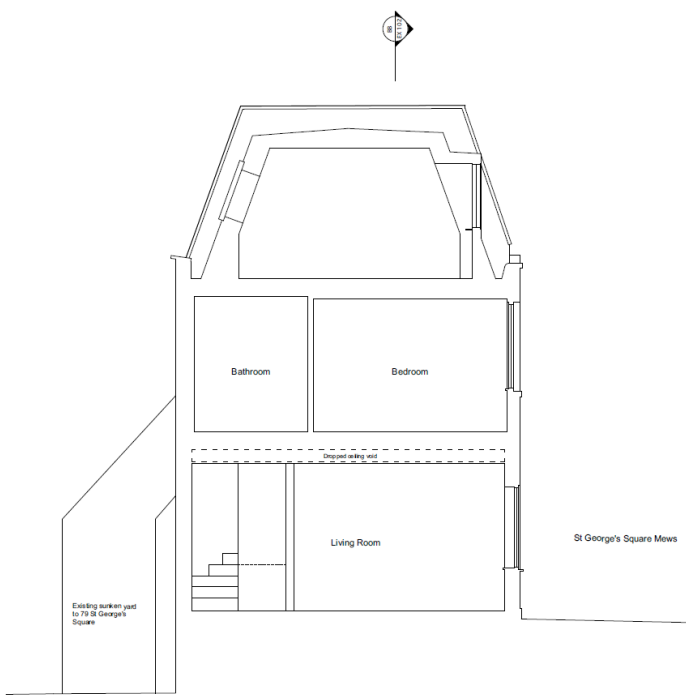
1. Application form
2. Response from Building Control, dated 18 January 2018
3. Response from Thames Water, dated 5 December 2017
4. Objection from BNP Paribas Jersey Trust Corporation on behalf of the owners of 83 St George's Square, dated 19 December 2017
5. Objection from occupier of 83 St George's Square, dated 3 January 2018
6. Objection from occupier of Flat 2, 83 St George's Square, dated 3 January 2018

(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: MATTHEW MASON BY EMAIL AT [mmason@westminster.gov.uk](mailto:mmason@westminster.gov.uk)

10. KEY DRAWINGS





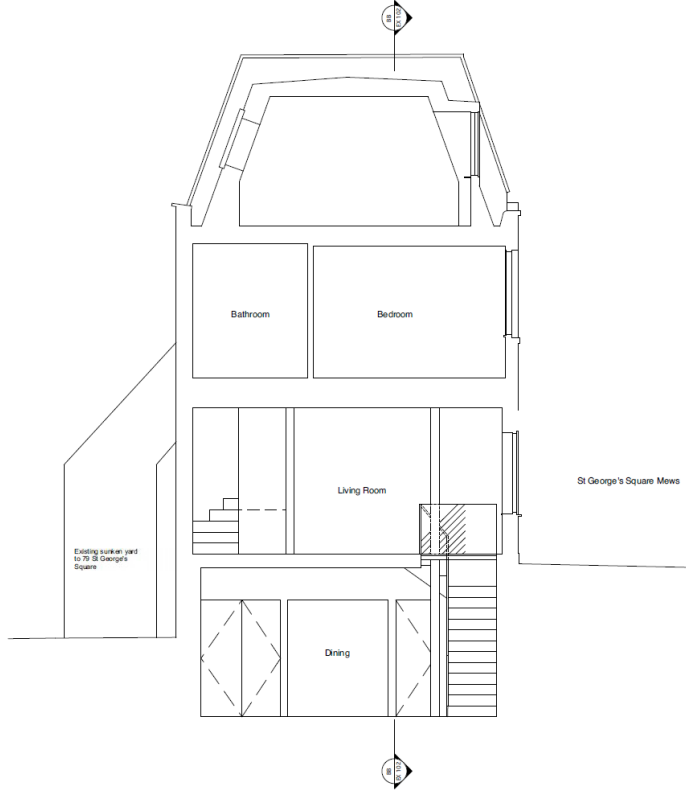
Notes:  
 These plans and specifications prepared by Robert Dye Architects LLP are the property of professional services and shall remain the property of Robert Dye Architects LLP.  
 These plans may not be copied or re-used without the express written consent of Robert Dye Architects LLP. The use of these plans for construction is permitted only when specifically consented for in writing by Robert Dye Architects LLP.  
 These plans are provided as a guide only and shall not be used for construction without the express written consent of Robert Dye Architects LLP.  
 All dimensions shown on this plan and must be double checked on site by the contractor. Any discrepancies should be reported to Robert Dye Architects LLP.  
 DO NOT SCALE FROM THIS DRAWING

| No. | Date | Notes |
|-----|------|-------|
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |

**roberdye**  
 Robert Dye Architects LLP  
 4 Elm Mews, Cheshy Road London NW9 2RH  
 Tel: 020 7267 8388 www.roberdye.com  
 Fax: 020 7267 8340 email: info@roberdye.com

|             |                        |            |             |
|-------------|------------------------|------------|-------------|
| project     | 79 St George's Sq Mews | ref        | 269         |
| drawing     | Existing Section AA    | scale      | 1:50 @ A3   |
| drawing no. | EX 101                 | date       | August 2017 |
|             |                        | discipline | Planning    |

Existing and Proposed Section



Notes:  
 These plans and specifications prepared by Robert Dye Architects LLP are the property of professional services and shall remain the property of Robert Dye Architects LLP.  
 These plans may not be copied or re-used without the express written consent of Robert Dye Architects LLP. The use of these plans for construction is permitted only when specifically consented for in writing by Robert Dye Architects LLP.  
 These plans are provided as a guide only and shall not be used for construction without the express written consent of Robert Dye Architects LLP.  
 All dimensions shown on this plan and must be double checked on site by the contractor. Any discrepancies should be reported to Robert Dye Architects LLP.  
 DO NOT SCALE FROM THIS DRAWING

| No. | Date | Notes |
|-----|------|-------|
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |
|     |      |       |

**roberdye**  
 Robert Dye Architects LLP  
 4 Elm Mews, Cheshy Road London NW9 2RH  
 Tel: 020 7267 8388 www.roberdye.com  
 Fax: 020 7267 8340 email: info@roberdye.com

|             |                        |            |             |
|-------------|------------------------|------------|-------------|
| project     | 79 St George's Sq Mews | ref        | 269         |
| drawing     | Proposed Section AA    | scale      | 1:50 @ A3   |
| drawing no. | PA 101                 | date       | August 2017 |
|             |                        | discipline | Planning    |

**DRAFT DECISION LETTER**

**Address:** 79 St George's Square Mews, London, SW1V 3RZ

**Proposal:** Excavation of basement below existing footprint of the property.

**Reference:** 17/10450/FULL

**Plan Nos:** Site Location Plan; EX 001; EX 002; EX 003; EX 101; EX 102; EX 201; EX 202; PA 001; PA 002; PA 003; PA 101; PA 102; PA 201; PA 202; Planning Statement (Boyer); Design and Access Statement (Robert Dye).

**For Information Only:**

Geoenvironmental Assessment Report (MLM Consulting Engineers Limited); Flood Risk Assessment (MLM Group); Structural Methodology Statement (MLM Group); Construction Management Plan (Transport Planning & Infrastructure Limited); Draft C of Appendix A.

**Case Officer:** Julia Harcourt

**Direct Tel. No.:** 020 7641 2069

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

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

**Reason:**

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only.

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

**You must carry out piling, excavation and demolition work only:**

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in 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 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)

#### **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 With reference to condition 3 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](mailto: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

- 3 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk)
- 4 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.
- 5 Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions.

Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you email us a scaled ground floor plan of your property showing the proposed work and the complete sewer layout to [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk) to determine if a building over / near to agreement is required.

A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwriskmanagement@thameswater.co.uk](mailto:wwriskmanagement@thameswater.co.uk) Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality)

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.

|          |
|----------|
| Item No. |
| <b>6</b> |

This page is intentionally left blank