



City of Westminster

# Committee Agenda

Title:

**Planning Applications Sub-Committee (1)**

Meeting Date:

**Tuesday 12th March, 2019**

Time:

**6.30 pm**

Venue:

**Rooms 18.01 & 18.03, 18th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP**

Members:

**Councillors:**

Timothy Barnes  
Susie Burbidge  
Tim Roca  
Peter Freeman



**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 a pass, 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, Georgina Wills: Committee and Governance Officer.**

**Tel: 020 7641 7513; Email: [gwills@westminster.gov.uk](mailto:gwills@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 Director of Law in advance of the meeting please.

## **AGENDA**

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

#### **1. ELECTION OF CHAIR**

The Planning Sub-Committee (1) are required to appoint a Chair.

#### **2. MEMBERSHIP**

To note that Councillor Peter Freeman had replaced Councillor Anthony Devenish.

To note any further changes to the membership.

#### **3. 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.

#### **4. MINUTES**

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

**(Pages 5 - 8)**

#### **5. PLANNING APPLICATIONS**

Applications for decision

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

Applications for decision

Members of the public are welcome to speak about specific applications at planning committee meetings.

To find out more visit [www.westminster.gov.uk/planning-committee](http://www.westminster.gov.uk/planning-committee)

**1. 9 HOLLES STREET, LONDON, W1G 0BN**

**(Pages 11 - 32)**

**2. 138 SHAFTESBURY AVENUE, LONDON, W1D 7EA**

**(Pages 33 - 46)**

|    |   |                  |
|----|---|------------------|
| 3. | 28 BLOMFIELD ROAD, LONDON, W9 1AA           | (Pages 47 - 68)  |
| 4. | FLAT 1 88 SUTHERLAND AVENUE, LONDON, W9 2QR | (Pages 69 - 88)  |
| 5. | 380-384 HARROW ROAD, LONDON, W9 2HU         | (Pages 89 - 110) |

Stuart Love  
Chief Executive  
4 March 2019

## Order of Business

At Planning Applications Sub-Committee meetings the order of business for each application listed on the agenda will be as follows:

| Order of Business  |
|--|
| i) Planning Officer presentation of the case                               |
| ii) Applicant and any other supporter(s)                                   |
| iii) Objectors   |
| iv) Amenity Society (Recognised or Semi-Recognised)                        |
| v) Ward Councillor(s) and/or MP(s)   |
| vi) Council Officers response to verbal representations                    |
| vii) Member discussion (including questions to officers for clarification) |
| viii) Member vote  |

These procedure rules govern the conduct of all cases reported to the Planning Applications Sub-Committees, including applications for planning permission; listed building consent; advertisement consent, consultations for development proposals by other public bodies; enforcement cases; certificates of lawfulness; prior approvals, tree preservation orders and other related cases.



CITY OF WESTMINSTER

## MINUTES

### Planning Applications Sub-Committee (1)

#### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (1)** held on **Tuesday 12th February, 2019**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Tony Devenish (Chairman), Timothy Barnes, Susie Burbidge and Tim Roca

**Also Present:** Councillor Selina Short (item 4)

#### **1 MEMBERSHIP**

- 1.1 It was noted that there were no changes to the Membership, and that all the Members were present.

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

- 2.1 The Chairman advised that a week before the meeting, all four Members of the Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and e-mails containing objections or giving support. Members of the Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Committee, it did not mean that the issue had been ignored. Members will have read about the issue and comments made by correspondents in the papers read prior to the meeting.

- 2.2 There were no declarations of interest.

#### **3 MINUTES**

##### **3.1 RESOLVED:**

That the Minutes of the meeting held on 8 January 2019 be signed by the Chairman as a correct record of proceedings.

## **4 PLANNING APPLICATIONS**

### **1 102 EBURY STREET, LONDON, SW1W 9QD**

Erection of a single storey rear extension at ground floor level, replacement of windows at front and rear elevations with single glazed double hung timber sash windows, replacement of rear lower ground floor window with French doors, replacement and relocation of front and rear rain and soil water pipes, reinstatement of natural welsh slate roof tiles and associated internal alterations to facilitate the change of use from a hotel (C1) to a single family residential dwelling (Class C3).

The application was withdrawn by the applicant.

### **2 12A CLIVE COURT, 75 MAIDA VALE, LONDON, W9 1SE**

Replacement of existing ground floor door, replacement of existing three ground floor windows and internal alterations at ground floor level to incorporate office space and corridor into Flat 12A. (ADDENDUM REPORT)

Late representations were received from the applicant (10.2.19, 12.2.19), Councillor Melvyn Caplan (undated), Building Control (12.2.19) and Mono Law Solicitors (8.2.19) which included a fire risk assessment report.

#### **RESOLVED UNANIMOUSLY:**

That conditional permission be granted subject to an additional informative requesting that Building Regulations approval includes a robust fire safety management plan.

### **3 58 MAIDA VALE, LONDON, W9 1PP**

Erection of a rear conservatory at upper ground floor level.

Late representations were received from the occupier of 60 Maida Vale, W9 1 PP (11.2.19).

#### **RESOLVED UNANIMOUSLY:**

1. That conditional permission and conditional listed building consent be granted.
2. That the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter be agreed.

### **4 10 ROCHESTER ROW, LONDON, SW1P 1NS**

Installation of ATM to shopfront.

A late representation was received from Councillor Selina Short (12.2.19).

Councillor Short addressed the committee in her capacity as a ward councillor and on behalf of her fellow Vincent Square Ward councillors.

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted subject to an additional condition requiring approval and implementation of crime prevention measures to include lighting of the ATM and a management plan for the street in front of the ATM to include collection and disposal of waste when the store closes at the end of the day.

**5      46 LANGHAM STREET, LONDON, W1W 7AX**

The Use of public highway for the placing of 5 wooden picnic benches in an area measuring 10m x 1.5m in Middleton Place and 1 picnic bench in an area measuring 1.5m x 1.8m on Langham Street, all enclosed by a total of 9 canvas barriers.

A late representation was received from Councillor Jonathan Glanz (12.2.19)

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

The Meeting ended at 7.17 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_

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CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 12th March 2019  
PROVISIONAL SCHEDULE OF APPLICATIONS TO BE CONSIDERED

| Item No | References  | Site Address                                       | Proposal  | Resolution |
|---------|---|--|---|------------|
| 1.      | <b>RN(s) :</b><br>18/03075/FULL<br><br>West End   | 9 Holles Street<br>London<br>W1G 0BN               | Use of the part ground, first and second floor as a food court (sui generis) comprising elements of restaurant, bar and hot food takeaway, use of part ground floor as a gym (Class D2), external alterations at second floor level to include a retractable roof, installation of plant at roof level and associated works.  |            |
|         | <b>Recommendation</b><br>Grant conditional permission.                                    |  |   |            |
| Item No | References  | Site Address                                       | Proposal  | Resolution |
| 2.      | <b>RN(s) :</b><br>18/10105/FULL<br><br>St James's   | 138 Shaftesbury Avenue<br>London<br>W1D 7EA        | Variation of Condition 3 of planning permission dated 30 July 2018 (RN 18/05021/FULL) for the use of the ground, first and basement levels as restaurant (Class A3) and offices (Class B1) at second floor level including installation of plant and duct equipment at rear.; NAMELY, to allow an ancillary delivery service. |            |
|         | <b>Recommendation</b><br>Grant conditional permission for a temporary period of one year. |  |   |            |
| Item No | References  | Site Address                                       | Proposal  | Resolution |
| 3.      | <b>RN(s) :</b><br>18/09355/FULL<br><br>Little Venice                                      | 28 Blomfield Road<br>London<br>W9 1AA              | Extension to glazed garden room at ground floor level on the rear elevation and excavation of one storey basement in rear garden.   |            |
|         | <b>Recommendation</b><br>Grant conditional permission.                                    |  |   |            |
| Item No | References  | Site Address                                       | Proposal  | Resolution |
| 4.      | <b>RN(s) :</b><br>18/03519/FULL<br><br>Little Venice                                      | Flat 1<br>88 Sutherland Avenue<br>London<br>W9 2QR | Erection of single storey rear extension at lower ground floor level and use of roof as a terrace with associated screening/trellis; installation of stair from rear upper ground to garden level; alteration to front windows; erection of garden shed.  |            |
|         | <b>Recommendation</b><br>Grant conditional permission.                                    |  |   |            |

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 12th March 2019  
PROVISIONAL SCHEDULE OF APPLICATIONS TO BE CONSIDERED

|         | <b>Recommendation</b><br>Grant conditional permission.  |  |  |            |
|---------|---|--|--|------------|
| Item No | References  | Site Address                               | Proposal   | Resolution |
| 5.      | <b>RN(s) :</b><br>17/01128/FULL<br><br>Harrow Road  | 380-384<br>Harrow Road<br>London<br>W9 2HU | Variation of Condition 1 of planning permission dated 21 May 2014 (RN: 13/09224/FULL) for the 'Redevelopment of the rear of 380-384 Harrow Road (Nos. 16-22 Chippenham Mews) to provide 4x3 bedroom three storey dwelling houses (Class C3) with basement floors (to Nos.16, 18 and 20 only) and ground floor garages'. NAMELY, to amend the detailed design of the front elevations including alterations to window proportions, entrances, garage doors, party wall upstands, dormer cladding, soldier courses and Juliet balconies and amendments to ground levels within the garages of Nos.16, 18 and 20 Chippenham Mews. |            |
|         | <b>Recommendation</b><br>Refuse permission - on grounds of the three integral garages not being readily accessible, thereby leading to a loss of off-street residential parking and a reduction in highways safety. |  |  |            |

# Agenda Item 1

Item No.

**1**

|   |  |                                       |             |
|---|--|---------------------------------------|-------------|
| CITY OF WESTMINSTER   |  |                                       |             |
| PLANNING APPLICATIONS SUB COMMITTEE                         | Date<br>12 March 2019  | Classification<br>For General Release |             |
| Report of<br>Executive Director Growth Planning and Housing |  | Ward(s) involved<br>West End          |             |
| Subject of Report   | 9 Holles Street, London, W1G 0BN,  |                                       |             |
| Proposal  | Use of the part ground, first and second floor as a food court (sui generis) comprising elements of restaurant, bar and hot food takeaway, use of part ground floor as a gym (Class D2), external alterations at second floor level to include a retractable roof, installation of plant at roof level and associated works. |                                       |             |
| Agent   | DP9  |                                       |             |
| On behalf of  | Try Market Halls Oxford Street Limited   |                                       |             |
| Registered Number   | 18/03075/FULL  | Date amended/<br>completed            | 16 May 2018 |
| Date Application Received                                   | 16 April 2018  |                                       |             |
| Historic Building Grade                                     | Unlisted   |                                       |             |
| Conservation Area   | Outside of conservation area   |                                       |             |

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application site is located to the north and western part of the former British Home Stores (BHS) on Oxford Street, and it has been vacant since August 2016. The application site has its own access from Holles Street and comprises ground, first and second floors. Permission is sought to use the part ground, first and second floors as a food court, which would comprises elements of restaurant, bar and hot food takeaway (sui generis). It is also proposed to use part of the ground floor as a gym. External alterations are proposed at second floor level where a retractable roof will be installed. Plant and other machinery is proposed at roof level.

The key issues for consideration are:

- The loss of retail floorspace;
- The impact of the proposed use on the character and function of the area and the impact on residential amenity.

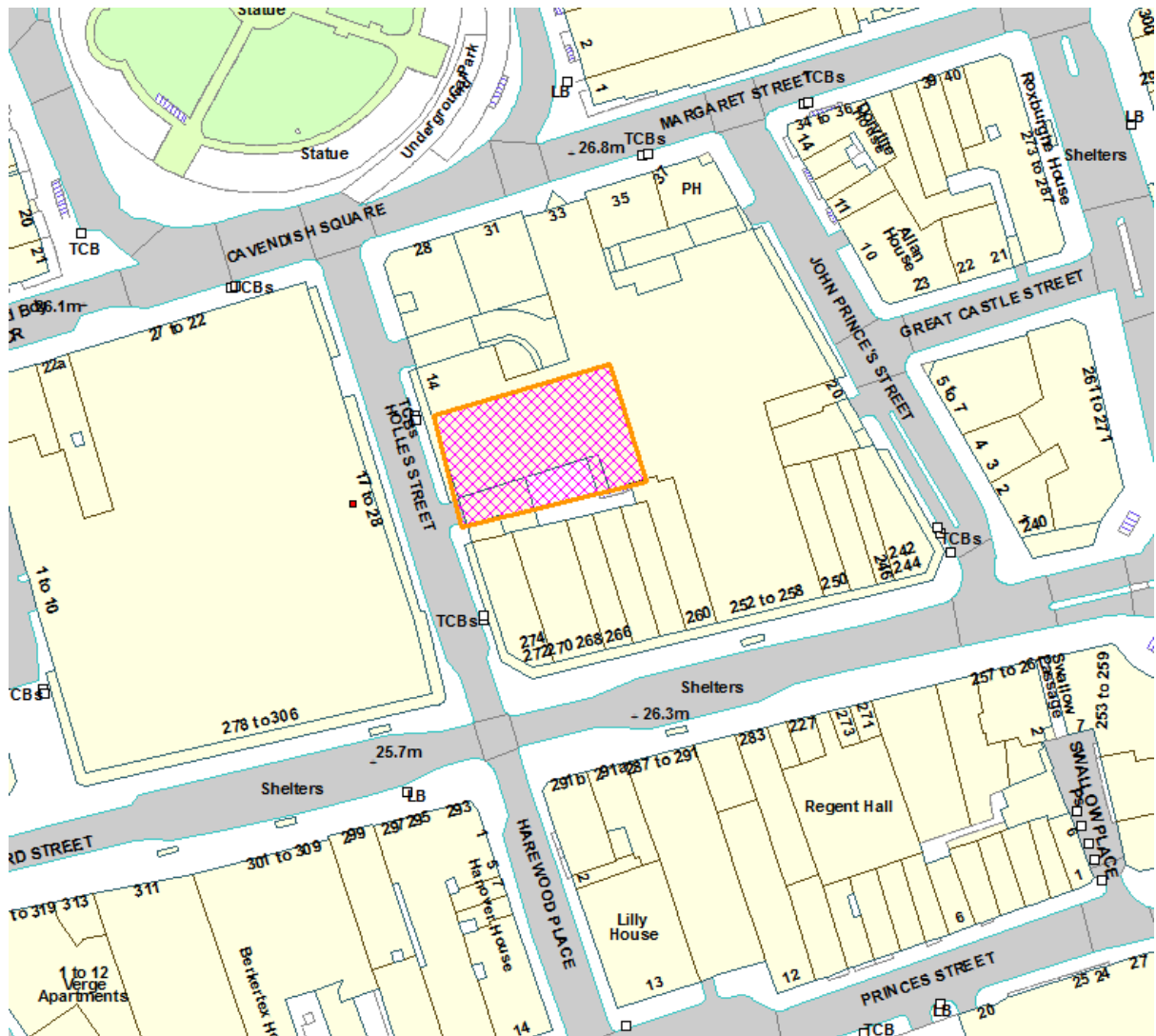
The proposed use is would be appropriate for this location within the Core Central Activities Zone (Core CAZ), providing that no other policy considerations apply. In normal circumstances existing

retail floorspace in this location would be protected. However, it is considered that there are special circumstances in this case to justify the change of use, which include being set back from the primary frontage and the provision of a complementary use that would support the shopping function.

A further consideration is that the City Council's has recently adopted the Oxford Street District Plan which indicates that planning policies may be relaxed to achieve a better mix of uses whilst policies may also provide a more positive approach to the evening and night time economy.

The proposal is considered acceptable in land use and design grounds and is considered to be in line with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan) and is recommended for approval.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS

Application site October 2015



Application site February 2019



## 5. CONSULTATIONS

### THE MARYLEBONE ASSOCIATION

Support the application, subject to controls over servicing.

### HIGHWAYS PLANNING - DEVELOPMENT PLANNING

No objection.

### WASTE PROJECT OFFICER

No objection.

### ENVIRONMENTAL HEALTH

No objection.

### DESIGNING OUT CRIME OFFICER

Any response to be reported verbally.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 83

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is located between Oxford Street and Cavendish Square and comprises ground, first and second floors. This unit formed part of the old BHS store which closed in August 2016. The unit is no longer connected to the retail units fronting Oxford Street and is now considered to be a separate planning unit. The unit benefits from its own entrance, which used to be the western entrance to BHS. There is existing servicing entrances from John Prince's Street and Holles Street.

The site is located within the Core CAZ and the West End Special Retail Policy Area (WESRPA). Being part of the former BHS store, it is still technically part of the Primary Frontage of the WESRPA as designated in the City Plan and the primary shopping frontage (West End International Shopping Frontage) as designated in the UDP.

The site is not within a conservation area, but fronts onto Harley Street Conservation area to the west and north.

### 6.2 Recent Relevant History

Part of the former BHS site which fronts onto John Princes Street has already been granted planning permission for dual alternative use of the ground floor, first and second floor as a mini-golf leisure facility with associated restaurant and bar (sui generis). It

should be noted that this consent was granted on the grounds that this part of the BHS site had been granted permission in 1986 to be changed from B1 office space to ancillary retail space for BHS, and was used as café/restaurant space.

## 7. THE PROPOSAL

Permission is sought for the use of the part ground floor, the whole of the first and second floors as a food/market hall. This will comprise elements of restaurant, bar and hot food takeaway (sui generis). The rest of the ground floor will be used as gym (Class D2).

The market hall will be operated by Try Market Halls, who have two other food courts in London, one in Fulham and one in Victoria. The Victoria market hall was granted consent in May 2018 and opened in autumn 2018. The concept for the market hall is to provide separate kitchens for restaurant operators, with customer seating. All the crockery, dishwashing, refuse stores and servicing for the restaurants is centralised and run by the market hall, so there are no additional costs for the restaurants. There are also central bar areas.

The proposed market hall will be accessed via the existing entrance on Holles Street, and this will be shared with the separate gym use. There will be stair and lift access to the upper floors and it is also proposed to install secure lockers at ground floor for customers to store their shopping. At first floor level, there will be ten individual kitchens, with customer seating for 727. Two bar areas are proposed, with a private dining room and the centralised back of house facilities (refuse stores, dishwashing etc). The second floor level will include two bar areas and customer seating for 345 (total of 1072). External alterations are proposed at second floor level which will include a retractable roof to allow for a semi-external dining area, part of this area will be utilised as a smoking area.

There is an existing plant deck at roof level, which currently houses the redundant BHS plant, this will be removed and new equipment will be installed, the plant deck will be enlarged to cover the majority of the roof. The extract ducts for the kitchens will also extract within the plant deck.

### 1. Land use table.

|                                     | Existing GIA<br>(sqm) | Proposed GIA<br>(sqm) | +/-   |
|-------------------------------------|-----------------------|-----------------------|-------|
| Retail                              | 3435                  | 0                     | -3435 |
| Restaurant/bar/hot food<br>takeaway | 0                     | 2808                  | +2808 |
| Gym                                 | 0                     | 627                   | +627  |
| Total                               | 3435                  | 3435                  | 0     |

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use



**Loss of retail floorspace**

The application site was once connected to the retail frontage on Oxford Street, as part of the BHS store. Once BHS vacated the premises, the unit was split into smaller units, therefore the unit on Holles Street, which is subject to this application, does not have a frontage on Oxford Street.

The proposal would result in the loss of 3435sqm of retail floorspace, had the site still been connected to the retail frontage on Oxford Street, it would have been considered to be part of the Primary Frontage (Oxford Street) of the WESPRA in the City Plan and also of the West End International Shopping Frontage in the UDP, which were both designated when the application site was part of BHS.

Under City Plan policy S7, there should be a provision of retail along the Primary Shopping Frontages at least at basement, ground and first floor levels. UDP Policy SS3 states planning permission will not, except in the most exceptional circumstances, be granted for a change of use from retail use at basement, ground and first floor level in the West End International Shopping Frontage. City Plan policy S21 universally protects A1 retail shopping floorspace.

As a result of the separation of the BHS unit, it is considered that the application site does not have an Oxford Street frontage, therefore it should not be considered as being on the Primary Frontage, therefore UDP Policy SS3 does not apply to this site. However, this does not overcome Policy S21 which protects all retail floorspace throughout the city where it is considered that the retail floorspace is not viable.

The City Council has also just adopted (25 February 2019) the Oxford Street District – Place Strategy and Delivery Plan which seeks to improve the Oxford Street district and revitalise the area. The document recognises the competition traditional retailers are experiencing from online retailers and the changing retail environment across the UK. The document discusses the need for a greater range of activities and mix of uses within the area to provide ‘destinations’ for people besides traditional retail stores. With regards to café/restaurants and other uses it states, ‘it will encourage new clusters of café and restaurant uses to animate street activity one block back from Oxford Street’.

The existing unit has a relatively small shopfront, which was historically used as a secondary entrance/exit to the previous BHS store. As a result of the small frontage any retail passing trade on Holles Street is likely to be limited. This argument could be used for the proposed use, but it is considered that it will provide complementary uses (market hall and gym) which will attract shoppers/worker etc. The proposed use will add to the shopping experience, which is key to the survival of Oxford Street (and other shopping streets) and maintain its international reputation as a shopping destination. The market hall in particular will increase dwell time allowing shoppers to rest and recharge. The market hall will also provide a more positive approach to the evening and night time economy in the area.

On this basis, it is considered that an exception to Policy S21 can be made and the loss of retail floorspace is acceptable.

**Introduction of a market hall**

The proposed food court comprises 2808sqm, with the main usable space at first and second floor level, there is customer seating for 1072 and the premises will be open from 07.30 until midnight, seven days a week.

City Plan Policy S6 accepts that, in principle, entertainment uses are appropriate for the Core CAZ. The proposal is for a 'large-sized' entertainment use and UDP Policy TACE10 applies, which requires the City Council to consider carefully the potential impact on residential amenity and environmental quality, taking into account the cumulative impact with other nearby entertainment uses, and the effect on the character and function of the area. City Plan Policy S24 states that new large scale late night entertainment uses over 500sqm will not generally be appropriate within Westminster.

The nearest residential to the site is on the 20<sup>th</sup> floor 33 Cavendish Square, which is located in the tower adjacent to the application site. The proposals seek to provide an informal dining experience with up to ten kitchens within the site serving customers seated within a central eating area, with bar areas across first and second floor level.

As set out above, the nearest residential is located within the 20<sup>th</sup> floor of 33 Cavendish Square. It is unlikely that the proposed use would have a negative impact on this residential property, bearing in mind its distance away from the application site and considering the location just off Oxford Street. The hours of operation (07.30 – midnight) are in line with the core hours set out in the UDP, which will be secured by condition.

The retractable roof will allow for part of the second floor level to be open to the elements, it is not considered necessary to ensure that the roof is closed earlier than the proposed hours of operation due to the limited residential in the area.

A draft Operational Management Plan (OMP) has been submitted with the application, but as the proposals have evolved since its original submitted, a condition securing an updated OMP is recommended. It is considered that subject to conditions the proposed restaurant/bar floorspace is in line with policy.

It is considered that this location off Oxford Street with limited residential properties in the vicinity, offers an opportunity to provide a complementary use, which would be beneficial to the shopping frontage.

**Introduction of a gym**

Part of the ground floor will be used as a gym, the gym will use the same entrance as the market hall, but will be operated independently from the market hall. City Plan policy S34 states that new social and community facilities will be encouraged throughout Westminster.

The likely operator for the gym use is 1Rebel, who have a number of studios in London, including one in Victoria (Nova development). They run a series of high intensity classes to music, rather than being a traditional gym. The proposed hours of operation for the gym is 06.00 – 22.00, considering the busy location off Oxford Street, with limited residential, the proposed gym and hours are considered acceptable.

## 8.2 Townscape and Design

9 Holles Street is a large 20th century, unlisted building and is located outside of a conservation area on the east side of Holles Street. The boundary of the Harley Street conservation area is located immediately opposite the proposal site. The main design implications of the proposals involve the enlargement of an existing plant enclosure and remodelling of the second floor front elevation, incorporating a fully retractable roof and front wall. A section of the existing front wall structure is to be removed at second floor level to accommodate a new glazed structure with a slightly pitched roof. The walls and roof of the glazed structure are to be fully retractable and create a void at high level when open.

The existing building is not considered to be of significant design merit and the principle of altering the façade is considered uncontentious in principle. The proposed glazed retractable element will be an eye catching feature within the streetscape. Given that this is a 20th century building which already incorporates large expanses of horizontal glazing, the proposal to create this retractable, glazed feature is considered appropriate for a building of this style and character.

Permission is also sought for the enlargement of an existing plant enclosure which is located on the flat roof at third floor level. The enclosure is to be extended rearwards, which will not be visible from street level and can only be seen from within the building itself. This extension to the plant enclosure is considered uncontentious in design terms.

The proposals are therefore considered acceptable in design terms and will preserve the setting of the nearby conservation area. The application is compliant with DES 5 of the Council's UDP and is therefore recommended for approval.

## 8.3 Residential Amenity

There are existing windows at second floor level, which overlook the upper levels of the retail floors in John Lewis, it is not considered that the increased opening will have an adverse impact on the existing mutual overlooking that already exists between the properties.

## 8.4 Transportation/Parking

There are two existing servicing points for the site, one via Holles Street (to the south of the site) and from Cavendish Square. The proposed use will be serviced by the existing off-street bays. This is welcomed and is consistent with City Plan policy S42 and UDP policy TRANS20. The applicant has indicated that they will operate a consolidated approach to servicing for food. This approach is welcomed.

The applicants have not stated whether there will be a delivery service operating from the site. However, it is not considered that a delivery service from this premises is acceptable, due to the impact this is likely to have on pedestrians, noise etc. A condition is recommended to prevent the use from having a food delivery service.

The required cycle parking is not indicated on the proposed plans and its provision is secured by condition.

## **8.5 Economic Considerations**

Any economic benefits generated by the proposal are welcomed.

## **8.6 Access**

Level access is provided at street level, and this leads to either stair or lift access to the upper floors.

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

### **Noise**

The proposed semi external area created by the retractable roof would be over part of the second floor seating area, and would only be open in good weather. The retractable roof would allow some of the seating (40 covers) to be open to the elements. The site is located off Oxford Street, with traffic being the main contributor to the noise levels. It is not considered that the noise generated by customers at this level will increase the existing noise levels in the area. It is unlikely that the use of the semi external area will have an adverse impact on the nearest residential property, by virtue of it being located at 20<sup>th</sup> floor level.

### **Plant**

There is an existing plant deck at roof level which currently houses the redundant BHS plant. The plant deck is proposed to be enlarged to cover more of the existing roof, the redundant plant will be removed and new plant installed. The extract ventilation for the kitchens will extract within the plant deck, the required extract ducts will utilise the existing internal ventilation risers. An acoustic report has been submitted, which indicates that the plant will comply with the City Council's standard noise conditions, as the plant has not been selected a supplementary acoustic report is secured by condition.

The extract duct will vent at roof level, which in this part of the block is at third floor level, part of the block includes 33 Cavendish Square which has 18 floors above the third floor roof. As the extracts will vent at third floor level, (which is roof level of the application site), it technically discharges at low level when compared to the tower. However, it is considered that due to the distance to the nearest residential any smells etc would disperse into the surrounding atmosphere and therefore not have a detrimental impact on the nearest residential property. Detailed drawings of the full ventilation system are required, and these will be secured by condition. Environmental Health have no objection to the proposals.

### **Refuse /Recycling**

The proposed waste/recycling provision is considered acceptable. This is located at first floor level adjacent to the rear service corridors, with access to a shared goods lift. This will be brought down via the existing lift to the John Princes Street service yard. This provision at first floor level is secured by condition.

No details have been submitted relating to the waste/recycling storage for the gym use and a condition is recommended requested further details.

### **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, any representations received are being considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

### **8.9 London Plan**

This application raises no strategic issues.

### **8.10 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.

### **8.11 Planning Obligations**

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

### **8.12 Environmental Impact Assessment**

An Environmental Impact Assessment is not required for an application of this size.

(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: HELEN MACKENZIE BY EMAIL AT [hmackenzie@westminster.gov.uk](mailto:hmackenzie@westminster.gov.uk)

## Proposed ground floor



|  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|
| <b>KEY</b><br>AREA OUTSIDE SITE BOUNDARY → PUBLIC ENTRANCE → SERVICE ENTRANCE → ESCAPE   |  |  |  | <b>UNIT DEPARTMENT KEY</b><br>KITCHEN (light blue)<br>DINING (light green)<br>MEETING (light yellow)<br>PUBLIC SPACE (light orange)<br>HALL (light grey) |  |  |  |
| DRAWINGS SUBJECT TO CHANGE FOLLOWING RECEIPT OF LANDLORD AS-BUILT INFORMATION  |  |  |  | 0 1 2 3 4 5 6 7 8 9 10   |  |  |  |
| <b>REVISIONS</b><br>NO. DATE DESCRIPTION<br>01 10/01/18 PRELIMINARY<br>02 10/01/18 PRELIMINARY<br>03 10/01/18 PRELIMINARY<br>04 10/01/18 PRELIMINARY<br>05 10/01/18 PRELIMINARY<br>06 10/01/18 PRELIMINARY<br>07 10/01/18 PRELIMINARY<br>08 10/01/18 PRELIMINARY<br>09 10/01/18 PRELIMINARY<br>10 10/01/18 PRELIMINARY |  |  |  | <b>PLANNING</b><br>181 MARKET HALL WEST WING<br>Level 01 New Plan - Proposed   |  |  |  |
| 3439-FBA-00-00-DR-A-00_00-101  |  |  |  | FALLONBROWNS ARCHITECTS  |  |  |  |





**DRAFT DECISION LETTER**

**Address:** 9 Holles Street, London, W1G 0BN,

**Proposal:** Use of the part ground, first and second floor as a food court (sui generis) comprising elements of restaurant, bar and hot food takeaway, use of part ground floor as a gym (Class D2), external alterations at second floor level to include a retractable roof, installation of plant at roof level and associated works.

**Reference:** 18/03075/FULL

**Plan Nos:** 3439-FBA-00-00-DR-A-00\_00-001 P9, 3439-FBA-00-00-DR-A-00\_00-101 P9, 3439-FBA-00-02-DR-A-00\_00-201 P9, Delivery and Servicing Management Plan dated April 2018

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

**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 residents and the area generally 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. (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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 4 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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 5 (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 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. (R46AB)

- 6 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. (R48AA)

- 7 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(s) 5 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. (R51AB)

- 8 You must not allow more than 1072 customers into the food court/market hall at any one time. (C05HA)

## 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)

- 9 Customers shall not be permitted within the food court/market hall before 07.30 or after midnight each day. Customers should not be permitted within the gym before 06.00 or after 22.00 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 TACE10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 10 The food court containing elements of restaurant, bar and hot food takeaway can only be carried out in accordance with the layout shown on the following drawing numbers: 3439-FBA-00-00-DR-A-00\_00-001 P9, 3439-FBA-00-00-DR-A-00\_00-101 P9, 3439-FBA-00-02-DR-A-00\_00-201 P9.

## 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)

- 11 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 food court, comprising elements of restaurant, bar and hot food takeaway 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 food court, comprising elements of restaurant, bar and hot food takeaway 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)

- 12 You must provide the waste store shown on drawing 3439-FBA-00-00-DR-A-00\_00-101 P9 before anyone moves into the food court. You must clearly mark it and make it available at all times to everyone using the food court. 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. (C14DC)

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)

- 13 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 only if they are unloaded or loaded within the curtilage of the building. (C23BA)

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)

- 14 You must provide detailed drawings (plans and section/elevation) showing the full height kitchen extract duct (s). These details must be provided before the food court comprising restaurant, bar and hot food takeaway use commences and the approved duct(s) shall be installed and thereafter be permanently retained for as long as the food court comprising restaurant, bar and hot food takeaway is in use.

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)

- 15 You must not operate a delivery service from the premises even as an ancillary part of the use.

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 You must apply to us for approval of details of secure cycle storage for the food court use and secure cycle storage for the gym 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 2016 (R22FA)

- 17 You must carry out the measures included in your servicing management plan dated April 2018 at all times that the food court is in use. (C05KA)

## Reason:

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 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. (R23BB)

- 18 You must apply to us for approval of details of how waste is going to be stored on the site for the approved gym use. 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 gym. 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 The design of the separating structures should be such that all noise generated by the proposed new development (including noise from general operations, gym equipment, internal plant and equipment, amplified sound and music etc) in terms of LAeq,5mins should be demonstrated to be 10dB below the existing background noise level measured in terms of LA90,5 mins inside existing residential dwellings. The background noise level used in the assessment should be representative of the most sensitive times (quietest) at which the new development is in operation (and generating noise). For music noise; the indices of Leq and LFmax in the octave bands 31.5 Hz, 63 Hz and 125hz should also be demonstrated to be 10dB below the existing background noise level measured in terms of L90,5mins (31.5Hz, 63Hz, 125Hz) inside the existing residential dwellings.

## Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, 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. (R13FB)

**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, neighbourhood plan (where relevant), 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 You must get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for the following advertisements: fascia signs. (I04AA)
- 3 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. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: <https://www.westminster.gov.uk/street-naming-numbering> (I54AB)
- 4 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)
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 6 The term 'clearly mark' in condition 12 means marked by a permanent wall notice or floor markings, or both. (I88AA)

| Item No. |
|----------|
| <b>1</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.



|   |   |                                       |                  |
|---|---|---------------------------------------|------------------|
| CITY OF WESTMINSTER   |   |                                       |                  |
| PLANNING APPLICATIONS SUB COMMITTEE                         | Date<br>12 March 2019   | Classification<br>For General Release |                  |
| Report of<br>Executive Director Growth Planning and Housing |   | Ward(s) involved<br>St James's        |                  |
| Subject of Report   | 138 Shaftesbury Avenue, London, W1D 7EA,  |                                       |                  |
| Proposal  | Variation of Condition 3 of planning permission dated 30 July 2018 (RN 18/05021/FULL) for the use of the ground, first and basement levels as restaurant (Class A3) and offices (Class B1) at second floor level including installation of plant and duct equipment at rear.; NAMELY, to allow an ancillary delivery service. |                                       |                  |
| Agent   | First Plan  |                                       |                  |
| On behalf of  | Lemon Pepper Holdings   |                                       |                  |
| Registered Number   | 18/10105/FULL   | Date amended/<br>completed            | 27 November 2018 |
| Date Application Received                                   | 27 November 2018  |                                       |                  |
| Historic Building Grade                                     | Unlisted  |                                       |                  |
| Conservation Area   | Soho  |                                       |                  |

## 1. RECOMMENDATION

Grant conditional permission for a temporary period of one year.

## 2. SUMMARY

The application site is located on the corner of Shaftesbury Avenue and Charing Cross Road, at Cambridge Circus. The unit which the application relates is occupied by Wingstop restaurant and comprises basement, ground and first floors. The third and fourth floor levels comprise two separate flats which are accessible via a separate entrance on Charing Cross Road.

Permission was granted on 13 February 2018 for a restaurant (Class A3) at basement, ground, and first floor level. Subsequently, permission was granted for the variation of condition 3 of the aforementioned consent to allow ancillary walk in takeaway sales on the 30 July 2018.

Condition 3 states that 'no delivery service to operate from the premises'. The reason for this condition was 'the we cannot grant planning permission for unrestricted use within Class A3 because it would not meet Class TACE 9 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case'.

Permission is now sought to vary Condition 3 to allow an element of sales via the Deliveroo delivery

service from the premises.

The supporting documentation states that:

- Deliveroo riders will utilise cycle and motorcycle parking facilities within two minutes' walk from the site.
- All riders will be given a specific collection time.
- Signage and leaflets will be provided to direct riders to cycle and motorcycle bays.
- Deliveroo riders will utilise a separate queue internally to reduce dwell time.

The restaurant floorspace is 304 sqm (GIA), and as the site is located within the West End Stress Area, the application is assessed against UDP Policy TACE9 and City Plan Policy S24. These policies state 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 on residential amenity, health and safety, local environmental quality and the character and function of the area.

Objections have been received from neighbouring residents, the Soho Society and on behalf of neighbouring theatre's including the Place Theatre which is opposite the site, on the grounds that delivery service will result in increased traffic, congestion and question the likelihood that riders will be coordinated to spread their parking across different motorcycle and bicycle bays and increase noise from motorcycles and increase potential for loitering. Reference is also made to an existing issue with queuing at the premises and Deliveroo causing significant issues across Westminster.

The Highways Planning Manager has reviewed the proposal, and whilst the objector's concerns regarding the distance to bicycle/motorcycle bays are echoed, they consider that if the delivery service is operated in the manner identified above, given the availability of motorcycle and cycle spaces in the vicinity, no objection is raised subject to a condition requiring a revised operational management plan (OMP) to include the management of deliveries. It is considered that if the delivery service does not accord with the approved details, it can be successfully enforced against. However, it is recommended that that it should be granted for a temporary period of one year initially to enable its impacts to be monitored.

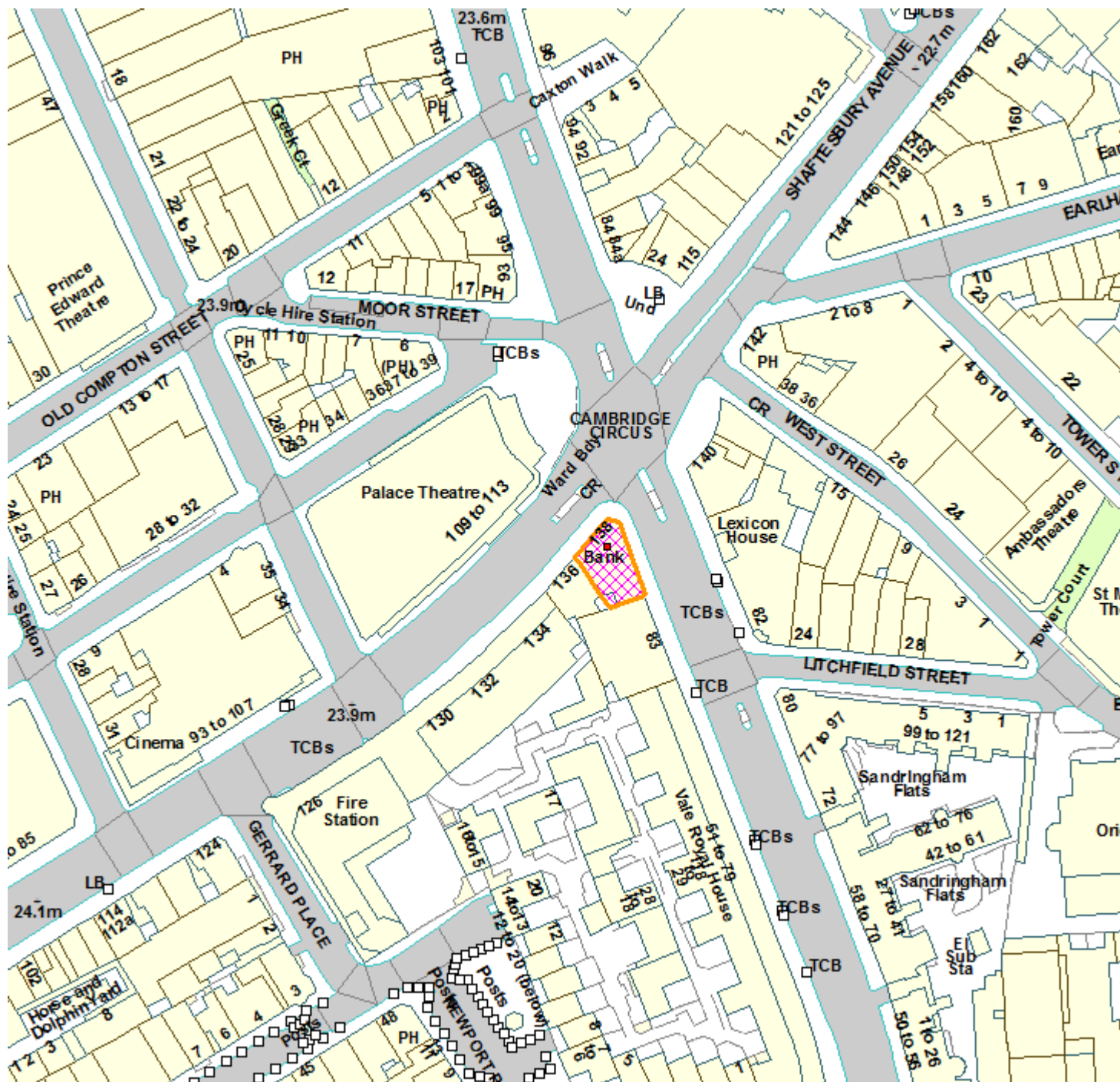
Given that Deliveroo utilise bicycles and motorcycles and noting their impacts on junction capacity, it is considered that the implication on traffic congestion in the vicinity would be negligible.

Deliveroo riders are paid on an order by order basis, this means it is not in their interests to remain parked and stationary in a specific location. As such, it is not considered that it would be reasonable to refuse this application due to the potential of increased loitering in the area.

Objectors referenced claims that the existing restaurant operators are not operating in accordance with their existing operational management plan, or approved plans and have noted the customers are queuing on the highway. No complaints have been received by the Council since the restaurant use was implemented. During the course of this application, two site visits have been undertaken, and no queuing issue was observed. An informative has been added to ensure the restaurant operates in accordance with the approved OMP.

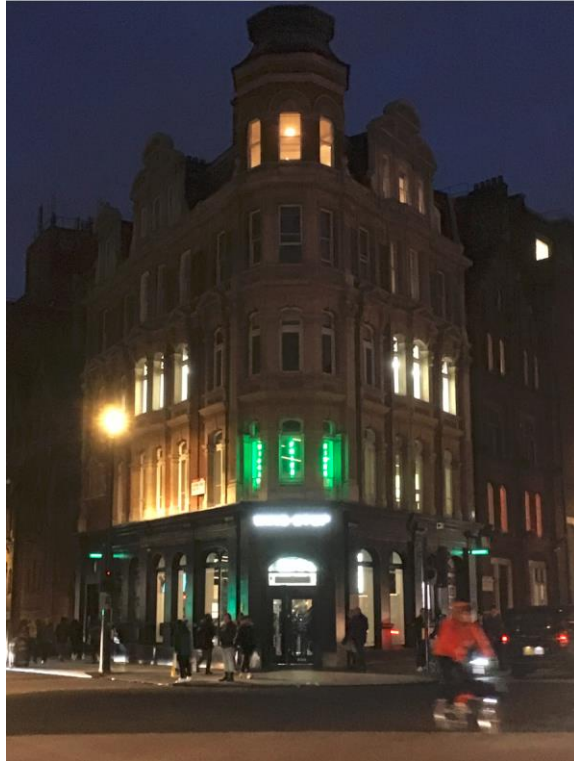
Given the background noise level due to the commercial context and high volume of vehicular traffic in the vicinity of the site, it is not considered that the proposal would result in noise nuisance to neighbouring residential properties or other noise sensitive receptors in the vicinity.

### 3. LOCATION PLAN



This production includes mapping data

#### 4. PHOTOGRAPHS



## 5. CONSULTATIONS

### SOHO SOCIETY

Objection on the following grounds - Potential obstruction and congestion.

### HIGHWAYS PLANNING MANAGER

No objection, subject to conditions.

### WASTE PROJECT OFFICER

No objection.

### ADJOINING OWNERS / OCCUPIERS

No. of original consultees: 12

No. responses: 2 objections, including 1 on behalf of the Palace Theatre on the following grounds:

- \* Increase traffic congestion;
- \* Unlikely that cycle/motorcycles will utilise all identified bays;
- \* Increase noise from motorcycles;
- \* Increased loitering;
- \* Existing issue with queuing;
- \* Existing restaurant is not complying with the approved Operational Management Plan or approved layout
- \* Deliveroo cause significant issues across Westminster

### SITE & PRESS NOTICE

Yes.

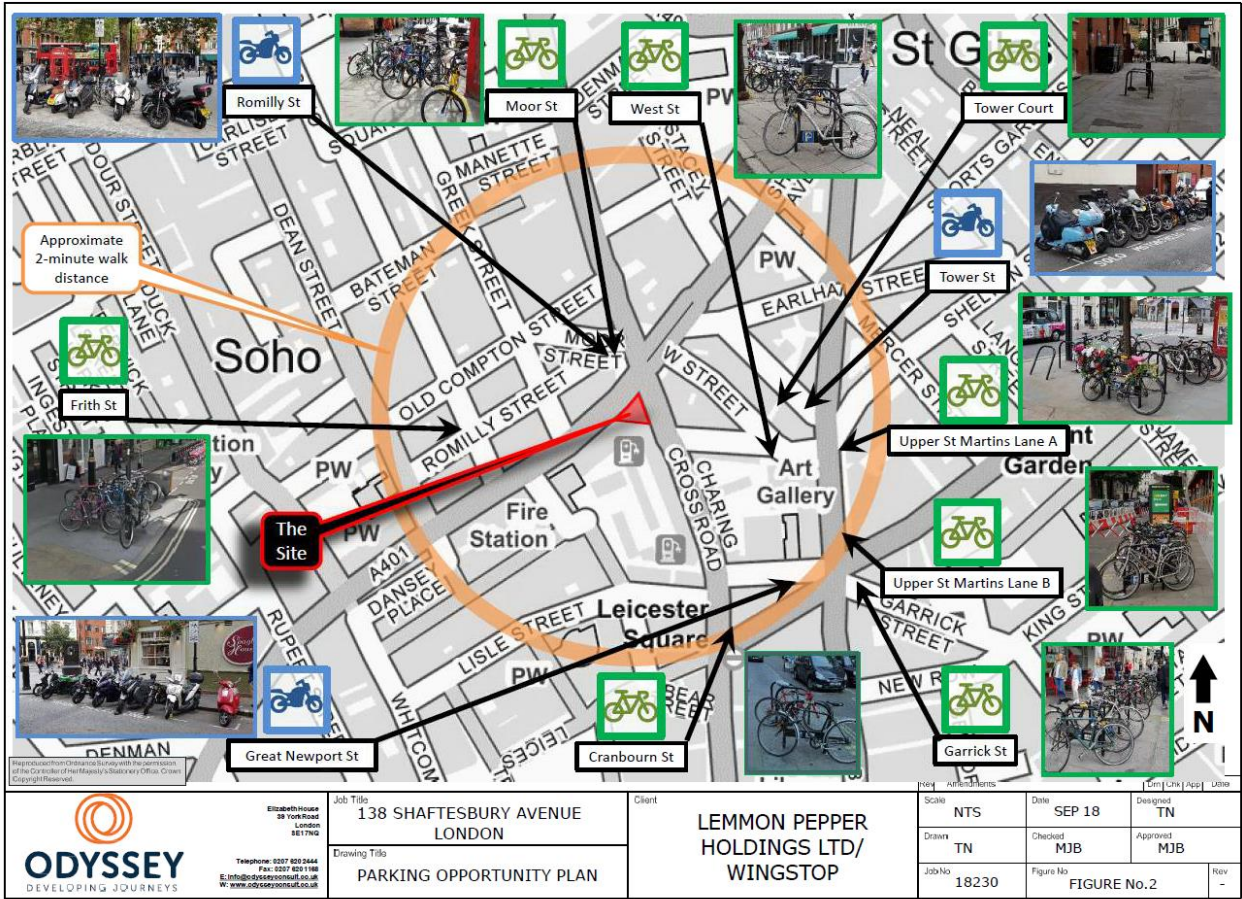
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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



6. KEY DRAWINGS

Cycle and motorcycle bays in the area



**DRAFT DECISION LETTER**

**Address:** 138 Shaftesbury Avenue, London, W1D 7EA,

**Proposal:** Variation of condition 3 of planning permission dated 30 July 2018 (RN 18/05021/FULL) for the use of the ground, first and basement levels as restaurant (Class A3) and offices (Class B1) at second floor level including installation of plant and duct equipment at rear.; NAMELY, to allow an ancillary delivery service.

**Reference:** 18/10105/FULL

**Plan Nos:** Application Form

18/05021/FULL

Document titled 'Takeaway Management Plan received on the 14 June 2018

18/02126/ADFULL

3000, 3001, 138 Shaftesbury Avenue, Proposed floor mounted hooped bike racks, 001-476-000 D, 001-476-001-0 H, 138 Shaftesbury Avenue Proposed restaurant bin store at basement level, Wing Stops Operational Strategies v.3.

17/10760/FULL

3589-SK-0000, 3589-SK-0005, 3589-SK-0004, 3589-SK-0003, 001-476-000 C, 3001 C, 3002 D.

**Case Officer:** Damian Lavelle

**Direct Tel. No.** 020 7641 5974

**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 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 residents and the area generally 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. (R11AC),

- 3 You must apply to us for approval of a Delivery Service Management Plan. You must then carry out the measures included in the approved Delivery Service Management Plan at all times that the restaurant is in use. (C05JB,

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet Class TACE 9 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 4 The provision of a bar and bar seating must not take up more than 15% of the floor area of the restaurant premises. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Soho Conservation Area. This is in line with S24 of Westminster's City Plan adopted November 2016 and TACE 9 of our Unitary Development Plan that we adopted in January 2007.

- 5 You must not allow more than 99 customers into the property at any one time.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Soho Conservation Area. This is in line with S24 of Westminster's City Plan adopted November 2016 and TACE 9 of our Unitary Development Plan that we adopted in January 2007.

- 6 You must not play live or recorded music on your property that will be audible externally or in the adjacent properties.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 7 Customers shall not be permitted within the restaurant premises before 10.00 or after midnight daily.



## 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 TACE 9 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 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 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. (R46AB)

- 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. (R48AA)

- 10 You must apply to us for approval of details of how waste is going to be stored on the site. You must not commence the use hereby approved 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 premises. You must not use the waste store for any other purpose. (C14CD)

Or

You must comply with the details approved on the 11 May 2018 (RN:18/02126).

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)

- 11 You must apply to us for approval of details of secure cycle storage for the basement, ground first floor restaurant unit and the second floor office use. You must not commence the use hereby approved 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.

Or

You must comply with the details approved on the 11 May 2018 (RN:18/02126).

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 2016 (R22FA)

- 12 The extract duct hereby approved shall be installed in full prior to the commencement of the restaurant (Class A3) use hereby approved and shall be retained in situ for the life of the development.

Reason:

To ensure that cooking odours are adequately dispersed, as required by S29 and S31 of Westminster's City Plan (November 2016) and ENV 5 of our Unitary Development Plan that we adopted in January 2007.

- 13 You must apply to us for approval of an Operational Management Plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, prevent customers queuing on the street, manage customers who wish to smoke, prevent customers from taking their drinks outside, and ensure deliveries and refuse are not stored on the highway and are carried out in a sensitive manner to ensure noise is minimised within agreed hours.  
You must then carry out the measures included in the approved Operational Management Plan at all times that the restaurant is in use. (C05JB)

Or

You must comply with the details approved on the 11 May 2018 (RN: 18/02126).

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 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 14 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 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)

- 15 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme (a) The provision of visual screening for the extract flue. You must not start on this part of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings.

Or

You must comply with the details approved on the 11 May 2018 (RN:18/02126).

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 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)

- 16 All servicing must take place between 00:00 and 07:00 daily. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building.

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 Any ancillary takeaway service must be carried out in accordance with the 'Takeaway Management Plan' at all times that the restaurant is in use.

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet Class TACE 9 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 18 The ancillary delivery service allowed by this permission can continue until 31 March 2020. After that, no delivery service shall operate from the premises.

Reason:

We need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 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, neighbourhood plan (where relevant), 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 You are reminded that the restaurant must operate in accordance with the approved operational management plan and approved floorplans. Failure to do so will result in enforcement action been taken.

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.

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|   |   |                                       |                 |
|---|---|---------------------------------------|-----------------|
| CITY OF WESTMINSTER   |   |                                       |                 |
| PLANNING APPLICATIONS SUB COMMITTEE                         | Date<br>12 March 2019   | Classification<br>For General Release |                 |
| Report of<br>Executive Director Growth Planning and Housing |   | Ward(s) involved<br>Little Venice     |                 |
| Subject of Report   | 28 Blomfield Road, London, W9 1AA   |                                       |                 |
| Proposal  | Extension to glazed garden room at ground floor level on the rear elevation and excavation of one storey basement in rear garden. |                                       |                 |
| Agent   | Mr Jon Presland   |                                       |                 |
| On behalf of  | Mr Paul Kempe   |                                       |                 |
| Registered Number   | 18/09355/FULL   | Date amended/<br>completed            | 8 November 2018 |
| Date Application Received                                   | 1 November 2018   |                                       |                 |
| Historic Building Grade                                     | Unlisted  |                                       |                 |
| Conservation Area   | Maida Vale  |                                       |                 |

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

Planning Permission was granted at planning sub-committee on 2 August 2016 for works similar to those proposed under this current application, namely a single storey rear ground floor extension and a single storey basement under the rear garden. Permission was granted for three years and therefore the permission can be implemented until 1 August 2019. This application seeks to amend the approved proposals as follows:

- The rear extension is to have a solid rather than glazed roof;
- The height of the rear extension has been reduced by 15cm's;
- The rear extension has been set in from the boundary by 60cm;
- Amendment to the location of the basement by 50mm;
- Amendment to the size of the basement rooflight/escape hatch.

One objection has been received, namely in relation to the originally approved proposals, but also raising issues in relation to lack of information.

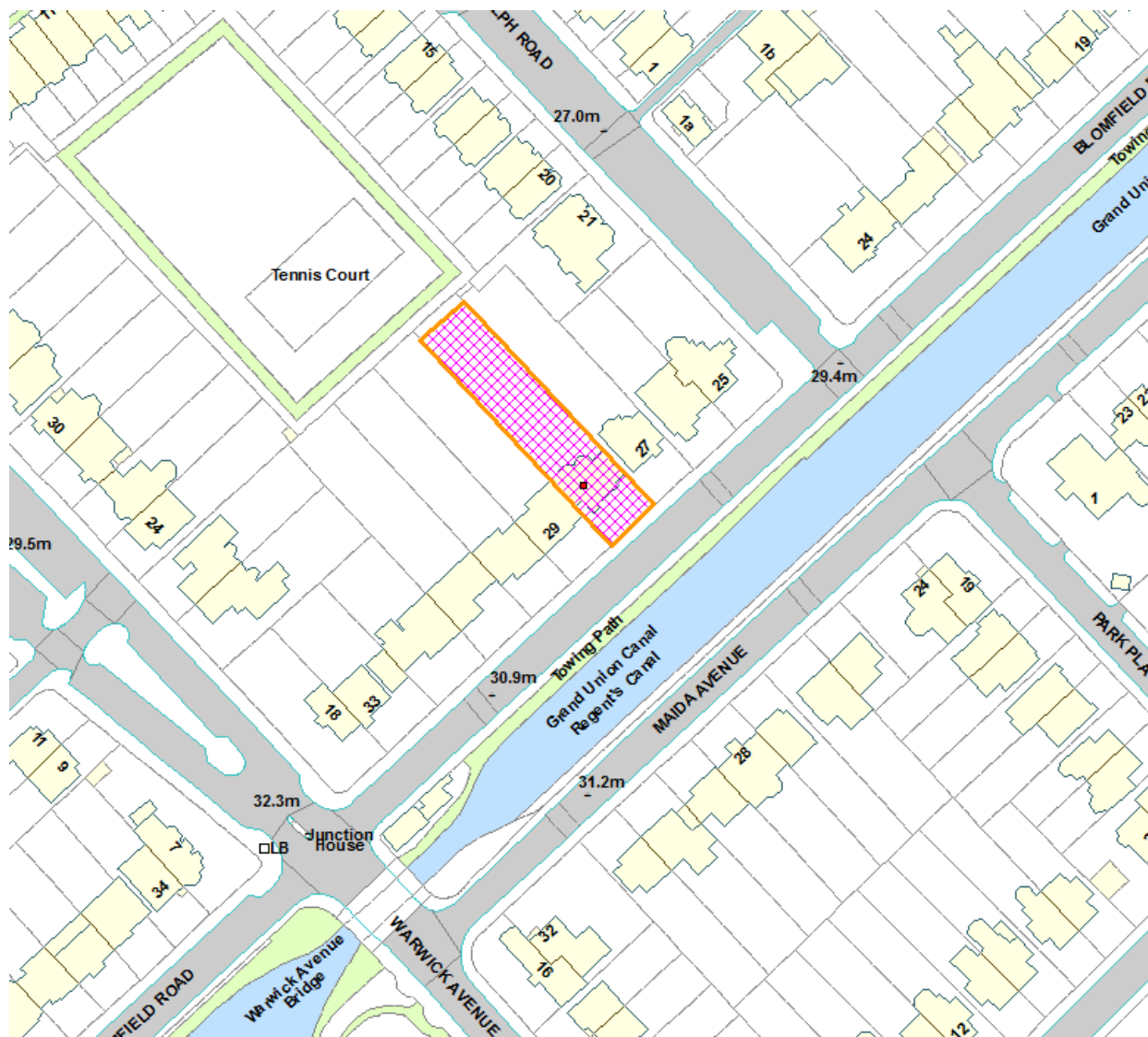
The key considerations are:

- The impact on the appearance of the building and character and appearance of the Maida Vale Conservation Area.
- The impact on the setting of the neighbouring listed building at No.29 Blomfield Villas.
- The impact on the amenity of neighbouring residents.
- The impact upon trees on the site and in neighbouring gardens.

The amended extension and basement are considered to remain consistent with relevant development plan policies in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan). As such, the application is recommended for approval subject to the conditions set out in the draft decision letter at the end of this report.



### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



Front Elevation (top) and Rear Elevation (bottom).



## 5. CONSULTATIONS

### PADDINGTON WATERWAYS & MAIDA VALE SOCIETY:

No objections, request for neighbours views to be taken into consideration.

### THAMES WATER:

Any response to be reported verbally.

### WASTE PROJECTS OFFICER:

No objection.

### ARBORICULTURAL OFFICER:

No objection. Comment in relation to planting associated with the 60cm change to the rear extension and that the proposals are as previously approved, therefore the same conditions are recommended.

### HIGHWAYS PLANNING MANAGER:

No objection.

### BUILDING CONTROL:

Any response to be reported verbally.

### ADJOINING OWNERS / OCCUPIERS:

No consulted: 5

No responses: 3 letters of objection, with two on behalf of the same residents and one in support of the objections raised. The objections raises the following points:

#### Design:

- No Heritage Statement submitted to justify proposals against local and regional policies or the NPPF. This is also contrary to the local validation requirements.

#### Basement:

- A reduced area of undeveloped garden land is proposed adjacent to No 29 Blomfield Road. Reduces from 0.5m as approved under application 16/00616/FULL down to 0.45m. This is insufficient.
- No details of basement plant equipment to be used and its associated noise impact.

#### Amenity:

- The alterations do not overcome concerns previously raised by neighbours in terms of increased sense of enclosure and loss of light, which are contrary to policy.

#### Trees:

- The survey information with the Tree Report is over 4 years old and should be updated.
- The report does not suitably justify the impact of the development on trees or address local policies.

#### Other:

- Request for additional time to respond to consultation.
- No details in relation to the impact of building works on neighbouring properties.

- The submitted Structural Method Statement is dated 23/12/2015 and has not been updated to address changes. An objection was previously raised in relation to this statement on the previous application and these previous concerns have not been addressed.
- The Traffic Management Plan is inadequate and fails to identify the likely level of disruption on local highway network.

SITE NOTICE / PRESS ADVERT:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application site comprises a semi-detached unlisted villa on the north west side of Blomfield Road. The site is located within the Maida Vale Conservation Area. The adjoining property No. 29 Blomfield Road is a Grade II listed building. The rear of the site borders the boundary of the Little Venice Garden which is a Site of Importance for nature Conservation (SINC).

### 6.2 Recent Relevant History

#### 05/08199/FULL

Erection of a side extension at basement, ground and first floor levels, a single storey rear conservatory extension to provide additional residential accommodation, a concealed valley roof infill and alterations to the front boundary wall including replacement of gates.

Application Permitted 5 January 2006

#### 06/03060/FULL

Erection of single storey rear extension and replacement flat roof to existing single storey side extension.

Application Permitted 13 June 2006

#### 06/09823/FULL

Alterations during the course of construction to planning permission dated 5 January 2006 (RN: 05/08199) namely the addition of a pitched roof to the side extension and roundel windows to the front and rear elevations of the side extension.

Application Permitted 13 February 2007

#### 07/04776/FULL

Excavation of basement extension below front garden with associated alteration to front basement lightwell, installation of railings to lightwell and replanting of existing tree within front garden.

Application Permitted 14 August 2007

#### 16/00616/FULL

Extension to glazed garden room at ground floor level on the rear elevation and excavation of one storey basement in rear garden.

Application Permitted 2 August 2016

## 7. THE PROPOSAL

Permission is sought to make minor revisions to the 2 August 2016 permission for a rear ground floor extension and basement extension under the rear garden. The revisions are namely:

- The rear extension is to have a solid rather than glazed roof;
- The height of the rear extension has been reduced by 15cm's;
- The rear extension has been set in from the boundary by 60cm;
- Minor amendment to the location of the basement by 50mm;
- Minor amendment to the size of the basement rooflight/escape hatch.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The principle of providing additional floorspace to enlarge the existing residential dwellinghouse is acceptable in land use terms and would accord with policy H3 in the Unitary Development Plan (UDP).

### 8.2 Townscape and Design

There has been no significant change in Planning Policy since the original permission, with the exception of the formal adoption of the then draft basement policy (Cm28.1 of the City Plan).

An objection has been received on the grounds that no Heritage Statement has been provided contrary to Westminster Validation Guidance and no reference has been made to the NPPF. While a heritage statement should have been provided, it is not considered that withholding permission on these grounds would be reasonable, given the extant consent and the scope of the alterations to this previously approved scheme, which are considered to be minor and do not have a significant impact on the conservation area.

As there has been no change to the relevant City Council policies since the original proposals, the principle of the proposed rear extension and basement are still considered acceptable in terms of their impact upon the setting of the adjacent listed building and wider conservation area.

It is considered that the amendments are minor and will not have a negative impact on the character and appearance of the conservation area or the host building or the setting of the adjacent listed building. The proposals are considered to comply with DES 1, DES 5, DES 9 of the UDP and S25 and S28 of the City Plan and London Plan Policies.

Considerations in relation to the basement will be discussed in section 8.7 of this report.

### 8.3 Residential Amenity

There has also been no change in the relevant adopted policies since the original permission, namely Policy ENV13 of the UDP 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. Similarly, Policy S29 in the City Plan aims to protect the amenity of residents from the effects of development.

The objector has noted that the revised proposals do not overcome previous objections in relation to the development. The proposals are still considered acceptable on amenity grounds, given the relationship with the adjacent property, the scale of the proposed rear extension and its location. In addition, the rear extension has been amended slightly from previously approved, namely that it has been set in from the boundary by 60cm and lowered in height by 15cm, which will reduce its impact on the neighbouring property slightly. The proposals are therefore considered to comply with the objectives of policy ENV13 in the UDP and policy S29 in the City Plan.

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

The proposed development does not raise any transportation issues.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

No alterations to access to this private dwellinghouse are proposed.

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

##### **8.7.1 Basement**

Objection has been received in relation to the reduced area of undeveloped land being provided compared to that previously approved. In addition objection to the lack of information in relation to how the basement will be ventilated and the structural statement have been raised.

The proposals are considered to be in accordance with adopted policy CM28.1 of the City Plan (Nov 2016) for the reasons set out as follows:

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

The applicant has provided an assessment of ground conditions for this site and this has informed the structural methodology proposed, which has also been submitted with the application within a structural statement prepared by an appropriately qualified structural engineer. These documents are the same as previously submitted, however include annotations in relation to the revised proposals. Any response from Building Control will be reported verbally, however the documents were previously reviewed by Building Control on the previous application who advised that the structural methodology proposed was appropriate for the ground conditions found on this site and considered acceptable.

The basement has been amended slightly from previously, however the revisions are minor, with the alteration moving the location of the basement by 50mm. No change is proposed to the way that the basement is constructed and given its location under the garden, the minor revision will not impact on any buildings. As such, the information is considered acceptable and the objection on the grounds that the structural report is unacceptable is not sustained.

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. This condition is to replace the previously required construction management plan as such details will be required and considered by the Environmental Inspectorate in the applicants CoCP submission.

The site is located within the Maida Vale Flooding hot spot. A flood risk assessment has been included within the structural information which concludes that the risk of flooding is low and the development is not expected to affect the risk of flooding elsewhere, which is considered acceptable.

#### Part A. 5 & 6

An objection has been received in relation to noise and vibration from construction. The impact of construction work associated with the proposed basement and general disturbance associated with construction activity is mitigated by limiting the proposed hours of working with a condition, which states that no piling, excavation and demolition work is undertaken on Saturdays or Sundays. This condition is consistent with environmental protection legislation and will help to alleviate disturbance to neighbours outside of the prescribed hours. The CoCP will also manage the construction of the basement in consultation with Environmental Inspectorate.

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

#### Part B. 1&2

While objection has been received in relation to the age of the survey information within the tree report, no objection has been received from the arboricultural manager in relation to the revised proposals, subject to the same conditions and informatives as previously attached to the extant consent, namely in relation to tree protection and for the planting of a replacement tree.

#### Part B. 3

The proposals do not include any details in relation to ventilation and an objection has been received on these grounds. Alike with the previous proposal, the development does not indicate any plant equipment. An informative is recommended to advise the applicant that any plant equipment, which vents externally, would likely require planning permission. This would be subject to separate consideration and consultation with neighbours.

#### Part B. 4 & 7

The submitted structural statement/ flood risk assessment confirms that the proposals will not have a significant negative impact in terms of surface water flooding, which is considered acceptable.

**Part B. 5&6**

The proposals are located under the existing garden and are therefore considered discreet and will not negatively affect the conservation area.

**Part C. 1**

The basement does not extend beneath more than 50% of the garden land and will leave a margin of undeveloped garden land. While this has been reduced by 50mm along the boundary with No 29 (from 500mm to 450mm), this is considered acceptable, given the significant size of the garden which will remain undeveloped and allow drainage.

**Part C. 2**

1m of soil and 200mm drainage layer has been provided above the basement which is to be secured by condition.

**Part C. 3**

Only 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.

**8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, any representations received are being considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

**8.9 Neighbourhood Plans**

The site is not located within an area with a Neighbourhood Plan.

**8.10 London Plan**

This application raises no strategic issues.

**8.11 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the



written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development and in relation to tree protection. The applicant has agreed to the imposition of the conditions.

#### **8.12 Planning Obligations**

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

#### **8.13 Environmental Impact Assessment EIA**

The development is of insufficient scale to require the submission of an EIA.

#### **8.14 Other Issues**

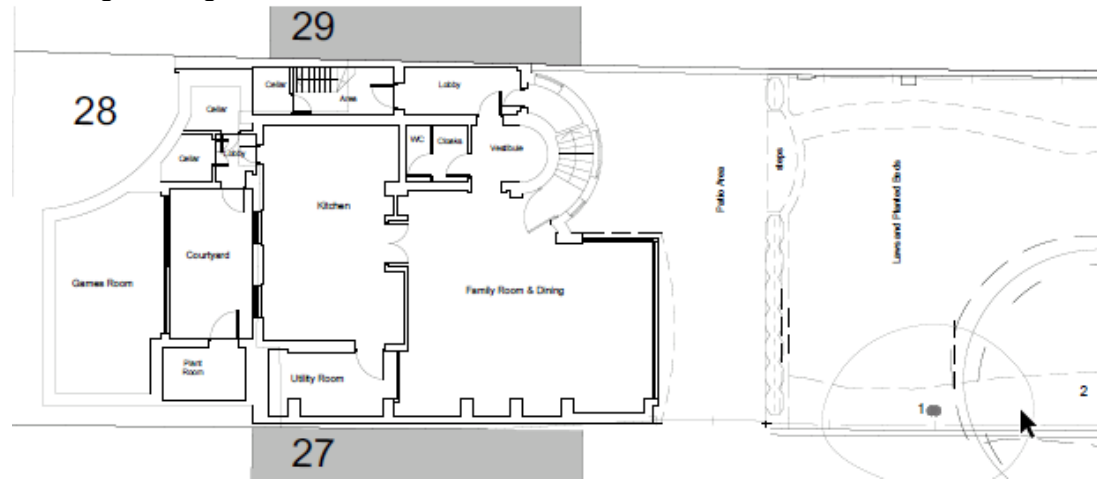
None.

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

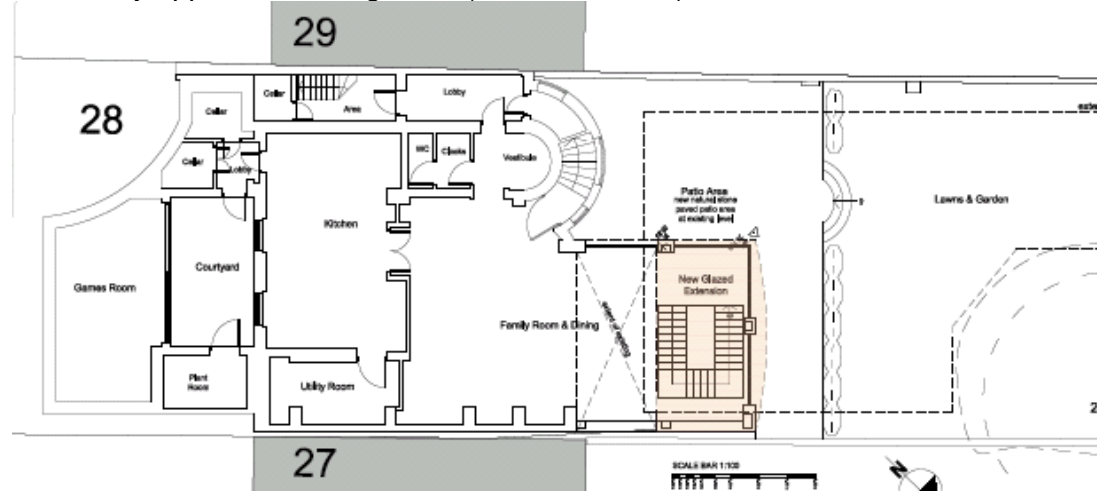
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| IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT <a href="mailto:rhandley@westminster.gov.uk">rhandley@westminster.gov.uk</a> . |
|--|

## 9. KEY DRAWINGS

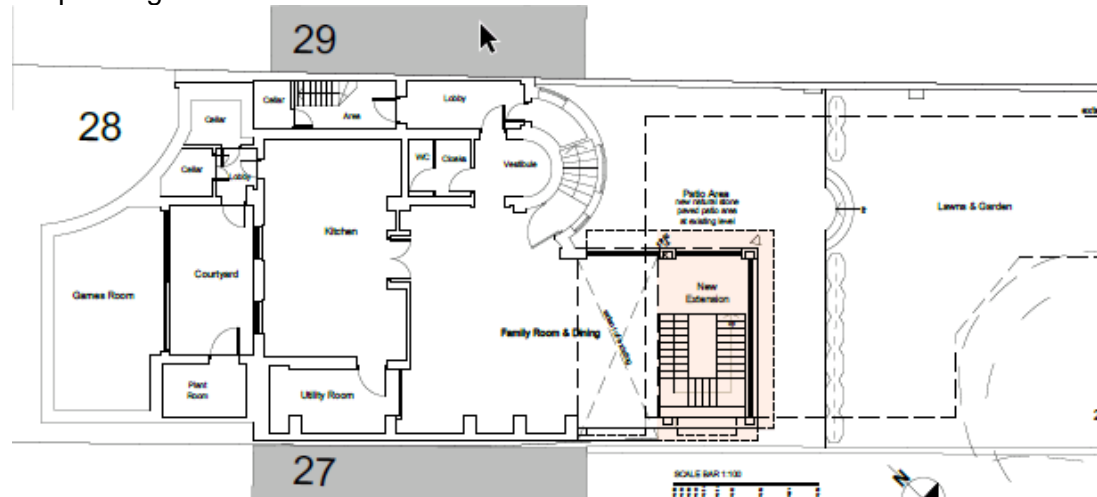
Existing lower ground



Previously approved lower ground (16/00616/FULL)



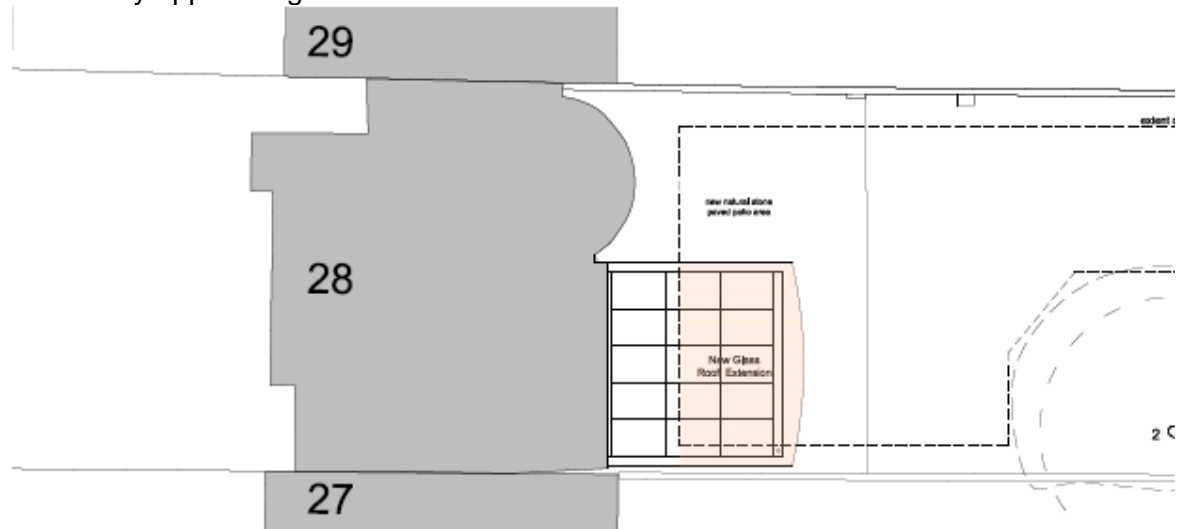
Proposed ground



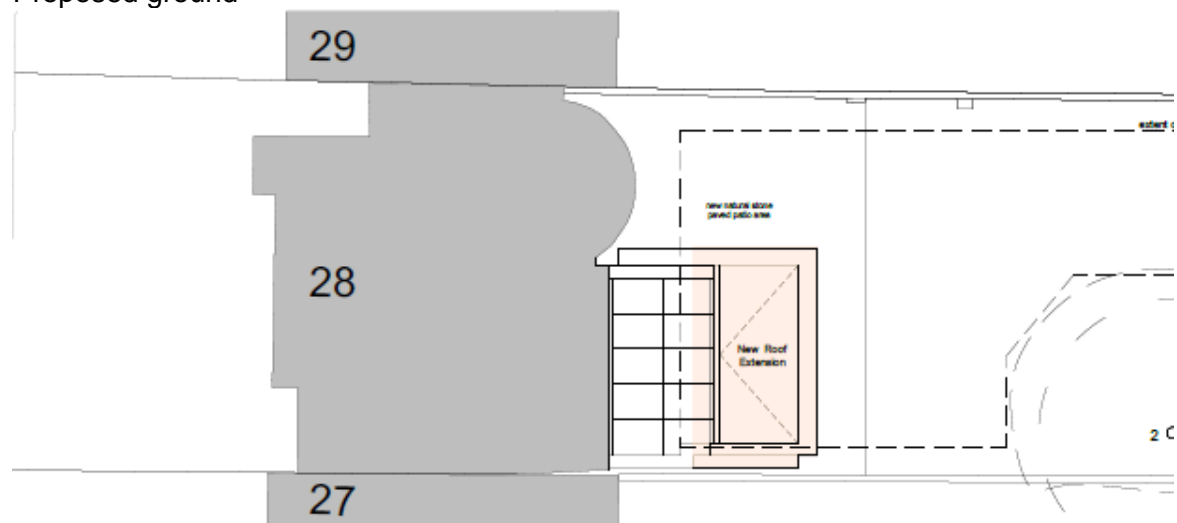
Existing ground



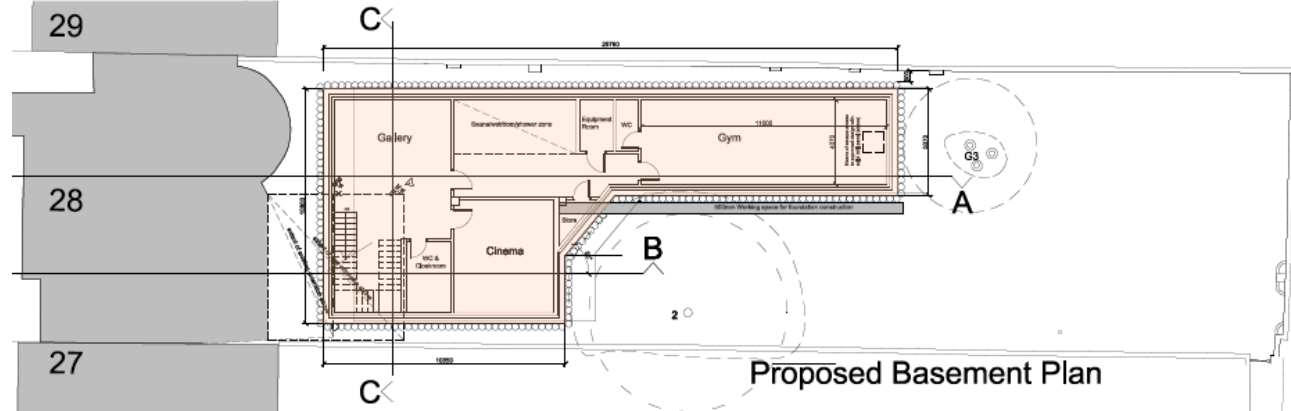
Previously approved ground



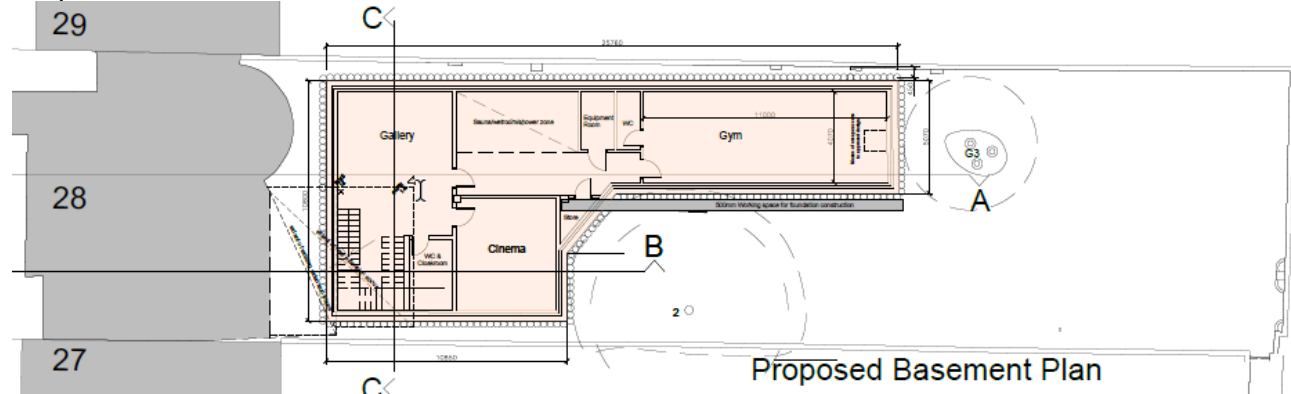
Proposed ground



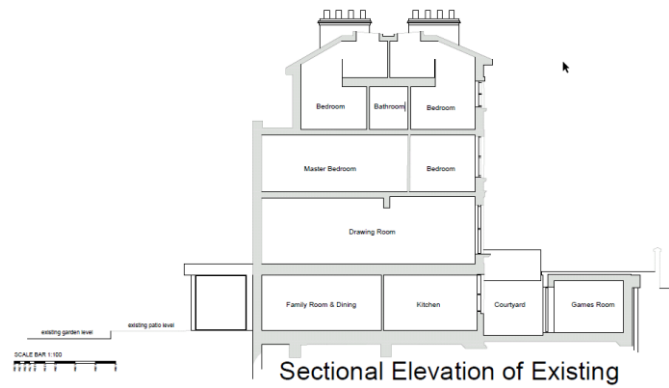
Previously approved basement



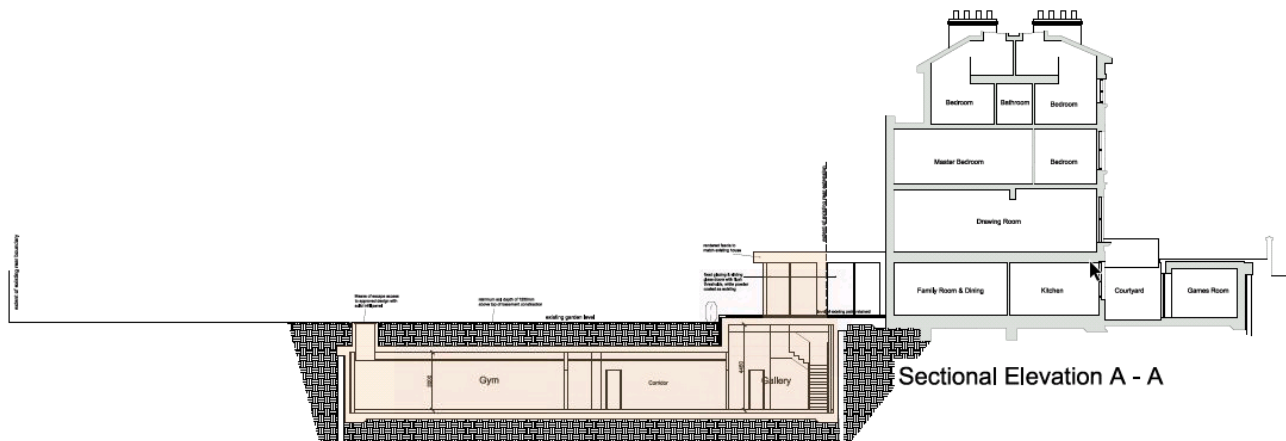
Proposed basement



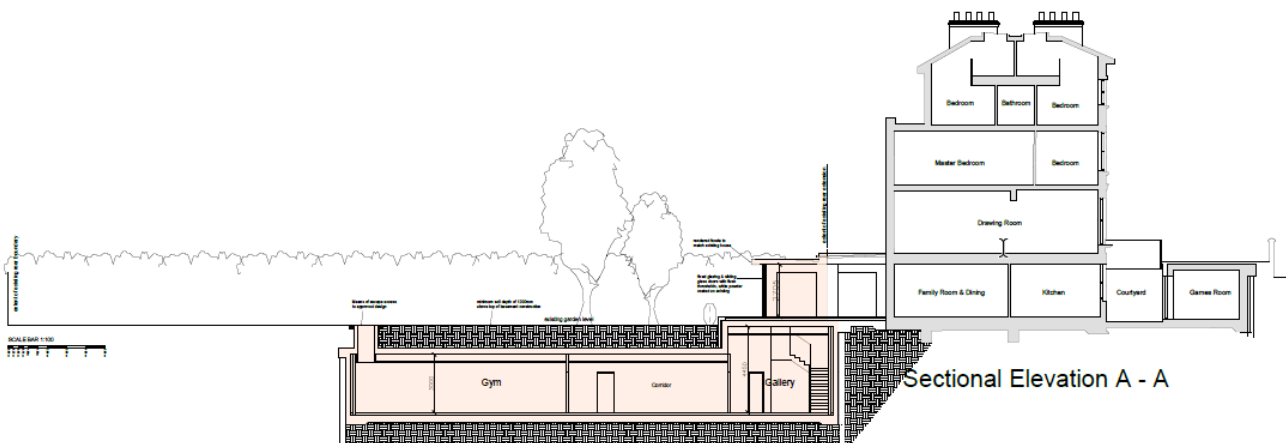
## Existing section



## Previously approved section



## Proposed section



**Existing rear elevation****Previously approved rear elevation****Proposed rear elevation**

**DRAFT DECISION LETTER**

**Address:** 28 Blomfield Road, London, W9 1AA,

**Proposal:** Extension to glazed garden room at ground floor level on the rear elevation and excavation of one storey basement in rear garden (Minor revisions to application referenced 16/00616/FULL granted 02 August 2016).

**Plan Nos:** Site location plan; P/100; P/200; P/201; P/202 A.  
For information only: Method Statement for the Excavation by DDC Ltd;  
Construction Management Plan DDC Ltd; Structural Method Statement by  
elliottwood P1; Design & Access Statement; Arboricultural Implications Assessment  
and Method Statement by ACS dated 18 January 2016.

**Case Officer:** Rupert Handley

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

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

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

**Reason:**

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

- 2 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 residents and the area generally 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. (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 Maida Vale 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 You must apply to us for approval of detailed drawings including plans, elevations and sections of the following parts of the development;

- means of escape access in rear garden.

You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved drawings.

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 Maida Vale 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 **Pre Commencement Condition.** 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 of Construction Practice and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its written approval of such an application (C11CC)

Reason:

To protect the environment of residents and the area generally 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. (R11AC)

- 6 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. (C31CC)



**Reason:**

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

- 7 You must plant the replacement tree to replace the Purple Plum Tree (No.1), which is to be removed as part of the development hereby approved, in the same place or in any other place we agree to in writing. You must apply to us for our approval of the size and species of the replacement tree, and you must plant the replacement tree within 12 months of removing the original tree. You must also replace any replacement tree which dies, is removed or becomes seriously damaged or diseased within five years of the date we approve this application with another of tree of similar size and species to the one that was originally planted.

**Reason:**

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

- 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 as shown on the drawings hereby approved. The soil depth and soil volume above the basement must thereafter be retained as approved. (C30GA)

**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.

**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, neighbourhood plan (where relevant), 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 In respect of the stump of the dead American Sweetgum. Under the terms of s 206 of the Town and Country Planning Act 1990, it is the duty of the owner of the land to plant another tree of an appropriate size and species at the same place as soon as reasonably possible, unless on application the Council dispenses with this requirement. The duty to replant is a legislative

duty. We will need to formally agree the size and species and location of the replacement. You can contact our Arboricultural team on 020 7641 2922.

- 3 In recognition of the greater susceptibility of basements to flooding from surface water and sewerage in comparison to conventional extensions, it is recommended you install a 'positive pumped device' (or equivalent reflecting technological advances) in the basement.
- 4 You are advised that this permission is not for the installation of any mechanical plant in the basement. Should you wish to install any mechanical plant at the property which is outside or internal with extraction to an exterior surface or location, you will need to obtain planning permission.
- 5 Fractures and ruptures can cause burst water mains, low water pressure or sewer flooding. You are advised to consult with Thames Water on the piling methods and foundation design to be employed with this development in order to help minimise the potential risk to their network. Please contact:

Thames Water Utilities Ltd  
 Development Planning  
 Maple Lodge STW  
 Denham Way  
 Rickmansworth  
 Hertfordshire  
 WD3 9SQ  
 Tel: 01923 898072  
 Email: Devcon.Team@thameswater.co.uk

- 6 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.
- 7 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.**

- 8 You are advised that Condition 4 requires the secondary means of escape to be designed so that it appears as a typical garden structure and does not appear as a lightwell or rooflight within the garden.

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# Agenda Item 4

Item No.

4

|                                     |  |                                       |              |
|-------------------------------------|--|---------------------------------------|--------------|
| CITY OF WESTMINSTER                 |  |                                       |              |
| PLANNING APPLICATIONS SUB COMMITTEE | Date<br>12 March 2019  | Classification<br>For General Release |              |
| Report of<br>Director of Planning   |  | Ward(s) involved<br>Little Venice     |              |
| Subject of Report                   | Flat 1 , 88 Sutherland Avenue, London, W9 2QR  |                                       |              |
| Proposal                            | Erection of single storey rear extension at lower ground floor level and use of roof as a terrace with associated screening/trellis; installation of stair from rear upper ground to garden level; alteration to front windows; erection of garden shed. |                                       |              |
| Agent                               | Mr Edward Rutherfoord  |                                       |              |
| On behalf of                        | Mr & Mrs Julien Marie and Cynthia Elsen  |                                       |              |
| Registered Number                   | 18/03519/FULL  | Date amended/<br>completed            | 24 July 2018 |
| Date Application Received           | 30 April 2018  |                                       |              |
| Historic Building Grade             | Unlisted   |                                       |              |
| Conservation Area                   | Maida Vale   |                                       |              |

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

This application relates to the lower ground and ground floor flat located in an unlisted building located within the Maida Vale Conservation Area. To the rear of the property there is a small balcony, which provides access to the large lower ground floor garden via a spiral stair. Permission is sought to erect a rear extension at lower ground floor level with terrace above, replacement of the spiral stair with a stair which runs down the boundary with No 86 Sutherland Avenue. A shed is also proposed within the rear garden. To the front of the property two windows are to be replaced.

The proposals have been amended from the original submission, which proposed a garden room which occupied the full width of the end of the garden, which was not considered to be acceptable due to its location and design. This has been removed and a shed is now proposed to one side of the garden.

Objections have been received from neighbouring residents, largely on amenity grounds.

The key points of consideration are:

- The acceptability of the proposals in amenity terms.
- The acceptability of the proposals in design and conservation area terms.

Subject to the conditions as set out on the draft decision letter, it is considered that the proposed alterations are acceptable in design, conservation area and amenity terms and in accordance with policies in the City Councils adopted Unitary Development Plan and City Plan. The application is therefore recommended for approval.

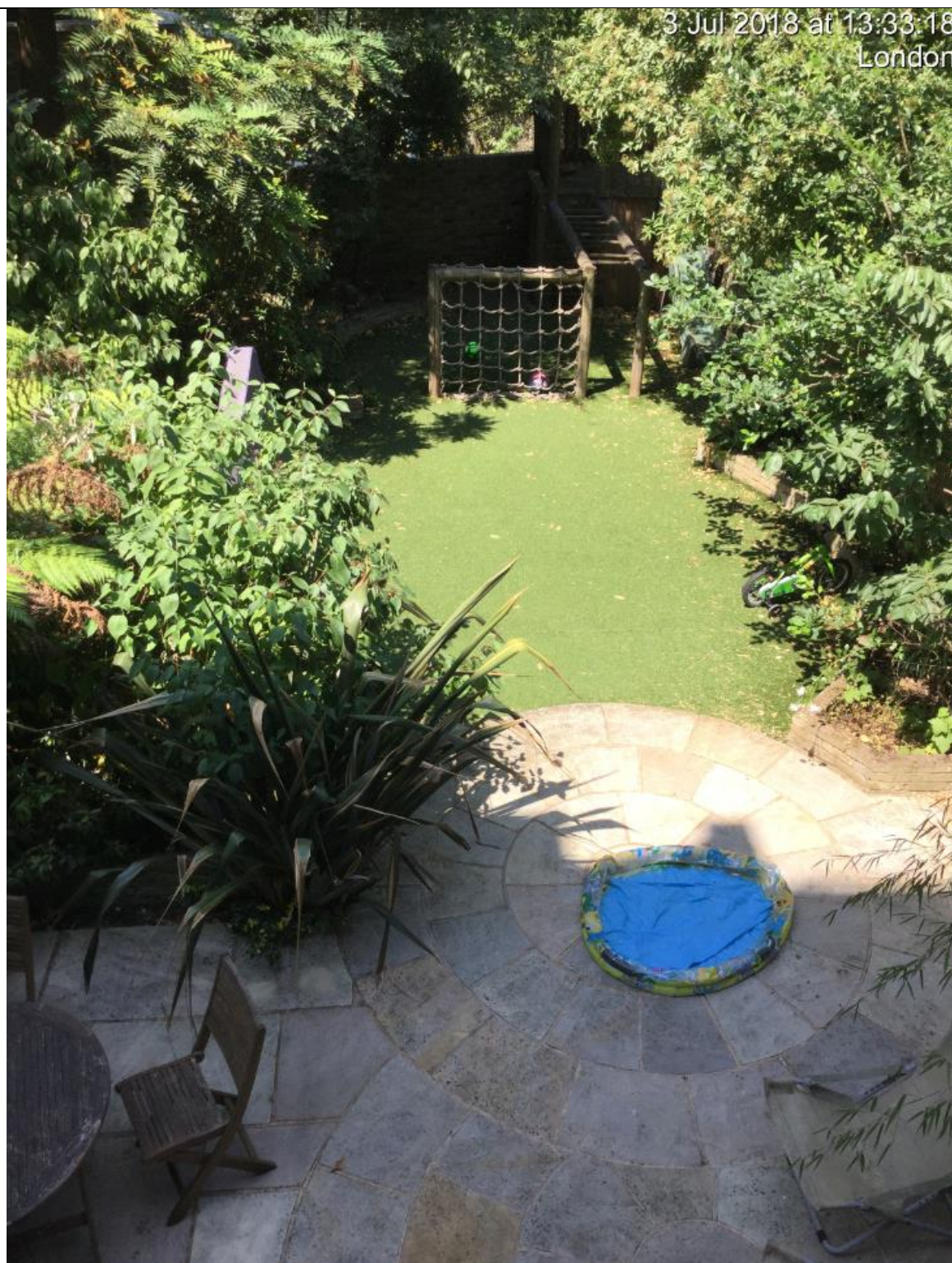


## 4. PHOTOGRAPHS



Front elevation





View down rear garden





**View towards No 90 (Above) and No 86 (below)**



## 5. CONSULTATIONS

### *CONSULTATION RESPONSES TO ORIGINAL PROPOSALS:*

#### PADDINGTON AND MAIDA VALE SOCIETY:

Raise an objection on the following grounds:

- Use of roof balcony will cause overlooking to adjoining properties.
- Garden room is too large and will result in an increased sense of enclosure to adjoining properties.
- Garden room will have negative impact on tree roots.
- Garden room should have a pitched roof and not be occupied overnight or used as separate sleeping accommodation.
- Window within front lightwell should be replaced with something more suitable.
- Request for neighbours views to be taken into consideration.

#### ARBORICULTURAL OFFICER:

Comment that the arboriculatural report suggests that the garden room is likely to be raised due to the slab needing to be located above ground level. Foundations below ground level would not be acceptable.

#### ADJOINING OWNERS / OCCUPIERS:

No consulted: 15

No responses: 2 objections raising some or all of the following comments:

#### Amenity:

- Loss of light as a result of the garden room.
- Increased sense of enclosure due to garden room.
- Increased overlooking to garden from rear extension and terrace.

#### Other:

- The rear garden room is attached to a shared garden wall, therefore any excess rain/debris will likely fall into garden.
- Reduced property price.

#### SITE NOTICE / PRESS ADVERT:

Yes

### *CONSULTATION RESPONSES TO REVISED GARDEN ROOM PROPOSALS:*

#### PADDINGTON AND MAIDA VALE SOCIETY:

Any response to be reported verbally.

#### ARBORICULTURAL OFFICER:

Raise no objection subject to conditions.

#### ADJOINING OWNERS / OCCUPIERS:

No consulted: 15

No responses: 2 objections raising some or all of the following comments:

#### Amenity:

- Loss of light as a result of the garden room.
- Increased sense of enclosure due to garden room.
- Increased overlooking from rear extension and terrace.

Design:

- Garden Room and rear extension out of proportion and character.
- Overcrowding of rear garden.
- Unwelcome precedence will be set.

Other:

- Impact of garden room on tree roots.
- Reduced property price.
- Garden room should not build up the boundary wall.
- A gap should be left around the garden room

*CONSULTATION RESPONSES TO SHED PROPOSALS (GARDEN ROOM REMOVED):*

ARBORICULTURAL OFFICER:

No objection subject to condition for tree protection and replacement planting.

ADJOINING OWNERS / OCCUPIERS:

No consulted: 15

No responses: 1 objection maintaining previous objections in relation to the rear extension and its impact on their amenity and property value.

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

This application relates to an unlisted lower ground and ground floor flat within a residential building located within the Maida Vale Conservation Area. To the rear of the property there is a small balcony at ground floor level, which provides access to the large lower ground floor garden via a spiral stair.

There is a lightwell to the front of the property at lower ground floor level, which has been partially infilled.

### **6.2 Recent Relevant History**

Permission was granted on 04 August 2005 to “Replace existing stair with new stair at front lightwell and excavation under front garden in connection with the creation of an internal area and relocated bin store. Partially infill side lightwell.” (Application referenced 05/04459/FULL)

## **7. THE PROPOSAL**

Permission is sought to erect a rear extension at lower ground floor level with terrace above, replacement of the spiral stair with a stair which runs down the boundary with No 86 and for the erection of a single storey garden room at the end of the garden. To the front of the property two windows are also to be replaced within the front lightwell.

The proposals have been amended during the course of the application, first to amend a previously proposed garden room following objections from the tree officer and subsequently to remove the garden room following objections in relation to the design of the proposed garden room. The garden room has subsequently been removed and a shed is now proposed to one side of the garden.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposals to provide additional residential accommodation is considered acceptable in land use terms.

### **8.2 Townscape and Design**

The alterations to the front to amend two windows is considered acceptable. A condition is recommended to ensure that these are white timber framed units. The local amenity society has commented that the applicant should replace the inappropriate works to the front, however this does not form part of the scheme and was approved in 2005.

To the rear a single storey extension, a new staircase and a garden room is proposed, each will be discussed in term.

A half width extension is proposed at rear lower ground floor level which projects approximately 3.8m into the rear garden. Each of the adjacent properties in this part of the terrace have extensions at lower ground floor level to a similar level. The extension to the rear of No 90 and part of the extension to the rear of No 86 have glazed roofs. The proposed extension is constructed from brick and has railings around the roof, which is proposed to be used as a terrace. There is a similar, albeit slightly narrower full width extension to the rear of No. 92, which also has a terrace along its roof. Subject to conditions to ensure that the brickwork matches existing and the new fenestration to be timber framed, painted and maintained white, it is considered that the proposed half width extension is in keeping with the character to the rear of this terrace and will therefore not have a negative impact on the conservation area.

A new stair is proposed running down the boundary with No 86 to replace the existing spiral stair. This is considered to be uncontentious in design and conservation terms, subject to a condition for the metalwork to be painted and maintained black.

Trellising is proposed along the boundaries on either side of the site for privacy reasons (see section 8.3). These are to be traditional open lattice timber trellis's, which are considered acceptable.

The proposed shed is located towards the end of the garden, but set in from the boundaries. It measures 3m x 1.8m and is clad in timber weatherboard. Due to its size, location and traditional design, it is considered acceptable in design and conservation terms.

Subject to the aforementioned conditions, the proposals are considered to be in accordance with Policies DES1, DES5 and DES9 of the UDP and S25 and S28 of the City Plan.

### 8.3 Residential Amenity

Objections have been received from the local amenity society and neighbouring residents on the grounds of loss of light and privacy. Development proposals are assessed against policies ENV13 of the UDP and S29 of the City Plan, which seek to protect the environment and amenity of adjacent occupiers.

#### 8.3.1 *Sunlight and daylight and sense of enclosure*

Concerns have been raised by adjacent occupiers in relation to potential loss of light and an increased sense of enclosure as a result of the erection of the garden room. The garden room has subsequently been removed from the development proposals and a much smaller shed proposed in its place. The proposed shed is set in from the boundaries and of a size that it would not have any significant impact on the amenity of adjacent occupiers. No objection has been received in relation to the shed.

In relation to the proposed rear extension, due to presence of an existing stair to the rear of No 90, it is not considered that the proposed half width rear extension will have any significant impact in terms of loss of light or increased sense of enclosure to this neighbour. Due to its location it is also not considered to have an impact on No 86.

#### 8.3.3 *Privacy*

Objections have been received that the proposed terrace at rear ground floor level will cause overlooking to neighbours, particularly into the rear gardens.

The rear garden of No 90 is split between two flats; one at lower ground floor level (Flat 1), and one at ground floor level (Flat 2). Flat 2 has use of the rear of the garden and Flat 1 has access to the front half of the rear garden. The two gardens are divided by a timber fence. The ground floor flat accesses the garden via a small balcony and stair, which runs down the boundary shared with No 88. The lower ground floor flat has an existing glazed single storey extension which opens out onto their part of the rear garden.

In order to prevent overlooking towards No 90, a 1.8m high trellis is proposed along the boundary of the terrace. There is existing overlooking from the small central balcony at the application site and from the small balcony and stair which provides access from the ground floor to the rear garden of No 90. These stairs provide direct views into the glazed rear extension at ground floor level. There is also a terrace at rear ground floor level of No 92, which provides views down into the glazed extension of No 90 and into the rear gardens. While it is noted that the proposed terrace is larger than the existing balcony, and in closer proximity, given the existing overlooking and subject to the provision of a trellis along the boundary, it is considered acceptable.

In relation to overlooking towards No 86, a trellis is similarly proposed along this boundary, which steps down in line with the stairs as it descends to the rear garden. Given existing overlooking and subject to the trellis being provided, it is similarly not considered that overlooking will be so significant as to recommend refusal, indeed, the proposed trellis may well improve privacy above the existing situation.

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

No change to existing arrangements.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

No change to existing arrangements.

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

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12th November 2018 and will close on Friday 21st December 2018. Representations are currently being considered and the draft plan will be revised in advance of formal consultation under regulation of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

#### **8.8 Neighbourhood Plans**

Not applicable.

#### **8.9 London Plan**

This application raises no strategic issues.

#### **8.10 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.

#### **8.11 Planning Obligations**

Planning obligations are not relevant in the determination of this application. The proposals are of insufficient scale to trigger the requirement of a Community Infrastructure Levy payment.

#### **8.12 Environmental Impact Assessment (EIA)**



The development is of insufficient scale to require the submission of an EIA.

### **8.13 Other Issues**

Concerns have been raised in relation to loss of property value, which is not a valid planning consideration.

Concerns have also been raised in relation to debris falling on the roof and water draining into adjacent gardens. As the garden room is no longer proposed, these objections are no longer relevant.

As requested by the Arboricultural Officer, a condition is recommended in relation to tree protection during building works. They have also requested for a landscaping plan to be submitted due to the removal of an Acer Negundo to allow for the erection of the shed. The plan indicates that a replacement tree is to be planted, which is considered sufficient given that there are numerous other shrubs and trees within the garden which are to be retained.

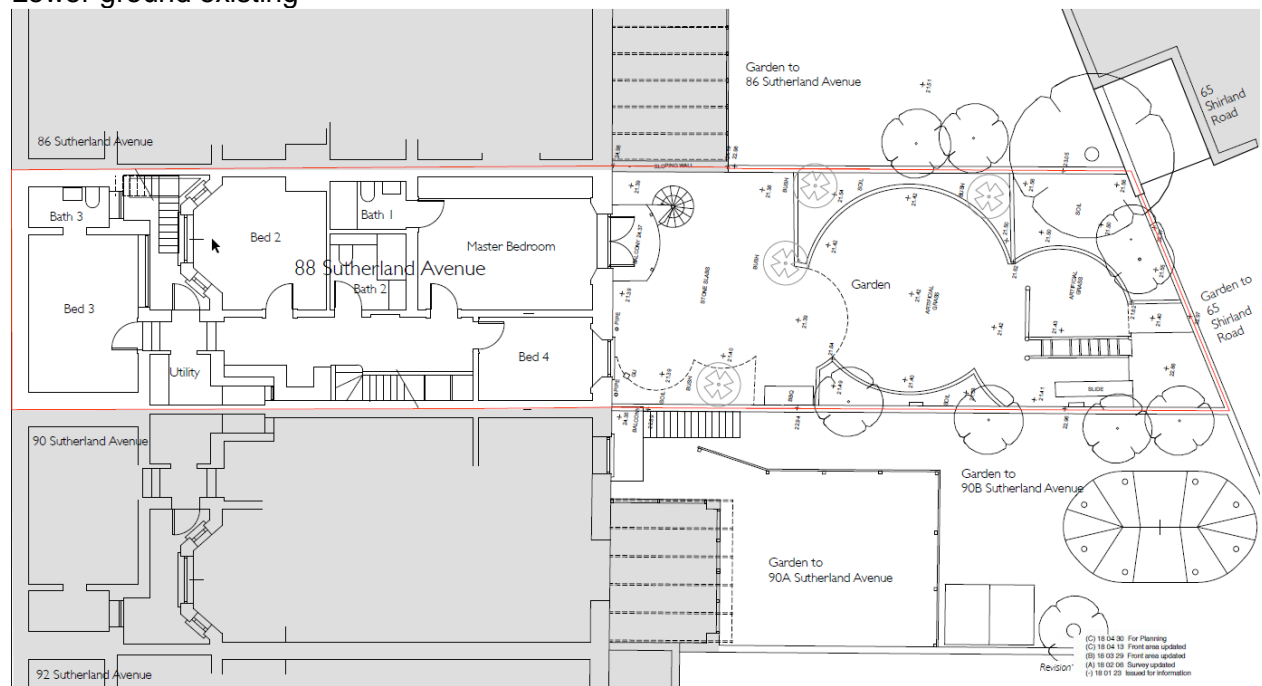
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

|   |
|---|
| <p>IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT <a href="mailto:rhandley@westminster.gov.uk">rhandley@westminster.gov.uk</a></p> |
|---|

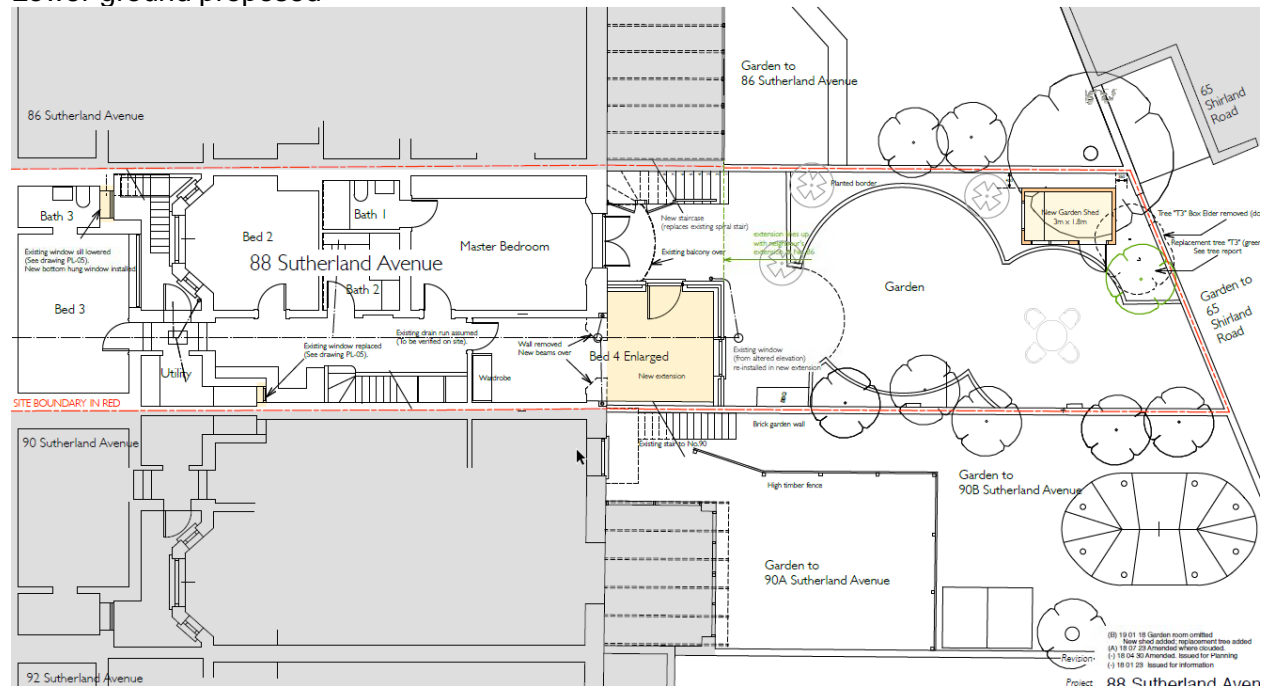


## 1. KEY DRAWINGS

## Lower ground existing



## Lower ground proposed

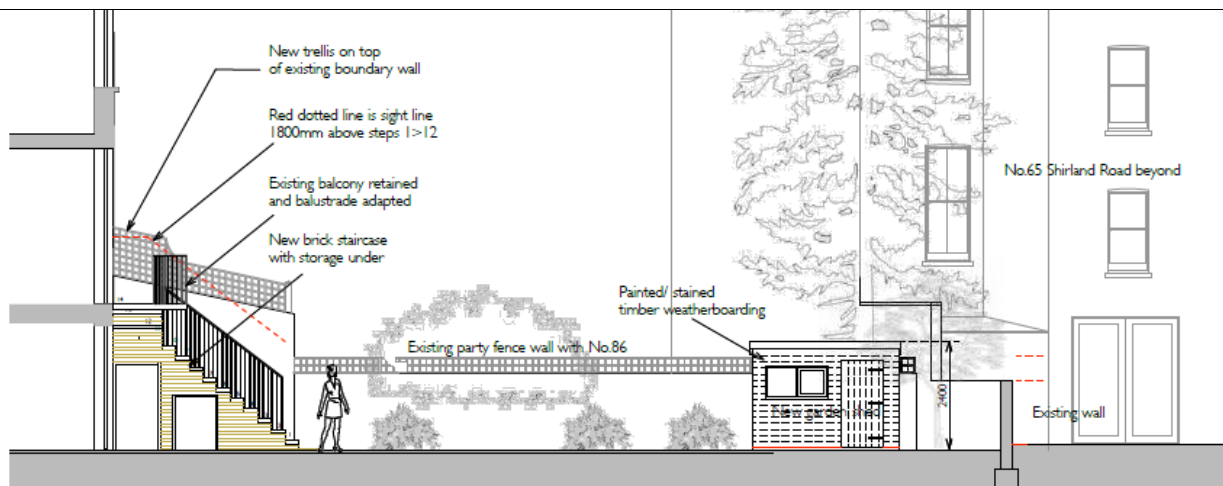


Existing rear elevation:



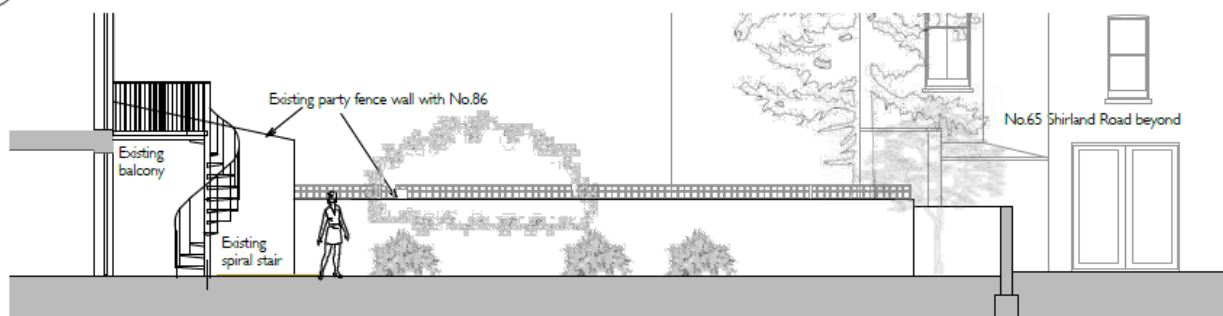
Proposed rear elevation





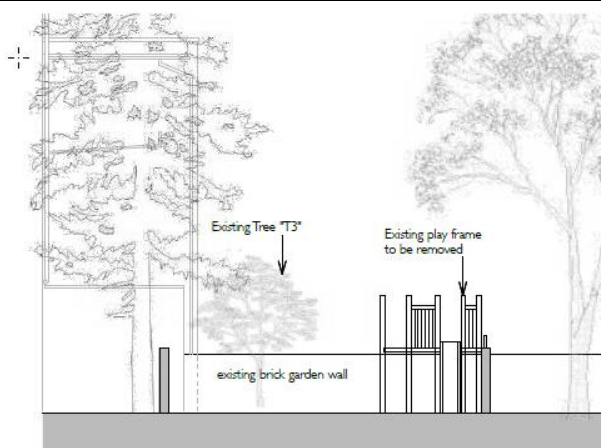
1 North/South Section Through Garden - As Proposed

Scale: 1:100

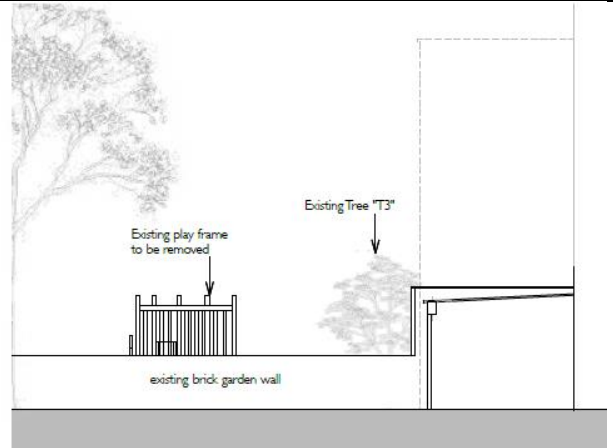


2 North/South Section Through Garden - As Existing

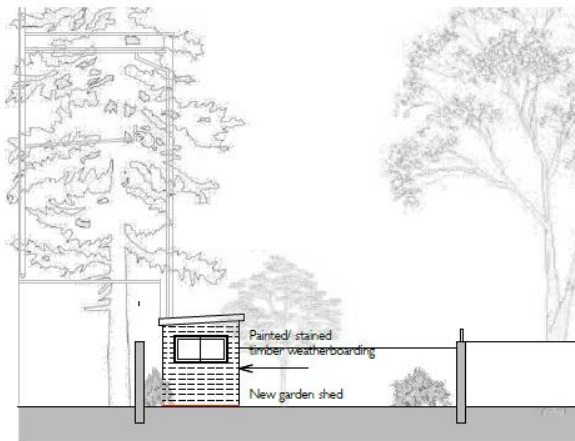
Scale: 1:100



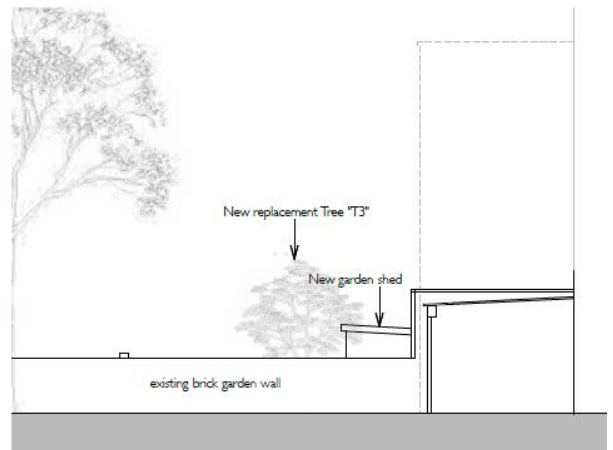
1 Elevation of Garden Looking North As Existing  
Scale: 1:100



3 Elevation as Existing viewed from 65 Shirland Road  
Scale: 1:100



2 Elevation of Garden Room Looking North  
Scale: 1:100



4 Elevation as Proposed viewed from 65 Shirland Road  
Scale: 1:100

**DRAFT DECISION LETTER**

**Address:** Flat 1 , 88 Sutherland Avenue, London, W9 2QR

**Proposal:** Erection of single storey rear extension at lower ground floor level and use of roof as a terrace with associated screening/trellis; installation of stair from rear upper ground to garden level; alteration to front windows; erection of garden shed.

**Plan Nos:** SUT/PL-1; SUT/PL-02 B; SUT/PL-03 C; SUT/PL-04 C; SUT/PL-05; SUT/PL-06 C; SUT/PL-07 C; SUT/PL-08 C; SUT/PL-09 B; SUT/SU-01 C; SUT/SU-02 C; SUT/SU-03 B; SUT/SU-04 B; Tree Survey by Elizabeth Greenwood received 27 July 2018.

**Case Officer:** Rupert Handley

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

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

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

**Reason:**

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

- 2 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 residents and the area generally 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. (R11AC)

- 3 The single storey shed hereby approved shall not be occupied at any time other than for purposes ancillary to the enjoyment of the dwelling at Flat 1, 88 Sutherland Avenue.

**Reason:**

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

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan adopted November 2016 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 4 Prior to the use of the rear ground floor terrace, balcony or stairs, you must install the trellis in accordance with the drawings hereby approved.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 5 The facing brickwork of the single storey rear extension and side and rear elevations of the garden room 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.

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 Maida Vale 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 new railings shall be constructed from metal, painted black and maintained that colour.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Maida Vale 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)

- 7 The new windows and doors shall have timber frames, painted and maintained white.

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 Maida Vale 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)

- 8 During the development, you must not dig, or store or position any structures, machinery, equipment, materials or spoil:
  - (a) underneath the canopy of any trees or
  - (b) within the root protection area of any tree as defined by paragraph 4.6.1 of British Standard BS5837: 2012 or as shown in your Tree Constraints Plan dated May 2018, whichever is the

greater.

**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)

**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, neighbourhood plan (where relevant), 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 **HIGHWAYS LICENSING:**  
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.

**CONSIDERATE CONSTRUCTORS:**

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).

**BUILDING REGULATIONS:**

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website <https://www.westminster.gov.uk/contact-us-building-control>

- 3 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)

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| CITY OF WESTMINSTER   |  |                                       |                |
| PLANNING APPLICATIONS SUB COMMITTEE                         | Date<br>12 March 2019  | Classification<br>For General Release |                |
| Report of<br>Executive Director Growth Planning and Housing |  | Ward(s) involved<br>Harrow Road       |                |
| Subject of Report   | 380-384 Harrow Road, London, W9 2HU,   |                                       |                |
| Proposal  | Variation of Condition 1 of planning permission dated 21 May 2014 (RN: 13/09224/FULL) for the 'Redevelopment of the rear of 380-384 Harrow Road (Nos. 16-22 Chippenham Mews) to provide 4x3 bedroom three storey dwelling houses (Class C3) with basement floors (to Nos.16, 18 and 20 only) and ground floor garages'. NAMELY, to amend the detailed design of the front elevations including alterations to window proportions, entrances, garage doors, party wall upstands, dormer cladding, soldier courses and Juliet balconies and amendments to ground levels within the garages of Nos.16, 18 and 20 Chippenham Mews. |                                       |                |
| Agent   | Globproject Limited  |                                       |                |
| On behalf of  | W9 Holdings Limited  |                                       |                |
| Registered Number   | 17/01128/FULL  | Date amended/<br>completed            | 11 August 2017 |
| Date Application Received                                   | 12 February 2017   |                                       |                |
| Historic Building Grade                                     | Unlisted   |                                       |                |
| Conservation Area   | N/A  |                                       |                |

## 1. RECOMMENDATION

Refuse permission - on grounds of the three integral garages not being readily accessible, thereby leading to a loss of off-street residential parking and a reduction in highways safety.

## 2. SUMMARY

The site formally formed part of the rear of the premises at Nos.380-384 Harrow Road, which formally had frontages in both Harrow Road and Chippenham Mews and was used as a mixed showroom and office use. Permission was granted on 21 May 2014 (RN: 13/09224/FULL) for the redevelopment of the frontage of the site facing Chippenham Mews to create four mews houses comprising basement, ground and two upper storeys.

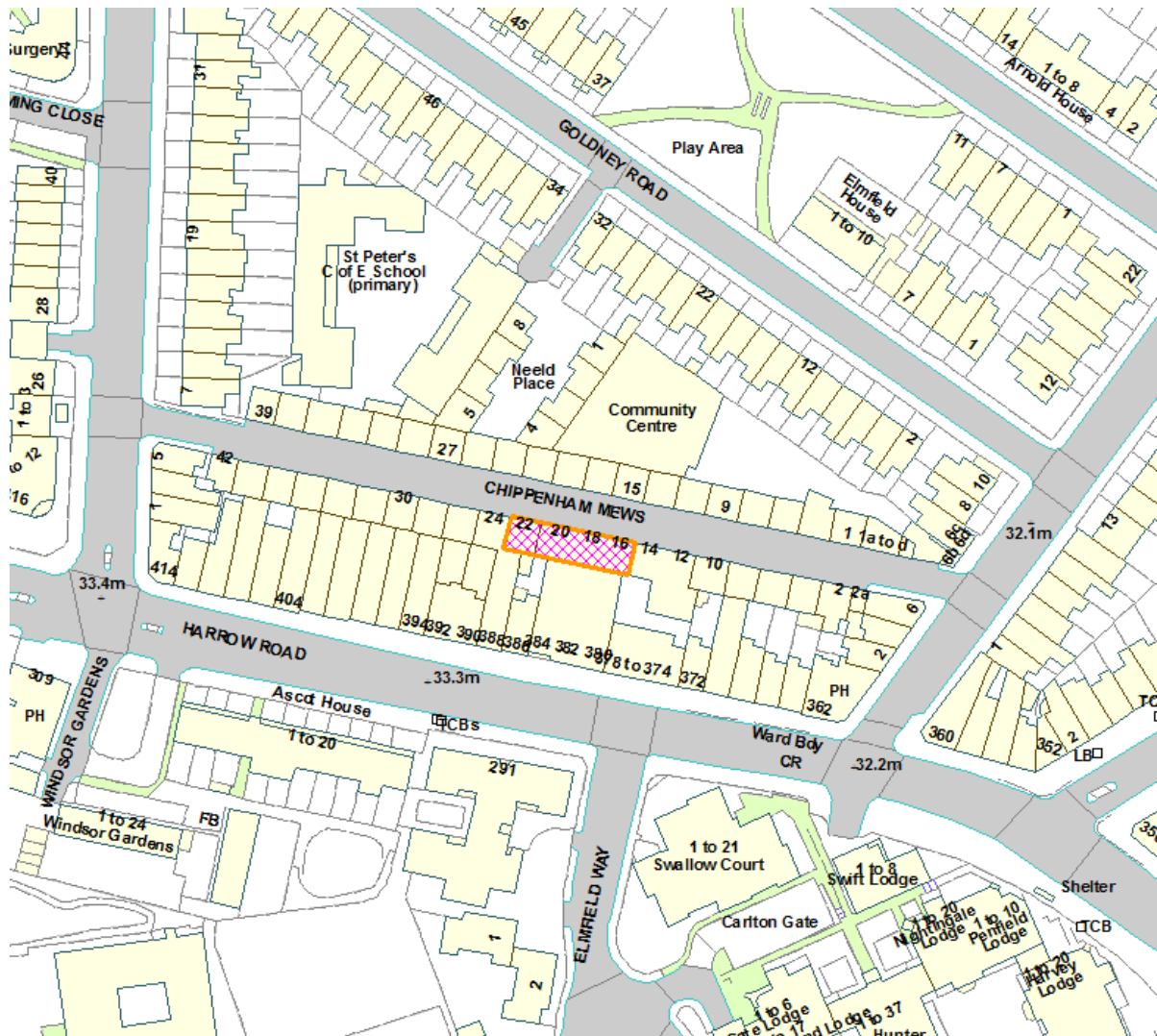
The site has since been redeveloped, but the four mews houses that have been constructed (Nos.16-22 Chippenham Mews), differ materially from the drawings approved in May 2014 in terms of the detailed design of their front elevations and the design of the garages to Nos.16, 18 and 20 Chippenham Mews. The current application seeks permission to retain the mews buildings in their 'as built' form (excluding recent works to No.22 in January 2019 which are under investigation by the Planning Enforcement Team – see Section 6.2.2).

The key issues in this case are:

- The impact of the mews houses on the appearance of this part of the City.
- The impact of the design of the garages on their accessibility for the purpose of parking a car.

Whilst the detailed design of the mews houses as built and shown on the submitted drawings is considered to be acceptable in design terms, for the detailed reasons set out in the report, the ground levels and transitional gradients within the garages are such that the garages to Nos.16, 18 and 20 Chippenham Mews are not accessible to a typically sized car. Consequently, the garages fail to provide accessible off-street parking for residents of these mews houses and they therefore contribute to increased pressure on on-street parking in the vicinity of the site, contrary to Policies STRA25 and TRANS23 in the Unitary Development Plan (UDP) adopted in January 2007. Furthermore, the portable ramps proposed to seek to aid vehicular access to the garages would have an adverse impact on highways safety, contrary to Policies TRANS2 and TRANS3 in the UDP and Policy S41 in the City Plan. It is therefore recommended that permission is refused on grounds of loss of off-street residential parking and adverse impact on highways safety.

## 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



Front 'as built' elevation (top) (March 2018) and garages to (left to right) Nos.16, 18 and 20 showing change in level within garages between garage level and the public highway.

## 5. CONSULTATIONS

### 5.1 Consultation on Initially Submitted Scheme – August 2017

#### NORTH PADDINGTON SOCIETY

Any response to be reported verbally.

#### BUILDING CONTROL

Any response to be reported verbally.

#### CLEANSING MANAGER

Any response to be reported verbally.

#### HIGHWAYS PLANNING MANAGER

Any response to be reported verbally.

#### ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS

No. of Consultations: 137; No. of Responses: 11 emails/ letters received from 4 respondents raising objection on all or some of the following grounds (initially consultation took place without any drawings having been submitted in February 2017 and reconsultation took place in August 2017 following submission of drawings showing buildings to be retained):

##### Design

- Disagree that the inconsistencies in the design of mews buildings in Chippenham Mews justifies approval of scheme as these are representative of organic development of the mews over time.
- Inconsistencies in this case are the result of poor design, conception, poor project management and execrable workmanship.
- Proposed fenestration is discordant from other mews houses.
- Window proportions differ across the four houses. Proportions of Juliet balconies also differ as a result.

##### Transportation/ Highways

- Garages are virtually inaccessible due to level changes between them and the highway.
- Garage doors terminate above ground level to accommodate slope with No.22 having the most accessible garage. Query if this meets Building Regulations.
- Inaccessibility of the garages will increase on-street parking in the mews on single yellow lines.
- Nothing should project over the highway.
- No indication of waste storage on estate agent plans for these properties.
- Yellow lines outside the site were meant to be single yellow lines and have recently been repainted as double yellow lines. No obvious reason why this has been done.
- Cobblestones have been damaged and removed without consent and highway outside the site is now uneven.

##### Other Matters

- Application is retrospective and applicant has ignored planning controls.

- Applicant has not undertaken remedial works to comply with original permission.
- Ground floor windows open outwards and are therefore a hazard to passing pedestrians. All other windows open inwards.
- Gas pipe to No.18 extends horizontally 2 metres to the meter box, whereas others are contained within the area of the box.
- Not convinced the applicant has tenants waiting to move in.
- Estate agent's details refer to properties as four bed units rather than 3 bed units as approved.
- Estate agent's details also indicate other changes to the approved scheme, including relocation of living room to second floor.
- Apparent issues with damp - see salt seeping from brickwork. Question quality of accommodation in this regard and structural stability.
- Poor workmanship and project management.
- Precedent for future development without adherence to planning permission.
- Provision of drawings to show the building to be retained does not overcome original reasons for objection.
- Concern that enforcement action has not yet been taken to remedy the breaches of planning control that have occurred.
- Concern that the application has yet to be determined.
- Note that further unauthorised works appear to have been undertaken in early 2019.

#### ADVERTISEMENT/ SITE NOTICE

Yes.

### 5.2 Consultation on Revised Scheme (Provision of Portable Car Ramps to Garages) – February 2019

#### WARD COUNCILLORS (HARROW ROAD)

Any response to be reported verbally.

#### NORTH PADDINGTON SOCIETY

Any response to be reported verbally.

#### BUILDING CONTROL

Any response to be reported verbally.

#### HIGHWAYS PLANNING MANGER

Objection. The design of the garages to Nos.16, 18 and 20 makes them inaccessible to the vehicles of occupiers of these properties resulting in a loss of residential off-street parking contrary to Policy TRANS23(A). The inaccessibility of the garages would increase pressure on on-street residents parking in the vicinity. Does not consider that the use of ramps is appropriate given their weight, difficulty of use and the inconvenience they will cause to the users of the garages. Believes these factors would encourage occupiers to leave the ramps out when undertaking short journeys and as they would be placed on the highway, this would obstruct the highway and reduce highways safety, contrary to Policies TRANS2 and TRANS3 in the UDP.

#### ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS

No. of Consultations: 139; No. of Responses: 8.

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

#### Land Use

- Garages are being used as habitable rooms.
- Planning permission was for 3 bedrooms in each house; whereas the houses were being marketed, and perhaps used, as 4 bed properties.
- The kitchen has been relocated to basement level in each of Nos.16, 18 and 20, perhaps so as to create unauthorised bedroom in upstairs room relabelled as 'reception' on the approved plans.

#### Design

- Previous design objections, including the design of the windows, have not been addressed.
- Inconsistent balcony sizes/positioning
- Windows out of character with Mews and inconsistent sizes/ positioning.
- Ground floor windows that open out onto Mews.
- Dormers not as per the approved plans.
- Front doors not as per approved plans.
- Garage doors not as per approved plans.
- Soldier courses to windows and doors not as per approved plans.
- Garages that are being used as habitable rooms.
- Roof level upstands are not as per approved plans.

#### Highways/ Parking

- Any car ramp would cause an obstruction and inconvenience neighbours.
- Proposed ramps are impractical and will not be used in practice.
- Each ramp is 2.5m long and 0.33m wide and weigh 16.5kgs. The placing of ramps of this size would protrude significantly and cause inconvenience and disruption when in place on the ground in the mews.
- Given their size and weight the ramps would require two people to position them and therefore they are unlikely to be used and therefore the garages would not be used for parking.
- Level of the ground within the garages must be reduced so that they can be parked in to avoid increased parking in the mews.
- Given the length of the ramps, it will be difficult when these are positioned at right angles to the front façade, to manoeuvre a car into the garages up the ramp given the mews is 8m wide and the ramps need to be approached in a relatively straight alignment.
- Ramps could not be used if a car was parked on the single yellow lines opposite.
- The process of using the ramps may result in the mews being blocked, which could block emergency vehicles, deliveries and those on the school run.
- Health hazards and dirt would be caused by smoke fumes and possible damage could be caused to property during manoeuvring.
- Proposals would cause further congestion, inconvenience and risk to pedestrians.
- Double yellow lines were painted outside the houses and the justification for this was that the houses had integral garages.
- Cobblestones removed and poorly replaced

#### Other Matters

- Previous grounds for objection still stand.
- Concern at time taken to determine the application.
- Concern that planning enforcement action has yet to be taken in respect of the deviations from the approved scheme.
- Note that properties have changed ownership during the course of the application.
- Further unauthorised works have been carried out to No.22 in respect of the windows in the garage doors, replacement of the front door and erection of a bin store outside the property.
- Ask that the site is visited and the latest unauthorised works are investigated.
- Owners of the buildings have a 'blatant disregard' for planning law.
- Garages should not be allowed to be turned into more living space.
- The matter has/ should be reported to the Ombudsman.
- An exposed gas pipe has been installed to the front of No.18.
- Does not appear to be any internal waste and recycling storage.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises the rear part of a what was formally a dual frontage site stretching between Harrow Road (Nos.380-384) and Chippenham Mews. The site was formally used as a mixed showroom and office use. The site was split in two and the rear section in Chippenham Road, to which this application relates, was redeveloped to form four mews houses comprising basement, ground and two upper storeys pursuant to the planning permission granted on 21 May 2014 (RN: 13/09224/FULL). The other portion of the site facing Harrow Road has been redeveloped separately pursuant to a different permission.

The application site does not contain any listed buildings and is not located in a conservation area.

### 6.2 Recent Relevant History

#### 6.2.1 Planning Applications

##### 13/09224/FULL

Redevelopment of the rear of 380-384 Harrow Road (Nos.16-22 Chippenham Mews) to provide 4x3 bedroom three storey dwellinghouses (Class C3) with basement floors (to Nos.16, 18 and 20 only) and ground floor garages.

Application Permitted 21 May 2014

##### 14/12048/ADFULL

Details facing materials (reuse of existing brickwork to Chippenham Mews elevation only) and waste storage for mews houses at Nos.16 and 18 Chippenham Mews pursuant to Conditions 3 and 13 of planning permission dated 21 May 2014 (RN: 13/09224/FULL).



Application Permitted 20 January 2015

16/00525/ADFULL

Details of appropriate arrangements to secure the removal of disabled parking bays outside the site in Chippenham Mews and provision of appropriate replacement road markings pursuant to Condition 10 of planning permission dated 21 May 2014 (RN: 13/09224/FULL).

Application Permitted 11 April 2016

## 6.2.2 Planning Enforcement

15/59809/H

Report of alleged unauthorised development comprising the carrying of development not in accordance with planning permission dated 14 May 2013. Planning Enforcement investigation remains ongoing.

Case Opened 21 August 2015

19/69606/O

Report of alleged unauthorised development comprising a bin store on the highway, new front door and alterations to garage door at No.22. Planning Enforcement investigation remains ongoing.

Case Opened 31 January 2019

## 7. THE PROPOSAL

The current application proposes the variation of Condition 1 (approved drawings) of the planning permission dated 21 May 2014 (RN: 13/09224/FULL), which permitted the redevelopment of the site to provide 4 dwellinghouses with integral garages at ground floor level. The application seeks approval of minor material amendments to the originally approved scheme, principally to the detailed design of the front elevation (including alterations to window proportions, entrance doors, garage doors, party wall upstands, dormer cladding, soldier courses and Juliet balconies), and to retain as built the integral garages to Nos.16, 18 and 20 Chippenham Mews, which have raised ground levels circa 600mm above the adjacent level of the highway in the mews and steep transitions between the level within the garage and the highway. The garage to fourth mews house at No.22 has a level threshold with the highway in Chippenham Mews and is therefore not altered from the previously approved scheme.

In recognition of the level change within the garages at Nos.16, 18 and 20, during the course of the application the scheme has been amended by the applicant to propose the provision of portable car ramps for use by the occupants of these mews houses when manoeuvring their vehicles into the garages. This amendment has been the subject of further consultation, as set out in Section 5.2.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The application does not raise any land use considerations. The redevelopment of this site to provide four dwellinghouses, to which this application seeks amendments, accords with Policies H3 and H5 in the UDP and Policies S14 and S15 in the City Plan.

**8.2 Townscape and Design**

In design terms the amendments proposed comprise alterations to the detailed design of the front elevation. In the approved scheme the windows were proposed to be timber sash windows, whereas the windows that have been installed and are proposed to be retained are timber casement windows. Casement windows of varying styles are found almost as prevalently as sash windows in Chippenham Mews and given this, the casement windows that have been installed, which are of an acceptable detailed design, are acceptable in principle. At ground floor level the windows open over the highway, but this is not to any significant extent and it is not considered that the windows therefore cause a significant highways safety risk (see further consideration of this issue in Section 6.4).

The ground floor doors proposed are four panel doors with a fanlight within upper portion of the door, rather than a four panel door with a fanlight above as originally approved. The doors that have been installed are not necessarily typical of mews buildings, but they are recessed slightly within the front elevation, thereby reducing their prominence and they match other doors of the same design to other properties in Chippenham Mews. Consequently, the front entrance doors are considered to be acceptable in design terms.

The garage doors that have been installed are timber panelled bi-folding doors as per the 2014 permission, but the windows to the top of the doors lack the sub-division shown in the approved scheme. Additionally, as noted by objectors, the doors stop short of the level of the highway to accommodate the bottom of the slopes within the garages that provide the steep transition between the internal level of the garages and the level of the public highway (see Section 8.4). However, there are a range of garage door types in Chippenham Mews, including a number with top windows which do not include any sub-division and as such, the lack of glazing bars to these windows is not considered to be objectionable. In terms of the bottom of the doors, whilst the slopes within the garages at Nos.16, 18 and 20 are noticeable in close views within the mews, the effect is not such that the dimensions of the garage doors detract from the overall composition of the mews houses and as such, this is not considered to be a ground on which permission could reasonably be withheld.

At first floor level the approved scheme included railings in front of the French doors, but these were set within the window reveals. As built, the railings project marginally from the front elevation. However, this arrangement of slightly projecting railings, of varying designs, in front of first floor French doors is prevalent within Chippenham Mews and accordingly the retention of these railings is acceptable in design terms.

The French doors that have been installed at first floor level vary marginally in terms of their width and spacing across the four dwellinghouses, and this variation is noted by objectors as resulting in a lack of harmony across the four mews houses, which they note have otherwise been built as a coherent group. The heights of the windows are though consistent across the four buildings, contrary to the comments of objectors. From

on-site inspection during the course of the application, it appears that the reason for the differing position of the first floor windows is due to subtle variations in the position of the internal partitions forming the front two rooms at first floor level within each of the mews houses.

The difference in the width of the French doors and the spacing between them is noticeable if one looks carefully at the front elevations of the houses; however, the disparity in the spacing of the doors (which varies between 3 bricks and 4.5 bricks) the width of the doors themselves is not so dramatic so as to detract unacceptably from the appearance of the buildings or the appearance of the mews more widely. Whilst the point made by objectors that these buildings have been designed as a coherent group is understood, mews buildings are often subtly different in terms of their detailing and proportions, reflecting subtle variations in plot width etc., and the fenestration to the upper floors is often misaligned with that at ground floor level, often necessarily due to the inclusion of stable or garage door openings on the ground floor.

The provision of brick arches to the window and door openings would be a more historically accurate interpretation of the detailing typically found on a mews house contemporaneous with Chippenham Mews; however, the buildings in Chippenham Mews have seen a significant degree of change, with many of the front elevations of the buildings rebuilt with window and door lintels formed in a flat soldier course of brickwork. Accordingly, this element of the detailed design, although divergent from the originally approved scheme is acceptable.

The sides of the dormers are clad in man-made slates, as is the front roof slope of the second floor roof storey. Whilst the use of natural slate would be preferable, given the location of the site outside a conservation area and as the finished appearance of the roof and dormers is consistent with other mansard roof additions in the mews, a number of which are clad in man-made slates, the use of this material is considered acceptable. The face of the dormers have been finished in lead and this is acceptable and provides them with a finished appearance more akin to the dormers to the adjoining properties in the same terrace. Finally, at roof level, the approved scheme showed the front parapet above first floor level capped with a single soldier course of brickwork; whereas as built, a concrete coping stone has been used to terminate the sheer element of the front elevation. Once again, whilst this deviates from the approved scheme, there are numerous examples of this detailing being used elsewhere in the mews, including to both neighbouring properties and those immediately opposite and therefore this aspect of the scheme as built is acceptable in design terms.

In summary, although the scheme as built and now proposed deviates from that approved in May 2014, the detailed design proposed is consistent with the detailed design and palette of materials found within this much altered mews. As such despite the objections raised on design grounds, the appearance of the mews houses is considered to be acceptable in design terms and in accordance with Policies DES1 and DES4 in the UDP and S25 in the City Plan.

### **8.3 Residential Amenity**

The mews buildings that have been constructed are not higher or bulkier than originally approved in May 2014 and as such, they have not resulted in any material increases in

light loss relative to the approved scheme, nor have they caused a material increase in enclosure. Although the window proportions to the front elevation have been amended from those approved in 2014, the windows are not significantly larger and therefore they do not result in a material increase in overlooking to the windows of properties opposite in the mews. Accordingly, the scheme accords with Policy ENV13 in the UDP and Policy S29 in the City Plan and is acceptable in amenity terms.

## **8.4 Transportation/ Parking**

### **8.4.1 Loss of Off-Street Parking**

The scheme approved in May 2014 included the provision of an integral garage for each of the four mews houses to provide car parking for the occupiers of the respective houses in accordance with Policy TRANS23 in the UDP. The provision of these garages, which serve to limit the impact of the development on the availability of on-street parking in the vicinity, was secured by Condition 9 which states:

*“You must provide each garage shown on the approved drawings and each garage shall only be used for the parking of vehicles of people living in the dwellinghouses in this redevelopment. You must provide the garages prior to occupation of the dwellinghouses and thereafter you must permanently retain them.”*

The current application does not expressly seek the removal of the garages, although it does seek permission for the retention of the mews houses in their ‘as built’ state, which includes a significant differential between the ground level within the garages of Nos.16, 18 and 20 Chippenham Mews and the level of the public highway. The garage within No.22 has been built level with the highway and is accessible to vehicles. The difference in level between the garages at Nos.14, 16 and 20 and the public highway is circa 600mm, with the level change in each garage ‘bridged’ by a roughly formed concrete slope of significant gradient with no transitions gradients at the top and bottom, such that a typical car could not safely be manoeuvred into and parked within the garages without raising highways safety concerns or damaging the vehicle.

To remedy this and in recognition of the inaccessibility of the garages as built, during the course of the application the applicant has proposed the provision of movable metal ramps that would need to be unfolded and positioned carefully at the foot of the existing slopes within the garages of Nos.16, 18 and 20 to allow vehicles to enter and exit the garages with slightly more ease. Whilst the use of the ramps may, as a matter of fact, be capable of enabling a vehicle to enter and park in the garages, in practice they would be highly impractical. The ramps would be heavy to carry, set up and dismantle (each ramp weighs 16.2kgs), would extend over part of the public highway, and would significantly reduce the speed with which a vehicle could be moved into or out of the garages. Consequently, it is highly unlikely the garages would be used for their intended purpose, resulting in the vehicles of the occupiers of these houses being parked on-street thereby adding to existing pressure on residents’ on-street parking spaces in the vicinity of the site.

The Highways Planning Manager has further concerns with the use of portable ramps as he is concerned that occupiers would be tempted to leave these in position on the highway when carrying out short journeys and that this would result in obstruction of the

highway, leading to a reduction in highways safety in Chippenham Mews for both pedestrian and vehicular traffic.

In conclusion, the design of the garages to Nos.16, 18 and 20 as built is such that due to the gradient of the level changes within the garages they are inaccessible to the vehicles of the occupiers of these mews houses. Whilst the applicant has sought to remedy this design flaw, the proposed movable ramps are impractical to the extent that they would be highly unlikely to be utilised by the occupiers of the houses. As such, the garages would fail to provide accessible off-street parking for the occupiers of the houses, contrary to Condition 9 of the May 2014 permission, which this application does not seek to vary, and Policies STRA25 and TRANS23 in the UDP. The positioning of the temporary ramps on the highway in Chippenham Road and the likelihood that they would be left in such positions raises significant concerns in terms of highways safety and therefore this aspect of the proposal would be contrary to Policies TRANS2 and TRANS3 in the UDP and Policy S41 in the City Plan.

#### **8.4.2 Other Transportation/ Highways Issues**

As noted in the design section of this report the casement windows at ground floor level open over the highway within the mews, as do the bi-folding garage doors. Within mews streets garage/ stable doors have traditionally opened over the public highway and as such, the provision of outward opening garages doors is not normally objectionable in highways safety terms. Indeed, in this case the garage doors in the approved scheme open over the highway, as do many others within Chippenham Mews. Outward opening windows are less prevalent and objectors consider that these could give rise to highways safety concerns. However, the extent to which the windows open over the highway is minimal and much less than a typical garage door. Allied to this, Chippenham Mews is a relatively wide mews, such that even when vehicles pass along it, pedestrians are unlikely to walk immediately adjacent to the face of the buildings on either side. In this context, whilst outward opening windows are undesirable, it is not considered that they give rise to such a significant highways safety concern so as to warrant withholding permission on this ground.

Objection has been raised on grounds that the submitted drawings do not indicate the provision of the waste and recycling storage approved on 20 January 2015 (RN: 14/12048/ADFULL) for Nos.16 and 18, which comprised a storage area to one side of the garage in each property. It is noted that details of waste and recycling storage have never been approved pursuant to Condition 13 of the May 2014 permission in respect of Nos.20 and 22. Given this, an informative is recommended advising the applicant that the requirements of Condition 13 have been breached and that a further application is required to seek to vary Condition 13 and provide waste and recycling storage in accordance with the City Council's published guidance document.

Concerns have been expressed at the decision to introduce double yellow, rather than a single yellow line where there were formally redundant disabled parking bays (related to the former use of the site as a Disabled Living Centre). However, the decision to introduce a double yellow line in this location is one made by the City Council as Local Highway Authority and is not a material planning consideration in the determination of the current planning application. Concern was also raised in respect of the condition of the cobblestones outside the site. However, from on-site inspection these appear to be

in similar condition to other parts of the mews and there is no conclusive evidence that the undulation within the cobbles outside the site is directly related to the construction works carried out to construct the development.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The amended ground floor slab level to the four mews houses has resulted in the introduction of a second step to the front entrance of each of the properties. Whilst this is regrettable in terms of the accessibility of the dwellinghouses, given the small scale of the development, as the approved houses had a single step in the approved scheme and as they are occupied as private residential properties, it is not considered that permission could reasonably be withheld on this ground.

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

None relevant.

#### **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

#### **8.9 Neighbourhood Plans**

Not applicable.

#### **8.10 London Plan**

The application does not raise any strategic issues.

#### **8.11 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.

#### **8.12 Planning Obligations**

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

### 8.13 Environmental Impact Assessment

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

### 8.14 Other Issues

Objections have been raised on a range of other grounds, which are addressed in turn in this section of the report.

Concerns have been expressed that the application is retrospective, the applicant has ignored planning controls and has not undertaken remedial works to comply with the original permission, and that planning enforcement action has yet to be taken. That an application is retrospective is not in itself a material consideration and retrospective applications are an established tool, supported by the National Planning Policy Guidance (NPPG), for use in seeking to remedy breaches of planning control that have occurred. The application does not therefore 'set a precedent' for other development to occur without permission and appropriate planning enforcement action will be taken following the determination of the application, should the Sub-Committee resolve to refuse permission.

Objectors note that the mews houses, which are currently occupied, have been advertised by local estate agents since completion of the development and that the sale particulars referred to the houses containing 4 bedrooms rather than 3 as shown on the approved drawings, as well as other layout changes, such as relocation of the living room to second floor level. There are no conditions on the May 2014 planning permission preventing amendment of the internal layouts of the four houses (except for Condition 9 requiring retention of the garages) and as such, this is not a ground on which permission could reasonably be withheld. The houses have been inspected during the course of the current application and each provides a good standard of residential accommodation despite the internal layouts deviating from the those shown on the approved drawings.

Concerns have been expressed regarding the quality of construction and workmanship and the structural stability of the mews houses. However, records indicate that the mews houses have been constructed in compliance with Building Regulations, with notice being provided to Building Control that a Final Completion Certificate for the development had been issued by an Approved Inspector on 23 November 2016.

Objectors have identified that the gas pipe to the front of No.18 extends horizontally between the metre box and the position where it enters the building. The safety or otherwise of this arrangement is not a material planning consideration and is a matter controlled by other legislation. In addition, it is noted that as above, the development has received a final completion certificate indicating compliance with Building Regulations.

Further unauthorised appear to have been undertaken to No.22 Chippenham Mews in January 2019 to form a cycle store on the highway, alter the garage doors and replace the front door. These alterations to No.22 are currently under investigation by the Planning Enforcement Team (see Section 6.2.2) and do not form part of the current application.

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| Item No. |
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(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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| IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT <a href="mailto:rhandley@westminster.gov.uk">rhandley@westminster.gov.uk</a> . |
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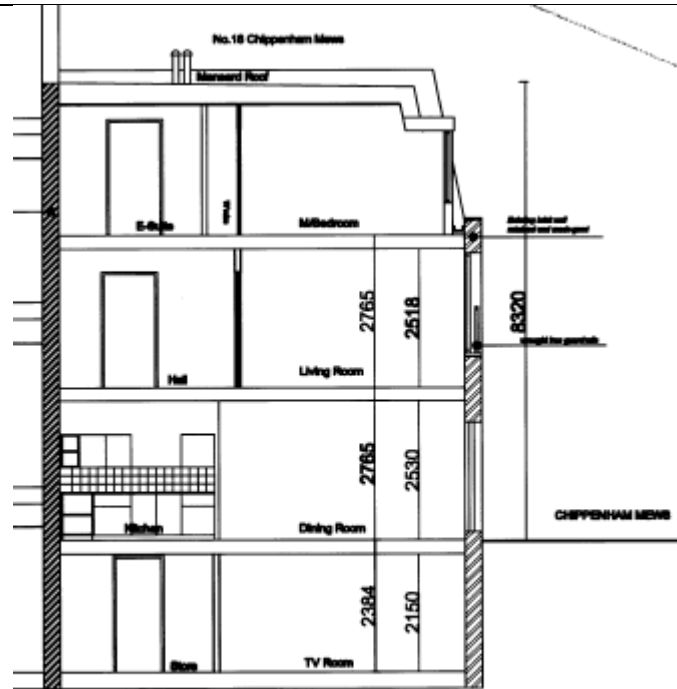
## 9. KEY DRAWINGS



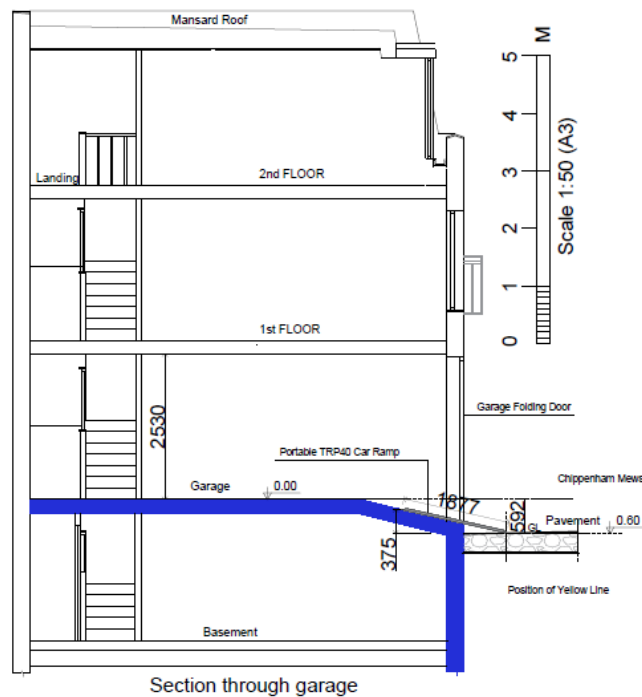
Approved front elevation.



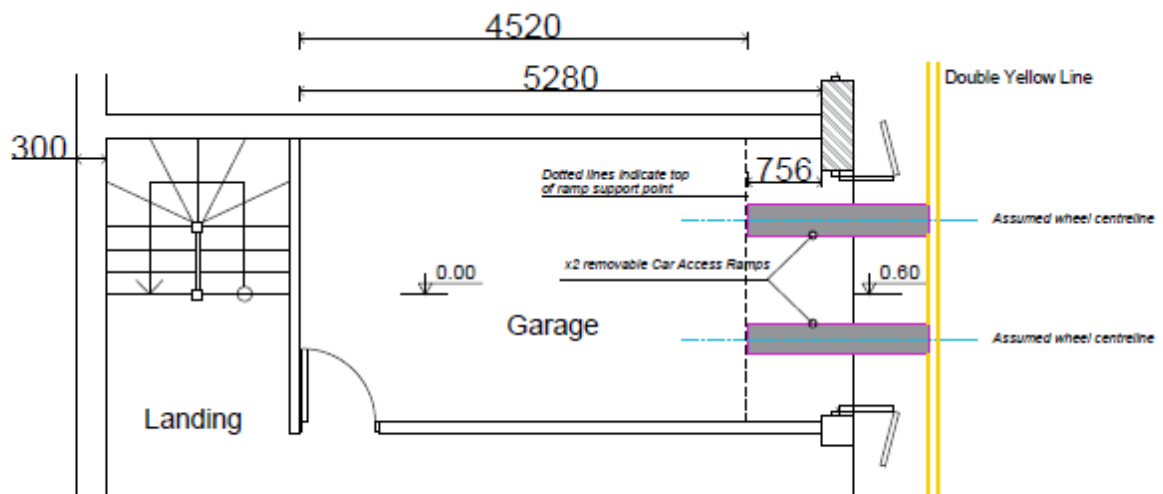
Proposed (as built) front elevation.



Approved section through No.18



Proposed section through No.18.

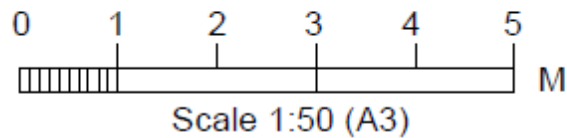


Average vehicle weight taken in the design = 1.40 Tons (1,302kg)

Manufacturer's details for the Mobile Car Access Ramp: THE RAMP PEOPLE  
([www.theramppeople.co.uk](http://www.theramppeople.co.uk))

Specifications (TRP40 Series Car Ramp)

- a) Super thin and lightweight aluminum ramp
- b) Suitable for garage access with low ground clearance onto steep level
- c) The twin ramps have a capacity of 1421 Kg
- d) Dimensions: L=2500mm(maximum), W=315, Maximum Load Height = 375mm, Maximum weight of each ramp = 16.20 kg



Typical floorplan of garages where internal floor level is higher than the public highway showing proposed portable ramps.

**DRAFT DECISION LETTER**

**Address:** 380-384 Harrow Road, London, W9 2HU,

**Proposal:** Variation of Condition 1 of planning permission dated 21 May 2014 (RN: 13/09224/FULL) for the 'Redevelopment of the rear of 380-384 Harrow Road (Nos. 16-22 Chippenham Mews) to provide 4x3 bedroom three storey dwelling houses (Class C3) with basement floors (to Nos.16, 18 and 20 only) and ground floor garages'. NAMELY, to amend the detailed design of the front elevations including alterations to window proportions, entrances, garage doors, party wall upstands, dormer cladding, soldier courses and Juliet balconies and amendments to ground levels within the garages of Nos.16, 18 and 20 Chippenham Mews.

**Reference:** 17/01128/FULL

**Plan Nos:** 939/01/FP (July'17), 939/03/AEL (July'17), 939/04/D/W/ELEMENTS (July'17), 235/01/GR, 235/02/GR, 235/03/GAR, 235/04/SS, 235/05/SS, 'The Ramp People' car ramp manufacturer's specification, email from Ocan Bob Mabelle dated 13 March 2018 (titled 'Proposed Access Car Ramps and Supporting Documents'), letter from Globproject (UK) Ltd dated 20 July 2017 (as amended by email from Ocan Bob Mabelle dated 13 March 2018) and Photos 1 - 3 (showing front elevations).

**Case Officer:** Oliver Gibson

**Direct Tel. No.** 020 7641 2680

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

Reason:

- 1 By virtue of their design, including the transition gradients between the highway and the ground level within the garages and the need for the use of portable ramps, the garages at Nos.16, 18 and 20 Chippenham Mews are inaccessible to the vehicles of the occupiers of these mews houses. Your development therefore fails to provide off-street parking and contributes to demand for on-street residents' car parking in the vicinity of the site. The proposed portable ramps would obstruct the public highway resulting in a reduction in the safety of the public highway in Chippenham Mews for pedestrians and vehicular traffic. This does not meet Policies STRA 25, TRANS 2, TRANS 3 and TRANS 23(A) of our Unitary Development Plan that we adopted in January 2007 and Policy S41 in Westminster's City Plan that we adopted in November 2016.

**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 so far as practicable. We have made available detailed advice in the form of our statutory policies in

Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), 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 the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, further guidance was offered to the applicant by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. However, the necessary amendments to make the application acceptable are substantial and would materially change the development proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Ministry of Housing, Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable.

Required amendments:

- Amendment of the ground levels within the garages to Nos.16, 18 and 20 to enable the garages to accommodate a car.

- 2 You are advised that you need to apply to vary Condition 13 of the planning permission dated 21 May 2014 (RN: 13/09224/FULL), as whilst details of waste and recycling storage were approved pursuant to this condition on 20 January 2015 (RN: 14/12048/ADFULL), this was for Nos.16 and 18 Chippenham Mews only and no details were approved in respect of Nos.20 and 22. Furthermore, on-site inspection during the course of this application has established that the waste and recycling storage approved for Nos.16 and 18 has not been installed. The waste and recycling storage you propose should accord with the guidance provided by the City Council in its guidance document 'Recycling and Waste Storage Requirements 2019':

[https://www.westminster.gov.uk/sites/default/files/waste\\_storage\\_requirements.pdf](https://www.westminster.gov.uk/sites/default/files/waste_storage_requirements.pdf)

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.

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