



City of Westminster

# Committee Agenda

Title:

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

Meeting Date:

**Tuesday 18th February, 2020**

Time:

**6.30 pm**

Venue:

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

Members:

**Councillors:**

Robert Rigby (Chairman)  
Selina Short  
Mark Shearer  
Tim Roca



**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: 07890 380137; Email: [gwillis@westminster.gov.uk](mailto:gwillis@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. MEMBERSHIP**

To note that Councillor Selina Short has replaced Councillor Peter Freeman as a member of the Sub-Committee.

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

To receive declarations by Members and Officers of the existence and nature of any pecuniary interests or any other significant interest in matters on this agenda.

#### **3. MINUTES**

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

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

Applications for decision

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

Members of the public are welcome to speak on the specific applications at the planning committee meeting.

To register to speak and for guidance please visit:

[www.westminster.gov.uk/planning-committee](http://www.westminster.gov.uk/planning-committee).

Please note that you must register by 12 Noon on the Friday before the Committee meeting

In the event that you are successful in obtaining a speaking slot please read the guidance, in order to familiarise yourself with the process prior to attending the meeting.

This meeting will be live streamed and recorded. Please view the following link for further information.

[www.westminster.gov.uk/stream-council-meetings](http://www.westminster.gov.uk/stream-council-meetings)

**(Pages 5 - 12)**

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|----|--|-----------------------------|
| 1. | <b>ARK PADDINGTON GREEN PRIMARY ACADEMY,<br/>CROMPTON STREET, LONDON, W2 1ND</b> | <b>(Pages 15 - 46)</b>      |
| 2. | <b>WEST END QUAY SOUTH WHARF ROAD LONDON W2<br/>1LA</b>                          | <b>(Pages 47 - 66)</b>      |
| 3. | <b>56 ECCLESTON SQUARE LONDON SW1V 1PH</b>                                       | <b>(Pages 67 - 86)</b>      |
| 4. | <b>BASEMENT AND GROUND FLOOR FLAT A 36<br/>WESTBOURNE GARDENS LONDON W2 5PU</b>  | <b>(Pages 87 -<br/>106)</b> |

**Stuart Love  
Chief Executive  
10 February 2020**

## Order of Business

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

<b>Order of Business</b>
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 21st January, 2020**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Robert Rigby (Chairman), Peter Freeman, Guthrie McKie and Mark Shearer.

**Also Present:** Councillor Jonathan Glanz (Item 3) addressed the Sub-Committee in his capacity as Ward Councillor in support of the application.

**Apologies:** Councillor Tim Roca.

#### 1 MEMBERSHIP

- 1.1 It was noted that Councillor Robert Rigby replaced Councillor Melvyn Caplan and that Councillor Guthrie McKie replaced Councillor Tim Roca.

#### 2 DECLARATIONS OF INTEREST

- 2.1 The Chairman explained that a week before the meeting, all six Members of the Sub-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 emails containing objections or giving support. Members of the Sub-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 Sub-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 Councillor Mark Shearer declared that, in respect of Planning Application Item 2 (50 Eastbourne Terrace), he had a personal relationship with one of the co-founders of Yard Nine. Whilst legal officers had advised that there was no conflict of interests, Councillor Shearer made the declaration in the interests of transparency.

### **3 MINUTES**

#### **3.1 RESOLVED:**

That the minutes of the meeting held on the 19<sup>th</sup> November 2019 be signed by the Chairman as a correct record of the proceedings.

### **4 TREE PRESERVATION ORDER TPO 654 (2019) LAND TO THE REAR OF ALBANY COURT, PALMER STREET, LONDON SW1H 0AA**

4.1 On 2nd October 2019, the City Council made a provisional Tree Preservation Order (TPO) to protect one cherry tree (labelled T1 on the TPO plan) and one honey locust tree (labelled T2 on the TPO plan) located on land to the rear of Albany Court, Palmer Street, London, SW1H 0AA. The TPO was provisionally effective for a period of six months from the date it was made (2nd October 2019) during which time it could be confirmed with or without modification. If not confirmed, the TPO would lapse after 2nd April 2020.

4.2 The TPO was made because the trees have high amenity value and make a positive contribution to the character and appearance of Palmer Street. The City Council, having been made aware of the potential to prune or remove the trees for redevelopment works, considered it expedient in the interests of amenity that a TPO be made, in order to safeguard their preservation and future management.

4.3 Confirmation of the TPO would not preclude the appropriate management or removal of the trees in the future, subject to the merits of any future application.

4.4 Objection to the TPO had been received from Wagama Estates Limited, Zetland House, 5/25 Scrutton Street, London EC2A 4HJ.

4.5 The City Council's Arboricultural Officer had responded to the objection.

#### **RESOLVED UNANIMOUSLY:**

That the Sub-Committee confirm Tree Preservation Order No. 654 (2019) without modification with permanent effect.

### **5 PLANNING APPLICATIONS**

#### **1 55 REGENT STREET LONDON W1B 4DY**

Use of part ground floor, part mezzanine and part basement level as a food court (sui generis).

Late representations were received from Councillor Tim Barnes in his capacity as Ward Councillor in support of the application (17.01.2020) and Mr Bob Dawson (The Crown Estate) in support of the application (16.01.2020). The Presenting Officer submitted the following amendments to Conditions 2 and 3:

**Condition 2**

Customers shall not be permitted within the food court at basement and ground floor levels before 07.00 hours or after ~~23.00~~ **00.00 hours (midnight)** on Sundays to Thursdays and before 07.00 hours or after ~~00.00 (midnight)~~ 01.00 hours the following morning on Fridays and Saturdays.

**Condition 3**

You must not allow more than ~~40~~ **20** seated customers within the ground floor area nor more than 330 customers into the basement food court at any one time.

Ms Leanne Catterall addressed the Sub-Committee in support of the application.

The Sub-Committee discussed the application and noted their support of the officer's recommendation. The Sub-Committee particularly discussed their unanimous support in view of the entrance being on Piccadilly, not Regent Street, the re-opening of a former underground entrance and the challenges being faced by the retail sector. The Sub-Committee considered that, subject to a number of safeguarding conditions as outlined, the change of use was acceptable.

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

**2 50 EASTBOURNE TERRACE LONDON W2 6LG**

Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the relocation of cycle and refuse storages into defensible zone landscaping along Chilworth Mews; party wall adjustments to incorporate services; amendment to unit mix increasing the provision of family sized dwellings; amendments to facade and roof; and changes to the ground floor office reception layout and the introduction of a retail café unit.

Additional representations were received from the South East Bayswater Residents Association (SEBRA) (12.01.2020) and from Yard Nine (15.01.2020).

Late representations were received from Councillor Antonia Cox in her capacity as Ward Councillor (16.01.2020), 5 Chilworth Mews (17.01.2020) and Gerald Eve (12.11.2019 and 20.01.2020). The Presenting Officer provided the Sub-Committee with an officer memorandum (21.01.2020), which set out the following revisions to the report and draft decision notice:

**1. Clarifications on land use mix floorspace and ancillary café.**

- For the avoidance of doubt the proposed café to ground floor of Eastbourne Terrace is to remain ancillary to the office accommodation as per condition 34. Therefore, whilst for all intents and purposes will appear as a café, it will remain ancillary to the office use. As such the floorspace figures in the table on page 52 of the Officer's report has been revised as below:

Land use M2 GIA	Pre-existing	2016 permission	2019 permission	Proposed m2 GIA
Office	6,529	8,476	10,103	<del>10,040</del> 10,092
Retail A1/A2/A3	1,092	1,165	988	<del>1,040</del> 988
Residential	Nil	853	961	974
<b>Total</b>	<b>7,652</b>	<b>10,494</b>	<b>12,052</b>	<b>12,054</b>

The description of development on the first page of the report and on the draft decision letter is also tweaked to reflect the following.

*Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the relocation of cycle and refuse storages into defensible zone landscaping along Chilworth Mews; party wall adjustments to incorporate services; amendment to unit mix increasing the provision of family sized dwellings; amendments to facade and roof; to the mews buildings and changes to the ground floor office reception layout and the introduction of an **ancillary** retail cafe unit*

**2. Amendment to condition 3 to reflect that granted under a Non -Material Amendment on 26.07.2019 (19/05689/FULL) and following the approval of condition 3B(i) on 28.11.2019 (19/09181/ADFULL)**

*A. All demolition and earthwork and piling phases shall be carried out in accordance with the documents and details approved as part of the completed Appendix A of the Code of Construction Practice signed by relevant parties on 05.06.2019, which constitutes an agreement to comply with the code and requirements contained therein.*

*B (Part i). Construction of the*

*a. Office substructure;*

*b. Office Concrete Cores to roof level;*

*c. Residential foundations and superstructure comprising piled foundations, blockwork and pre-cast concrete plants (up to level 2);*

*(excluding demolition and earthwork and piling phases), shall be carried out in accordance with the documents and details approved as part of the completed Appendix A of the Code of Construction Practice signed by relevant parties on 25.11.2019, which constitutes an agreement to comply with the code and requirements contained therein.*

*B (Part ii). Prior to any construction works on site (excluding demolition and earthwork and piling phases and the works approved under part (i) of this condition), the applicant shall provide 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 for construction, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein.*

**3. Amendment to Condition 21 to reflect that granted under a Non-Material Amendment on 14.01.2020 reference 19/09883/NMA.**

*Any structure including canopies and awnings over the footway shall maintain 2.6m vertical clearance from the footway surface at all time and not extend any closer than 1m to the kerb edge, with the exception of the scheme of public art approved on 31.12.2019 under reference: 19/09886/ADFULL.*

**4. Amendment to Condition 31 (as already set out in blue bundle) to reflect agreed servicing hours at 40 Eastbourne Terrace.**

*All servicing must take place from the loading bay shown on the drawings (whether enclosed in a structure or not) and this area shall only be used for this purpose and servicing must only take place between 07.00-20.00 on Monday to Saturday and 10.00-16.00 on Sunday and Bank Holidays. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building.*

**5. Amendment to Condition 34**

*The ancillary cafe to ground floor level accessed from Eastbourne Terrace, shall only be operated in accordance with the following requirements:*

- a) *The cafe shall remain ancillary to the office use and shall not be used as a separate planning unit.*
- b) *The cafe shall not undertake primary cooking.*
- c) *The cafe shall not operate a delivery service.*
- d) *The cafe shall not accept deliveries from Eastbourne Terrace, all deliveries shall be made using the loading bay to the rear of the site.*
- e) *The cafe shall operate between the hours of 07.00-22.00 hours daily.*

**6. Additional condition 35 - Tree protection recommended- due to activity in proximity of trees on site during current site works. Wording of condition to reflect Condition 3 and outstanding Cosp requirements.**

*Prior to any construction works on site (excluding demolition and earthwork and piling phases and the works already approved as set out under condition 3 (Construction of the*

- a. *Office substructure;*
- b. *Office Concrete Cores to roof level;*
- c. *Residential foundations and superstructure comprising piled foundations, blockwork and pre-cast concrete plants (up to level 2).*

*You must apply to us for approval of detailed drawings of how you will protect any trees within the site. This includes the design of permanent tree guards. You must not carry out the outstanding construction work until we have approved in writing what you have sent us. You must then carry out the work according to the approved drawings and details.*

Mr Mark Younger of Yard Nine (Invesco) addressed the Sub-Committee in support of the application.

Ms Amy Rogers addressed the Sub-Committee in objection to the application.

Mr John Zamit addressed the Sub-Committee in his capacity as Chairman of SEBRA in objection to the application.

The Design Officer addressed the Sub-Committee on the contemporary scheme and the suite of details to accompany that scheme.

**RESOLVED UNANIMOUSLY:**

1. That conditional permission be granted, subject to a Deed of Variation of the earlier Deed of Variation dated 10 July 2019, which itself varied the original S106 agreement dated 15 November 2016, to secure all the previously secured obligations in connection with this permission.
2. That if the Deed of Variation had not been completed within three (3) months from the date of the Committee's resolution, then:
  - a) the Director of Place Shaping and Town Planning should consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this were possible and appropriate, the Director of Place Shaping and Town Planning be

authorised to determine and issue such a decision under Delegated Powers; however, if not

b) the Director of Place Shaping and Town Planning should consider whether permission should be refused on the grounds that it had not proved possible to complete an agreement within an appropriate timescale, and that the proposals were unacceptable in the absence of benefits that would have been secured; if so, the Director of Place Shaping and Town Planning be authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

### **3 26 CHARLES STREET LONDON W1J 5DT**

Amalgamation of two flats into a single dwelling-house (Class C3).

Late representations were received from Councillor Jonathan Glanz in his capacity as Ward Councillor in support of the application (16.10.2020) and Councillor Tim Barnes in his capacity as Ward Councillor in support of the application (17.01.2020).

Mr Godfrey Barker addressed the Sub-Committee in support of the application.

Councillor Jonathan Glanz addressed the Sub-Committee in his capacity as Ward Councillor in support of the application.

The Sub-Committee discussed the application and noted the adopted City Plan Policy S14, the adopted Mayfair Neighbourhood Plan and the desirability of keeping families within Westminster. The Sub-Committee particularly discussed that, whilst the application would result in the loss of a residential unit, the application would return a Grade II listed building to its single dwelling house origins. In reversing Officers' recommendations, the Sub-Committee considered that:

- there were heritage reasons why this application was appropriate and why that outweighed the policy considerations in the Mayfair Neighbourhood Plan Policy MRU 2.3 concerning the resistance to net loss of residential units in Mayfair;
- the building was originally built as a Georgian villa and it was heritage policy that the best use of a listed building was the use for which it was originally built; and
- therefore amalgamating these two units into the single dwelling purpose for which the building was originally built constituted material consideration to outweigh the conflict with Policy MRU 2.3 of the Mayfair Neighbourhood Plan (adopted in December 2019), the policy basis on which Officers' recommendation for refusal had been based.

#### **RESOLVED UNANIMOUSLY:**

That conditional planning permission be granted.

**4 CERVANTES COURT INVERNESS TERRACE LONDON W2 6JE**

Use of part of lower ground floor (garages 9,10 and 11) and associated land as two (2) self-contained flats (Class C3) and associated external alterations, including erection of lower ground floor rear extension and creation lightwell to front elevation with staircase access, cycle and refuse stores.

The Planning Officer submitted additional informatives as set out in the Environmental Health Consultation Team Memo of 09.01.2020.

A late representation was received from SEBRA (19.01.2020).

Mr Jeremy Biggin of Wentworth Andersen addressed the Sub-Committee in support of the application.

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted, subject to a Grampian condition to secure car club membership for the two flats for a period of 25 years prior to occupation.

**5 SAXON HALL PALACE COURT LONDON W2 4JA**

Rationalisation and reduction of the existing parking in the rear yard to provide three vehicle spaces.

A late representation was received from Thomas Darwall-Smith of Keystone Planning (21.01.2020).

**RESOLVED UNANIMOUSLY:**

That conditional planning permission be granted, subject to an additional informative on greening.

The Meeting ended at 20:25.

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

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

# Agenda Annex

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 18th February 2020  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	<b>RN(s):</b> 18/08946/COFUL  Little Venice	Ark Paddington Green Primary Academy Crompton Street London W2 1ND	Erection of a single storey building on the north west of the site, relocation of the main entrance, remodelling of the ground and upper floors of the main building and associated landscaping and cycle storage improvements.	Westminster City Council
	<b>Recommendation</b> Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.			
Item No	References	Site Address	Proposal	Applicant
2.	<b>RN(s):</b> 19/04411/TCH  Hyde Park	West End Quay South Wharf Road London W2 1LA	Use of hard paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant.	Brewdog Bars Ltd.
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
3.	<b>RN(s):</b> 19/08800/FULL & 19/08801/LBC  Warwick	55-57 Eccleston Square London SW1V 1PH	Retention of one external air condenser unit and new ducting on rear ground floor flat roof; installation of full height extract duct to rear and internal works at basement level.	Dukes Education Group Limited
	<b>Recommendation</b> 1. Grant conditional planning permission and listed building consent. 2. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision notice.			
Item No	References	Site Address	Proposal	Applicant
4.	<b>RN(s):</b> 19/03090/FULL  Bayswater	Basement And Ground Floor Flat A 36 Westbourne Gardens London W2 5PU	Basement excavation beneath the existing driveway, erection of a conservatory at upper ground floor level, installation of an opaque glazed panel at ground floor level, provision of garden steps with associated fenestration alterations to the side elevation at 36 Westbourne Gardens.	Mr & Mrs Riboldi
	<b>Recommendation</b> Grant conditional permission.			

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# Agenda Item 1

Item No.
<b>1</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date 18<sup>th</sup> February 2020</b>	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Little Venice	
<b>Subject of Report</b>	<b>Ark Paddington Green Primary Academy, Crompton Street, London, W2 1ND,</b>		
<b>Proposal</b>	Erection of a single storey building on the north west of the site, relocation of the main entrance, remodelling of the ground and upper floors of the main building and associated landscaping and cycle storage improvements.		
<b>Agent</b>	Lambert Smith Hampton		
<b>On behalf of</b>	3BM Education Partners/Westminster City Council		
<b>Registered Number</b>	18/08946/COFUL	<b>Date amended/ completed</b>	29 October 2018
<b>Date Application Received</b>	19 October 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Partly within Maida Vale and Paddington Green Conservation Areas and partly outside conservation area.		

## 1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
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## 2. SUMMARY

<p>Permission is sought for the erection of a single storey building on the north west of the site to house a new nursery, alterations to the front entrance and access ramp, additional cycle storage, the removal and replanting of 2 x trees and the planting of a green wall along the south west boundary of the site</p> <p>The new building is on the site of the existing temporary buildings and surrounding overgrowth behind them and existing hard standing. During the course of the application revised drawings and details were submitted to confirm the number of trees being removed/retained and the travel plan for the additional number of pupils attending the site. The application forms part of strategic approach to create a single form of entry school across the two school sites of The Ark Paddington Green and The Ark King Solomon.</p> <p>The application received 26 neighbour letters of objection to the initial consultation. Following revised drawings and details being submitted, a re-consultation of neighbours was carried out which</p>
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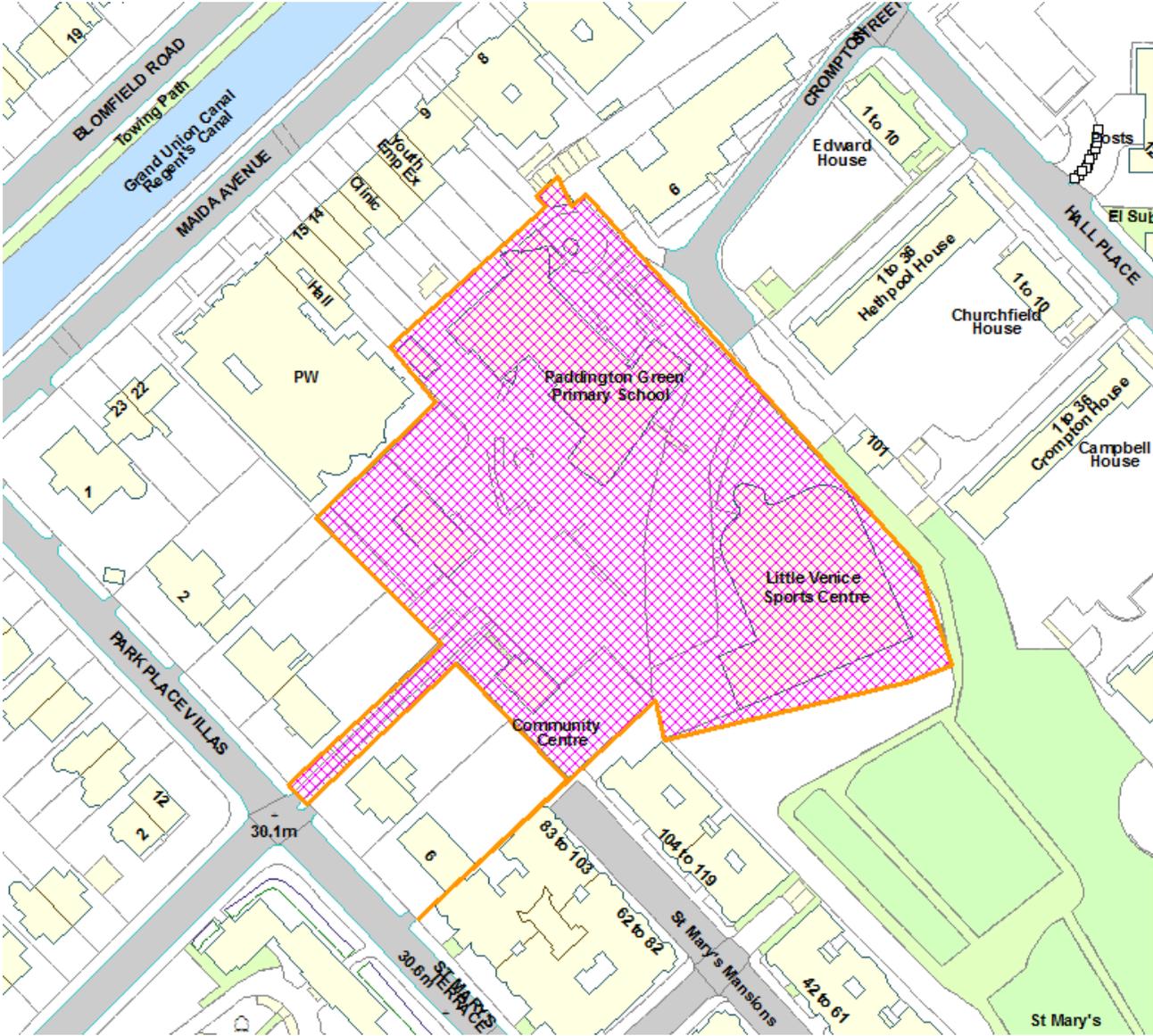
attracted 2 neighbour objections and one letter of support. Objection has also been received from the neighbouring Paddington Catholic Apostolic Church and Cllr Caplan.

The key issues are:

- The impact of the proposed development on the setting of the Paddington Catholic Apostolic Church
- The impact of the proposed development on the trees on the site.
- The impact of the proposed development on the parking and traffic on the surrounding streets, particularly Park Place Villas.

The proposed development is considered acceptable in land use, design, trees and highways grounds, subject to the recommended conditions, it is considered to comply with the relevant policies in the Unitary Development Plan adopted in January 2007 (the UDP) and in Westminster's City Plan adopted in November 2016 (the City Plan).

**3. LOCATION PLAN**



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**4. PHOTOGRAPHS**

View from the Paddington Green Playgrounds towards the existing temporary buildings and Paddington Catholic Apostolic Church



View from Padding Green School Playground of temporary buildings trees at boundary with Park Place Villas and rear of properties on Park Place Villas



View of the boundary between the application site and Park Place Villas



## 5. CONSULTATIONS

### ORIGINAL CONSULATION- CONSULTATION RESPONSES TO THE FIRST ROUND OF CONSULTATION

#### WARD COUNCILLORS FOR LITTLE VENICE:

Any response to be reported verbally.

#### PADDINGTON WATERWAYS & MAIDA VALE SOCIETY:

No objection.

#### ARBORICULTURAL MANAGER

objection to the loss of the loss of the sycamore tree. Concerns were also raised regarding the impact of the works on the remaining trees on the site. A condition to secure a tree protection method statement recommended.

#### HIGHWAYS PLANNING TEAM:

No objection subject to conditions, following the submission of a travel plan and statement.

#### WASTE PROJECT OFFICER:

No objection subject to conditions

#### ENVIRONMENTAL HEALTH:

Any response to be reported verbally.

#### CHILDREN'S SERVICES:

Support the provision of additional education floor space.

#### HISTORIC ENGLAND:

No objection, defer to conservation officer.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 186

No. of responses: 1 letter of support received and 24 letters of objection received on one or more of the following grounds:

#### OBJECTIONS:

##### Land use

- Over development of the school site
- Overcrowding

##### Design

- Height of the proposed building
- Appearance of the proposed building is not appropriate in this location
- The impact of the proposed building on the setting of the listed church adjacent to the site
- Harm to conservation area
- Potential harm to the churches foundations

Amenity

- Increased noise for the residents of Park Place Villas

Other

- Loss of trees
- Park Place Villas entrance not suited to additional children arriving at the school
- Loss of railings to the Park Place Villas entrance
- Harm to environment of bats
- No arboriculture report has been submitted
- Increased congestion and parking pressure on Park Place Villas and surrounding streets
- Noise and disturbance during the building works
- Air pollution harm from the loss of trees
- MUGA would cause noise and disturbance
- Loss of trees would harm the birds and wildlife that live amongst them

RECONSULTATION - CONSULTATION RESPONSES TO REVISED DRAWINGS, TREES DETAILS AND TRAVEL PLAN:

No. Consulted: 186

No. of replies: 4 objections have been received on one or more of the following grounds:

Design

- Harm to the conservation area from loss of trees
- Proposed building not in keeping with the surrounding area
- Harm to the setting of a listed building
- Height

Amenity

- Increased noise pollution from people arriving from the park place villas entrance and from pupils playing outside at the boundary between the school and houses on Park Place Villas

Other

- Traffic and pollution from the increased car journeys
- Loss of trees and woodland
- Lack of arboriculture report

PRESS ADVERTISEMENT / SITE NOTICE: Yes

**6. BACKGROUND INFORMATION**

**6.1 The Application Site**

The school site lies within two conservation areas (Paddington Green Conservation Area – within which the main school buildings are sited; and Maida Vale Conservation Area – within which the school access road off Park Place Villas is located) However, the area in which works are to be carried out as part of this application falls within an island of

land which lies outside a conservation area. Immediately to the north west of the site lies the grade I listed Catholic Apostolic Church; and the grade II listed Victorian villas within Park Place Villas.

The original school building is an unlisted London Board School from the late nineteenth century and is a typical example of its type built in stock brick with red brick dressings in a Queen Anne Revival style. The whole site has a D1 Educational use class. There are pedestrian entrances to the site from Crompton Street to the north east which is the existing main entrance and Park Place Villas to the south west which provides vehicular and pedestrian access. There are several mature trees at the south west and north west boundaries of the site.

## 6.2 Recent Relevant History

### 04/03662/COFUL

Erection of two portacabins in school grounds measuring 18m x 9.6m and 17m x 2.4m to provide additional classroom and toilets facilities for a temporary period of two years. (Council's Own Development)

Application Permitted                      22 July 2004

### 05/02781/COFUL

Extension to existing primary school comprising of ground, first and second floors accommodating hall, kitchen, four classrooms and associated teaching space.

Application Permitted                      16 June 2005

### 08/10361/COFUL

Retention of a portacabin in the grounds of the school until Sep 2010.

Application Withdrawn                      10 February 2009

### 15/09704/FULL

Retention of Portacabin on the south-west side of Paddington Green Primary School for a temporary period of 5 years.

Application Withdrawn                      5 February 2016

### 18/06007/COFUL

Widening of existing ramp and installation of a new ramp and access doors.

Application Permitted                      19 November 2018

### 19/01727/COFUL

Variation of condition 1 of planning permission dated 19 November 2018 (RN: 18/06007/COFUL) for the widening of existing ramp and installation of a new ramp and access doors. NAMELY, to vary the approved drawing numbers to allow alterations to the front elevation on the main school building.

Application Permitted                      25 April 2019

## **7. THE PROPOSAL**

Planning permission is sought to provide additional accommodation on the site within a new building together with various alterations. The proposal comprises of the following key elements:

- Single storey building (632m<sup>2</sup>) with green roof to provide new nursery for 140 pupils between 2- 4 years old.
- Green screen
- Relocation of main entrance
- Remodelling of ground and upper floors of main building
- Associated landscaping and cycle storage.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

Education facilities have a D1 use Class and are classed as community facilities in both the Unitary Development Plan (UDP) and The City Plan. The relevant policies are therefore SOC 1 (Community Facilities in General), SOC 3 (Education Facilities) of the UDP and S34 (Social and Community Infrastructure) of the City Plan.

Policies S34 and SOC1 seek the protection of existing social and community floorspace. Both policies indicate floorspace that is lost should be reconfigured, reused or replaced with adequate community and social uses.

Policy SOC 3 supports the provision of new educational facilities and encourages the use of educational facilities outside of teaching hours.

#### *Proposed school*

The site has had temporary buildings on it for 10 years which have provided additional classroom space for the school on a temporary basis. The temporary buildings have not been used for the last few years and have fallen into a state of disrepair leading to complaints to the City Council's planning enforcement team regarding their appearance.

The new building will include the site of the temporary buildings and some of the surrounding space. The use class of the proposed early years and nursery school is D1 Education and is therefore acceptable in principle. The new nursery will house approximately 140 pupils aged between 2 - 4 and 13 staff. The proposals form part of a wider set of works to create an Ark Academy single form of entry school across the Paddington Green site and the King Solomon site.

The new building will accommodate up to 90 children aged 3 - 4 and up to 50 children aged 2 – 3 as part of an early years and nursery school. The internal space of the school is in accordance with the Department of Education guidelines.

The proposed works to the main school building to upgrade the entrance and some windows and doors are not contentious on land use grounds.

The site has an existing use class of D1 and the temporary buildings that will be replaced were used as class rooms. The additional or replacement and new educational floorspace is in accordance with policies SOC1, SOC3 of the UDP and S34 of the City plan which seek to encourage the upgrading of exiting and provision of new educational floorspace. The proposal is therefore considered acceptable on land use grounds.

## **8.2 Townscape and Design**

The school site lies within two conservation areas (Paddington Green Conservation Area within which the main school buildings are sited; and Maida Vale Conservation Area – within which the school access road off Park Place Villas is located) but it also includes an island of land which lies outside a conservation area. Other designated heritage assets to note within the immediate vicinity are the grade I listed Catholic Apostolic Church immediately to the north west; and the grade II listed Victorian villas within Park Place Villas.

The original school building is an unlisted London Board School from the late nineteenth century and is a typical example of its type in stock brick with red brick dressings in a Queen Anne Revival style. It has a large modern extension to the south added in the 2000s. The land to the south-west of the school which now forms part of the school (playground, entry point and temporary classroom structure) was originally a separate plot of land, occupied in the nineteenth century and first half of the twentieth century by a large, detached property known as Park Place Gardens.

The main component of the proposed scheme is a new freestanding single storey nursery building to the west of the existing school building occupying the site of a single storey temporary classroom building and part of the playing area. This new building would largely be located within the island of land that lies outside the conservation area, it will in reality be two buildings, but they are linked together and are designed to appear as a single structure.

The size, footprint and detailed design of the proposed new building(s) is considered acceptable in design terms, appropriately taking account of its townscape context and the surrounding heritage assets. The two tone brickwork appropriately references the main school building, albeit in a contemporary fashion. Given the low scale of the new building, its roof will become an important 5th elevation and the selection of a green roof is considered acceptable in this context.

A number of objections have been made raising design, townscape and heritage impact issues, notably a detailed assessment submitted on behalf of the Trustees of the Catholic Apostolic Church. Certainly, the application site is a sensitive one being in and close to conservation areas and with listed buildings in the immediate vicinity. As such it is important to consider the statutory duties as well as the policy framework.

*Legislation and Policy*

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 indicates that “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Section 72 of the same Act indicates that “In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

In terms of the NPPF the key considerations are addressed in Chapter 16 with paragraphs 193-196 specifically addressing the issues of harm to designated heritage assets, which in the case of this application, the designated heritage assets would comprise the two conservation areas and the nearby listed buildings.

Policies S25 and S28 of our City Plan are strategic policies which recognise the importance of Westminster’s historic townscape and the need to conserve it and require exemplary standards of sustainable and inclusive urban design and architecture.

Policy DES1 of our UDP sets out principles of urban design and conservation to ensure the highest quality in the form and quality of new developments in order to preserve or enhance the townscape of Westminster.

Policy DES 9 of the UDP aims to preserve or enhance the character or appearance of conservation areas and their settings.

Policy DES 10 of the UDP seeks to ensure that planning permission is not granted for proposals which have an adverse impact on the setting of listed buildings.  
Impact on Setting of Listed Buildings

*The Catholic Apostolic Church*

The grade I listed Catholic Apostolic Church has the highest grade of listing and is closest to the application site. The church was built in 1894 and was designed by John Loughborough Pearson in a Victorian Gothic style. It is principally faced in red brick, but with ashlar dressings on all sides. The church has a cruciform plan and is aligned north-west/south-east, with its front façade respecting the building line along Maida Avenue. The church replaced an earlier group of Victorian houses, which had long garden plots and the location of these former property boundaries dictated the orientation and layout of the church.

The front façade of the church facing onto Maida Avenue (liturgical West end) is the most embellished with a deeply recessed central section containing two large four-light windows with Geometric tracery. Either side of the arched recess are the nave walls which rise to stone octagonal turrets with spirelets. There is also a decorative stone arcade beneath the gable running between the turrets. This façade is a prominent townscape feature appreciable from Maida Avenue, Blomfield Road and the Regent’s Canal and makes a significant contribution to the Maida Vale Conservation Area. However, Pearson’s design for the exterior did not focus attention solely on this west

Item No.
<b>1</b>

end and the design quality and attention to detail was carried round the whole building, with the transept gables echoing the west front, with Geometric tracery, albeit a reduce use of stone dressing, reflecting the secondary status of these parts. The south-east, liturgical east end features an apsidal chancel with tall lancet clerestory windows, with a lower roofed ambulatory and side chapels.

These other sides of the church, while unquestionably of high architectural quality, have a lesser townscape contribution than the west end, albeit the south-west (liturgical south) facing side does have townscape presence, viewed from the north (Maida Avenue, the canal and Blomfield Road) and the west (Park Place Villas). The chancel end has the least townscape presence largely being visible from private viewpoints, including from the school playground.

The other townscape element of the church to note is the central rooftop fleche (slender spire), which is at the intersection of the nave and transepts and is easily the tallest part of the church and thus a landmark element in wider views.

Setting is the surroundings in which a heritage asset is experienced and its importance lies in what it contributes to the significance of the heritage asset, or the ability to appreciate that significance. In the case of the church it is a building which was introduced into an existing townscape, with many of the properties in Maida Avenue and Park Place Villas preceding it. Furthermore, its layout and to a degree its size was constrained by the available site within which to build it. Thus, its setting is one where it is experienced sitting amidst other, mainly residential buildings. In some cases these surrounding buildings pre-date the church and in some cases these buildings obscure views of the church, for example the Victorian terrace to the east of the church, facing onto Maida Avenue, largely obscures views of the liturgical north-side of the church (certainly in public views). In addition to buildings there are also a number of mature trees both on the street and in private property which obscure views of the church, while also contributing to its setting.

In summary, the church is located within an urban setting and one which has developed both before the church and afterwards. The proposed single storey nursery building, would only be visible in the same viewing context as the church from non street-level views. In these views it would not exceed the eaves height of the ambulatory, which itself is sunk below the ground level of the school. In a context where the church is experienced in an urban context, the proposed building is considered to have no adverse impact upon the setting of the listed church. The latter would remain a highly impressive Victorian Gothic church, sitting amongst other buildings of differing ages, some of which obscure some views of the church. The primary viewing experiences of the church from the north and the west would be entirely unaffected. The objections raised on the basis that the heritage impact assessment is inadequate and that harm is caused to the listed building is not accepted. However, even if a degree of harm is accepted, then this would fall in the category of less than substantial and at the low end of this spectrum. In such circumstances, this harm needs to be weighed against the public benefits of the proposal and it is considered that the provision of the new nursery school building would provide a clear public benefit to the local area, improving local educational facilities, and that these benefits would outweigh any harm caused.

*22 & 23 Maida Avenue and 1-6 Park Place Villas*

Item No.
<b>1</b>

These detached and semi-detached villas lie to the south and west of the application site. They are all grade II listed buildings and all date from the early to mid-nineteenth century. They are fine examples of the first phase of residential development in this area and were clearly designed and built for an affluent market. The generous landscaping to front and rear and the gaps between the buildings all contribute to their setting. The proposed single storey nurse building would sit at some distance from the rear property boundaries to some of these villas and would not encroach into the landscaped gardens nor impinge on any key views of these properties, where the greatest level of embellishment was afforded to the front facades. Now that the impacts on trees has been resolved no harm to the setting of these properties is caused by the proposed development.

*Impact on Conservation Areas*

The main school buildings lie within the Paddington Green Conservation Area. This was designated in 1988 having previously been part of the larger Maida Vale Conservation Area. The focal point of the area is the eighteenth century St Mary's Church and Paddington Green, which are the vestigial remains of this former village settlement. During the course of the nineteenth century the area was absorbed by rapid urban expansion and the stucco terraced housing along St Mary's Terrace are a good example of this first phase of expansion. Later phases of residential re-development occurred and the mansion blocks of St Mary's Mansions are a fine example of this. The green spaces of Paddington Green and the burial ground (St Mary's Churchyard) make a significant contribution to the character and appearance of the area. Paddington Green Primary Academy (originally a London Board School) is located at the very northern end of the conservation area and while not visually prominent does contribute to the history of the area. The conservation area audit describes the school as follows:

"Paddington Green Primary School, a London Board School of a pleasant composition, is of stock brick with red brick dressings and clay tile roof. It is relatively unaltered and though not dominant in views from within the conservation area it is a fine feature to the north complementing the rear elevation of the listed Catholic Apostolic Church."

The proposed single storey building would be even more visually discreet than the main school building and would not challenge the complementary relationship of the school and church. It would not have any adverse impact on the significance of the Paddington Green Conservation Area.

To the north and west of the application site lies the Maida Vale Conservation Area. It was first designated in 1968 and has been extended on a number of occasions since then. The conservation area is predominantly a product of the Victorian age, with the earliest main phase of development commencing in the southern half of the conservation area from the 1830s following the construction of the Regent's Canal. The principal land use has always been residential and the earliest phase of development saw the construction of stucco villas and terraces. This earlier phase had largely been completed by the 1860/70s with most of the land to the south of Sutherland Avenue being developed. The latter part of the nineteenth century saw the development of the northern half of the conservation area and saw changes in style and house type, with a greater use of red brick-faced buildings and the introduction of mansion blocks. In addition to the housing that was built the area is characterised by its tree-lined roads and the large areas of private communal gardens that were created.

The stucco villas along Park Place Villas are typical examples of the early phase of development within the conservation area and their generous size with large garden plots strongly reflects the character of the conservation area. The proposed single storey building would not be visible from public viewpoints within the conservation area and is of sufficiently modest scale and distance from the stucco villas to have no impact on their setting. The Catholic Apostolic Church is also within the Maida Vale Conservation Area, but as already indicated the impact to the setting of this building and thus to this part of the conservation area is not regarded as harmful. The loss of any trees associated with the proposal would have had some impact on the setting of the villas and the character of the conservation area, but as this issue has been overcome, the proposal will have a benign impact.

*Design Conclusion*

While concerns have been expressed about the design quality of the proposed building, it is considered that it is appropriately complementary to the main school building, without seeking to be eye-catching. It provides much needed additional capacity in a fashion which respects the significance of the townscape around it. Subject to the suggested conditions which seek to secure appropriate finishing materials and detailing the proposal is considered acceptable and in accordance with design policies DES 1, DES 9 and DES 10 of the UDP; and S25 and S28 of the City Plan.

**8.3 Residential Amenity**

ENV 13 of the UDP and S29 of the City Plan seek to protect residential amenity and environmental quality. ENV 13 specifically seeks to protect residential amenity from an increased sense of enclosure, loss of privacy and a loss of daylight/sunlight.

The proposed building is single story albeit with the very highest point of the building at the ridge of part of the rooflight at approximately 6 meters in height. Additionally, the closest residential buildings are at a minimum of 30 meters away on Park Place Villas and set behind a boundary wall within their gardens of varying heights and a boundary fence/trellis. Accordingly, the proposed building will not result in any significant increased sense of enclosure, loss of daylight/sunlight or overlooking to neighbouring residential properties.

Several neighbour objections have been raised on amenity grounds primarily relating to noise from the playground adjacent to the rear gardens of park place villas, noise and disturbance from increased traffic, noise and disturbance during the construction works and the outlook from Park Place Villas due to a loss of trees at the boundary between the rear gardens of Park Place Villas and the application site. The objections on amenity grounds are assessed below.

*Noise and disturbance.*

Objections have been received on the grounds that the playground of the nursery would bring children closer to the boundary between Park Place Villas and the school. Concerns have been raised that children playing outside would increase noise levels for the residents of Park Place Villas. One objector has stated that a sound proof barrier covered in greenery should be erected to mitigate the impact of noise.

Item No.
<b>1</b>

The area shown in the proposed drawings as outside play space for the nursery is currently land which is used as a garden for the school, an over grown parcel of land and an area used for cycle storage. The lawful use of the area is outside space ancillary to the D1 education use of the school and has been established as such for many years. It is acknowledged that due to the erection of the temporary buildings to provide additional class room space the area directly at the rear of the Park Place Villas boundary wall has not been used directly by children from the school for some years. However, the temporary buildings were never to remain permanently.

The school could, without permission, remove the temporary buildings and open the whole playground up for use by children of all ages without providing any additional barriers to the boundary at Park Place Villas and without informing or consulting either the City Council or neighbouring residents, as the use of the area would remain the same as the existing lawful use.

The proposed scheme would provide outside play space for children between the ages of 2 – 4 between normal school hours of 07:00 to 18:00 (for staff) & 07:45 to 16:15 (for pupils) Monday to Friday. The outside space can be accessed directly from the three proposed classrooms, via normal sized doors. Outside classrooms No. 4 and 5 there is a polycarbonate canopy to allow use of the outside area in all weather. As part of the revised proposals the applicant has included new planting on the schools side of the boundary to provide a 'green screen' between the playground and the properties to Park Place Villas. Details of the green screen will be secured by condition. Following revised drawings the majority of the established trees are being retained along the boundary and the ones being removed are to be replaced as secured by condition.

The closest elevation of the properties on Park Place Villas is approximately 23 meters away from the outside play space. There is currently a brick wall along the southern part of the boundary and a fence along the northern part of the boundary. The boundary treatments belonging to the properties on Park Place Villas are the responsibility of the property owners and it is therefore their personal choice whether they have solid walls or more lightweight fences. The school boundary currently has a wire fence and contains several well established trees.

The submission of a revised scheme to retain and replant the trees along the boundary which currently offer some noise mitigation and the addition of a green screen are considered as proactive and positive measures taken by the school to mitigate noise from the play area.

In terms of the requests by objectors that an acoustic assessment of the noise impact is undertaken, given the spaces to which the application relates already have a lawful use as external play space as part of the school use, it is not considered that further noise mitigation measures could reasonably be required in this instance.

Given the existing lawful use of the area, the distance between the area and the closest residential buildings and the existing and proposed planting it is not considered that increased noise and disturbance caused by the use of play space by children attending the nursery is a reason to withhold planning permission.

The noise and disturbance caused during the construction of the nursery would be controlled through the standard condition restricting the hours of noisy building work. The application does not trigger the council requirements for the Code of Construction Practice condition. It is not considered that disturbance during works is a reason to withhold planning permission.

*Outlook*

Following the resubmission of updated drawings which have been consulted on it is clear that only two trees are to be removed which the Arboricultural Manager has not raised objection to on the grounds that appropriate replacement are secured by condition. Additionally, a green screen on the school's side of the boundary is also proposed, details of which are also to be secured via condition. Accordingly, the outlook of residents from Park Place Villas will remain as existing or be enhanced through the introduction of a 'green screen' and the objections are considered to have been addressed.

*Amenity summary*

The proposed works would not result in an increased sense of enclosure, overlooking, loss of light or increased noise which would be unacceptable. The objections raised on amenity grounds have been addressed during the course of the application, through the introduction of screening, retained trees and replacement planting as detailed above. Accordingly, the proposal is considered to accord with policies ENV 6 and ENV 13 of the UDP and policy S29 of the City Plan.

**8.4 Transportation/Parking**

The original submission did not include a travel plan or transport statement and attracted significant neighbour objections on the grounds that the increased number of pupils/children attending the new nursery would increase pressure on parking and congestion on Park Place Villas and the surrounding streets at drop off and pick up times.

The objections state that due to the three other nursery's in the surrounding area there is already significant pressure on the highway network in the area. The objections also state that the increased journeys to the school would increase air pollution in the area and noise pollution for the properties on Park Place Villas. A further objection states that the school should appoint traffic marshals outside Park Place Villas entrance.

During the course of the application a travel plan and supplementary travel statement have been submitted. These documents were included in the re-consultation carried out in June 2109.

The second consultation received three objections relating to transport on the grounds of increased traffic congestion, pressure on parking, noise, pollution and a lack of traffic marshals.

The existing capacity of the school is 490 pupils, however the existing roll call is 237 with an estimated staff of 50 (operating at capacity). Nonetheless the capacity of the school is 490 and it has as recently as 2012 had 456 attendees. As such the basis for assessment is the potential capacity of 490 pupils.

As a combination of the proposed nursery and the amalgamation of Ark Paddington Green and Ark King Solomon the capacity of the school and nursery to 590 with a staff of 68. This equates to an increase of 100 pupils and 18 staff from the existing capacity of the school.

The proposed travel plan and statement outline the plans of Ark Paddington Green to achieve a modal shift away from the private car of 6% or demonstrate that 90% of pupils travel to school actively (within 3 academic years). The travel plan has been approved by the Road Safety Officer. A condition is proposed to secure a review of the Travel Plan at 1, 3 and 5 year anniversaries of the commencement of the proposal.

It is recognised that there will be an increased number of trips to the school as the capacity of the Ark Paddington Green site will increase by 100 children and 18 staff and due to the age group of the children at the nursery that some of the additional journeys will be by car. However, the Highways Officer has stated the overall increase is unlikely to have a significant impact on the surrounding public highway and has raised no objection to the proposal.

For D1 educational use the London Plan requires 1 space per 8 students and 1 space per 8 staff. 60 cycle parking spaces are proposed. It is not clear how many cycle parking spaces are on site currently but the “existing” plan appears to indicate 40 spaces. Given the indicated increase in pupils and staff under the London Plan, 21 long stay and 2 short stay spaces are required. The proposal appears to include only 20 additional spaces. 1 additional long and 2 short spaces should be provided. A condition is proposed to provide the required cycle storage.

Given details included within the travel plan and travel statement, together with the proposed conditions, the objections on highway and transport grounds are not supported.

## **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

## **8.6 Access**

The nursery is single storey and would be wheelchair accessible. The site would be accessed from the existing Park Place Villas entrance to the school.

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

### *Trees*

The initial submission of the application included very little detail regarding trees and indicated that several trees at the boundary with Park Place Villas were proposed for removal with no indication of justification, impact or replanting. Following public , 28 objections were raised with the majority of the objections on the grounds that trees were being removed unnecessarily which would harm the appearance of the surrounding conservation area, harm wildlife and reduce the ability of the area to deal with air pollution. Concerns were also raised at the lack of detail provided regarding trees at the site.

Item No.
<b>1</b>

During the course of the application, the applicant has worked with the City Council's Arboricultural Manager to develop a scheme which retains as many of the existing trees as possible. It is now proposed to remove only two of the existing trees and replace them on site along the boundary with Park Place Villas. Additionally a green screen is also proposed close to the boundary.

Following re-consultation carried out in July 2019 there were three objections raised, all of which mentioned the harm to trees and the lack of detail included with the application.

Following the July consultation the City Council's Arboricultural Manager requested details of how the proposed works could be completed in proximity to the retained trees without causing harm to the roots of the retained trees,.

Between July and December the applicant and officer have entered into protracted negotiation which has included the excavation of trial pits at the site to establish the depth and spread of roots. The findings have allowed the applicant and their consultant to develop a bespoke engineering solution for the foundations at the site which will allow the roots to pass through parts of the foundations of the building and allow the exchange of gas, air and rain water to the soil beneath the building.

Subsequently, the applicant has provided a detailed Arboricultural Impact Assessment and Method Statement (Rev c) at this stage to demonstrate that the principle of the works can be carried out without causing permanent harm to the roots of the retained trees. The City Council's Arboricultural Manager has stated that while they would require some further details as part of a pre-commencement condition they are satisfied that based on the details provided the works can be carried out whilst protecting trees and therefore have raised no objection subject to the appropriate conditions.

In summary, the objections received on trees grounds related to the loss of several trees and the impact it would have on the conservation area and wildlife. The revised application proposes to remove only two trees, both of which will be replaced on site. In addition, the trees officer has raised no objection to the works. As such the works are considered acceptable on trees grounds and the objections are not supported.

#### *Biodiversity*

Policies S37 and S38 seek to ensure that development protects and where possible enhance bio diversity and green infrastructure.

The applicant has provided an ecological report submitted with the application which identified that the existing temporary buildings due to their synthetic material is unlikely to support roosting bats. The report states that all of the trees on the site have a low potential for bat roosting. A condition has been attached to the decision notice stating that prior to the two trees being removed a search of the trees for bat roots must be carried out.

The report indicates that due to the location of the new building on existing hard standing and replacing an existing building the impact on wildlife in the area would be low.

A condition is proposed to ensure that the trees to be removed are searched by hand prior for evidence of bat roosting prior to removal. Subject to this condition, the proposed development accords with policies S37 and S38 of the City Plan.

### **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this 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.

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 conditions to secure the applicant's. The applicant has agreed to the imposition of the conditions

### **8.11 Planning Obligations**

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

This development is not Westminster or Mayoral CIL liable.

### **8.12 Other Issues**

*Objections not addressed in the above report*

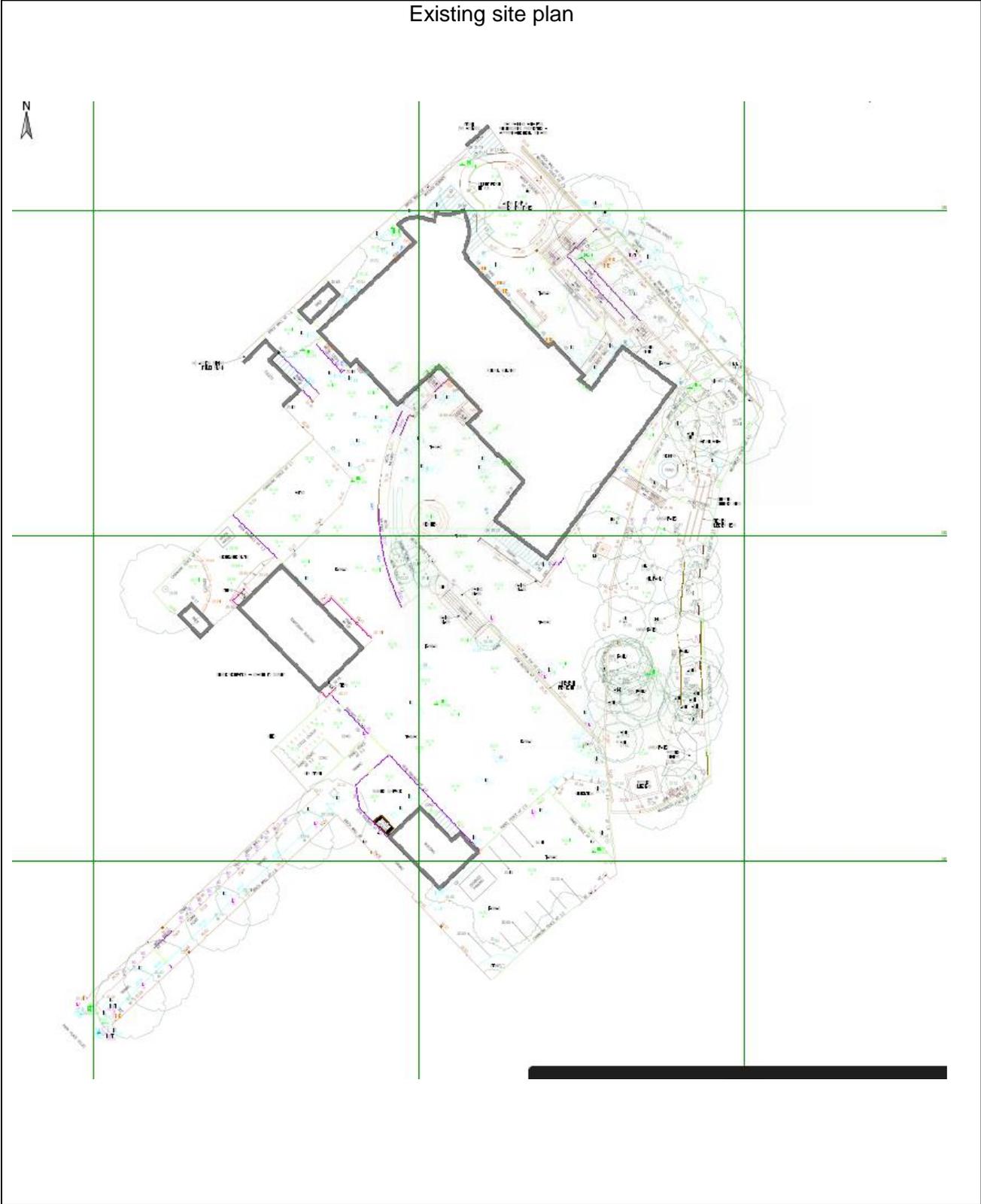
An objection was received on the grounds that a new multi-use games area (MUGA) would harm the amenity of the surrounding residents. A MUGA is not proposed as part of this application.

Item No.
<b>1</b>

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

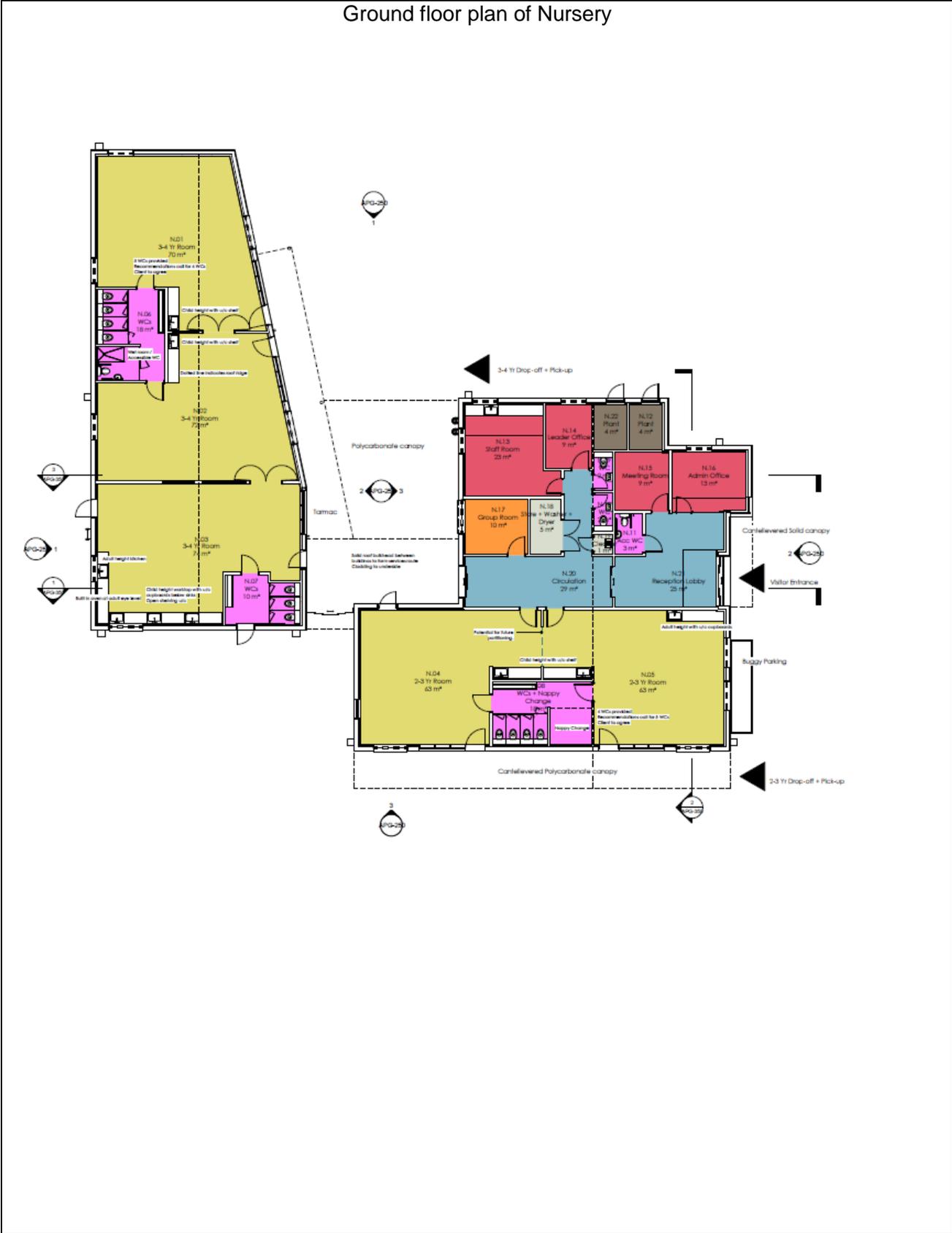
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT <a href="mailto:swhitnall@westminster.gov.uk">swhitnall@westminster.gov.uk</a>
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**9. KEY DRAWINGS**





Ground floor plan of Nursery



Existing site section. View from St Marys Mansions



Proposed site section. View from St Marys Mansions



**DRAFT DECISION LETTER**

- Address:** Ark Paddington Green Primary Academy, Crompton Street, London, W2 1ND
- Proposal:** Erection of a single storey building on the north west of the site, relocation of the main entrance, remodelling of the ground and upper floors of the main building and associated landscaping and cycle storage improvements.
- Plan Nos:** Site location plan, APG-010, APG-011, APG-020, APG-030, APG-032, APG-150, APG-151, APG-200, APG-201, APG-250, APG-251, APG-300, APG-350, APG-401, APG-402, C-801 Rev E, C-800 Rev H, 9419/103A, 17246/A2\_AIA\_Rev.C  
Arboricultural Impact Assessment, Tree Root investigation, survey and mitigation, GEO Environmental Report, Heritage Statement, Noise Report, Planning Statement, Supplementary Travel Statement Rev B Design and Access Statement, Air Quality Assessment, Ecological Appraisal, Flood Risk Assessment.
- Case Officer:** Max Jones **Direct Tel. No.** 07866036849

**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 **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 and the setting of the conservation areas 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.

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Paddington Green 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.

- 5 You must apply to us for our approval of details of an auditable system of arboricultural site supervision and record keeping prepared by an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications and experience needed to be registered. The details of such supervision must include:

- iv) identification of individual responsibilities and key personnel.
- ii) induction and personnel awareness of arboricultural matters.
- iii) supervision schedule, indicating frequency and methods of site visiting and record keeping
- iv) procedures for dealing with variations and incidents.

You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then adhere to the approved supervision schedule.

You must produce written site supervision reports after each site monitoring visit, demonstrating that you have carried out the supervision and that the tree protection is being provided in accordance with the approved scheme. If any damage to trees, root protection areas or other breaches of tree protection measures occur then details of the

incident and any mitigation/amelioration must be included You must send copies of each written site supervision record to us within five days of the site visit.

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, including the setting of the conservation areas as set out in S38 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. (R30AC)

- 6 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs, including tree replacement for the loss of two trees. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within 1 planting season; of completing the development (or within any other time limit we agree to in writing).

If you remove any trees or find that they are dying, severely damaged or diseased within 3 years of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in S38 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. (R30AC)

- 7 PRE COMMENCEMENT CONDITION

Prior to any works taking place, a tree bat roost inspection must be carried out to determine if any bats are present. If at any time a bat or signs of bats are encountered, works shall halt immediately, and a licensed bat worker shall be contacted to determine how best to proceed and you will need to agreement of the City Council as the local planning authority in consultation with Natural England before works start again on site.

Reason:

To protect and increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43CB)

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

Reason:

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

- 9 You must apply to us for approval of details of secure cycle storage for the nursery 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)

- 10 The Ark Paddington Green School must operate in accordance with the Revision B of the Travel Plan as listed in the approved documents.

At the end of the first and third years of the life of the Travel Plan, you must apply to us for approval of reports monitoring the effectiveness of the Travel Plan and setting out any changes you propose to make to the Plan to overcome any identified problems.

Reason:

In the interests of public safety, to avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2, TRANS 3 and TRANS 15 of our Unitary Development Plan that we adopted in January 2007. (R45AB)

- 11 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the setting of the Paddington Green Conservation Area and the Maida Vale Conservation Area; and that it respects the setting of neighbouring listed buildings, notably the Catholic Apostolic Church and the villas within Park Place Villas. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 9 and DES 10 of our Unitary Development Plan that we adopted in January 2007

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the Paddington Green Conservation Area and the Maida Vale Conservation Area; and that it respects the setting of neighbouring listed buildings, notably the Catholic Apostolic Church and the villas within Park Place Villas. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 9 and DES 10 of our Unitary Development Plan that we adopted in January 2007.

- 13 You must provide, maintain and retain the following sustainable drainage and bio-diversity measure before you start to use any part of the development, as set out in your application.

Green roof.  
Green Screen

You must not remove this feature.

Reason:

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

**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 visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).

**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 at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

- 3 When you apply to us to discharge condition 3 you must include the following:
- A methodology for demolition and removal of existing hard and soft surfacing within the root protection areas.
  - Precise specifications for ground protection including piling mats, access routes, pedestrian access, which must also be individually marked on the tree protection plan.
  - A precise schedule of any phases of tree protection, shown on more than one tree protection plan if necessary.
  - Details of the piling rig and any other vehicles which will be located in or adjacent to root protection areas.
  - A detailed methodology for hand excavating within root protection areas, including the implements that will be used to excavate and to remove spoil, how ground protection will be moved in stages to avoid soil compaction during this operation, details of arboricultural supervision and root pruning.
  - A detailed methodology for constructing the foundations, whilst maintaining a void underneath and avoiding soil compaction from occurring.
- 4 When you apply to us to discharge condition 6 you must include details of appropriate tree planting to replace T14 and G7.

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# Agenda Item 2

Item No.
2

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 18 February 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Hyde Park	
<b>Subject of Report</b>	<b>West End Quay, South Wharf Road, London, W2 1LA,</b>		
<b>Proposal</b>	Use of hard paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant.		
<b>Agent</b>	Mark Shearman		
<b>On behalf of</b>	BrewDog Bar		
<b>Registered Number</b>	19/04411/TCH	<b>Date amended/ completed</b>	14 June 2019; 8 August 2019 & 7 November 2019
<b>Date Application Received</b>	6 June 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		
<b>Licensing</b>	<b>The opening hours of the premises:</b> Monday to Saturday: 10:00 to 23:30; Sunday: 10:00 to 22:30 Use of external area by customers to cease by 22.00		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

This application proposes the use of the use of a hard-paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant known as 'Brewdog'. The key issues in this case are:

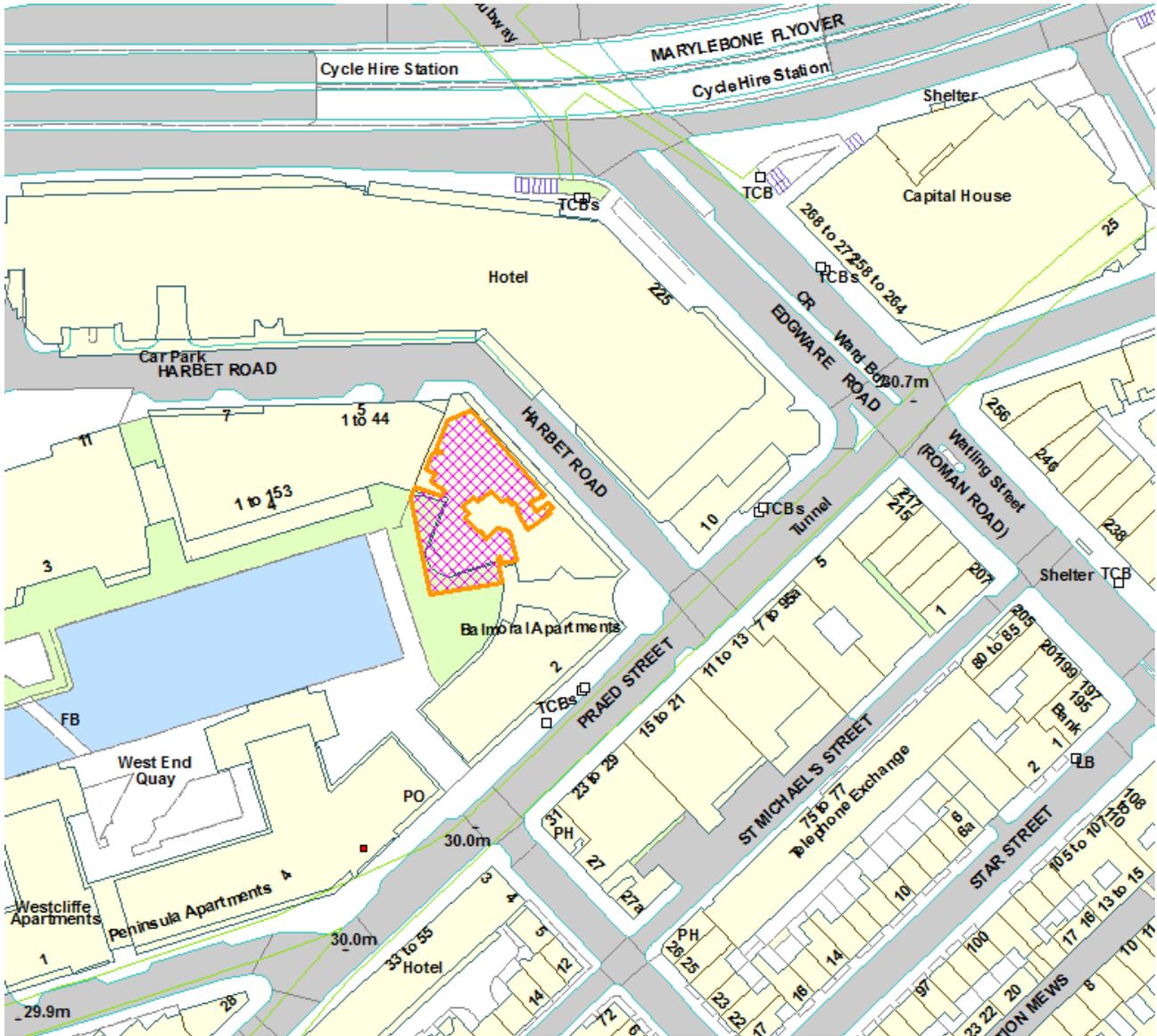
- The impact on residential amenity
- The impact upon pedestrian movement around the canal basin.

Objections have been received from the occupiers of residential properties on the upper floors of the building, principally on noise disturbance and anti-social behaviour grounds. However, it is considered that the objections raised can be suitably mitigated by the recommended conditions which are referred to in the report and set out in the draft decision letter appended to the report. In this context, it is considered that the proposed tables and chairs and associated umbrellas would

Item No.
<b>2</b>

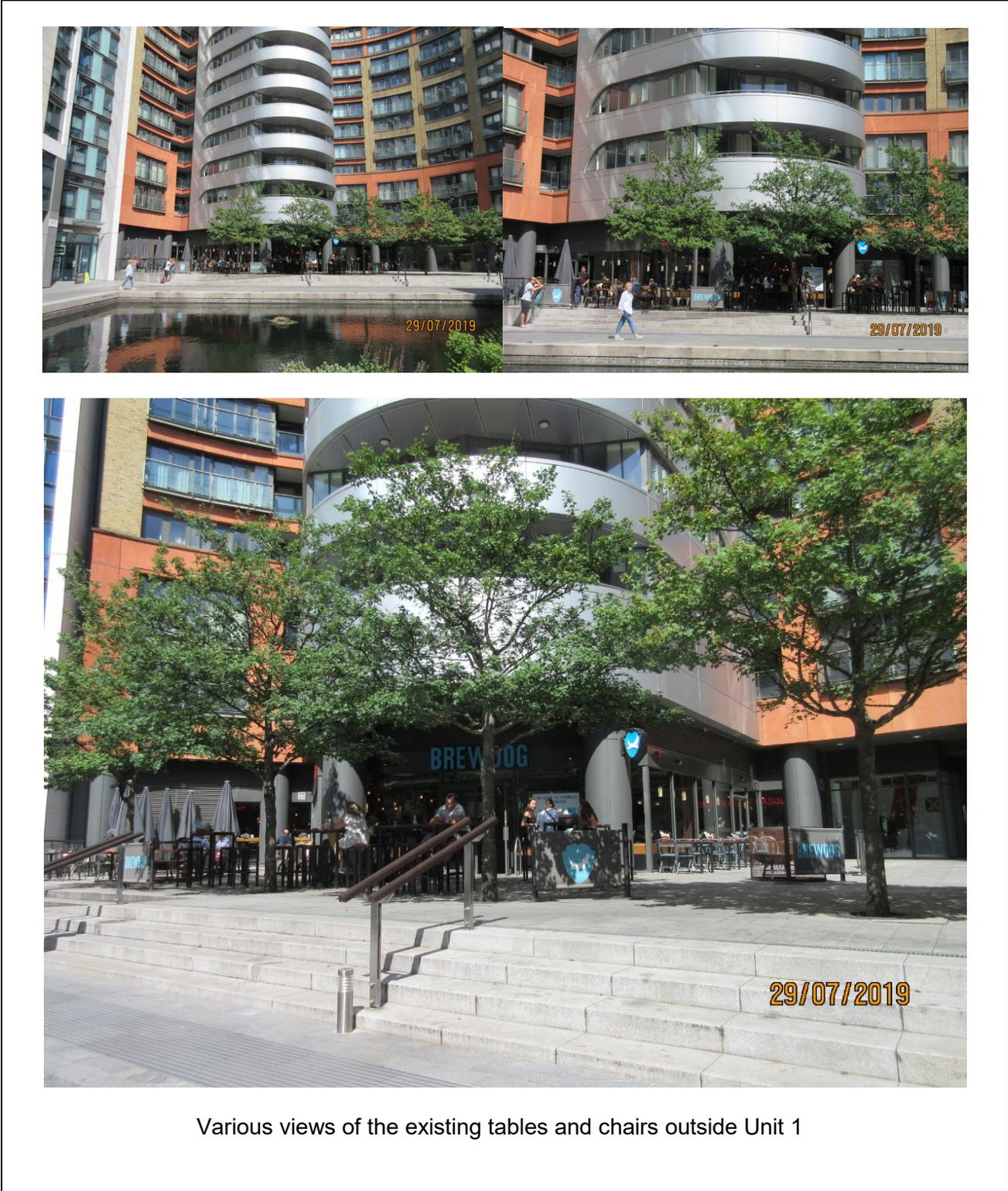
accord with the relevant policies in the Unitary Development Plan (UDP) adopted in January 2007 and Westminster's City Plan (the City Plan) adopted in November 2016. Therefore, the application is recommended for conditional approval for a temporary period of one year to allow the amenity impacts of the tables and chairs to be monitored and reviewed.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Various views of the existing tables and chairs outside Unit 1

## 5. CONSULTATIONS

### Initial consultation- June 2019

#### WARD COUNCILLORS (HYDE PARK)

Any response to be reported verbally.

#### PADDINGTON WATERWAYS & MAIDA VALE SOCIETY

No objections; Please take neighbours' views into consideration.

#### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

Objects strongly as far too many tables and chairs applied in area surrounded by residential units; we would want no more than 86 chairs outside and no later than 22.00 hours.

#### PADDINGTON BID

Support the application.

#### DESIGNING OUT CRIME OFFICER

No objection in principle, but recommend informatives relating to clear demarcation between the restaurant and bar users and members of the public and staff visiting the surrounding retail units; table and chairs should be removed and locked away at the end of each day, or should be bolted down to prevent theft and/or criminal damage; external lighting; CCTV; location of any trees/planting to not affect the CCTV system

#### WASTE PROJECT OFFICER

No objection- the proposed area is not within public highway maintained by the council.

#### HIGHWAYS PLANNING MANAGER

No objection as no obstruction to the public highway. Notes that the tables and chairs appear to obstruct fire escapes, but this is a concern rather than a ground for objection. Conditions and informatives recommended.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 410

Total No. of replies: 3

No. of objections: 3

No. in support: 0

Three representations were received raising objection on all or some of the following grounds:

#### Amenity

- Noise disturbance from use of tables and chairs.
- This is a residential area with a lot of flats surely a pub is not practical or considerate to residents.
- Anti-social behaviour from patrons

- The antisocial behaviour typically occurs at night when the premises are unattended and residents are trying to sleep, so it is irresponsible to leave the furniture out overnight.
- People often drink out there without a meal, people often stand whilst drinking, the doors are propped open to allow people to come and go freely

#### Other Matters

- In practice the management measures do not work.
- All the furniture including tables should be removed and locked away when the pub closes. Leaving it unattended at night has attracted antisocial behaviour which is a crime risk to residents.
- Rubbish from the property always ends up blowing into that canal also this is not good at all for the environment.

#### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

#### **1st Re-consultation August 2019: Revised Operational Management Plan and additional drawing showing separate area for diners only.**

#### PADDINGTON WATERWAYS & MAIDA VALE SOCIETY

No objections; Please take neighbours' views into consideration.

#### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

Strongly object to any more tables and chairs or longer hours than are on the Premise License for these premises. Premises license was granted earlier this year and conditions imposed on number of table and chairs, hours of use etc. to protect residential amenity of nearby residents.

#### PADDINGTON BID

No further response.

#### DESIGNING OUT CRIME OFFICER

In addition to original comments, would add that the proposed 'Management Plan for the operations of external areas' is adhered to robustly and action is taken should this not be the case.

#### WASTE PROJECT OFFICER

No objection as the proposed area is not maintained by the council.

#### HIGHWAYS PLANNING MANAGER

No further response.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 414

Total No. of replies: 3

No. of objections: 3

No. in support: 0

Three representations were received; including Cllr Burbridge in her capacity as a local resident, and residents who objected previously on all or some of the following grounds:

#### Amenity

- The noise level during the warm months have been very high from the venue which gets extremely busy with customers outside the venue drinking and being very loud; noise levels constant during opening hours
- The amended application does not resolve any issues
- Due to increase in footfall there is an increase noise and anti-social behaviour
- If granted, it should be time limited to monitor the impact on neighbours

#### Other Matters

- The previous license was given and a condition was CCTV and security would be present during busy times; the venue does not have security or CCTV externally
- Increase in litter and debris, not just on the footways but increasing refuse into the canal which affects ducks and fish;
- Would like to keep balance between business and residents and our environment; do not want to see any precedents to follow; any increase in numbers would be detrimental to residents finding that balance
- It would be helpful if we noted the actual measurements from building to the end of the tables and chairs area requested - so we can make sure we do not see a creeping of furniture onto the larger area surrounding this application as it is a busy walk through for pedestrians
- It would also be helpful to make sure all tables and chairs are taking inside the property and not left out overnight. Alternatively stacked and securely covered outside by the back entrance; to the left of the central entrance.
- That no glass containers to be taken outside unless seated at a table served by waiters.

#### **2<sup>nd</sup> Re-Consultation November 2019 (Revised Operational Management Plan)**

PADDINGTON WATERWAYS & MAIDA VALE SOCIETY

No objections; Please take neighbours' views into consideration.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

No further response.

PADDINGTON BID

No further response.

DESIGNING OUT CRIME OFFICER

No further response.

WASTE PROJECT OFFICER

No objection as the proposed area is not maintained by the council.

HIGHWAYS PLANNING MANAGER

No further response.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 415  
Total No. of replies: 2  
No. of objections: 2  
No. in support: 0

Two representations were received; including one resident who objected previously on all or some of the following grounds:

Amenity

- The noise levels during summer months is unbearable as residents have open windows for air but because noise levels are unbearable
- The shape of the canal basin means the sound easily travels into residents' apartments and this is much worse in the summer months when residents have windows open for air but because the noise levels are unbearable this is very difficult.
- night time noise is not easy to live directly above.
- The use of the heavy umbrellas (deaden the sound a little for us above) should be made conditional for the application for more seating to be accepted
- the requirement to eat rather than just drink should be strictly enforced; a gentle hum of people eating and drinking while chatting is manageable.

Other Matters

- The revised customer management plan and a manager's number to call do not help with the noise from the premises in which is a mainly residential area.
- The seating area is far too big with large crowds that gather.

**6. BACKGROUND INFORMATION**

**6.1 The Application Site**

The application site comprises a ground and basement restaurant/ bar use (Class A3/A4), known as Unit 1, located at the base of Balmoral Apartments, West End Quay. Unit 1, which has recently changed operator, is now operated as 'Brewdog'. It has a small street frontage onto Harbet Road (a private road) and has a more prominent facade facing onto Paddington Basin at its eastern end.

The site does not contain any listed buildings and is not located within a conservation area, although it is located within the Paddington Opportunity Area (POA) and the North Westminster Economic Development Area (NWEDA).

## 6.2 Recent Relevant History

### 17/08027/TCH

Use of hard paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant.

Application Permitted 28 November 2017

### 17/08028/ADV

Display of three internally illuminated fascia signs measuring, 3.89m x 0.35m one internally illuminated 'clock' hanging sign measuring 0.765m x 0.69m and non-illuminated lettering on external umbrellas.

Application Permitted 6 November 2017

### 17/05688/FULL

Variation of condition 4 of planning permission dated 30 August 2016 (RN 16/06373/TCH) for use of hard paved area outside Unit 1 adjacent to canal basin for the placing of 25 tables and 86 chairs in connection with the use of Unit 1 by Grand Union Group. NAMELY, to allow continued use of the pavement until the 31 August 2018.

Application Permitted 31 July 2017

### 16/12243/FULL

Use of ground floor unit facing the canal basin (Unit 13) as health and fitness centre (Class D2).

Application Permitted 28 March 2017

### 16/10223/FULL

Use of Unit 11 at ground and mezzanine levels in Westcliffe Apartments as a day nursery school (Class D1)

Application Permitted 23 December 2016

### 06/06200/FULL

Use for mixed retail and restaurant purposes (sui generis).

Application Permitted 2 November 2006

### 05/10453/TCH

Placing of 6 tables and 24 chairs on land adjacent to unit 13 in connection with Seewoo Foods Limited.

Application Withdrawn 30 May 2006

## 6.3 Planning Enforcement

### 19/70829/T

Temporary permission expired for table and chairs (17/08027/TCH)  
Complaint received: 29 April 2019

## 7. THE PROPOSAL

This application proposes the use of the use of a hard-paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant known as 'Brewdog'.

Permission has previously been granted on five occasions for the placing of 25 tables and 86 chairs in the same area, and on 28 November 2017 permission was granted for the placing of 31 tables, 112 chairs and 6 free standing umbrellas (RN 17/08027/TCH).

On each occasion the previous permissions have been granted for a one-year temporary period to allow the impact of the tables and chairs on the amenity of neighbouring residents to be continually monitored.

During the course of the application, further details were submitted, and the operational management plan revised a couple of times. The first set of revisions that were submitted included a proposed layout of tables and chairs which showed that 60% of the tables and chairs would be allocated for diners only and no more than 40% would be for patrons consuming beverages or bar snacks only, and the management plan was revised to include additional measures for managing the area where the tables and chairs are to be placed. Subsequent to this, a further re-consultation was carried out following further changes to the management plan, which now included additional proposed measures in relation to the removal of external furniture and the provision of a direct telephone number for the manager. It is also no longer proposed to separate the areas for dining only as the applicant has accepted an alternative condition that requires that after 19.30 hours, the sale and consumption of beverages in the external areas must be ancillary to the provision of a table meal, and no customers shall be permitted to stand in this area to consume food or beverages. As the applicant has accepted this condition, the amended drawing which showed separate areas for diners only to be at least 60% is no longer relevant as 100% of customers using the outside areas will be required to be diners after 19.30 hours. This is also in line with the conditions set by the Licensing decision.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The principle of placing tables and chairs outside of this restaurant/bar use (Class A3/A4) is acceptable and would accord with Policy S3 in the City Plan which seeks to deliver entertainment uses within the Paddington Opportunity Area (POA) and maintain active frontages to buildings at ground floor level. However, this is subject to the tables and chairs and associated structures not impede pedestrian movement around the canal basin (also a requirement of development within the POA) and not having a detrimental impact on the amenity of neighbouring residents. These considerations are addressed later in this report.

**8.2 Townscape and Design**

The types of tables and chairs proposed are detailed within documents submitted with the application. The furniture is of a good standard and would not be detrimental to the appearance of canal basin area.

**8.3 Residential Amenity**

A number of objections have been received raising amenity concerns. The use of this area of paving for tables and chairs has also previously received objections in relation to the earlier approvals for the placing of a lesser number of tables and chairs in the same area. The principal issue is the noise and resultant disturbance that arises from the use of this area for the placing of tables and chairs. It has also been highlighted that the Licensing decision for the premises is more restrictive in terms of the hours that the external areas are permitted to be used.

Objectors are concerned that the continued use of the tables and chairs would continue to have an adverse impact on neighbours' amenity, as they have already endured, and in particular into the evening. The previous planning permission for the premises permitted the use of the external area to between 09.00 and 23.00 Monday to Saturday and between 09.00 and 22.30 on Sundays and Bank Holidays. This is now recommended to be revised to between 09.00 and 22.00 daily, to be in line with the conditions of the Licence for the premises

To reduce the impact of noise from customers after 19.30 hours, a condition is recommended that only customers who are dining would be permitted to use the external area, and that the sale and consumption of beverages in the external area will only be permitted if ancillary to a table meal.

As with previous applications for tables and chairs at this site, the application is accompanied by a Management Plan for the external areas. This aims to ensure that the outside seating area is used by customers of BrewDog and that there will be supervision of how the area is used, with the outside areas only to be used by customers; door staff to be used during busy times; no music will be played in external areas to the premises; and customers outside must be seated at all times and alcohol is only to be served as an accompaniment to food.

During the course of the application, the Management Plan has been revised, and this now includes a direct telephone number for the manager at the premises to be publicly available at all times the premises is open, and this telephone numbers it be made available to residents and businesses to the vicinity. It is also included in the Management Plan that the external furniture will be rendered unusable after 10.00pm and removed at the close of business without causing any nuisance to residents. This is also in line with the conditions set out by the Licensing decision for the premises.

If this management plan is operated and adhered to, then this would help to alleviate a number of the problems associated with noise and disturbance that would arise from the use of this area, and restrict it to an acceptable level that would be expected for this type of use, which is the lawful use of Unit 1 to which the tables and chairs are related.

As has been the case for previous applications for tables and chairs outside these premises, a condition is recommended requiring adherence to the submitted Management Plan, which is included in the background papers for information.

Subject to these conditions, the provision of tables and chairs as proposed is considered acceptable pursuant to policies S29 and S32 of Westminster's City Plan and ENV 6 and TACE 11 of our Unitary Development Plan, subject to conditions; to allow a review of the tables and chairs in a year's time, and to restrict the hours which the tables and chairs may be placed outside the premises between 09.00 – 22.00 Daily, as per the licence decision and as accepted by the applicant.

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

The Council's Highway Planning Manager has advised that the proposed area to be used for tables and chairs is private land and is not within 7m of any road or footway and that on this basis comments are advisory only.

The closest highway is Harbet Road, part of which is a private road and not maintained by a highway authority. The layout shows that there could potentially be obstruction by tables and chairs to Fire Exit doors, which may hinder pedestrian movement and may not accord with Highways Planning Guidelines. However, since this area is private land these concerns are advisory rather than on objection. An informative is recommended to advise the applicant of this concern

In light of the above the proposals are considered to be in accordance with the aims of the Westminster City Plan policy S41, Policy TRANS 3 (Pedestrians) of the adopted UDP and Westminster Way (Design principals and practice).

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The proposed tables and chairs would not obstruct access around Paddington Basin and would be set back from the steps and ramp at the adjacent level change at the head of the basin.

#### **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. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent

examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

**8.9 Neighbourhood Plans**

Not applicable

**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.

There are no pre-commencement conditions recommended for this application.

**8.12 Planning Obligations**

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

**8.13 Environmental Impact Assessment**

An Environmental Impact Assessment is not relevant in the determination of this application.

**8.14 Other Issues**

Objections have been received citing anti-social behaviour in association with the use of the area outside the premises for tables and chairs. As discussed in section 8.3 of this report on Residential Amenity, the application is accompanied by a Management Plan in order to help minimise opportunities for anti-social behaviour that could arise from the use of the tables and chairs outside this property. The Management Plan lists a number of measures that the applicant intends to put in place to minimise the potential for anti-social behaviour and disturbance. It also includes measures to keep the area tidy and free from refuse/litter and the area being supervised.

The Council's licensing department is monitoring this area as part of the requirements of the applicant's licence for the premises to ensure the terms and conditions of the licence are being complied with, and therefore any complainants may contact the licensing department. Any non-compliance with conditions may also be reported to the Planning Enforcement Team to investigate.

The current application is also by a different operator who has advised that they intend to comply with their Management Plan. In this case a temporary permission for one year is recommended which would allow the use to be monitored. The permitted hours have also been reduced from previous permissions, as discussed in section 8.3 of this report and it is considered that this would help reduce the impact of potential anti-social behaviour.

It has been raised that the permitted number of tables and chairs should not be greater than that permitted by the Licence for this premises. It has been noted that the Licence contains a condition restricting the maximum capacity of the external area to 86 persons (excluding staff). The drawing that is attached the licence also shows a different layout and number of covers (annotated to be maximum of 86) than what is proposed under this planning application. The Licensing officer has verbally explained that this may be an old plan used again from a previous application and that this decision is based on what is shown on the plan. However, it is expected that following planning permission that such aspects of a Licensing decision is varied so that it is in line with the planning permission. As with the planning permission for the placing of tables and chairs, Licences are also temporary and subject to monitoring. An informative is recommended to advise the applicant that they would need to vary their Licence should -planning permission be granted, to ensure that the number of customers permitted in the external areas is in line with their planning permission.

(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: SARAH WHITNALL BY EMAIL AT <a href="mailto:swhitnall@westminster.gov.uk">swhitnall@westminster.gov.uk</a>
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**DRAFT DECISION LETTER**

**Address:** West End Quay, South Wharf Road, London, W2 1LA,

**Proposal:** Use of hard paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant.

**Reference:** 19/04411/TCH

**Plan Nos:** Site location plan; 65/02; 65/40; Management Plan For the Operations of External Areas at Brewdog, 1 West End Quay, London W2 1JX

**Case Officer:** Avani Raven **Direct Tel. No.** 020 7641 2857

**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 not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing 65/02. (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 09.00 hours and 22.00 hours daily. (C25BA)

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 4 The tables and chairs must only be used by customers of 'Brewdog', Unit 1, West End

Quay. (C25CA)

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 5 This use of the pavement may continue until 18 February 2021. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

Reason:

We cannot give you permanent permission as we need to assess the effect of this activity regularly to make sure it meets S42 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing 65/02. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

- 7 You must not allow more than 112 customers in to the area of external tables and chairs hereby approved, as shown on drawing no. 65/02, and all customers within this area must be seated, and the service of beverages for consumption in the external area shall be by way of waiter/waitress service. After 19.30 hours the sale and consumption of beverages in the external areas must be ancillary to the provision of a table meal, and no customers shall be permitted to stand in this area to consume food or beverages purchased from the restaurant and ancillary bar use of Unit 1.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 8 You must manage the tables and chairs hereby approved at all times in accordance with the management plan titled 'Management Plan For the Operations of External Areas at Brewdog, 1 West End Quay, London W2 1JX', including the supervision of the tables and chairs by a member of staff at all times during the hours of use.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 9 You must only access the tables and chairs hereby approved via the main entrance (as annotated on drawing 65/02) and you must not use the fire exits to access the tables and chairs. The main entrance and fire exit doors to both side elevations must be kept shut at all times (except in the event of an emergency) and must not be left in an open position.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 10 After 22.00 hours daily (until closing), entrance to and exit from the premises shall only be through the Harbet Road entrance.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 11 You must not use the tables and chairs area unless screens not more than 1.2 metres in height are placed along the perimeter line of the tables and chairs area shown on drawing no. 65/02. Outside of the permitted hours of use of the tables and chairs area these screens must be removed from the hard paving and stored with the application premises.

Reason:

To protect neighbouring residents from noise and disturbance and retain the tables and chairs within the permitted area as set out in S29 and S32 of Westminster's City Plan that we adopted in July 2016 and ENV 6 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 must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)
- 3 You cannot put tables and chairs in the area unless you have a street trading licence, which can be applied for at the following link: [www.westminster.gov.uk/tables-and-chairs-licence](http://www.westminster.gov.uk/tables-and-chairs-licence)., , If you want to know about the progress of your application for a licence, you can contact our Licensing Service by email to [streettradinglicensing@westminster.gov.uk](mailto:streettradinglicensing@westminster.gov.uk). If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times.
- 4 You are reminded that customers must be moved from within the tables and chairs area prior to the terminal hours set out in Condition 3 and not after the specified hours. You must also ensure that you comply with all other conditions relating to the management of the tables and chairs, which are required to mitigate the noise impact of the use on neighbouring residents. Consistent failure to adhere to these conditions may result in future temporary planning permission for tables and chairs in this location being refused.
- 5 This permission does not prejudice in requirements and conditions to the premises Licence. The applicant is reminded to ensure their premises License is adhered to and any changes to the License should be addressed, including any requirement to vary such a License to ensure consistency
- 6 The applicant is advised that there could potentially be obstruction by tables and chairs to Fire Exit doors, which may hinder pedestrian movement and may not accord with Highways Planning Guidelines. It is advised that tables and chairs are placed so that there is no obstruction to the Fires Exit doors.

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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# Agenda Item 3

Item No.
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<b>3</b>
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 18 February 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Warwick	
<b>Subject of Report</b>	55-57 Eccleston Square, London, SW1V 1PH		
<b>Proposal</b>	Retention of one external air condenser unit and new ducting on rear ground floor flat roof; installation of full height extract duct to rear and internal works at basement level.		
<b>Agent</b>	Miss Emma Penson		
<b>On behalf of</b>	Dukes Education Group Limited		
<b>Registered Number</b>	19/08800/FULL 19/08801/LBC	<b>Date amended/ completed</b>	13 November 2019
<b>Date Application Received</b>	13 November 2019		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Pimlico		

## 1. RECOMMENDATION

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

## 2. SUMMARY

Nos. 55-57 Eccleston Square are three interconnected grade II listed townhouse. The properties are linked internally and have been in educational use for many years (class D1 non-residential institution). Until recently they were occupied as an English language school. The applicant has recently taken over the properties for use as a primary school.

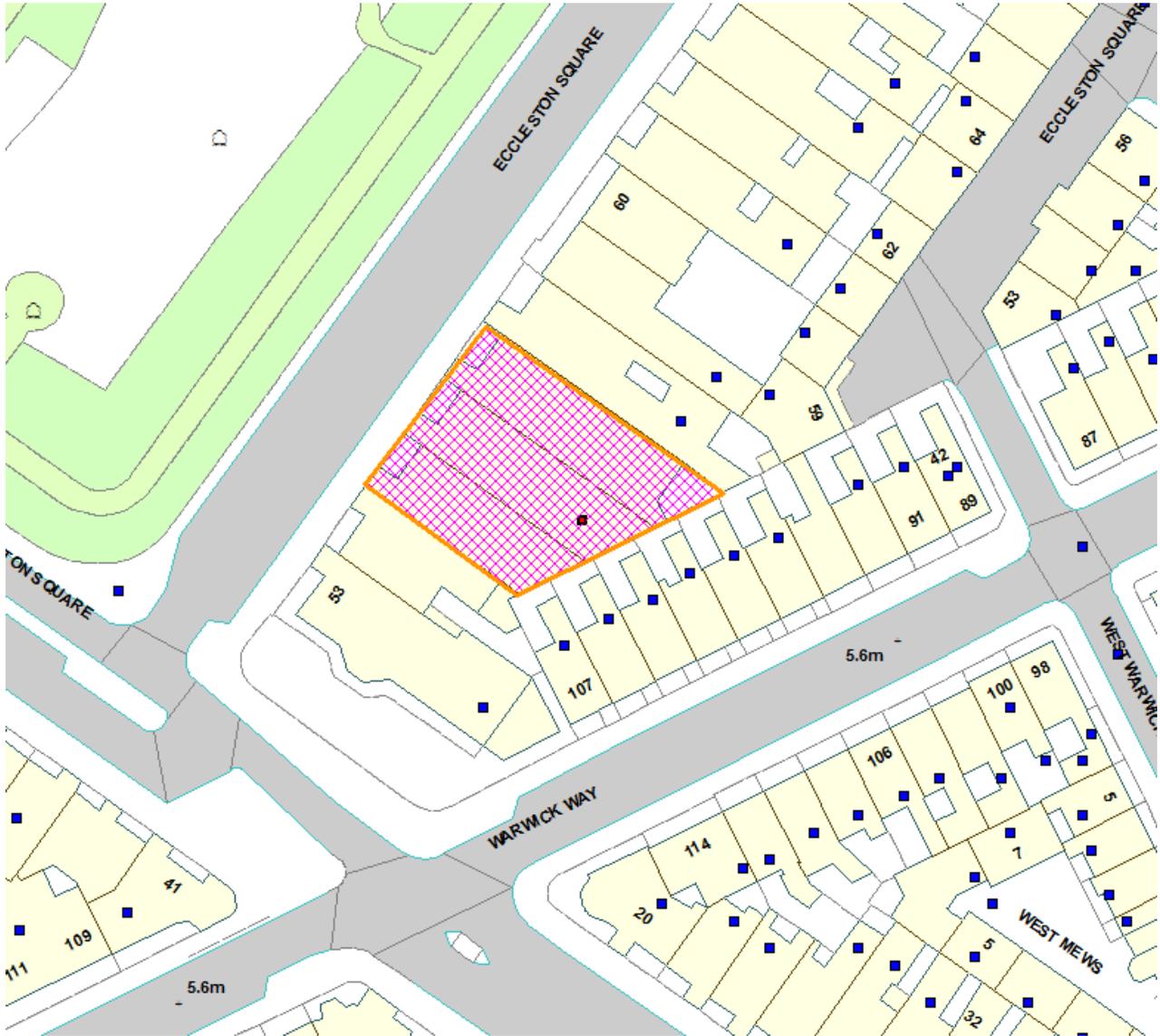
Planning permission and listed building consent are sought for the retention of one external air condenser unit and the installation of new ductwork including a full height extract duct to the rear, in order to provide extract and ventilation for the school's basement kitchen.

The key issues for consideration are:

- The impact of the proposals on the special interest of the listed building and on the character and appearance of the Pimlico Conservation Area.
- The impact of the proposals on neighbouring residents' amenity.

Subject to conditions, the proposals are considered acceptable in design, heritage and amenity terms, in accordance with Westminster's City Plan (adopted in 2016) and the Council's Unitary Development Plan (adopted in 2007). The proposals are therefore recommended for approval.

### 3. LOCATION PLAN



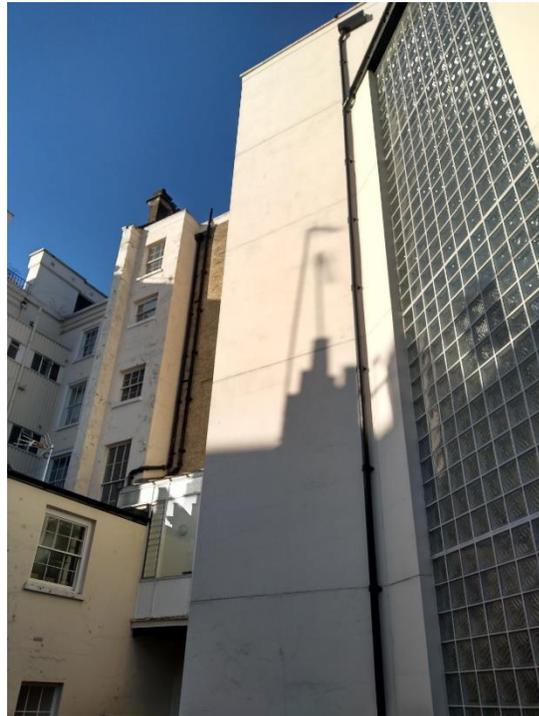
This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013.

4. PHOTOGRAPHS



55-57 Eccleston Square

Proposed location of kitchen extract ducting



## 5. CONSULTATIONS

### ORIGINAL SUBMISSION

#### WESTMINSTER SOCIETY

Any response to be reported verbally.

#### PIMLICO NEIGHBOURHOOD FORUM

Any response to be reported verbally.

#### PIMLICO FREDA

Any response to be reported verbally.

#### ENVIRONMENTAL HEALTH

Additional information required.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 16

No. of replies: 4

Four letters of objection received, including one on behalf of Wilton Court Residents Association, Eccleston Square, on the following grounds:

#### Design

- The proposed ductwork would directly face living rooms and kitchens of properties on Warwick Way and result in a permanent visual nuisance.
- The proposals would alter the historical aspect of the grade II listed terrace.

#### Amenity

- Noise and vibration from the plant and ducting equipment would cause undue harm to the amenity of surrounding residential occupiers.
- Odour and smells from the extraction equipment.

#### Other

- Concerned that the extraction equipment would be poorly maintained.

#### PRESS ADVERTISEMENT / SITE NOTICE

Yes

### REVISED SUBMISSION (repositioning of proposed ductwork)

#### ENVIRONMENTAL HEALTH

No objection subject to conditions.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 16

No. of responses: 4

3 letters received, one maintaining their original objections and two on behalf of the Buddhist Society, Eccleston Square on the following grounds:

#### Land use

- The extract duct appears to be oversized for the size of the dining room and number of diners.
- The applicant has other similar educational facilities nearby who may also use the dining room. Casts doubt on whether the dining room will remain ancillary to the D1 use.

#### Amenity

- The current level of back ground noise is very low at the back of these houses
- Noise and vibration disturbance to the Buddhist's Meditation Hall and Shrine which has mediation lessons every weekday between 10am – 2pm, would compromise its use.
- The discharge of foul air will be in close proximity to windows in adjoining buildings that are in residential, hotel and other sensitive uses.

#### Other

- The revisions to the application are an altogether different scheme and the application is poorly detailed.
- Concerns raised regarding the maintenance of the proposed plant equipment.

#### One letter of support

- Support any actions taken by the school to be fully functional.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

Nos. 55-57 Eccleston Square are three interconnected mid-nineteenth century grade II listed townhouses located within the Pimlico Conservation Area. The properties comprise basement, ground and four upper floors and have been in educational use for many years (Class D1 non-residential institution). Until recently were occupied as an English language school. The applicant has recently taken over the properties for use as a primary school which forms part of Eaton Square School.

### 6.2 Recent Relevant History

There is no relevant planning history.

## 7. THE PROPOSAL

Planning permission and listed building consent are sought for the retention of one external air condenser unit and new duct work on the rear ground floor flat roof; installation of a full height extract duct to the rear and internal works at basement level.

The application as originally submitted proposed to install the full height extract duct on the north-east-facing flank of the rear closet-wing to no. 57 Eccleston Square. However, this was considered unacceptable on the historic brick façade and the proposals have therefore been revised to relocate the full height extract duct to the rear south-east-facing elevation of no. 56 Eccleston Square, with low level ductwork wrapping around the rear building face at ground floor level to connect to the basement kitchen via existing penetration points

The ducting would be manufactured in galvanised steel and powder-coated to match the adjacent buildings paintwork finish (cream).

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land use**

The properties are in educational use (Class D1 non-residential institution) occupied by Eaton Square school for use as a primary school (nursery to year 4).

The applicant has confirmed that the school currently accommodates 200 pupils and 30 staff and whilst there are no immediate plans to increase the pupil numbers the building has a capacity to accommodate up to 250 pupils. The ventilation ducting is required in order to provide pupils with hot lunches. The dining room can cater for a maximum of 120 pupils at a time and lunches are therefore staggered between year groups.

One letter of objection has been received on the grounds that the proposed ventilation plant has been over-designed for the the size of the dining room and number of diners, and questions whether the dining room will also be used by the applicants' other educational facilities nearby, which would intensify the use.

The applicant has confirmed that the size and scale of the ductwork proposed is necessary to provide a fully operational kitchen that meets the required standards to serve the number of pupils on site.

The scale of the dining room with facilities to provide hot school lunches will remain ancillary to the educational use. The applicant is willing to accept conditions restricting hours of use (see section 8.3 'Amenity' below) and that no hot food is taken off-site for consumption in the applicants other school sites.

### **8.2 Townscape and Design**

To the rear of the properties a modern single storey extension exists at lower ground floor level and at No. 56 a large full height extension with diagonal glass brick wall houses a large internal circulation staircase which serves the institutional use of the connected properties.

Item No.
<b>3</b>

External works comprise the installation of attenuated ducting, including air intake and high level extract, and the retention of an existing condenser unit at the rear of Nos. 56 and 57. The works are required in conjunction with the recently commenced use of the property as a primary school, in order to provide extract and ventilation for the school's basement kitchen. The attenuated ducting, air intake and air condenser unit would be located at ground floor level on the roof of the single storey lower ground floor extension, with the extract duct being affixed to the face of the modern extension to the rear of No. 56 and discharging at high level.

To the rear, plant and service pipe and ductwork has arisen in an ad hoc state across the flat roof of the lower ground floor extension. Overall the existing appearance is considered somewhat degraded providing an opportunity for improvement and rationalisation. A number of options have been considered by the applicant in terms of the location for the ductwork. The applicant has confirmed that it is not possible to locate the duct internally within the building.

The revised proposals involve the installation of ductwork with attenuating enclosures across the roof of the lower ground floor extension and the mounting of a high level extract duct on the modern extension to the rear of No.56. All ductwork and enclosures are proposed to be polyester powder coated to match the colour (cream) of the existing building. As no drawings of the acoustic enclosures surrounding the mechanical parts of the ductwork have been provided it is recommended that these details are secured by condition, along with samples of the finished ductwork in the RAL colour specified.

The high level extract will be set closely against the rear elevation wall of the modern extension and given its reduced depth and a condition requiring a sample of the colour of its finished state to match the building to which it will be affixed, is considered acceptable. The ductwork and enclosures across the roof of the lower ground floor extension are similarly considered regretful accretions to the rear of this building, however will be tidily arranged and limited to lower levels with the high level extract duct primarily impacting only the appearance of the more modern extension to the listed buildings.

In terms of Paragraph 196 of the NPPF, the proposals are considered to be at the lower end of less than substantial harm and it is considered that in this instance the harm arising can be off set against the benefit of providing children attending the school with hot lunches.

Overall, subject to the recommended conditions, the works are considered to be acceptable in design, historic building and conservation area terms.

### **8.3 Residential Amenity**

Eccleston Square is predominantly residential in character. The neighbouring property at No. 58 Eccleston Square comprises 3 residential units (at lower ground, second, third and fourth floor level) and The Buddhist Society (class D1) operating at part lower-ground, ground and first floor levels. The properties immediately to the rear in Warwick Way are in residential use.

Policies ENV 13 of the UDP and S29 of the City Plan seek to protect and safeguard residential amenity, with particular focus on daylight/sunlight levels, privacy, outlook and sense of enclosure. Policies ENV 6 and ENV 7 of the UDP and S32 of the City Plan seek to reduce noise pollution and protect noise sensitive receptors from noise.

The proposed low level ductwork and condenser unit on the ground floor flat roof to the rear of Nos. 56 and 57 will be below the height of the boundary wall with No.58 Eccleston Square. The proposed full height extract duct will be set against the existing building with a projection of 0.6m and will be approximately 8m away from the rear windows in Warwick Way. It is not therefore considered that the proposed condenser unit or ductwork will result in a loss of light or cause a sense of enclosure to neighbouring residents.

Objections have been received from neighbouring residents and the Buddhist society on the grounds that the proposed plant will result in noise and vibration disturbance.

The applicant has submitted an acoustic report in support of their application. Environmental Health have confirmed that with the acoustic measures proposed (inlet and exhaust attenuators fitted to the supply and extract systems and acoustic enclosures fitted around the supply and extract fans) the plant is likely to comply with the Council's standard noise and vibrations conditions, provided that the extract system is only operated during daytime hours. The kitchen extraction system is required to serve the school kitchen in order to provide hot lunches to students. The applicant has confirmed that it will only be used during term time on weekdays only (Monday to Friday) and is willing to accept a condition that it shall only be in use between 07.00 and 18.00 Monday to Friday. It is recommended that these measures be secured by condition.

The Buddhist Society have commented that the Acoustic report has not taken into consideration their first floor rear window which serves their meditation hall. The applicant's acoustic consultant has confirmed that the rear second floor window was chosen to be tested as this window is in direct view of the proposed plant and would represent the worst case scenario, as the first floor window is behind the boundary wall which itself would provide some noise attenuation.

The proposed extract duct will terminate 1m above the eaves of the main roof to ensure adequate dispersal of cooking odours away from neighbouring windows.

Subject to the imposition of conditions the proposed plant is considered acceptable in amenity terms, in accordance with Policies ENV 6 and ENV 7 of the UDP and S32 of the City Plan.

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

Not applicable.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

Not applicable.

#### **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. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

#### **8.9 Neighbourhood Plans**

None applicable to this application.

#### **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.

#### **8.12 Planning Obligations**

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

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

Not applicable to this application.

#### **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)

Item No.
<b>3</b>

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JULIA ASGHAR BY EMAIL AT [JASGHAR@WESTMINSTER.GOV.UK](mailto:JASGHAR@WESTMINSTER.GOV.UK)





## DRAFT DECISION LETTER

**Address:** 56 Eccleston Square, London, SW1V 1PH,

**Proposal:** Retention of one external air condenser unit and new ducting on rear ground floor flat roof and installation of full height extract duct to rear (Nos. 55-57 Eccleston Square).

**Plan Nos:** Plan nos: 1485-000, 1485-011 Basement, 1485-013 Basement, 1485-101-GF Rev A, 1485-201 EXG, 1485-200 RE Rev E, LXA-1485-101-FF Rev A, LXA-1485-101-SF Rev A, LXA-1485-101-THF Rev A, LXA-1485-101-FOF Rev A, 89335-10 Rev A, 89335-11 Rev B; and Acoustic report dated 10.12.19 Ref:20013.PCR.01.Rev B. Information Only: Covering letter dated 13 November 2019 (ref no. 14113); Environmental Equipment Corporation Ltd acoustic specifications; Options analysis ( ref no. 14113; 13/12/2019); Letter from KP Acoustics dated 8 January 2020 (ref. 20013.200108.L1) and 17 January 2020 (ref. 20013.200108.L1 Rev C); Letter from applicant dated 24 January 2020.

**Case Officer:** Hayley White **Direct Tel. No.** 07866038640

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

4 (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 5 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 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.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
  - (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46BB)

5 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)

6 The kitchen extract system hereby permitted shall not be operated except between 07:00 hours and 18:00 hours Monday-Friday.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in 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. (R46CB)

7 The noise control measures outlined in Section 6 of your Acoustic Report dated 10.12.19 Ref: 20013.PCR.01.Rev B (inlet and exhaust attenuators fitted to the supply and extract systems and acoustic enclosures fitted around the supply and extract fans) shall be fully installed prior to the first operation of the approved equipment and thereafter retained and maintained for as long as the equipment remains in place.

Reason:

To ensure that the plant will operate in accordance with the noise standards set out in condition 4, and in accordance with the requirements of Policies ENV6 and ENV7 of our Unitary Development Plan (adopted in January 2007) and Policy S32 of Westminster's City Plan (November 2016).

8 The kitchen extract duct must terminate 1m above the eaves.

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)

9 You must apply to us for approval of details of the following parts of the development:

(i) Detailed drawings and sections at scale 1:10 of Acoustic enclosures including RAL

colour and sample of the external finish (to be viewed on site).

- (ii) RAL Colour and sample of external finish to the duct work (to be viewed on site).

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

Reason:

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

10 No hot food cooked on the premises shall be taken off-site for consumption in other Eaton Square School premises.

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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

### **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 relation to condition 9 you are advised that polyester powder coating (matt or silk) to match the existing building is likely to be considered an acceptable external finish to the approved duct work and acoustic enclosures.

3 Conditions 4, 6 and 7 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

4 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

5 Please contact Environmental Sciences by email to [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk) if you have any queries about your obligations under the Control of Pollution Act 1974 or the Environmental Protection Act 1990.

**DRAFT DECISION LETTER**

**Address:** 56 Eccleston Square, London, SW1V 1PH,

**Proposal:** Nos. 55-57 Eccleston Square. Retention of existing external air condenser unit, installation of ducting at the rear of the property and internal works to the basement. (Linked to 19/08800/FULL) [Amended description]

**Reference:** 19/08801/LBC

**Plan Nos:** Approved Plans:

Plan nos: 1485-000, 1485-011 Basement, 1485-013 Basement, 1485-101-GF Rev A, 1485-201 EXG, 1485-200 RE Rev E, LXA-1485-101-FF Rev A, LXA-1485-101-SF Rev A, LXA-1485-101-THF Rev A, LXA-1485-101-FOF Rev A, 89335-10 Rev A, 89335-11 Rev B.

Information Only: Covering letter dated 13 November 2019 (ref no. 14113);  
Environmental Equipment Corporation Ltd acoustic specifications;  
Options analysis (ref no. 14113; 13/12/2019);  
Letter from applicant dated 24 January 2020.

**Case Officer:** Hayley White

**Direct Tel. No.** 020 7641 7327

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

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

Reason:

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

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

Reason:

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

- 3 You must apply to us for approval of details of the following parts of the development:

(i) Detailed drawings and sections at scale 1:10 of Acoustic enclosures including RAL colour and

sample of the external finish (to be viewed on site).

(ii) RAL Colour and sample of external finish to the duct work (to be viewed on site).

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

Reason:

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

### Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations., , The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building., , In reaching this decision the following were of particular relevance:, S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.
- 2 In relation to conditions 3 and 4 you are advised that polyester powder coating (matt or silk) to match the existing building is likely to be considered an acceptable external finish to the approved duct work and acoustic enclosures.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

# Agenda Item 4

Item No.

4

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 18 February 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Bayswater	
<b>Subject of Report</b>	<b>Basement And Ground Floor Flat A, 36 Westbourne Gardens, London, W2 5PU</b>		
<b>Proposal</b>	Basement excavation beneath the existing driveway, erection of a conservatory at upper ground floor level, installation of an opaque glazed panel at ground floor level, provision of garden steps with associated fenestration alterations to the side elevation at 36 Westbourne Gardens.		
<b>Agent</b>	Mr Will McGuinness		
<b>On behalf of</b>	Mr & Mrs Riboldi		
<b>Registered Number</b>	19/03090/FULL	<b>Date amended/ completed</b>	15 January 2020
<b>Date Application Received</b>	23 April 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Westbourne		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application relates to Flat A located on the ground and lower ground floor level of this mid-19th century stucco building, which occupies a prominent corner site with elevations on Westbourne Gardens and Durham Terrace.

Planning permission is sought for the excavation of a basement beneath the existing driveway, erection of a conservatory at upper ground floor level to the Westbourne Gardens elevation and associated works.

Whilst the application was reported to committee on 7 January 2020, it was not presented or discussed, but was withdrawn from the agenda by officer's as it had come to light that the ownership certificate had not been completed correctly.

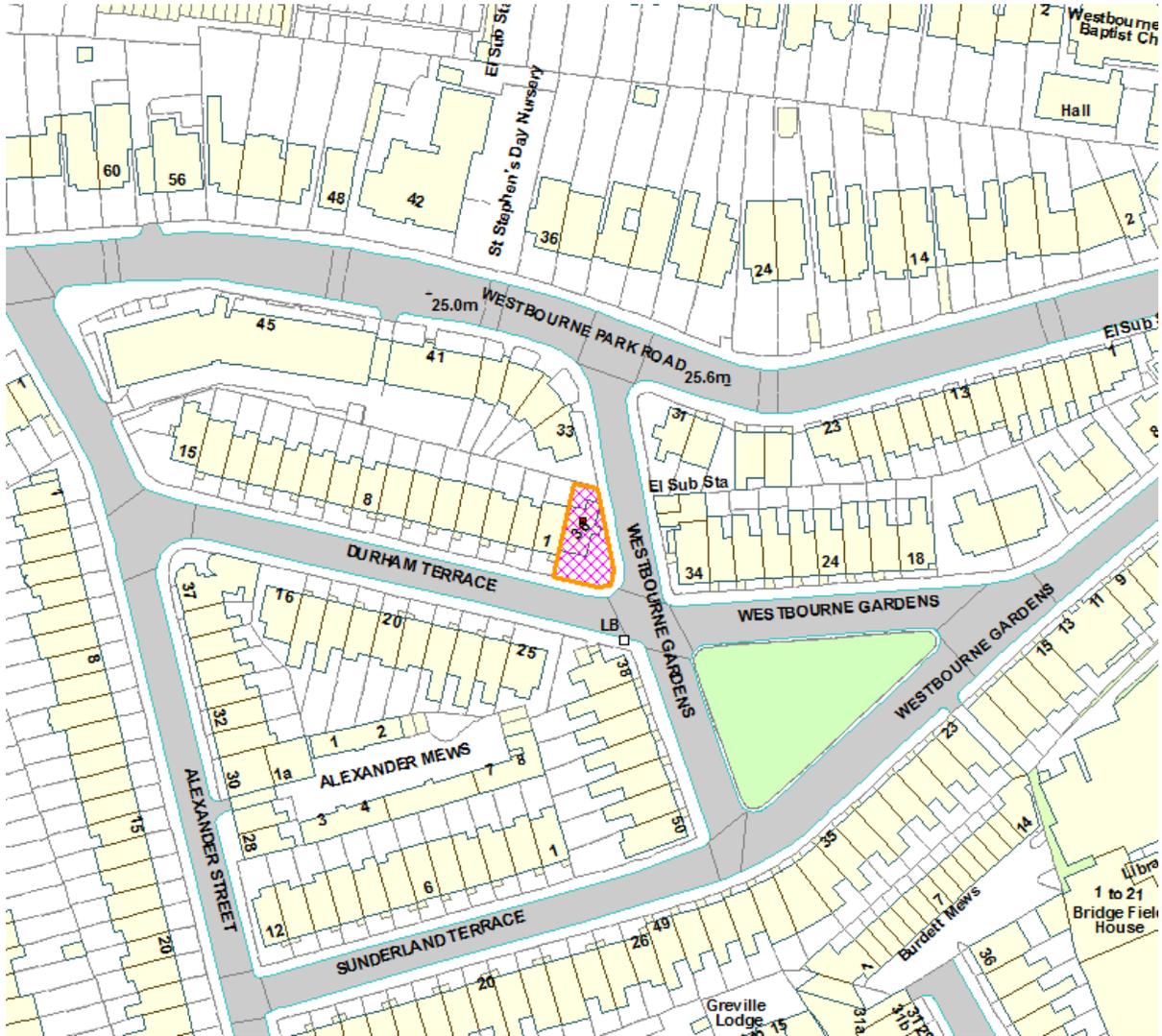
Objections have been received from neighbouring residents on a number of grounds including the design, impact on the conservation area and the impact of excavation works on neighbouring properties and residents.

The key issues in this case are:

- \* The impact of the proposal on the appearance of the host building and the character and appearance of the Westbourne Conservation Area
- \* The impact of the proposal on the amenity of neighbouring residents.

Subject to appropriate conditions as set out in the draft decision letter appended to this report, the proposals are considered to comply with the relevant design, conservation and amenity policies in Westminster's City Plan adopted in November 2016 (the City Plan) and the Unitary Development Plan adopted in January 2007 (UDP). As such, the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Rear elevation (Westbourne Gardens)

## 5. CONSULTATIONS

### ORIGINAL CONSULTATION

#### COUNCILLOR CARMAN:

Objection raised on the following points

- Impact from the basement excavation on the sycamore within 33 Westbourne Gardens and the smaller trees growing up the party wall.
- Construction close to the party wall could result in the wall collapsing.
- Conservatory & Trellis would overlook 1 Durham Terrace and 33 Westbourne Park Road resulting in loss of privacy and possible noise pollution, the height is out of character for the area and spoil the line of the rear of Durham Terrace.
- The proposed French doors and new steps would be out of proportion and not in keeping with the rest of the street.
- Narrow access from Westbourne Park Road to Westbourne Gardens and any hold up would result in blocking of access to further streets. The only space for parking, unloading, skips etc is roughly 9 foot away from the application site which does not seem sufficient.

#### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

- Supports the neighbour's objections especially in regards to the margin of excavation on north boundary of proposed basement

#### BUILDING CONTROL OFFICER:

Acceptable.

#### HIGHWAYS OFFICER:

No objection subject to conditions and informative.

#### WASTE PROJECT OFFICER:

Not acceptable however can be overcome by condition.

#### ARBORICULTURAL OFFICER:

Following revised details, the tree protection is acceptable subject to conditions and informatives.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 32; Total No. of replies: 8

Seven objections raised on all or some of the following grounds:

#### Amenity:

- The proposed conservatory and increase window space on the north side will result in loss of privacy to the adjoining houses.
- The proposed garden trellis would disturb the vista looking west down the rear of the Durham Terrace properties.
- The proposed conservatory would cause light pollution.

Design:

- The proposed French doors opening onto Durham Terrace elevation do not fit in with the other front doors on the street – look incongruous in the conservation area
- The proposed steps on the Durham Terrace elevation would appear incongruous compared to the surrounding street scene
- The party wall adjacent to 33 Westbourne Park Road is an original feature of the conservation area and is likely to collapse with a basement excavated up to its edge.

Other:

- The submitted Arboricultural Report does not indicate that the trees on the north side of the party wall would likely be damaged by the proposed work.
- The submitted Arboricultural Report omits any consideration of the large sycamore tree within 33 Westbourne Park Road.
- If construction structures, skips and lorries etc are allowed in Westbourne Gardens this will result in traffic problems in the street and in the local area.
- The Construction Traffic Management Plan is poorly developed and fails to address key issues regarding access.
- Concerns over the location of the parked delivery lorries and excavation skips
- Standing traffic will cause an increase in air pollution in the residential area
- No consultation or communication with No. 1 Durham Terrace or No. 36 Westbourne Gardens has taken place in regards to the party wall or boundary wall works.
- No plan submitted recognising the potential for an impact on the acoustic environment despite a day care centre and nurse school being within a short radius
- The applicant has failed to address how the potential impact on air quality around the site will be mitigated.
- The submitted plans lack adequate provision for the storage of waste on the site as outlined in the Council's waste storage guide.
- The removal of the garden area will have a detrimental effect on the character of the local area.
- Concerns with the structural stability to the adjoining properties
- Note previous applications were refused for similar works to the application site.

One letter of support was received, requesting a partition is installed between properties to mitigate dirt and dust.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

RE-CONSULTATION (following design amendments and a revised Arboricultural Report)

COUNCILLOR CARMAN:

- Supports the neighbours request for a site visit by the committee members.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Supports Councillor Carman's request for the item to be deferred for a site visit to take place.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 32; Total No. of replies: 5

Five objections received from 3 addresses raised on all or some of the following grounds:

Design:

- Concerns the works are not in keeping with the local area

Amenity:

- The proposed conservatory would cause light pollution.

Other:

- No undeveloped margin around the proposed basement
- The submitted Arboricultural Report omits any consideration of the large sycamore tree within 33 Westbourne Park Road.
- Concerns with the structural stability to the party wall
- If construction structures, skips and lorries etc are allowed in Westbourne Gardens this will result in traffic problems in the street and in the local area.
- Requests a site visit by the committee members
- Concerns over the correct certificate served
- The submitted plans lack adequate provision for the storage of waste on the site as outlined in the Council's waste storage guide.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises lower ground, ground floor and four upper storeys that are subdivided into three residential flats. The host building is a mid-19th century stucco building, which occupies a prominent corner site with elevations on Westbourne Gardens and Durham Terrace. It is not listed but is situated within the Westbourne Conservation Area. This application relates to Flat A which is located on the ground and lower ground floor levels.

### 6.2 Recent Relevant History

16/06035/FULL

Excavation of a single storey basement to Flat 1 and creation of lightwell.  
Application Refused                      14 September 2016

16/02161/FULL

Excavation to extend basement of Flat 1 under driveway on the north side of the property and creation of lightwell.  
Application Refused                      25 May 2016

03/04006/FULL

Erection of rear lower ground and ground floor extension to increase living floorspace to Flat 1.

Application Refused                      4 August 2003

**7. THE PROPOSAL**

The application proposes to excavate underneath the existing driveway and hardstanding to the rear to extend the existing lower ground floor, the erection of a small lightweight conservatory to Westbourne Gardens elevation and the installation of an opaque glazed panel at ground floor level.

The proposal has been revised during the course of the application, the alterations to Durham Terrace elevation have been omitted, further information has been sought in relation to tree protection and a revised ownership certificate has been provided.

**8. DETAILED CONSIDERATIONS**

**8.1 Land Use**

The addition of an increased amount of residential floorspace is considered acceptable in principle under housing Policy H3 of the UDP, adopted in January 2007.

**8.2 Townscape and Design**

With respect to conservation areas, the City Council shall pay special attention to the desirability to preserve or enhance the character or appearance of a conservation area, as set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The planning policies relevant in relation to design are policies DES 1, DES 5 and DES 9 of the UDP and CM28.1, S25 and S28 of the City Plan.

In considering the basement extension in terms of design Part B(6) of City Plan Policy CM28.1 is of particular relevance. The policy states basement development should protect the character and appearance of the existing building and gardens setting, ensuring skylights and means of escape are sensitively designed and discreetly located. Furthermore, the City Council's SPG 'Basement Development in Westminster' provides advice and guidance on the siting and detailed design of the necessary manifestations.

The principle of excavating a basement beneath the driveway is not contentious in design terms, subject to the external manifestations being appropriate. A skylight is proposed adjacent to the boundary wall with No 1 Durham Terrace. Whilst this is not immediately adjacent to the rear elevation, as the SPG advises, this site is uncharacteristic in that there is no rear garden. Furthermore, the area is highly screened and the skylight is small in scale and as such, the visibility of the skylight will be limited. In this context the proposals are considered to accord with the aims of CM28.1.

On the side elevation it is proposed to erect a white, timber framed conservatory. During the course of the application, the conservatory has been set back to sit behind the

elevation of the adjoining closet wing. Small scale conservatory structures are found within the immediate setting, including on the building opposite. Given its location, scale and detailed design the conservatory is not considered to visually detract from the architectural quality of the building or the terrace it forms part of. Furthermore, it will have a limited impact on the character and appearance of the conservation area.

Alterations are proposed to the fenestration at lower ground floor level. Due to the limited visibility of this level the alterations are considered to have a limited impact on the appearance of the building. Furthermore, they have been designed to be in keeping with the fenestration of the upper levels and therefore are appropriate. The proposed minor infilling of the front side lightwell with a glazed rooflight above will have limited visibility from the street level and in this instance although normally resisted within DES 5 is considered to be acceptable due to the existing arrangement.

The proposals are considered to accord with the identified UDP and City Plan policies and will have a limited impact on the character and appearance of the Westbourne Conservation Area.

### **8.3 Residential Amenity**

Given the subterranean nature of the proposed basement extension and the limited extent of its external manifestations, a walk on glazed rooflight covering half of the existing lightwell, the development would not result in a significant impact on the amenity of neighbouring residents. The smaller lightwell will continue to provide natural light and ventilation to both bedrooms at basement level.

The proposed conservatory to the rear (Westbourne Gardens elevation) will be set back from the closet wing projection and is set in from the boundary by 1m and is approximately 5m<sup>2</sup>. Therefore, it is not considered that the extension will result in a loss of light or sense of enclosure to the adjacent property, No 1 Durham Terrace. Whilst the conservatory is predominantly glazed, it is considered that due to the distance to neighbouring properties and the existing mutual overlooking from the existing windows in the rear elevation the proposed conservatory would not result in any significant loss of privacy to No. 33 Westbourne Park Road or 1 Durham Terrace. Furthermore, there is only one window in the side elevation of No. 33 Westbourne Park Road and it is located within the upper floors. It is considered that due to the size and pitched roof, that although the conservatory is glazed No significant light pollution would result and the objections raised on this ground is not supported.

Objectors have raised concerns with regard to a proposed trellis on the shared boundary with No 1 Durham Terrace. This was shown on some but not all of the drawings and was considered to be unacceptable. As such on officer advice, this was omitted from the proposal.

For the reasons set out above, the proposal is considered to comply with Policy ENV13 of the UDP and Policy S29 of Westminster's City Plan.

### **8.4 Transportation/Parking**

The proposal raises no transportation or parking issues.

### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

### **8.6 Access**

Not applicable.

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

#### **Basement Excavation**

The proposals are considered to be in accordance with policy CM28.1 of the City Plan (July 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 have been reviewed by Building Control who advise that the structural methodology proposed is appropriate for the ground conditions found on this site. Objections on structural matters have been received, however these cannot be 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.

The flooding risk has been investigated within the Basement Impact Assessment and this indicates the property lies within a flood risk Zone 1 and therefore no flood risk assessment needs to be provided as part of the application.

#### *Part A. 5-6*

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

The City Council adopted its Code of Construction Practice (CoCP) at the end of July 2016 and if permission is granted, the applicants will be required to comply with the CoCP. This is a fundamental shift in the way the construction impacts of developments are dealt with relative to the position prior to July 2016.

Previously conditions were attached to planning permissions requiring Construction Management Plans to help protect the amenity of neighbours during construction. The

new CoCP expressly seeks to move away from enforcement via the planning system. It recognises that there is a range of regulatory measures available to deal with construction impacts, and that planning is the least effective and most cumbersome of these. The Environmental Inspectorate has been resourced in both numbers and expertise to take complete control over the monitoring of construction impacts.

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

While the comments from the neighbours are noted, it is considered that the CoCP will adequately ensure that the development is undertaken in such a manner as to ensure that the impact is mitigated as far as possible.

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

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

*Part B. 1 & 2*

Following a revised Arboricultural Report and Tree Protection Plan dated 9 October 2019, subject to tree protection conditions, the proposal is considered acceptable. Trial pits were carried out along the boundary wall revealing a foundation depth of approximately 600mm and a large root. The pit is close to tree T2 (Cotoneaster), and the tree report considers that the root probably emanates from tree T2, but it seems unlikely that the Cotoneaster would produce such a large root below the foundation. On balance it is considered that the root is more likely to emanate from the much larger Sycamore at 33 Westbourne Park Road (not included in the tree report). It is likely the Sycamore could tolerate the severance of this root given the distance from the tree and the limited rooting volume within the curtilage of 36 Westbourne Gardens, particularly if the tree has the opportunity to exploit the soil depth above the proposed basement in the future. To this end, the Structural Methodology Statement has been revised to provided 300mm diameter apertures at 1m centres in the footing to the boundary wall. Therefore it is considered that the root severance is unlikely to cause significant harm to the sycamore.

The canopy of the Cotoneaster (T2) overhangs into 26 Westbourne Gardens. The applicant intends to put a hoarding on top of the wall to prevent damage to overhanging branches which is acceptable.

*Part B. 3*

The proposals include natural lighting and ventilation by the rear lightwell accessed by doors and a window, which serve two bedrooms. Therefore this is considered acceptable.

*Part B. 4 & 7*

The only external manifestations of the basement to the rear would be the lightwell adjacent the neighbouring property which is not considered to have a significant impact in terms of sustainable urban drainage. Furthermore a water permeable hardstanding surface will be provided to the rear to provide drainage.

*Part B. 5 & 6*

The proposal to excavate the basement and the lightwell are considered to be discreet and will not negatively impact on the conservation area (see also Section 8.2 of this report).

*Part C. 1*

The proposal is to extend the lower ground floor beneath the driveway to the rear with a small lightwell. It does not extend under more than 50% of this garden area and is therefore compliant in this regard. The garden to the front and side of the application site will be unaffected from the proposed excavation. The proposals do not include an area of undeveloped garden land. Given that the rear 'garden' is already developed as hardstanding and not a garden per se, whilst a margin could be incorporated into the design of the basement, in this instance this would result in a significantly reduced size of basement excavation, in an already very small rear 'yard/garden'. It is therefore not considered reasonable in this instance to require this margin and whilst this is a departure from policy, the proposals are considered acceptable.

*Part C. 2*

One metre of soil depth and 200mm drainage layer is provided over the proposed basement which is compliant with this part of the policy.

*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. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set

out in para. 48 of the NPPF, it will generally attract very limited weight at this 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.

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 pre-commencement conditions 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 tree protection methods. The applicant has agreed to the imposition of the condition.

### **8.11 Planning Obligations**

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

The existing property has a floorspace of 120m<sup>2</sup>. The proposed basement scheme provides an uplift of 25m<sup>2</sup>. This is below the 100m<sup>2</sup> of new floorspace above which the requirement to pay CIL is triggered.

### **8.12 Environmental Impact Assessment**

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

### **8.13 Other Issues**

#### **Waste**

The details submitted are not in line with the council waste storage requirements and therefore a condition will be attached to ensure further details are provided.

It is noted we have received an objection on these grounds however it is considered it does not warrant a reason for refusal in this instance.

#### **Noise**

Objections have been received on the grounds that no report or plan has been submitted recognising the potential for any impact on the acoustic environment despite a day care

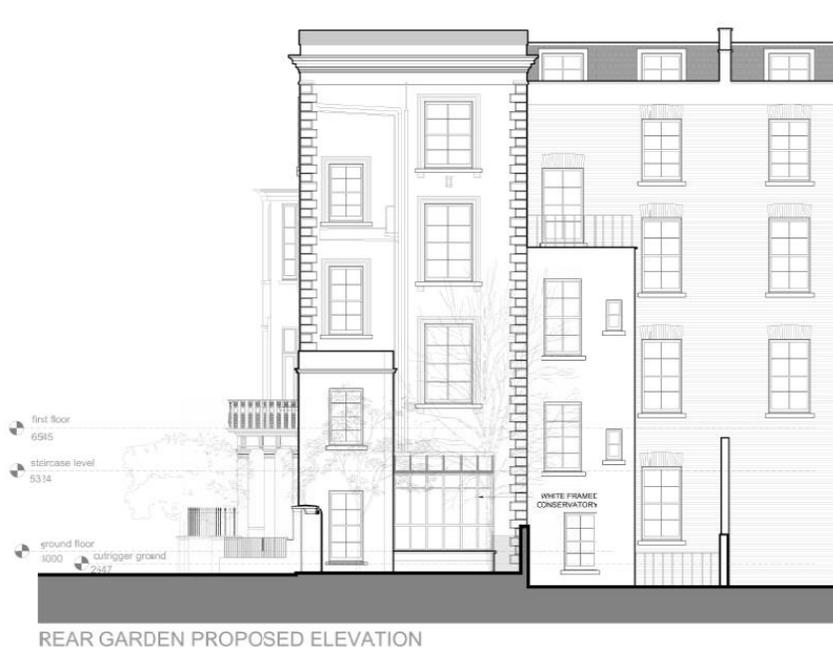
Item No.
<b>4</b>

centre and nurse school being within close proximity. It is considered that due to no acoustic equipment being proposed within the basement excavation that an acoustic report is not required.

(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: SARAH WHITNALL BY EMAIL AT <a href="mailto:swhitnall@westminster.gov.uk">swhitnall@westminster.gov.uk</a>
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**DRAFT DECISION LETTER**

- Address:** Basement And Ground Floor Flat A , 36 Westbourne Gardens, London, W2 5PU
- Proposal:** Basement excavation beneath the existing driveway, erection of a conservatory at upper ground floor level, installation of an opaque glazed panel at ground floor level, provision of garden steps with associated fenestration alterations to the side elevation at 36 Westbourne Gardens.
- Reference:** 19/03090/FULL
- Plan Nos:** Site Location Plan, ex(00)001, ex(00)002, ex(00)003, ex(00)004, ex(00)005, ex(00)007, AL(00)001 B, AL(00)002 A, AL(00)004 A, AL(00)005 A, AL(00)006 A, AL(00)007 A and Planning Statement.

For info: Structural Methodology Statement dated 29 March 2018, Construction Traffic Management Plan dated 11 April 2019, Tree Survey dated October 2019 and Trial Pits drawing.

**Case Officer:** Frederica Cooney

**Direct Tel. No.** 020 7641 7802

**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 **Pre Commencement Condition.** Prior to the commencement of any:

- (a) Demolition, and/or
- (b) Earthworks/piling and/or
- (c) Construction

On site you must apply to us for our written approval of evidence to demonstrate 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 the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

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)

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

Reason:

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

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

Reason:

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

Item No.
<b>4</b>

- 6 You must carry out the arboricultural pre-commencement visit and site monitoring as set out in your Arboricultural Report (Advanced Tree Services Tree Report dated October 2019). The monitoring must be carried out by an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications and experience needed to be registered. Monitoring visits must be carried out no less frequently than every 28 days. You must produce written site supervision reports after each site monitoring visit, demonstrating that you have carried out the supervision and that the tree protection is being provided in accordance with the approved scheme. If any damage to trees, root protection areas or other breaches of tree protection measures occur then details of the incident and any mitigation/amelioration must be included. You must send copies of each written site supervision record to us within five days of the site visit.

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)

**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 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 3 Trees on and adjacent to this site are protected by virtue of being within 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 020 7641 2922
- 4 Some of the trees adjacent to this site are protected by a Tree Preservation Order. You must get our permission before you do anything to them. You may want to discuss this first with our Tree Officer on 020 7641 2922
- 5

You must protect the trees according to the details, proposals and recommendations set out in your Arboricultural Report (Advanced Tree Services Tree Report dated October 2019) and tree protection plan dated 09 October 2019.

- 6 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 7 You 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).

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.