



City of Westminster

# Committee Agenda

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

Meeting Date: **Tuesday 15th December, 2020**

Time: **6.30 pm**

Venue: **Please note that this will be a virtual meeting.**

Members: **Councillors:**  
Jim Glen (Chairman)  
Eoghain Murphy  
Guthrie McKie  
Elizabeth Hitchcock

**This will be a virtual meeting and members of the public and press are welcome to follow the meeting and listen to discussion to Part 1 of the Agenda**

**This meeting will be live streamed and recorded. To access the recording after the meeting please revisit the link.**

**If you require any further information, please contact the Committee Officer, Georgina Wills, Committee and Governance Officer.**

**Tel: 07870 548348; Email: [gwills@westminster.gov.uk](mailto:gwills@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

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

## **AGENDA**

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

#### **1. MEMBERSHIP**

To note any changes to the membership.

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

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

#### **3. MINUTES**

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

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

Applications for decision

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

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

To register to speak and for guidance please visit:

<https://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 at the virtual meeting please read the guidance, in order to familiarise yourself with the process prior to joining the remote meeting.

All committee meetings open to the public are being broadcast live using Microsoft Teams. For information on participating in the virtual Committee please see the following link

<https://www.westminster.gov.uk/stream-council-meetings>

**(Pages 5 - 10)**

To access the recording after the meeting please revisit the Media link

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|--|---|
| <ol style="list-style-type: none"><li>1. <b>25 - 26 ALBEMARLE STREET, LONDON W1S 4HX</b></li><li>2. <b>FLAT 4, 12 NORTHWICK TERRACE, LONDON NW8 8JD</b></li><li>3. <b>7 NEEDHAM ROAD, LONDON W11 2RP</b></li></ol> | <p><b>(Pages 13 - 40)</b></p> <p><b>(Pages 41 - 58)</b></p> <p><b>(Pages 59 - 96)</b></p> |
|--|---|

**Stuart Love**  
**Chief Executive**  
**4 December 2020**

## Order of Business

At Planning 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) Neighbourhood Forum
vi) Ward Councillor(s) and/or MP(s)
vii) Council Officers response to verbal representations
viii) Member discussion (including questions to officers for clarification)
ix) 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 (3)

#### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (3)** Committee held on **Tuesday 27th October, 2020**, This meeting took place virtually.

**Members Present:** Councillors Jim Glen (Chairman), Elizabeth Hitchcock, Guthrie McKie and Eoghain Murphy

#### 1 MEMBERSHIP

1.1 There were no changes to the membership,

#### 2 DECLARATIONS OF INTEREST

2.1 Councillor Jim Glen explained that a week before the meeting, all four 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 e-mails 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 Guthrie McKie declared that in respect of item 5, he lives in the Ward and knows the address of the site, but has not been contacted by any parties regarding the application,

2.3 Councillor Eoghain Murphy declared that in respect of item 2, he lives in the Ward, but that he has not been contacted by any parties regarding the application.

### 3 MINUTES

#### 3.1 RESOLVED:

That the minutes of the meeting held on 1 September 2020 be signed by the Chairman as a correct record of proceedings.

### 4 PLANNING APPLICATIONS

#### 1 GARAGES AT ADPAR STREET LONDON

Demolition of existing car park and redevelopment to provide a 4-storey block of sheltered residential dwellings (Use Class C3) and other associated works, including amenity space, car parking, cycle parking, refuse storage, and landscaping improvement works.

The presenting officer tabled the following amendments:

Pre-Commencement Condition (bat emergence survey)

Prior to any demolition taking place, a further bat emergence/re-entry survey must be carried out in accordance with the recommendations set out in the approved Ecology Report. The results of this survey shall be submitted to approved by the local planning authority before any demolition works take place.

Reason

The Ecology Report identifies that the car park building has low potential for roosting bats, and a further survey is required to ensure that there are no bats roosting in the building in accordance with the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981.

Provide Bird and Bat Boxes

Prior to the occupation of any of the residential flats, you must submit to the Local Planning Authority for approval, details of bird and bat boxes. The boxes shall then be installed and maintained in accordance with these details prior to the occupation of the flats, unless otherwise agreed first in writing by the LPA.

REASON:

To 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.

A condition requiring a detailed lighting strategy is also recommended.

**DELETE** Condition 24 and **AMEND** condition 6 as follows: You must apply to us for approval of detailed sections at 1:10 of the following parts of the development: a) garage doors/**gates** and b) gates. You must not start work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings.

Reason:

**To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area, and make sure**

**that a safe and secure environment is provided. This is as set out in S28 and S29 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD).**

**RESOLVED (Councillors Jim Glen, Elizabeth Hitchcock and Eoghain Murphy for, Councillor Guthrie McKie abstains):**

1. That conditional permission be granted under Regulation 3 of the Town and Country Planning General Regulations 1992 subject amendments to conditions and additional conditions as set out above, and to the completion of a unilateral undertaking to secure the following planning obligations:
  - i. Provision of all units as affordable housing for nominated residents over the age of 60
  - ii. A financial contribution of £13,522 to the Carbon Offset Fund (payable on commencement of development and index linked)
  - ii. Provision and adherence to a car parking strategy.
  - iv. Provision of lifetime (25 year) car club membership for all residential units.
  - v. Provision of highway works in Adpar Street and Hall Place to provide access to the development. vi. Costs of monitoring the agreement (£500 per head of terms).
  
2. That If the Unilateral Undertaking has not been completed within 12 weeks from the date of the Committee's resolution, then:
  - a) The Director of Place Shaping and Town Planning shall consider the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Place Shaping and Town Planning is authorised to determine and issue such a decision under Delegated Powers, however, if not;
  
  - b) If it has not been possible to complete the Unilateral Undertaking within an appropriate timescale, the application shall be reported back to the Sub-Committee for a decision.

## **2 JOHN LEWIS, 278-306 OXFORD STREET, LONDON W1C 1DX**

Dual/alternative use of part sub-basement, part ground, third, fourth, fifth, sixth, seventh and eighth floors for either continued retail (Class A1) and/or office use (Class B1). External alterations including the installation of a new office entrance to the corner of Holles Street and Cavendish Square elevations and installation of a lift over-run at roof level.

An additional representation was received from John Lewis Partnership (undated).

A late representation was received from Councillor Timothy Barnes (27.10.2020).

The Committee's legal representative read out the written submission from David Wood in support of the application.

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

**3 7 - 8 CONDUIT STREET LONDON W1S 2XF**

Demolition of existing building, excavation to provide an additional basement level and redevelopment to replacement building over subbasement, basement, ground and six upper floors as use as offices (Class B1) over part ground and first to sixth floor levels, retail (Class A1) at basement and part ground floor levels and shared ancillary facilities at sub-basement level.

Application withdrawn by officers.

**4 33 ST JAMES'S SQUARE LONDON SW1Y 4LB**

Partial demolition and reconstruction of enlarged rear extension with additional storey; formation of terraces at ground, fourth, fifth and sixth floor levels; excavation to extend existing basement level; installation of plant machinery and associated external alterations in connection with increase in office floorspace (Class B1). Internal alterations including installation of new grand stair.

Additional representations were received from Harwood Management Limited (23.10.2020) and Calvam Management Limited (21.10.2020).

Late representations were received from Harwood Management Limited (23.10.2020).

The presenting officer tabled the following amendments:

**Revised condition 11**

You must not use the roof of any part of the building for sitting out or for any other purpose other than the indicated terrace areas shown blue on the following drawings 12200 PL02 (Ground floor), 12204 PLO2 (Fourth floor), 12205 PL02 (Fifth floor) and 12206 PL02 (Sixth floor) You can however use any roof to escape in an emergency.

**Revised condition 16**

Notwithstanding the submitted Operational Management Plan for External Spaces, you must apply to us for approval of an Operational Management Plan for External Spaces. You must not use any part of the roof of the building as a terrace until we have approved what you have sent us. The approved Operational Management Plan must thereafter be followed by the occupants for the life of the development at all times that the building is in use, unless a revised Operational Management Plan for external spaces is submitted for approval by the City Council.



### **Revised condition 23**

Within 6 months of practical completion, you must provide the following:

- a copy of a Building Research Establishment (or equivalent independent assessment) issued Final Post Construction Stage Assessment and Certification, confirming that the development has achieved a BREEAM NC Offices 2018 rating of Very Good.

### **Revised condition 24**

The external terraces at ground, fourth, fifth and sixth floor levels and indicated on drawings 12200 PL02, 12204 PLO2, 12205 PL02 and 12206 PL02 can only be used between the hours of 0800 to 2000 Monday to Friday and 0900 to 1800 on a Saturday and not at all on Sundays, public holidays and bank holidays

Neil McLeod addressed the Committee in support of the application.

### **RESOLVED UNANIMOUSLY:**

1. That conditional permission and conditional listed building consent be granted, subject to amendments to conditions 11, 16, 23 and 24 to the planning permission as set out above.
- .2. That the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter be agreed.

### **5 108 CHEPSTOW ROAD LONDON W2 5QS**

Use of the basement and ground floor as mixed use restaurant and hot food take-away (Sui Generis) and installation of flue to the rear.

A late representation was received from South East Bayswater Residents' Association (undated).

The presenting officer tabled the following additional conditions:

ADD condition 12 – hours of operation of plant equipment

The mechanical ventilation plant equipment must not operate before 09:00 or after 2300 on Monday to Saturday (not including bank holidays and public holidays) and before 10:00 or after 20:00 on Sundays, bank holidays and public holidays.

REASON: To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7, ENV13 and TACE 9 of our Unitary Development Plan that we adopted in January 2007.

ADD condition 13 – flues painted black

The external ventilation flues to the rear shall be black and maintained that colour.

REASON: To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the 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).

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted, subject to additional conditions 12 and 13 as set out above.

**6 90-104 BERWICK STREET LONDON W1F 0QB**

Details pursuant to condition 23 of planning permission dated 4 October 2016 (RN:15/06792/FULL) for partial demolition and rebuilding of existing podium levels with additional part single and part two storey extensions; front extension of part of the west elevation to Hopkins Street; replacement facades and new shopfronts; all in association with continued use of parts of the basement and ground floor on Berwick Street for shops (Class A1), financial and professional services (Class A2) and food and drink (Class A3) and new retail unit at northern end of Hopkins Street, use of remainder of podium (as extended) for hotel (Class C1) and residential (Class C3) purposes together with associated roof terraces (including for use by existing Kemp House residents); green roofs, landscaping, car and cycle parking, servicing, plant and ancillary works, namely the submission of a Service Management Strategy..

An additional representation was received from Rolfe Judd (20.10.2020).

Late representations were received from KHRA (26.10.2020) and the applicant (27.10.2020).

Ed Jones addressed the Committee in support of the application.

The Highways Transportation Officer addressed the Committee to advise on Highways issues.

**RESOLVED UNANIMOUSLY:**

That the details be approved.

The Meeting ended at 8.41 pm.

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

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

# Agenda Annex

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 15th December 2020  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	<p><b>RN(s):</b></p> <p><u>Application 1</u> 20/03100/FULL</p> <p><u>Application 2</u> 20/03101/FULL</p> <p>West End</p>	<p>25 - 26                      Albemarle                      Street                      London                      W1S 4HX</p>	<p><u>Application 1</u>                      Variation of conditions 10, 25 and 27 of planning permission dated 04 September 2019 (RN: 19/05928/FULL) which itself varied condition 27 of planning permission dated 2 August 2018 (RN: 18/05198/FULL), for the: Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday, enable use of the rear first floor terrace until 10:00PM daily and update the Operational Management Plan accordingly.</p> <p><u>Application 2</u>                      Variation of Conditions 5 and 6 of planning permission dated 23 April 2020 (RN: 20/01875/FULL) for: Removal of Condition 4 of planning permission dated 16 July 2019 (RN: 19/03570) for dual / alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday and to update the Operational Management Plan accordingly.</p>	<p>Aldwych Properties Ltd &amp; Winter Restaurants Ltd</p>
<p><b>Recommendation</b></p> <p><u>Application 1</u> Grant conditional permission.</p> <p><u>Application 2</u> Grant conditional permission.</p>				

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 15th December 2020  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
2.	<b>RN(s):</b> 20/05953/FULL  Regent's Park	Flat 4, 12 Northwick Terrace London NW8 8JD	Alterations to fenestration at rear first floor level and installation of balustrade to form roof balcony at rear of first floor flat roof.	12 Northwick Terrace Ltd
<b>Recommendation</b> Grant conditional permission.				
Item No	References	Site Address	Proposal	Applicant
3.	<b>RN(s):</b> 20/03623/FULL & 20/03624/LBC  Bayswater	7 Needham Road London W11 2RP	Amalgamation of two maisonettes to create a single dwelling house [Class C3], excavation beneath the footprint of the existing building and excavation of part of rear garden at lower ground floor level. Demolition of the existing extension to the rear and construction of a new lower ground and ground floor rear extension. Repair work to the facade, alteration to street frontage in line with the street and landscaping to the rear garden. Installation of acoustically attenuated condenser to the rear garden. Internal alterations.	Ms Amie McDonald
<b>Recommendation</b> 1. Grant conditional planning permission. 2. Grant conditional listed building consent. 3. Agree the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.				

# Agenda Item 1

Item No.
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<b>1</b>
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 15 December 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>25 - 26 Albemarle Street, London, W1S 4HX</b>		
<b>Proposal</b>	<p>1. Variation of conditions 10, 25 and 27 of planning permission dated 04 September 2019 (RN: 19/05928/FULL) which itself varied condition 27 of planning permission dated 2 August 2018 (RN: 18/05198/FULL), for the: Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday, enable use of the rear first floor terrace until 10:00PM daily and update the Operational Management Plan accordingly.</p> <p>2. Variation of Conditions 5 and 6 of planning permission dated 23 April 2020 (RN: 20/01875/FULL) for: Removal of Condition 4 of planning permission dated 16 July 2019 (RN: 19/03570) for dual / alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday and to update the Operational Management Plan accordingly.</p>		
<b>Agent</b>	Mr Daniel Rinsler		
<b>On behalf of</b>	Aldwych Properties Ltd & Winter Restaurants Ltd		
<b>Registered Number</b>	1. 20/03100/FULL 2. 20/03101/FULL	<b>Date amended/ completed</b>	18 May 2020
<b>Date Application Received</b>	18 May 2020		
<b>Historic Building Grade</b>	Unlisted		

<b>Conservation Area</b>	Mayfair
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## 1. RECOMMENDATION

Grant conditional planning permission for Applications 1 and 2.

## 2. SUMMARY

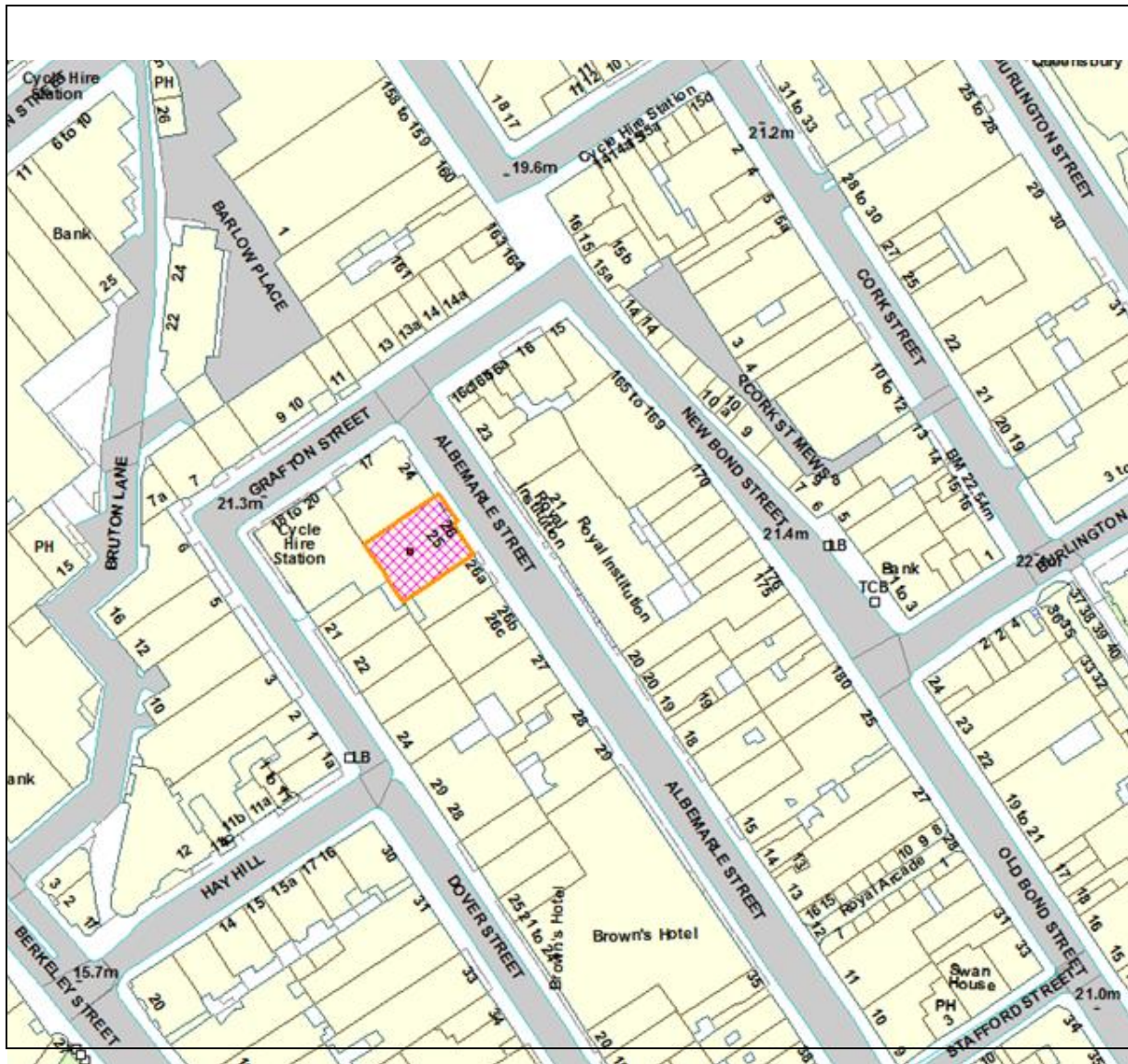
25-26 Albemarle Street comprises basement, ground and four upper floors located in the Mayfair Conservation Area and the Core Central Activities Zone but outside of any designated stress areas. The basement, ground, first and second floors, including a rear first floor terrace area are in lawful use as a private members club (sui generis). Permission was originally granted in January 2017 for the use of just the lower ground and ground floors as a private members club but a number of subsequent applications have been granted to incrementally increase the size of the club by including both the first and second floors and creating a rear first floor terrace area. The third and fourth floor levels have lawful office use.

Permission is now sought to vary conditions to increase the opening hours of the club and the hours of use of the terrace. Currently use of the external terrace is permitted until a terminal hour of 20:00 and the first application (20/03100/FULL) seeks to extend this to 22:00. The opening hours of the club are limited to midnight Monday to Thursday; 00.30 Friday, Saturday and Sundays before a Bank Holiday; and 23.00 on Sundays and both applications also seek to extend these hours to 01:00 the following morning Monday to Saturday.

The key issue is the impact of the extended operational hours on the residential amenity of neighbouring occupiers.

The amended terminal hours are relatively modest, but the late operation of the terrace is a concern in relation to the impact this would have on the amenity of neighbouring residential occupiers. The application is however, supported by acoustic information which demonstrates any noise from patrons of the terrace to be within acceptable levels at the nearest residential windows. The applications are considered acceptable and recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation of the property:





View of the terrace at rear first floor level:



## 5. CONSULTATIONS

### RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

Any response to be reported verbally.

### MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

### WASTE PROJECT OFFICER

No objection.

### HIGHWAYS

No objection.

### ENVIRONMENTAL HEALTH

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 41; Total No. of replies: 22

No. of objections: 1

No. in support: 21

One letter of objection on the following grounds:

\* Extended hours of use of the terrace would result in noise disturbance to residents.

\* Detrimental impact upon air quality resulting from people smoking on the terrace.

21 letters of support on the following grounds:

Consider the existing private members club is well run and the extended hours of the club and terrace would not impact upon the amenity of the area.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

25-26 Albemarle Street is located on the western side of Albemarle Street at the northern end near the junction with Grafton Street. The building comprises basement, ground and four upper floors. The basement, ground, first and second floor levels are in use as a private members club (sui generis) with the third and fourth floor levels in use as office accommodation (B1).

The building is unlisted and located within the Mayfair Conservation Area and the Core Central Activities Zone. The property is located outside of the designated stress areas and the West End Special Retail Policy Area.

## 6.2 Recent Relevant History

Permission was granted on the 4<sup>th</sup> September 2019 for the; 'Variation of Condition 27 of planning permission dated 2 August 2018 (RN: 18/05198/FULL), 'Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property', NAMELY, to allow the permanent use of the terrace at rear first floor level.'

Permission was granted on the 16<sup>th</sup> July 2019 for the; 'Dual / Alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels.'

Permission was granted on the 2<sup>nd</sup> August 2018 for the; 'Variation of Condition 10 of planning permission dated 24 October 2017 (RN: 17/06539) for, 'Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property'; NAMELY to change the opening hours to the following so the club can be open for breakfast: 07:00 to midnight Monday to Thursday, 07:00 to 00:30 Friday, Saturday and Sundays before a Bank Holiday; and 12:00 to 23:00 on Sundays.'

Permission was granted on the 24<sup>th</sup> October 2017 for the; 'Dual / alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property.'

Permission was granted on the 17<sup>th</sup> January 2017 for the; 'Use of the ground and basement floors as a restaurant (Class A3), installation of plant at rear first floor level and roof level with a high level extract duct on the rear elevation. Installation of two high level gas flues on the rear elevation and a replacement rooflight at rear first floor level.'

## 7. THE PROPOSAL

### Application 1

Consent is sought to vary Conditions 10, 25 and 27 of the planning permission

19/05928/FULL which was granted on the 4<sup>th</sup> September 2019 for the; 'Variation of Condition 27 of planning permission dated 2 August 2018 (RN: 18/05198/FULL), 'Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property', NAMELY, to allow the permanent use of the terrace at rear first floor level.'

Condition 10 controlled the opening hours of the premises and required the following:

*You must not open the restaurant or private members' club use to customers, and you must not allow customers on the premises, outside the hours:*

*07.00 to midnight Monday to Thursday,  
07.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday; and  
12.00 to 23.00 on Sundays.*

Consent is sought to vary this condition to extend the operating hours of the club to 01:00 the following morning Monday to Saturday.

Condition 27 controlled the hours of use of the terraces and required the following:  
*The terrace area hereby approved at rear first floor level can only be used between the hours of 10:00 and 20:00 (Monday to Sunday) and when the terrace is not in use the doors to the terrace must be closed. You cannot use the terrace area outside of these hours other than in the case of an emergency.*

Consent is sought to vary this condition to enable use of the terrace until 22:00 daily.

Condition 25 required the premises to be used in accordance with the Operational Management Plan (OMP), as this is proposed to be updated to reflect the amended hours and an updated OMP has also been submitted.

## **Application 2**

Consent is sought to vary Conditions 5 and 6 of planning permission 20/01875/FULL which was granted on the 23<sup>rd</sup> April 2020 for the; 'Removal of Condition 4 of planning permission dated 16 July 2019 (RN: 19/03570) for dual / alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels; NAMELY; to enable primary cooking at second floor level (following the approval of an extract duct on 25 February 2020 under RN: 19/10081). Condition 5 controlled the opening hours of the second floor of the club as follows:

*You must not open the private members' club to customers, and you must not allow customers on the premises, outside the hours:*

*07.00 to midnight Monday to Thursday,  
07.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday; and  
12.00 to 23.00 on Sundays.*

Consent is sought to vary this condition to extend the operating hours of the club to 01:00 the following morning Monday to Saturday.

Condition 6 required the premises to be used in accordance with the Operational Management Plan (OMP), as this is proposed to be updated to reflect the amended hours an updated OMP has also been submitted.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposal raises no new land use issues.

### **8.2 Townscape and Design**

Not applicable.

### **8.3 Residential Amenity**

The lawful private members club operating over lower ground, ground, first and second floors measures 822m<sup>2</sup> and has a capacity of 238 patrons.

#### **Extended opening hours of the private members club**

The original permission for the extended private members club use considered the acceptability of the use with regard to the relevant entertainment policies of the City Plan and the Unitary Development Plan (UDP). Policy S24 of Westminster's City Plan states that; 'new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact residential amenity, health and safety, local environmental quality and the character and function of the area'. The policy also states that new large scale late night entertainment uses measuring in excess of 500m<sup>2</sup> (GEA), will not generally be appropriate within Westminster.

Policy TACE 10 of the UDP is also applicable and this states that entertainment uses over 500m<sup>2</sup> will only be permissible in exceptional circumstances.

The proposal for the extended private members club was considered acceptable taking into account the conditions that would be placed on the use including the opening hours. Consent is now sought to extend the terminal hour of operation by an hour Monday to Thursday and 30 minutes on Fridays, Saturdays and Sundays before a Bank Holiday.

The site is located within the Core CAZ which is identified within Policy S6 of the City Plan as being an appropriate location for a range of commercial uses. The immediate vicinity is characterised mainly by commercial uses with most of the neighbouring buildings in use as office accommodation on the upper floors and retail / restaurants on the lower floors. The Mayfair Neighbourhood Plan (MNP) includes Albemarle Street within the defined 'Central Mayfair' area which it considers is; 'the location where the balance between residential and other uses needs to be struck most carefully'. Policy

MRU1 of the Mayfair Neighbourhood Plan states that; 'Proposals for new commercial or entertainment uses in Mayfair must demonstrate how they protect the amenity of nearby residential units and create no material additional adverse effects (after mitigation) such as noise and rubbish between 11pm and 7am.'

The nearest residential accommodation consists of five flats in the adjoining building to the south (No. 26A) as well as a single family dwelling at 21 Grafton Street to the rear of the site. An objection has been received to the application on behalf of the residential occupier at 21 Grafton Street, but their concerns are in relation to the extended hours of use of the terrace (as set out below) and not to the extended hours of the club itself. It is also noted that two letters of support have been received to the application from residential occupiers within the adjoining building at No. 26a and a further 19 letters of support have been received from nearby businesses and residents.

The City Council's 'core hours' as detailed in Para 8.88 of the UDP states that in relation to entertainment premises in; 'predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays (other than those immediately preceding Bank Holidays) to Thursdays, and after 12.30 a.m. on the following morning on Friday and Saturday nights and on Sundays immediately preceding Bank Holidays.' These are the currently conditioned hours of the premises.

The proposed opening hours are only marginally later than these stipulated hours and despite its location within the 'Central Mayfair' area as defined in the MNP, Albemarle Street is not considered a 'predominantly residential' area. The existing club is now well established and since opening it has not generated any noise complaints to the Council. One of the neighbours in the adjoining building (26A Albemarle Street) also states in their letter of support that the club is well run and does not generate noise or nuisance. No objections have been received in relation to the extended hours of the premises itself and in these circumstances, subject to the same conditions as previously imposed, including that any music being played in the premises is not audible externally or within adjacent premises and a condition requiring the use to be carried out in accordance with the OMP, it is considered the proposed extended opening hours would not have a detrimental impact upon the character and function of the area or on residential amenity.

#### **Extended hours of use of the terrace**

The terrace at rear first floor level was first granted permission on a temporary basis of one year and was then granted permanent consent a year later. The terrace includes an awning and planting which help to reduce overlooking of neighbouring premises particularly 21 Grafton Street, the single family dwelling to the rear, which is approximately 10m from the terrace.

The hours of use of the terrace are currently controlled by condition to between 10:00 and 20:00 daily and consent is now sought to extend this until 22:00 each evening. The capacity of the terrace is also controlled by condition to a maximum of 16 persons.

An objection has been received to the extended hours from the occupiers of 21 Grafton Street, a single family dwelling situated directly to the rear of the proposed terrace. They have expressed concern that the extend hours of use of the terrace would result in additional noise disturbance later into the evening when this rear area is much quieter

and there are no intermittent noises to cause disturbance. They consider the noise of patrons on the terrace will reverberate off the hard surfaces in the rear area and their intermittent voices will cause a noise nuisance.

The City Council places a strong emphasis on the protection of residential amenity, Policy S29 of the City Plan and ENV13 of the UDP seek to ensure that new developments do not result in an 'unacceptable material loss of residential amenity and developments should aim to improve the residential environment.' During the course of the application further acoustic information has been submitted in relation to current noise levels from the terrace use and existing background noise levels when the terrace is not in operation. This information has been assessed by Environmental Health. The acoustic report submitted by the applicant included a background noise survey which took place over 48 hours from 10:00 on 21<sup>st</sup> October 2020 until 10:00 on 23<sup>rd</sup> October 2020, during this time period 12 patrons were using the terrace until 20:00. The noise survey was undertaken from a neighbouring residential terrace at a distance of 9m, approximately the same distance as the objector's windows at 21 Grafton Street. The acoustic report concludes that there was no discernible difference in noise levels in this area between 18:00 to 20:00 (when the terrace was operating) and between 20:00 and 22:00 (when the terrace was not being used). The acoustic report and objection have been assessed by the Environmental Health who have concluded the following:

*"The survey data included with the report indicates that ambient and maximum noise levels do not appear to be elevated by the current operation of the terrace when compared to the proposed operating hours. This would suggest that the current operation does not impact upon the general noise climate. It is noted that, during the two years that the club has been operating, there have been no noise complaints relating to activities on the terrace. Given the detail contained within the report from RBA, I am satisfied that extending the hours of operation for the use of the outdoor 1st floor terrace at Oswald's club is unlikely to have an adverse impact on the noise climate in the vicinity. There is also no objection to extending the opening of the club until 0100hrs Monday to Saturday."*

Given the technical acoustic information provided by the applicant in support of the proposal and the views of the Environmental Health Officer, the proposal for the extended hours of use of the terrace area is considered acceptable. It is noted that Licensing have already granted extended hours of use of the terrace and have conditioned a maximum of 12 people on the terrace.

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

The proposal raises no highways issues and any consent is subject to the same conditions in relation to servicing as previously.

#### **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**

Not applicable.

**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 in June and July 2019 and it was submitted to the Secretary of State for independent examination in November 2019. The City Plan examination hearings took place between 28 September and 16 October 2020. Following the examination hearings, the Council is currently consulting until 18 January 2021 on the main modifications recommended by the Inspectors. Having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract limited weight at this present time prior to the publication of the Inspector's report.

**8.9 Neighbourhood Plans**

The Mayfair Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 31 October 2019, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Mayfair Neighbourhood Area. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed elsewhere in this report.

**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.

**8.14 Other Issues**

The objector has also raised concerns about the impact of patrons smoking and their ability to open their rear windows. Smoking currently occurs on the terrace and, as in the



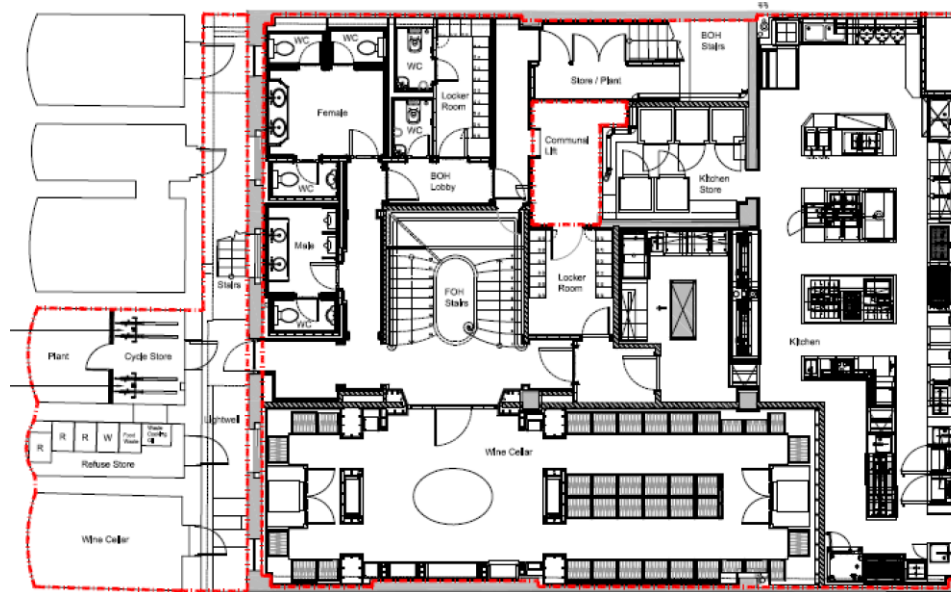
consented schemes, the capacity of the terrace will again be restricted to 16 customers, and given this small capacity and the relatively large area at the rear of the terrace it is not envisaged people smoking on the terrace would detrimentally impact upon the air quality of neighbouring residents.

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

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

### 9. KEY DRAWINGS

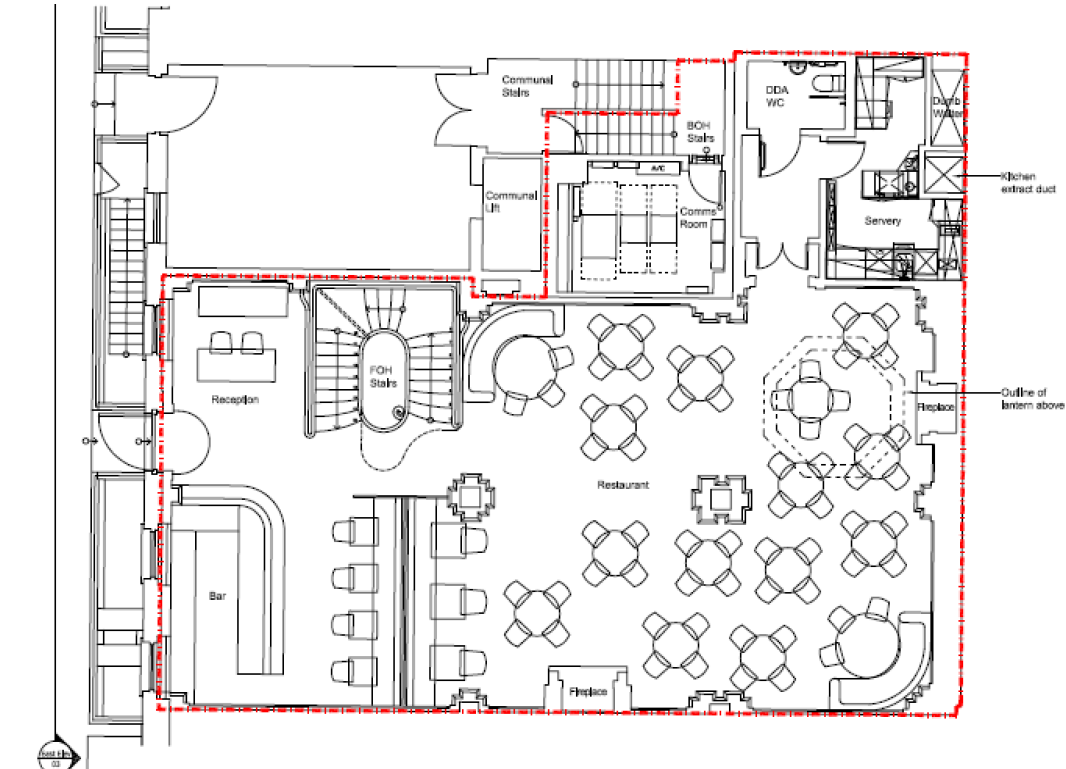
Lower Ground Floor:



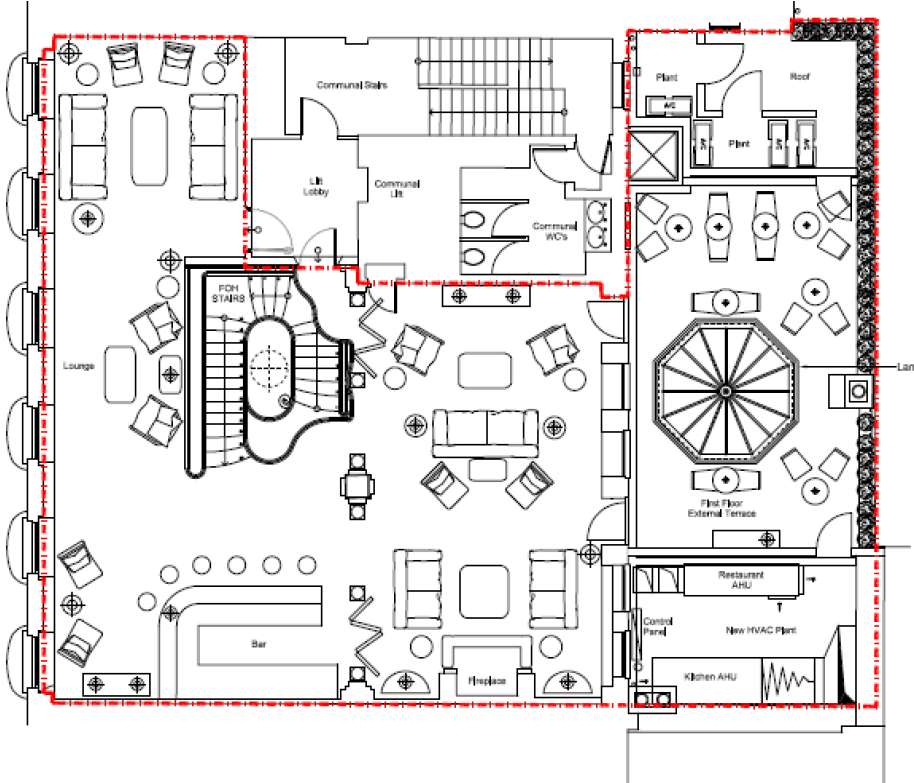
Proposed Basement GA Plan  
scale 1:200

Gross Internal Area 267 m<sup>2</sup>  
(excluding liftwell and vaults, GIA of vaults is 26m<sup>2</sup>)

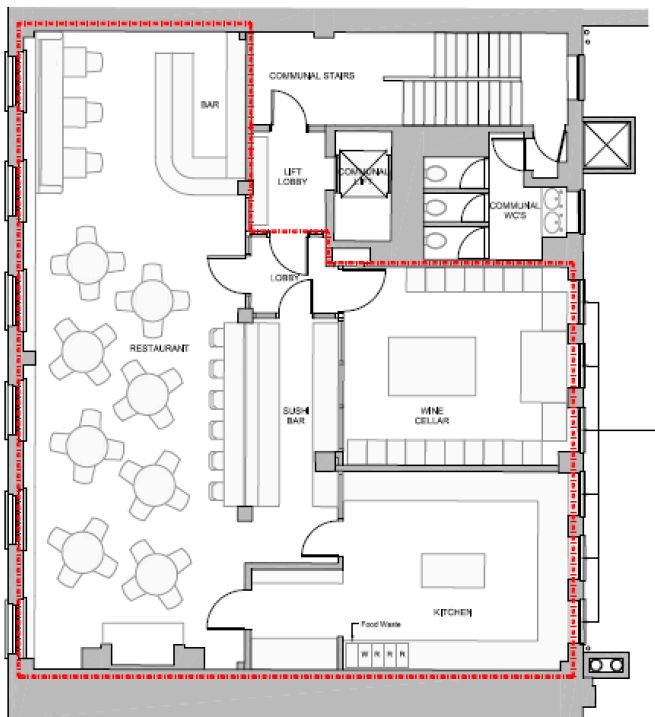
Ground Floor:



First Floor:



Second Floor:



**DRAFT DECISION LETTER**

**Address:** 25 - 26 Albemarle Street, London, W1S 4HX

**Proposal:** Variation of conditions 10, 25 and 27 of planning permission dated 04 September 2019 (RN: 19/05928/FULL) which itself varied condition 27 of planning permission dated 2 August 2018 (RN: 18/05198/FULL), for the: Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday, enable use of the rear first floor terrace until 10:00PM daily and update the Operational Management Plan accordingly.

**Reference:** 20/03100/FULL

**Plan Nos:** 20/03100/FULL - Acoustic Report 9006.RP02.AAR.2, Oswald's Private Members' Club - Operational Management Plan dated June 2020.

17/06539/FULL -, Servicing Management Plan dated July 2017, Operational Management Plan for Oswald's Private Members' Club, Operational Management Plan for Robin Birley's Private Members' Restaurant, Servicing Management Plan for Robin Birley's Private Members' Restaurant, Acoustic Report dated 24th July 2017, Additional Acoustic Information dated 25th September 2017, Drawings: 1522-P-20-3-0111 RevP3, 1522-P-20-3-0100 RevP3, 1522-P-22-3-0100 RevP1, 1522-P-21-3-0101 RevP4, 1522-P-27-3-0121 RevP4, 1522-P-21-3-0111 RevP4, 1522-P-20-3-0090 RevP6.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 07866040155

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

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

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AB)

- 4 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)

- 5 You must install the acoustic mitigation measures as detailed in the approved acoustic report at the same time as the plant is installed. These mitigation measures must thereafter be retained in place for as long as the plant is in operation.

**Reason:**

To safeguard the amenity of occupiers of adjoining premises by preventing noise and vibration nuisance as set out in STRA 16, STRA 17, ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R41BB)

- 6 You must not sell any take-away food on the premises, even as an ancillary part of the primary Class A3 or private members' club use.

**Reason:**

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 If you choose to implement the restaurant use at basement and ground floor levels you must not allow more than 120 customers into the property at any one time. (C05HA)

## Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 8 You must not play live or recorded music within the restaurant or private members' club premises that will be audible externally or in the adjacent properties.

## Reason:

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

- 9 The high level extract ducting shown on the approved drawings shall be fully installed before either the restaurant or private members' club use commences and thereafter maintained for as long as the use is in operation.

## 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)

- 10 You must not open the restaurant or private members' club use to customers, and you must not allow customers on the premises, outside the hours:

07.00 to 01.00 Monday to Saturday and Sundays before a Bank Holiday; and,  
12.00 to 23.00 on Sundays.

## Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 11 If you choose to implement the restaurant use hereby approved, the use must be operated in accordance with the submitted Servicing Management Plan dated July 2017.

## Reason:

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

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

## Reason:

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

- 13 If you choose to implement the restaurant use hereby approved, the use must be operated in accordance with the stipulations of the Operational Management Plan for Robin Birley's Private Members' Restaurant.

## Reason:

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

- 14 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1522-P-20-3-0090 Revision P6. You must clearly mark them and make them available at all times to everyone using the premises. (C14FB)

## 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)

- 15 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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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

## Reason:

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



- 17 Any external plant that is to be removed must be removed along with associated pipework and fixtures / fittings before the plant hereby permitted is installed.

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 Mayfair 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)

- 18 The rear extract duct and gas flues shall be clad in brick or slate slips to match the existing adjoining brickwork and roofslates, as appropriate. The brick/slate slips shall be installed at the same time as the flues / duct are installed and maintained in situ for as long as the plant remains in place.

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 Mayfair 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)

- 19 You must maintain the secure cycle storage for the restaurant / private members' club use in accordance with the details approved by the City Council as Local Planning Authority on the 7th March 2018 under reference 17/11408/ADFULL or in accordance with other measures as submitted to and approved by the City Council.

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)

- 20 You must install the canopy to the rear terrace and the screening of the gas fire flue on the first floor terrace in accordance with the details approved by the City Council as Local Planning Authority on the 7th March 2018 under reference 17/11408/ADFULL or in accordance with other measures as submitted to and approved by the City Council.

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 Mayfair 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)

- 21 The louvred roof plant enclosure shall be installed at the same time as the roof level plant is installed and maintained in situ for as long as the plant remains in place.

## 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 Mayfair 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)

- 22 The gas fire flue to the first floor terrace shall be screened, in accordance with the details approved pursuant to condition 20 of this planning permission. The screening shall be installed at the same time as the roof level plant is installed and maintained in situ for as long as the flue remains in place.

## 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 Mayfair 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)

- 23 If you choose to implement the private members' club use at basement, ground and first floor levels you must not allow more than 180 customers into the property at any one time.

## Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 24 If you choose to implement the private members' club hereby permitted the use must be operated in accordance with the submitted Servicing Management Plan for Oswald's Private Members' Club.

## Reason:

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

- 25 If you choose to implement the private members' club use hereby approved, the use must be operated in accordance with the stipulations of the Operational Management Plan; 'Oswald's Private Members' Club' dated June 2020.

## Reason:

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

- 26 Before you use the approved first floor terrace for sitting out or for any other purpose, you must install the 'acoustic trellis' and plant the hedge as shown on the approved drawings. The hedging and acoustic trellis must thereafter be maintained in situ to the height shown on the approved drawings in perpetuity.

Reason:

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

- 27 The terrace area hereby approved at rear first floor level can only be used between the hours of 10:00 and 22:00 (Monday to Sunday) and when the terrace is not in use the doors to the terrace must be closed. You cannot use the terrace area outside of these hours other than in the case of an emergency.

Reason:

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

- 28 Only 16 persons are allowed on the rear first floor terrace at any one time.

Reason:

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

**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 Conditions 3 and 4 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)

- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering) (I54AB)
- 4 For advice on how you can design for the inclusion of disabled people please see the guidance provided by the Equality and Human Rights Commission, the Centre for Accessible Environments and Habinteg. The Equality and Human Rights Commission has a range of publications to assist you ([www.equalityhumanrights.com](http://www.equalityhumanrights.com)). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide ([www.cae.org.uk](http://www.cae.org.uk)). If you are building new homes, you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk). It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.
- 5 Please email our Project Officer (Waste) at [wasteplanning@westminster.gov.uk](mailto:wasteplanning@westminster.gov.uk) for advice about your arrangements for storing and collecting waste.
- 6 You are advised that the described level and function of wine sampling / tasting at the property is considered to be ancillary to the proposed restaurant or private members' club functions, however, if this described operation were to fluxuate in the future to place greater emphasis on wine sampling / tasting then it may be considered that a change of use of the premises has occurred for which planning permission would be required. The City Council will take appropriate enforcement action to prevent any unauthorised change of use of the premises.
- 7 Under Part 3, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995, the relevant parts of the property can change between the A1, B1 and sui generis uses we have approved for 10 years without the need for further planning permission. However, the actual use 10 years after the date of the original planning permission (24.10.2017) will become the authorised use, so you will then need to apply for permission for any further change.

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

**DRAFT DECISION LETTER**

**Address:** 25 - 26 Albemarle Street, London, W1S 4HX

**Proposal:** Variation of Conditions 5 and 6 of planning permission dated 23 April 2020 (RN: 20/01875/FULL) for: Removal of Condition 4 of planning permission dated 16 July 2019 (RN: 19/03570) for dual / alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday and to update the Operational Management Plan accordingly.

**Reference:** 20/03101/FULL

**Plan Nos:** 20/03101/FULL - Acoustic Report 9006.RP02.AAR.2, Oswald's Private Members' Club - Operational Management Plan dated June 2020., ,

19/10081/FULL -, Acoustic Report 9006.RP01.PNA.1 Rev1, Drawings: 1522-P-20-3-0124 RevP3, 1522-P-21-3-0104 RevP3, 1522-P-21-3-0114 RevP4, 1522-P-27-3-0124 RevP4, 1522-P-22-2-3-0100 RevP1.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641  
07866040155

**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 sell any take-away food on the premises, even as an ancillary part of the private members' club use.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 3 You must not play live or recorded music within the private members' club that will be

audible externally or in the adjacent properties.

Reason:

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

- 4 You must install the high level extract duct at the property as approved on the 25th February 2020 (19/10081/FULL) before any primary cooking can take place in the second floor kitchen. Upon installation the duct must be retained as shown on this February 2020 consent.

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)

- 5 You must not open the private members' club to customers, and you must not allow customers on the premises, outside the hours:

07.00 to 01.00 Monday to Saturday and Sundays before a Bank Holiday; and,  
12.00 to 23.00 on Sundays.

Reason:

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

- 6 The extended private members club use must be operated in accordance with the Operational Management Plan; 'Oswald's Private Members' Club' dated June 2020.

Reason:

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

- 7 You must not allow more than 238 customers into the whole of the extended private members club at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 8 The glass in the second floor windows of the rear elevation must not be clear glass and these windows must be kept closed at all times. You must make the appropriate changes

to the rear second floor windows as shown on the approved drawings before you can occupy the second floor as the extended private members club and you must not change the glass without our permission.

Reason:

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

- 9 Before anyone moves into the second floor, you must provide the separate stores for waste and materials for recycling shown on drawing number 1522- P-20-3-0120 Rev P5. You must clearly mark them and make them available at all times to everyone using the premises;. (C14FB)

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)

### **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 Under Part 3, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995, the second floor of the property can change between the B1 and sui generis use we have approved for 10 years without the need for further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change.

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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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 15 December 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Regent's Park	
<b>Subject of Report</b>	<b>Flat 4, 12 Northwick Terrace, London, NW8 8JD</b>		
<b>Proposal</b>	Alterations to fenestration and installation of balustrade to form balcony on flat roof at rear of first floor flat roof.		
<b>Agent</b>	Mr Dan Hockey		
<b>On behalf of</b>	12 northwick terrace ltd		
<b>Registered Number</b>	20/05953/FULL	<b>Date amended/ completed</b>	30 September 2020
<b>Date Application Received</b>	23 September 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	St John's Wood		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY

Permission is sought for the formation of a roof terrace for Flat 4 on the top of part of the rear first floor level flat roof. Associated alterations are proposed to replace the existing rear windows with glazed doors. It is proposed to enclose the terrace with black metal balustrades.

Permission was previously refused on 20 September 2017 (RN: 17/06849/FULL) for the creation of two larger terraces on the rear first floor flat roofs outside Flats 3 and 4. The previous application was refused on design and amenity grounds (see Section 6.2). Permission was later granted by members on 31 July 2018 for the formation of a roof terrace for Flat 3 and associated works (RN:18/03181/FULL). This current application proposals the same works for the adjacent flat, Flat 4.

Objections have been received from neighbouring residents and the St John's Wood Society on a number of grounds however mainly on amenity grounds.

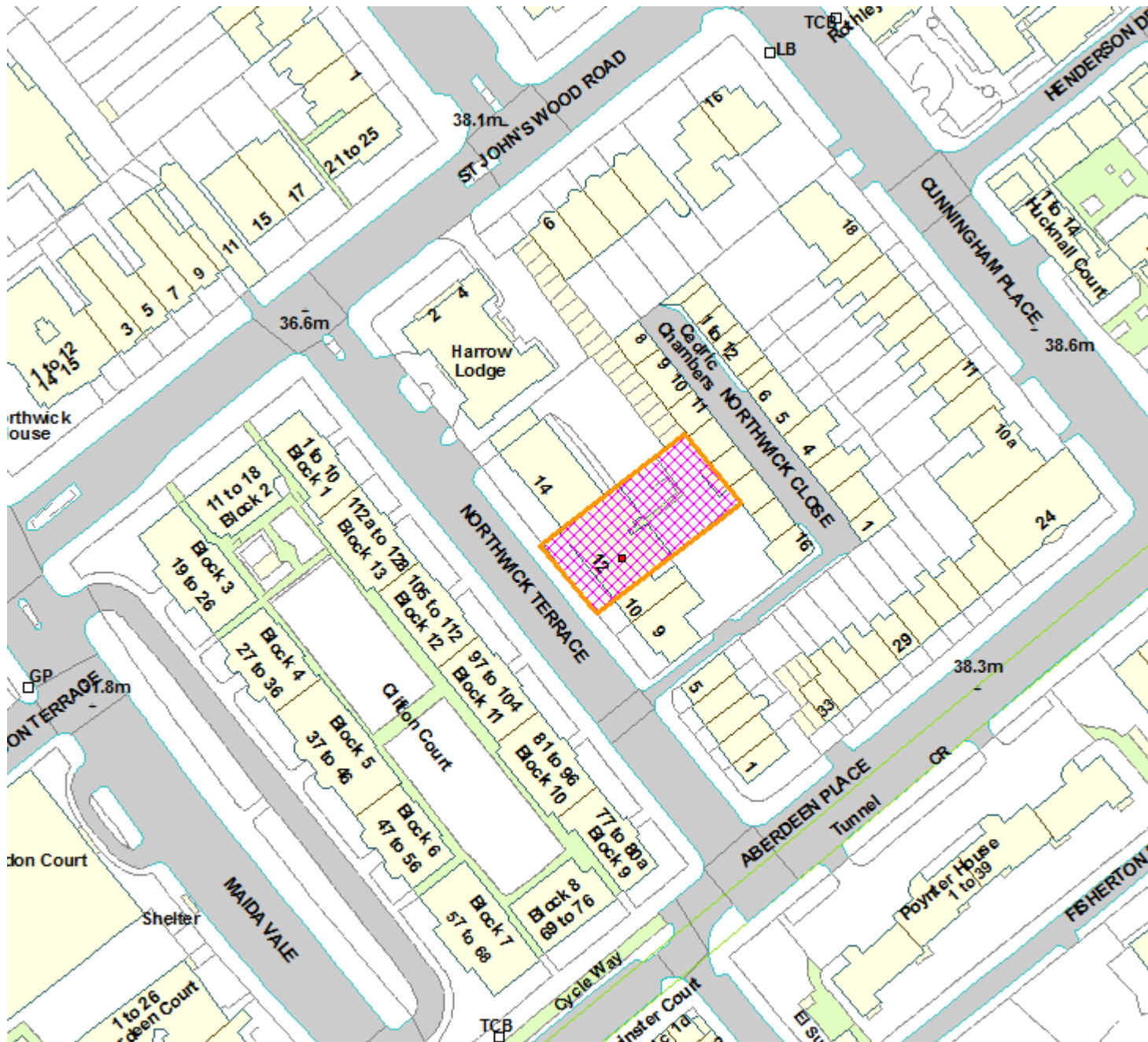
The key issues in this case are:

- The impact on the amenity of neighbouring residents, particularly in terms of overlooking and noise disturbance.
- The impact of the appearance of the building and character and appearance of the St. John's

Wood Conservation Area.

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



4. PHOTOGRAPHS



View looking to the rear elevation (location of proposed terrace)



View looking to the south of the site

## 5. CONSULTATIONS

### ST JOHN'S WOOD SOCIETY:

Note the objections raised by neighbours and request that the case officer makes a site visit to fully assess the impact the proposals will have on the amenity of the occupants of the other flats in the building.

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

No Consulted: 43; Total No. of replies: 13

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

#### Amenity:

- Loss of privacy to the gardens of the flats below and the bedroom window of adjacent flat
- Increase in noise disturbance
- Loss of light from furniture on the proposed terrace

#### Design:

- Out of character with the area

#### Other:

- Not consulted on the previous application for Flat 3 in 2018 (18/03181/FULL)
- Roof not structurally sound to support the proposal
- Require for any building materials such as for them to be non combustible
- Request for noise insulation to ensure no noise transferred through roof to flat below
- Increased stress to adjacent occupiers.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises a purpose built unlisted block of flats formed of ground and four upper stories, which is located in the St John's Wood Conservation Area. The application specifically relates to Flat 4, which is situated on the first floor of the building. The rear of Flat 4 looks out onto the flat roof of the ground floor flat below.

### 6.2 Recent Relevant History

#### 17/01875/FULL – Flats 3 & 4

Erection of two single storey rear extensions at first floor level to enlarge Flats 3 and 4 and formation of a roof terrace for Flat 4 adjacent to the south eastern side boundary.

Application Refused                      21 June 2017

The above application was refused on the following grounds:

1. Because of the detailed design, bulk and location the proposed extensions, including associated terrace to flat 4 would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the St John's Wood Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 5, DES 9, DES 1 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.
2. The proposed terrace, including the privacy screen along the boundary with 10 Northwick Terrace would make the people living Flats 1 and Flat 2 at 10 Northwick Terrace, feel too shut in. This is because of its bulk and height and how close it is to windows in those properties. This would not meet S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007.
3. The proposed roof terrace would lead to an unacceptable loss of privacy for the occupier of Flat 2, 12 Northwick Terrace, due to overlooking from the terrace into their garden. This would not meet S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

17/06849/FULL – 12 Northwick Terrace

Alterations to fenestration at rear first floor level and installation of balustrades to form roof terraces on rear first floor flat roofs for Flats 3 and 4.

Application Refused                      20 September 2017

The above application was refused on the following grounds:

1. Because of their large scale, the erection of a large amount of balustrading the proposed terraces to flats 3 and 4 would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the St John's Wood Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5, DES 9 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.
2. The proposed roof terraces would lead to an unacceptable loss of privacy for the occupiers of Flat 1 and Flat 2, 12 Northwick Terrace due to overlooking from the terraces into their gardens. This would not meet S29 of Westminster's City Plan (November 2016)

18/03181/FULL – Flat 3, 12 Northwick Terrace

Alterations to fenestration at rear first floor level and installation of balustrade to form roof terrace on rear of first floor flat roof.

Application Permitted at planning committee on 31 July 2018

**7. THE PROPOSAL**

The application seeks permission for the formation of a terrace on part of the first floor flat roof over the existing extension to the ground floor flat below. The proposed terrace would be 1.2m deep and 7.4m wide. The proposed terrace would be enclosed by a metal balustrade and access to the terrace would be created by replacing two windows with glazed doors. The current application is proposing the same works that have been granted for Flat 3.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The proposed development would provide the application site, Flat 4, with external amenity space. This accords with Policy S29 of the City Plan, which encourages residential development to provide well-designed, high quality living environments, both internally and externally.

### 8.2 Townscape and Design

#### Introductory Text

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant listed building consent for any works the local planning authority or 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 66 of the same Act requires 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 requires 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.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy DES 9 (F) in the UDP requires that where development will have a visibly adverse effect upon a conservation area’s recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting.

Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as



relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

Alterations and extensions to buildings are permissible under UDP policy DES 5 where they do not visually dominate the existing building and its surroundings where their design and scale is in keeping with the host building and where the materials proposed are in keeping with the host building.

The host building has been consciously designed as a block of flats, with the flats regularly arranged on each floor either side of a central stair core which is clearly articulated on the rear elevation. The building was originally designed with a sheer rear elevation; however the existing ground floor extensions have already eroded this original design intention.

The size of the proposed roof terrace has been significantly reduced so that it would project only 1.2m from the rear elevation. At this limited depth it would only project marginally beyond the projecting central bay containing the stair core and would be set back significantly behind the rear building line of the neighbouring residential block at No.14 Northwick Terrace. Given the significant degree to which the proposed terrace would be set back from the roof edge of the ground floor extension above which it would be located, it is not considered that it would visually dominate the existing building. Rather, the proposed terrace would be a discreet visual addition that would not be visible in public views is the St. John's Wood Conservation Area and would not be harmful in the limited number of private views from neighbouring properties in Northwick Terrace and Northwick Close. It is not considered that it would unbalance the arrangement of the rear elevation of the building to such a degree that permission could reasonably be withheld on that ground and therefore the objection raised on this design ground is not supported.

The use of black metal railings to enclose the terrace is considered to be appropriate and would be consistent with the balustrades found to the terraces on neighbouring blocks, such as at No. 14 Northwick Terrace.

Regarding the new doors, whilst the detailed design of the fenestration departs from the existing regular rhythm of the fenestration on the upper levels, given the width of the original window openings has been retained, and the design of the doors is reflective of those found elsewhere on the building, it is not considered that the fenestration alterations would harm the appearance of the building and the character and appearance of the St John's Wood Conservation Area.

As such, the proposal is considered acceptable, mindful of policies DES 1, DES 5 and DES 9 in the UDP and policies S25 and S28 in the City Plan and therefore a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **8.3 Residential Amenity**

The City Council seeks to protect residential amenity when assessing development proposals and in this regard Policy ENV13 in the UDP and Policy S29 in the City Plan

are relevant. Policy ENV13(E) specifically states that the City Council will normally resist proposals which result in loss of natural light, whilst Policy ENV13(F) states that developments should not result in a significant increase in the sense of enclosure, overlooking or overshadowing.

It is noted that previous applications have been refused for terraces in the proposed location. Application referenced 17/06849/FULL proposed a larger terrace on the flat roof compared to the current proposal and the proposal under application referenced 17/01875/FULL was a different shape, larger and closer to the neighbouring property at No 10 Northwick Close.

The current application proposes a single roof terrace above the southern ground floor rear extension with an area of approximately 10m<sup>2</sup>, which would be set back approximately 2.6m from the edge of the roof. The set back from the edge of the roof would prevent significant overlooking to the gardens of the ground floor flats in No.12 Northwick Terrace (Flats 1 and 2). A condition is recommended to prevent the use of the remaining roof area, outside of the area to be enclosed by railings, as a terrace or for sitting out on.

The proposed terrace would be approximately 18m away from the rear elevation of the properties in Northwick Close. At this distance, and given the small size of the terrace, it is not considered to give rise to a significant increase in overlooking to these neighbouring properties. Furthermore, during summer months when the terrace is most likely to be in regular use, the views towards Northwick Close are partially screened by tree canopies.

The location of the proposed terrace will allow some views into rear and side facing windows in the adjacent property at 10 Northwick Terrace, namely a kitchen and bedrooms. In order to ensure that this overlooking is mitigated, the application has been amended so that the terrace is set back from the roof edge adjacent to this property and for the installation of a privacy screen. Subject to a condition to ensure that the screen is installed and given the narrow nature of the terrace, it is not considered that it will have a significant impact on these adjacent occupiers.

The dropping of sill levels of the existing windows to form full height doors would not materially increase overlooking from within the application flat towards neighbouring properties.

Given the proposed terrace would be enclosed by open railings located a significant distance from neighbouring windows, it would have no adverse impact in terms of loss of light or increased sense of enclosure.

Concerns have been raised on grounds of noise disturbance as a result of the use of the proposed terrace. There are other examples of terraces including immediately adjacent at No.10, and as approved on the other side of the stair core. Given this, and as the terrace would be of a sufficiently limited size so as to prevent its use by larger groups of people, it is not considered that it would give rise to such significant noise disturbance so as to reasonably warrant withholding permission. It would be more likely that issues from noise would be from the considerably larger gardens located below this terrace.

Additionally, it is noted that the scheme refused in September 2017 for two larger terraces to the rear of the building was not refused on noise disturbance grounds.

While the objections from the adjacent residents are understood, for the reasons set out in this section and subject to the recommended condition, and given the benefits of providing private outdoor amenity space for the flat, it is not considered that the objections raised on amenity grounds can be supported and the proposed terrace would accord with Policies ENV6 and ENV13 in the UDP and S29 and S32 in the 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**

No change is proposed to the access of the flat.

#### **8.7 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. The Examination in Public took place between 28 September and 2 October and 12 October and 16 October. Having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract very limited weight at this present time prior to the publication of the Inspector's report.

#### **8.8 London Plan**

This application raises no strategic issues.

#### **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

#### **8.10 Planning Obligations**

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

#### **8.11 Environmental Impact Assessment**

The proposed development is of insufficient scale to require the provision of an

Environmental Impact Assessment.

### 8.12 Other Issues

Objections have been received on the grounds that neighbour consultation letters were not received for the previous application at Flat 3 (RN: 18/03181/FULL) our records show that 42 neighbour letters were sent out to the nearby residents and furthermore a site and press notice were carried out therefore it is considered that a statutory level of consultation was carried out for the application and therefore the comments cannot be supported in this instance.

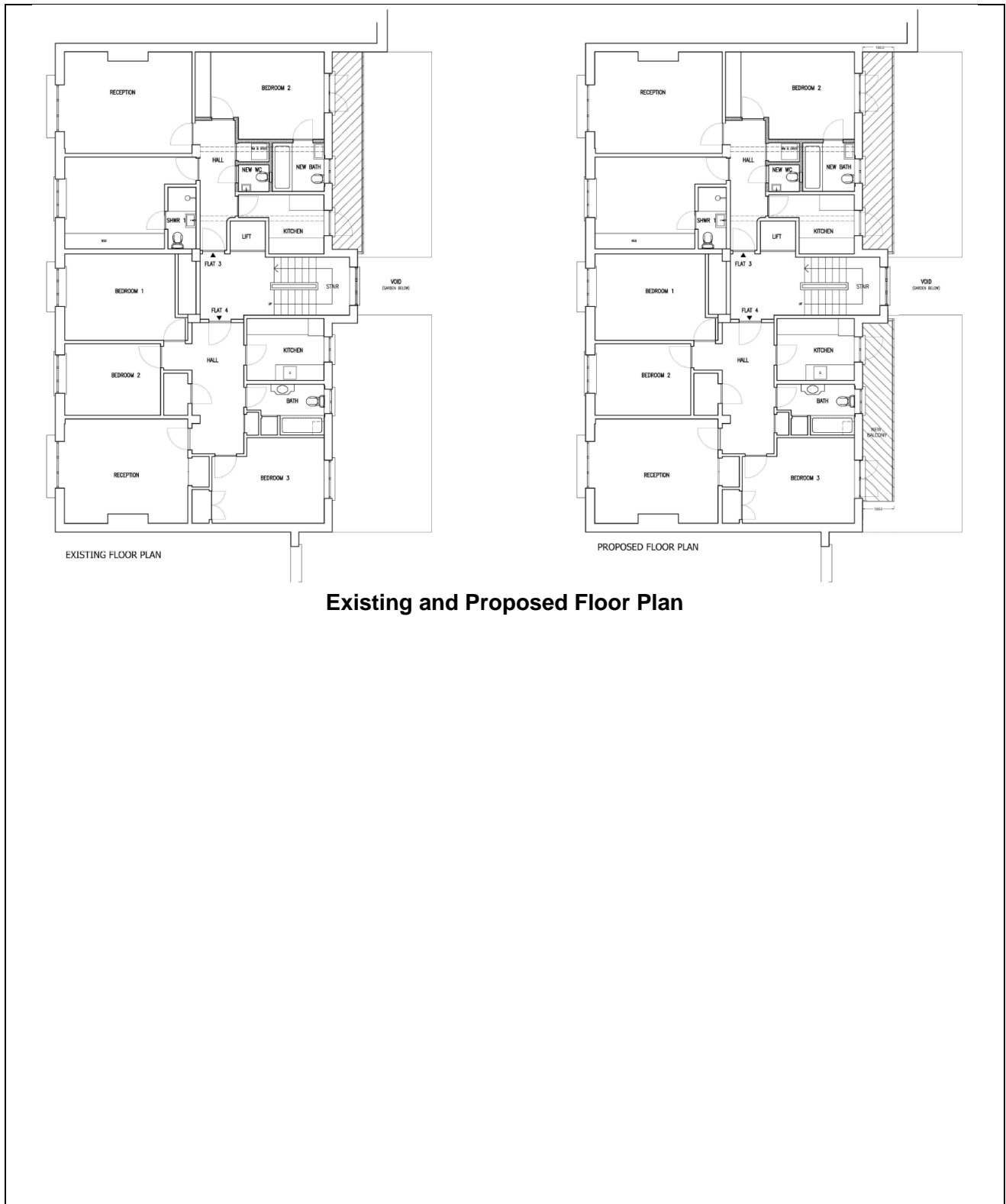
Objectors have also queried the structural stability and sound proofing to ensure the roof is able to support the terrace and noise is not transmitted through the flat roof. Concerns in relation to the structural integrity of the roof are not material planning matters and are dealt with through building regulations. In relation to noise transfer between the terrace and occupiers below, it is assumed that this is solely in relation to the sound of feet, given that noise from occupiers would be no different to sounds from other terraces or open windows in the vicinity. In relation to noise through the structure such as from people walking across the terrace, it is not considered that this would be so substantial as to warrant a condition, given the size of the terrace.

Neighbours have raised objections in terms of the proposed terrace will result in increased stress whilst this is regrettable it is not a ground for which permission could be withheld.

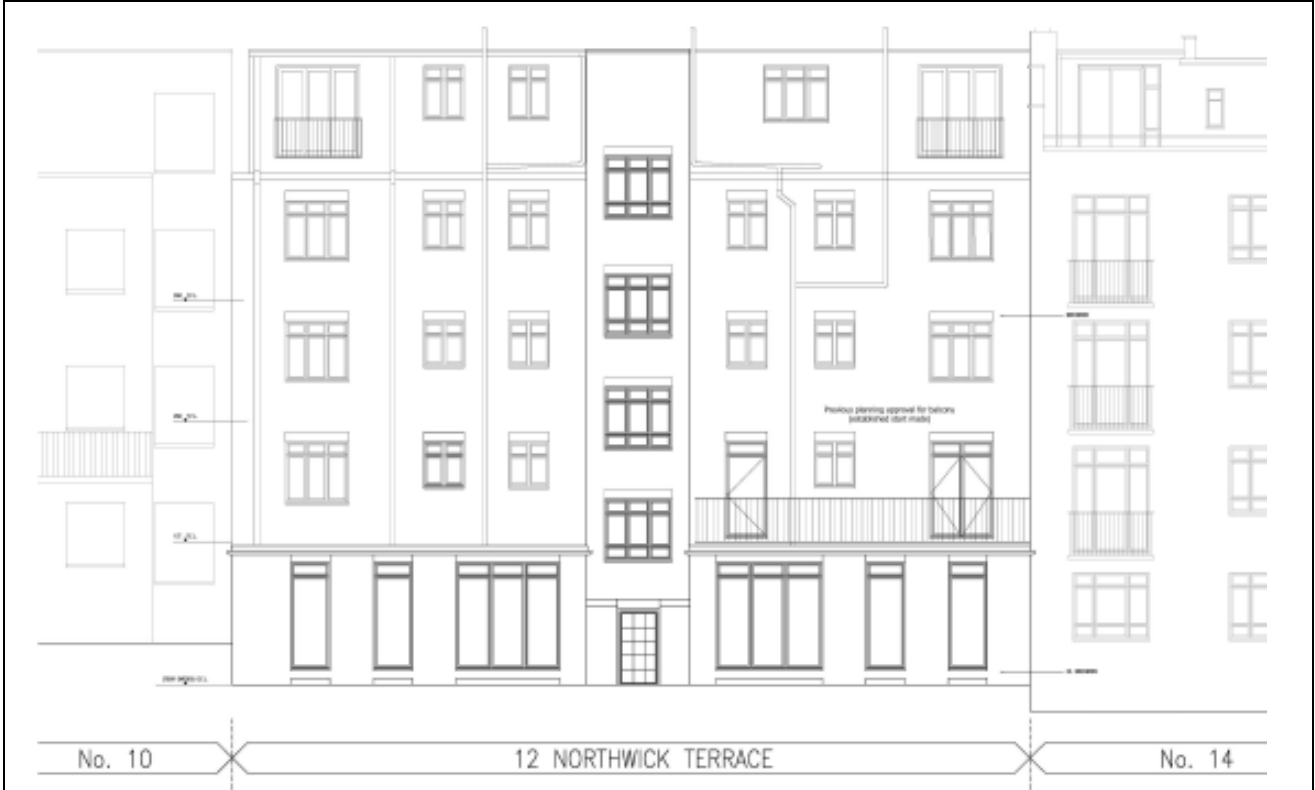
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

9. KEY DRAWINGS



Existing and Proposed Floor Plan



**Existing Rear Elevation**



**Proposed Rear Elevation**

**DRAFT DECISION LETTER**

**Address:** Flat 4 , 12 Northwick Terrace, London, NW8 8JD

**Proposal:** Alterations to fenestration and installation of balustrade to form balcony on flat roof at rear of first floor flat roof.

**Plan Nos:** Site Location Plan, 302-01 RN, 302-02 R2, 302-03, 302-05 and Design and Access Statement.

**Case Officer:** Frederica Cooney

**Direct Tel. No.** 07866037206

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

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

Reason:

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

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

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

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

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

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

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

Reason:

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

- 4 You must not use the roof of the ground floor extension for sitting out or for any other purpose, except for the area hatched and annotated 'New Balcony' on drawing 302-01 R2. You can however use the roof to escape in an emergency. (C21BA)

Reason:

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

- 5 Prior to the use of the terrace, the hit and miss trellis shown on drawing 302-02 R2 must be installed. The trellis shall thereafter be retained and maintained in this position.

Reason:

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

#### **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)

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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> 15 December 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>7 Needham Road, London, W11 2RP</b>		
<b>Proposal</b>	Amalgamation of two maisonettes to create a single dwelling house [Class C3], excavation beneath the footprint of the existing building and excavation of part of rear garden at lower ground floor level. Demolition of the existing extension to the rear and construction of a new lower ground and ground floor rear extension. Repair work to the facade, alteration to street frontage in line with the street and landscaping to the rear garden. Installation of acoustically attenuated condenser to the rear garden. Internal alterations.		
<b>Agent</b>	Miss Alexandra Ewan		
<b>On behalf of</b>	Ms Amie McDonald		
<b>Registered Number</b>	20/03623/FULL & 20/03624/LBC	<b>Date amended/ completed</b>	11 June 2020
<b>Date Application Received</b>	11 June 2020		
<b>Historic Building Grade</b>	II		
<b>Conservation Area</b>	Westbourne		

## 1. RECOMMENDATION

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

## 2. SUMMARY

The application site relates to a semi-detached house located on the west side of Needham Road. The building is located within the Westbourne Conservation Area and is Grade II listed.

Planning permission is sought for the excavation beneath the footprint of the existing building and excavation of part of rear garden at lower ground floor level, construction of a new lower ground and ground floor rear extension, installation of a condenser unit to the rear garden and façade repair works. Additionally, significant internal alterations/ renovations of the property are proposed throughout. The works are in association with the amalgamation of two maisonettes to create a single dwelling house [Class C3]. There have been revisions to the scheme in terms of the extent of

garden excavation (as a direct result of additional tree investigations) and listed building/ internal amendments.

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

The case officers conducted a virtual site visit with the agent and were 'walked through' the building and outside. It has not been possible to visit neighbouring properties/objectors during the COVID-19 pandemic however given the information to hand to the officers, photographs submitted with the application and for a previous scheme, officers are satisfied that a suitable assessment of the proposals can be made.

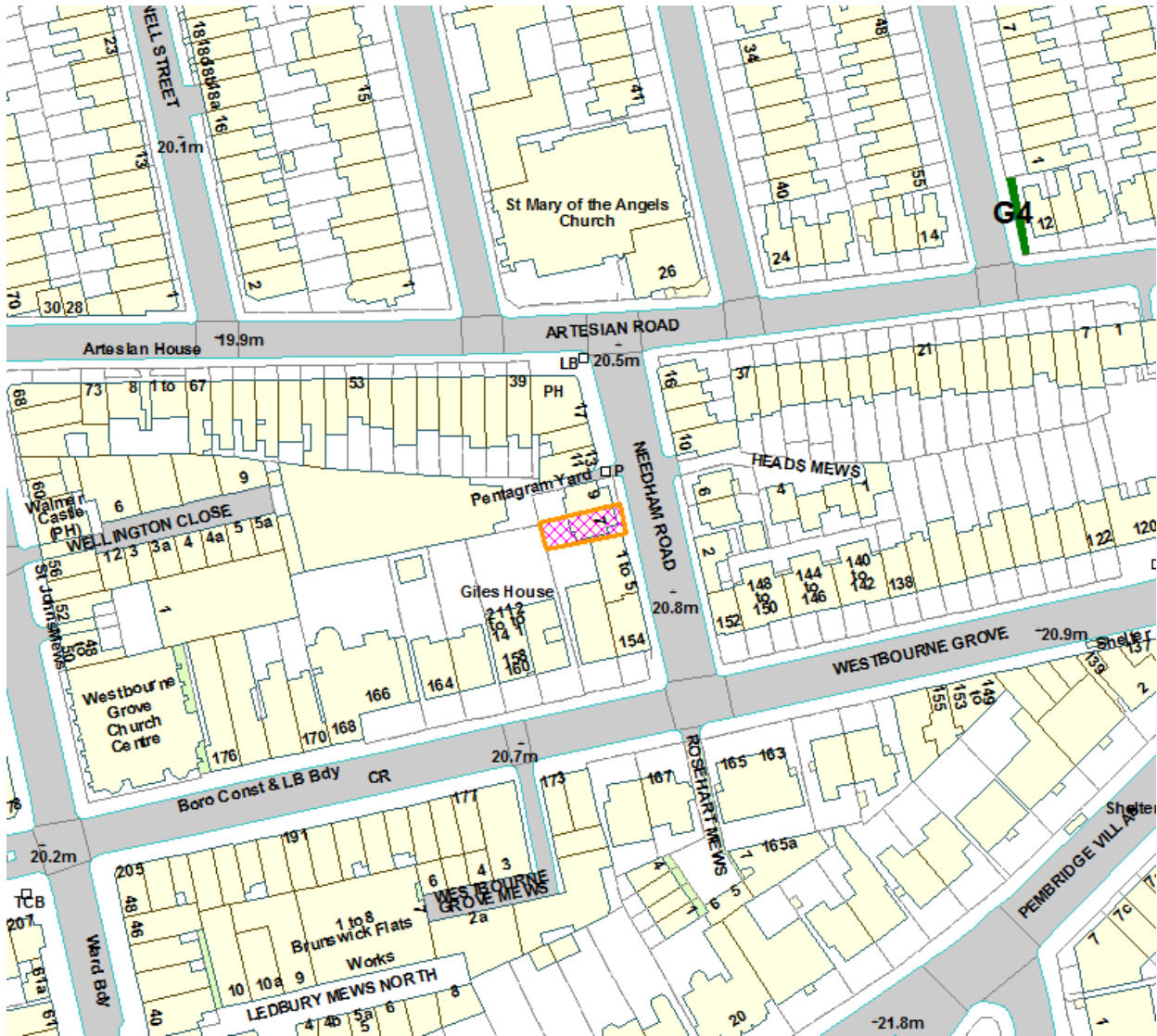
The key issues in this case are:

- \* The impact of the proposal on the character and appearance of the listed building and the St John's Wood Conservation Area;
- \* The impact of the proposal on the amenity of neighbouring residents;
- \* The impact of the basement and garden excavation upon trees in the application site and the neighbouring property.

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 and conservation, basement, amenity and trees 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.

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### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS

Front and Rear (ground floor and upper levels) Photographs of the site.



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## 5. CONSULTATIONS

### FIRST ROUND OF CONSULTATION:

#### WARD COUNCILLORS FOR BAYSWATER

Any response to be reported verbally.

#### HISTORIC ENGLAND:

Authorisation to determine the application received.

#### NOTTING HILL EAST NEIGHBOURHOOD FORUM

- Supports the reinstatement and restoration of damaged elements on listed buildings and use of high quality materials
- Require research into the front railings being continuous, as original would appear to be two-bayed
- Support fan-lit bronze rear conservatory if detailed correctly
- Object to loss of rear garden space unless a square of garden remains, extension should be reduced accordingly
- Support additional planting and recommend soft planting in keeping with SuDs objectives
- Object to lowering of gardens which remove planted materials and underpinning of garden walls
- Support energy efficiency such as solar panels where detailed correctly
- Air conditioning seem inappropriate in amenity, conservation and climate change terms

#### BUILDING CONTROL

No objection to method of excavation.

#### WASTE PROJECT OFFICER

Objection on lack of waste storage details.

#### HIGHWAYS PLANNING MANAGER:

No objections.

#### ENVIRONMENTAL SCIENCES:

No objection subject to conditions

#### ARBORICULTURAL OFFICER:

Objection to excavation proposed and the impact upon the trees within the neighbouring property.

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

No. Consulted: 52

Total No. of replies: 18 on behalf of 14 properties

No. of objections: 14

No. in support: 0

14 letters of objections received on some or all of the following grounds:

Design/ Listed Building:

- Size and scale of development harmful to this listed building
- Works are in a conservation area and not sympathetic to this
- Double basement unacceptable
- Lack of consistency regarding assessment of listed building applications by the City Council.

Amenity:

- Noise from plant
- That the acoustic report submitted with the application was carried out during COVID-19 'lockdown'.
- No assessment of impact to lower ground floor window of basement flat of 9 Needham Road
- Any increase in height of boundary wall could result in sense of enclosure
- Flat roof above lower ground floor extension could be used to sit out on and result in loss of privacy
- Planters to roof of lower ground floor extension could result in overshadowing to neighbouring garden

Land use:

- The proposals should not be considered under policy S14 because the proposals result in a super-size property, and that the proposals result in the loss of a dwelling.

Tress:

- Impact on trees unacceptable
- Loss of trees unacceptable
- Loss of trees a concern given impact to groundwater problems

Other:

- Objections to the basement excavation
- Objections to basement construction risks
- Concerns regarding structural stability from both basement and other elements of the scheme
- Concerns regarding impact of basement excavation on water table
- Noise, vibration and disruption during course of works, especially now that most people work from home as a result of COVID-19.
- Length of time to carry out such a development
- Harm to neighbouring business in terms of noise
- Impact upon traffic and highway safety as a result of construction works

PRESS ADVERTISEMENT / SITE NOTICE:

Yes



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## SECOND ROUND OF CONSULTATION:

### NOTTING HILL EAST NEIGHBOURHOOD FORUM

Comments from first response in June still remain.

### ARBORICULTURAL SECTION

Objection to excavation proposed and the impact upon the trees within the neighbouring property.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 8

Total No. of replies: 2

No. of objections: 2

Two objections received (from adjacent neighbours). One of the objections generally reiterates the same concerns as originally submitted. The other objections raises the following objections/concerns:

- Impact on listed building and historic fabric;
- The benefits of the scheme as put forward by the applicant recently in terms of 'deterioration' and 'increase in value of properties' should be disregarded by the local planning authority
- Is the application accompanied by sufficient technical information to make a decision on the construction impacts
- Implications on the amenity of the window at lower ground floor of 9 Needham Road
- That the acoustic report submitted with the application was carried out during COVID-19 'lockdown'
- That the application site should be considered in the priority root zone for the tree in the neighbouring property and therefore no excavation/ garden works allowed.

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site relates to a semi-detached house located on the west side of Needham Road. The building is located within the Westbourne Conservation Area and is Grade II listed. No.7 and 9 Needham Road are grade II listed (on 1<sup>st</sup> December 1987) as a pair of 1850's buildings on the west side of the road near the entrance to the former Wellington Mews. The building has been subject to change in the past and the lower ground floor is separated from the upper floor, as a separate dwelling with no internal access.

### **6.2 Recent Relevant History**

20/02125/FULL & 20/02126/LBC

An earlier application for similar proposals was withdrawn in May 2020 as a result of

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officers concerns notably to the listed building.

06/03295/FULL & 06/03296/LBC

Replacement of existing ground floor rear extension and external staircase with new ground floor rear extension and external staircase and associated internal alterations.  
Approved June 2006

## **7. THE PROPOSAL**

The proposals include the excavation of a basement beneath the footprint of the existing building and excavation of part of rear garden at lower ground floor level to the southern side (this element of the scheme has been amended during the course of the application).

The boundary wall to No.9 Needham Road is to be rebuilt and extended upwards by 0.25m and the boundary wall to 1-5 Needham Road and 156 Westbourne Grove is to be rebuilt as existing.

The existing rear extension at ground floor level, approved as a result of the 2006 permission is to be removed and a new extension at lower ground and ground floor levels, on the boundary with No. 9 Needham Street is to be constructed. The extension at lower ground floor measures 3.8m in width, 3.2m in depth (from the main rear elevation) and 3m in height and the extension at ground floor measures 3.8m in width, 2m in depth and 3m in height (to the pitch). The lower ground floor has a traditional brick built appearance whereas the ground floor extension is a glass 'garden room' with an ornate, curved roof.

Repair works to the facade, along with alterations to the street frontage are also proposed and comprise new front lightwell railings. An air-conditioning unit is proposed to the rear garden and is to be sited in an enclosure, incorporated within the landscaping plan. Significant internal alterations are proposed also.

All the proposed works are in association with linking of the lower ground floor flat with the dwelling above to create a single dwelling house.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The existing building is currently arranged as a flat at lower ground floor level and a house at upper levels. The works would allow for the amalgamation of these units into a single family dwelling house. This represents a net loss of one residential unit.

Objection has been received on the grounds that the proposals result in the loss of a unit, creating a super-size dwelling, not really aiming at the family market, and that the proposals are a) unacceptable and b) should not be considered acceptable against Policy S14 of the City Plan.

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City Plan policy S14 states that proposals that would result in a reduction in the number of residential units or residential floorspace will not be acceptable. However, it caveats that the loss of residential units may be acceptable where a converted house is being returned to a family sized dwelling.

The City Council has evidence which suggests the property was originally a single family dwelling house and was converted into two self-contained maisonettes circa 1987. The proposal is therefore considered to be acceptable in land use terms and the objections cannot in this instance be sustained.

## **8.2 Townscape and Design**

The key legislative requirements in respect to designated heritage assets are as follows: Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant listed building consent for any works the local planning authority or 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 66 of the same Act requires 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 requires 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.”*

Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

### Application Site

As noted above, No.7 and 11 Needham Road are grade II listed (on 1<sup>st</sup> December 1987) as a pair of 1850's buildings on the west side of the road near the entrance to the former Wellington Mews. The building has been subject to change in the past and the lower ground floor (LGF) is separated from the upper floor with no internal access. The building has been extended at the rear LGF and ground and subject to modern fenestration changes, also previously altered boundary railings. Internally, there are little features of interest in the LGF and the floor structure is modern comprising of a reinforced concrete slab. There is evidence of an internal staircase but what survives is heavily altered and truncated compromising any contribution to the significance of the building.

At ground and upper floor levels there are surviving modest architectural features of interest, but later partitions have been added to the staircase to create storage areas. There is a steep timber staircase that pre-dates the listing into the converted loft space. The application proposal has evolved through negotiations at pre-application stage, an earlier withdrawn scheme and during this current application.

### Proposals

The proposal seeks the excavation underneath the building and proposed new LGF extension to create a new basement floor. The LGF extension is proposed to be replaced by a new brick extension with a modest increase and replacement of an existing ground floor conservatory with new bronzed frame conservatory. Several comments have been received from neighbouring residents objecting to the originally submitted proposal on design and heritage grounds, concerning the proposed basement, loss of historic fabric and impact on the integrity of the building. Some of these concerns have been addressed following revisions to the proposals such as the scale and rear fenestrations of the LGF, retention of the chimney-breast at LGF, removal of inappropriate pocket doors and bronzed -glazed partitions.

### Assessment

The interior at LGF has very little contribution to the significance of the building and this is further compromised by a modern floor slab. However, the chimney breasts survive and would be retained, also the historic plan form and subservient floor to ceiling height would be reinstated. The physical connection of the LGF and upper floors is a positive benefit to the significance of the building. Whilst the new basement would add a new internal floor, there are no external manifestations. The traditional hierarchy, existing floor to ceilings heights of the building are largely retained including the subservient LGF. The basement is accessed via a modest staircase underneath the new LGF staircase and a transition is clearly perceived from the original parts of the building to the new discrete and subterranean extension with no adverse impact on the external appearance or architectural setting of the grade II listed building.

With regards to the upper floors a new service riser is proposed in the communal hallway, the historic floor plan and architectural features in the front and rear rooms are retained in the principal floors of the building that contribute most to the significance of the building. New partitions are proposed at the second floor to create en-suite bathrooms and are designed as pod's to maintain the integrity of the these modest rooms at this secondary floor. The removal of partitions and storage cupboards to the staircase reveal and improve the appearance of the staircase which is a fundamental and significant historic feature of the building. The new partitions at third floor and installation of a conservation rooflight are not contentious.

The height and fenestration of the LFG extension has been revised during the course of this application to overcome design concerns and impact on the neighbouring tree. The proportions of the rearward facing windows are smaller and respect the traditional hierarchy. However, the lintel requires redesign and a condition is suggested.

The proposed metal 'bronzed' framed conservatory would replace an existing aluminium metal framed conservatory of a similar small scale. The bronzed frame differs from the salient timber framed window material, but the darker metal finish and simple design

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would improve the existing external appearance of the building and maintain a subservient relationship that accords with council policy.

The rear garden levels, adjacent with the neighbour at No. 9 are maintained and given the location and small scale of the air condenser unit, within an enclosure, this element of the proposal would not have a detrimental impact on the special architectural or historic interest of this grade II listed building nor the character and appearance of the Westbourne Conservation Area.

The replacement of the front lightwell railings to match no.7 is welcome and a significant benefit to the special architectural and historic interest of this grade II listed building and paired listing but also an improvement to the character and appearance if the Westbourne Conservation Area. The installation of a new timber side entrance door is not contentious, and the repair and refurbishment of the front and rear facades are welcome.

#### Conclusion

Overall, the proposals are considered acceptable in design and conservation terms. The recommendation is considered in line with relevant policies and guidance, and with the statutory duties set out in s. 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and officers do not consider that harm is caused to the significance of the listed building or the Westbourne Conservation Area, mindful of the considerations of section 16 of the National Planning Policy Framework

### **8.3 Residential Amenity**

Policy S29 of the City Plan relates to health, safety and wellbeing, stating that the Council will resist proposals that would result in an unacceptable material loss of amenity. Policy ENV13 of the UDP relates to protecting amenities, daylight and sunlight, and environmental quality. Policy ENV 13 (D) states that the City Council will resist proposals which result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. Policy ENV 13 (E) goes on to state that developments should not result in a significant increase in sense of enclosure, overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use. Policy ENV 6 seeks to protect noise sensitive properties from noise disturbance.

Objections have been received to the proposals on the ground of noise from the air-conditioning unit in the garden (to be discussed in part 8.8. of this report), that no assessment has been given to the one rear elevation window of the lower ground floor flat of 9 Needham Road, sense of enclosure from the replacement wall, overlooking from the roof of the lower ground floor extension and overshadowing from the proposed planters on the roof of the lower ground floor extension.

The existing garden wall on the boundary with No. 9 Needham Road is to be demolished and rebuilt with a very minor increase of 0.25m. This is not considered to result in sense of enclosure to those occupiers in the flat at lower ground floor level or the dwelling at upper levels of 9 Needham Road. The rebuilding of the boundary wall on the opposite side is to remain the same height as existing. The extension at lower ground is slightly

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deeper than existing but will be contained wholly behind the newly built garden wall. The ground floor extension is comparable in depth and height on the boundary as the existing. As the extensions are largely contained behind the boundary wall with No. 9 Needham Road, and the ground floor is similar in depth to the existing, coupled with the glazed roof, the extensions are not considered to give result in any significant sense of enclosure or loss of daylight/ sunlight to this property. The neighbouring property to the south, 1-5 Needham Road is a gallery and therefore it is not considered that the proposals would result in any harm to this property.

A comment has been raised that no assessment by the applicant has been given to the impact of the development on the one rear facing window serving the lower ground floor flat. Given the proposed wall alterations and that the extensions are proposed behind the wall. it was not considered necessary for the applicant to provide a daylight/ sunlight assessment.

As noted above, the lower ground floor element of the extension is contained wholly within the existing garden area and behind the newly rebuilt garden wall, and given the internal useable space of the extension at ground floor level is sited behind the boundary wall, no overlooking can occur to the neighbour at No. 9 from inside. A flat roof is proposed above the lower ground floor extension. This is annotated by the applicant as having planters proposed on the floor plan, yet this is not shown on the elevation drawing. This has attracted objection from the neighbour on the grounds that access from the ground floor garden room could be had and this could be used as a terrace. Officers consider that this would be unacceptable in amenity terms and result in harmful overlooking to the garden, and although it is not the intention of the applicant to use this space, a condition prohibiting its use as a terrace is proposed.

None of the other works proposed raise any amenity concerns, unless otherwise addressed later within the report.

The proposals are therefore considered to be acceptable in amenity terms and comply with City Council policies.

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

The proposed amalgamation of two residential units into one dwelling house is acceptable and raises no highways concerns.

The changes to the front boundary wall raise no highways concerns.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The existing properties do not have level access and are accessed from a staircase at street level up and down to the front door. The access does not alter within this proposal.

## 8.7 Other UDP/Westminster Policy Considerations

### Basement Excavation

Many objections have been received to the proposed basement excavation on the grounds of construction, structural stability, impact on water table, noise and disruption and implications to highways network from construction vehicles.

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 Officers who advise that the structural methodology proposed is appropriate for the ground conditions found on this site.

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.

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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*

The City Council's arboricultural officer, who has had been liaising with the applicant and their appointed arboricultural officer and who has been negotiating on the scheme, resulting in revisions to the garden depths, has no objection to the basement subject to tree protection conditions.

*Part B. 3*

The submitted proposed drawings indicate an air-conditioning unit to the rear garden and plant internally within the basement. This has been assessed by Environmental Health Officers and no objection has been raised subject to conditions. Furthermore, the rooms within the basement are for a utility room, play room and a gym and although not served by any natural light, raise no objection from Environmental Health officers. Therefore, this is considered acceptable.

*Part B. 4 & 7*

There are no external manifestations of the basement. The site does not lie within a flooding hotspot. A water permeable hardstanding surface will be provided within the garden to provide drainage.

*Part B. 5 & 6*

The proposal to excavate the basement are considered acceptable and will not negatively impact on the listed building, its hierarchy within or the Westbourne conservation area (see also Section 8.2 of this report).

*Part C. 1 & 2*

As the proposal to excavate a basement are beneath the existing dwellinghouse, parts 1 & 2 of the basement policy do not apply.

*Part C. 3*

The proposed basement is single storey, below the existing lower ground floor and for



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the reasons assessed in part 8.2 of this report, is not considered to affect the Grade II listed building in terms of its hierarchy or fabric. The proposal 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.

**Noise from the Airconditioning Unit:**

Objections have been received to the potential noise implications of an air-conditioning unit in the rear garden. The City Council's Environmental Health officer has assessed the acoustic report submitted with the application, and subject to conditions, has no objections to the proposals. The unit is considered to comply with ENV7 of the UDP and S32 of the City Plan.

**Trees:**

The proposals will be within the Root Protection Area (RPA) of the mature London plane (T4) which sits in the neighbouring property of 9 Needham Road. Within this neighbouring property is also a smaller Japanese maple close to the boundary (T3). Objections to the proposals have been made from the neighbour on the grounds of the impact to their trees, via their own independent arboriculturalist. Substantial site investigation work has been undertaken during the course of the application and with significant input from the City Council's arboricultural officer, in the form of trial trenches by the garden boundary wall of No.9 and at the edge of excavations required for the rear extension and the proposed lowering of a section of the rear garden. The site investigations have informed changes to the originally submitted scheme which was problematic to the London plane tree (T4) and the smaller off-site Japanese maple (T3), that is also within the rear garden of No.9.

The 1<sup>st</sup> site investigation (Contractor's Report dated 06/08/2020) revealed several large diameter roots that are almost certainly from the London plane tree growing under the footings of the boundary wall of No. 9 and into the rear garden of No. 7. It also revealed a large wall buttress which appears to have prevented root growth under the wall where closer to the building (close to the retaining wall).

The 2<sup>nd</sup> site investigation (Arboricultural Supervision Report dated 04/09/2020) followed the edge of the proposed (updated) works within the rear garden of No. 7, and revealed many small roots (below 25mm in diameter) which are from shrubs, the silver birch (T2) to be removed and the London Plane (T4). However, only one live root above 25mm in diameter was found, which is likely to be from the London plane (T4). The depth of the excavation was to 500mm depth, which is the extent of excavation required for the lowering of a section of the garden beyond this trial excavation.

There shall be three areas of excavation / ground works required within the RPA of the London Plane (T4):

1. Just under half of the rear garden shall be lowered by 500mm to provide a mid-level garden (patio) area between the sunken patio and the higher level of the existing garden (to be retained at existing levels), this is on the opposite side of the garden to the

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boundary of No. 9. The small diameter roots and the 35mm diameter root from the London plane (T4) found within the trial trenches shall need to be severed. The Council's arboricultural officer considers that the London plane (T4) is expected to tolerate the severance of this root as well as the loss of any small feeder roots in the upper 500mm at this distance from tree, and mitigation shall be provided where an existing underground oil tank shall be removed and replaced with topsoil.

2. The LGF extension is proposed to extend into the raised garden by about 0.5m and will involve the removal of a section of garden beyond the retaining wall. The site investigations revealed a large wall buttress and what appears to a second older retaining wall within the soil parallel to the existing retaining wall. The site investigations show that whilst the second wall has deteriorated it appears to have limited root growth between it and the existing retaining wall (with only small diameter feeder roots coming across). The 1<sup>st</sup> site investigation revealed a large root under the boundary wall and near to the second wall, but the extension shall be away from the root, to the outer edge of the second wall. The 2<sup>nd</sup> investigation followed the line of the proposed extension between the old wall and the existing retaining wall, the investigation only went to 500mm deep and the depth of soil to be removed will be about 1500mm. Subject to tree protection measures, the Council's arboricultural officer is satisfied the risk to the London plane (T4) is low.
3. It is understood that the existing boundary wall that is adjacent to the area of garden to be lowered is structurally unsafe and shall be made good, the proposed section AA drawing shows a replacement footing of about 150mm lower than the proposed mid garden level and this work will be within the outer portion of the RPA of T4, considering that only one live root above 25mm diameter was found further in the garden at similar depth (for the excavation for the mid-level garden). Again, the Council's arboricultural officer considers the risk to the London plane (T4) from this work also to be low.

Within the application site itself, a small Birch tree is to be removed and there are no objections to this.

While a Tree Protection Plan has been provided, it must be updated to show the proposed midlevel section protected (before and after the soil is lowered by 500mm) as well as the T4 within the higher level of the garden. It must also make clear any areas of careful soil excavation where any roots shall be cut cleanly. The Method Statement must also be updated to remove spurious wording such as 'ideally', to change the recommended fencing and for provision of monitoring and supervision. Conditions and informatives are recommended to address these points.

In conclusion, the Council's arboricultural officer raises no objection to the proposals on tree grounds and considers that subject to conditions, as listed within the draft decision notice, the proposals comply with City Council tree policies.

**Refuse /Recycling:**

The City Council's waste project officer has asked for further details of the applicant's waste and recyclable storage. Given that the proposal is to combine the two existing units into one house where there will be sole access to the front yard and garden where waste and recyclable facilities can be stored, it is not considered reasonable to impose

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any conditions asking for further details.

### **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 in June and July 2019 and it was submitted to the Secretary of State for independent examination in November 2019. The City Plan examination hearings took place between 28 September and 16 October 2020. Following the examination hearings, the Council is currently consulting until 18 January 2021 on the main modifications recommended by the Inspectors. Having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract limited weight at this present time prior to the publication of the Inspector's report.

### **8.9 Neighbourhood Plans**

There are no neighbourhood plans for this area.

### **8.10 London Plan**

This application raises no strategic issues.

### **8.11 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

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

### **8.12 Planning Obligations**

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

### **8.13 Environmental Impact Assessment**

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

## 8.14 Other Issues

### **Noise and Disruption During the Course of Works**

Objections have been received on the grounds of noise and disruption during the course of works if permission was to be granted. This in part has been addressed in the 'basement excavation' part of the report.

City Plan policy S29 requires projects which have significant local impacts to mitigate their effects during construction through compliance with the Code of Construction Practice (CoCP). Given the nature and size of the development, the proposals are not considered to fall within one of the categories which would require the submission of a CoCP. A condition is however recommended to protect the amenity of the surrounding area by ensuring that core working hours are kept to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturday. The condition states that noisy work must not take place outside these hours except as may be exceptionally agreed by other regulatory regimes such as the police, by the highways authority or by the local authority under the Control of Pollution Act 1974.

### **Party Wall Agreements**

Concerns regarding lack of party wall agreement have been raised. This is generally a private matter dealt with after a permission has been granted, and in any event is not a material consideration in the determination of the proposals.

### **Length of time to carry out such a development**

Objections have been received on the grounds of how long it takes to complete a development and the impact this has, notably on those now working from home due to COVID. The City Council cannot control how long a development will take under planning legislation and whilst it is acknowledged that there is some disruption from development work, this is not considered a reason to refuse the application.

### **Harm to neighbouring business in terms of noise**

An objection from the gallery next door has been received on the impact of construction works upon the business and those operating from it. A refusal cannot be withheld on these grounds, given the temporary nature of any development works.

### **Square of Garden should be retained**

The local amenity society has objected on the grounds that a suitable square of garden should be retained. The amount of garden is only reduced marginally, and the retained garden is considered to be suitable for the building. This objection is therefore not sustained.

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

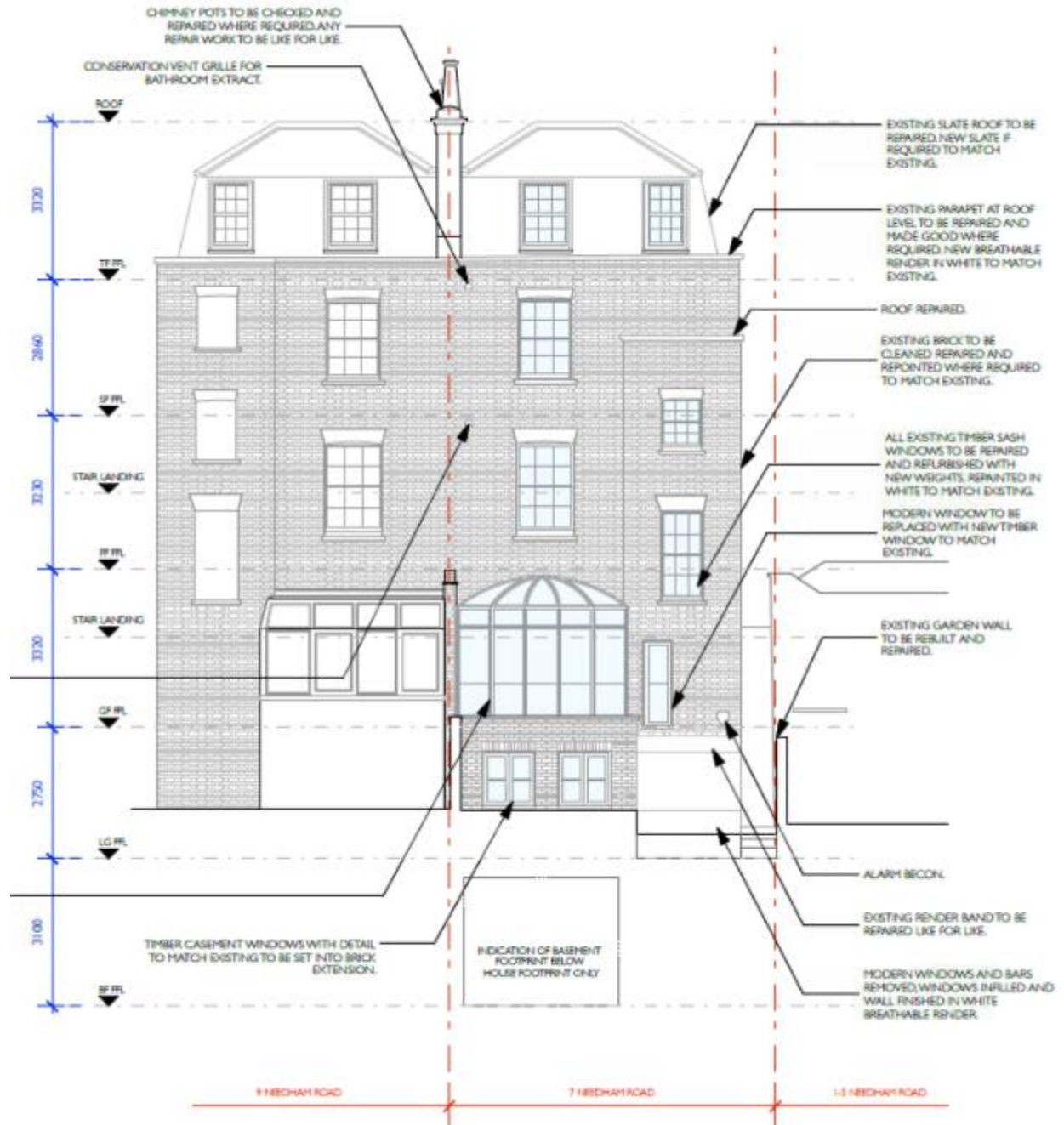
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT [rhandley@westminster.gov.uk](mailto:rhandley@westminster.gov.uk)

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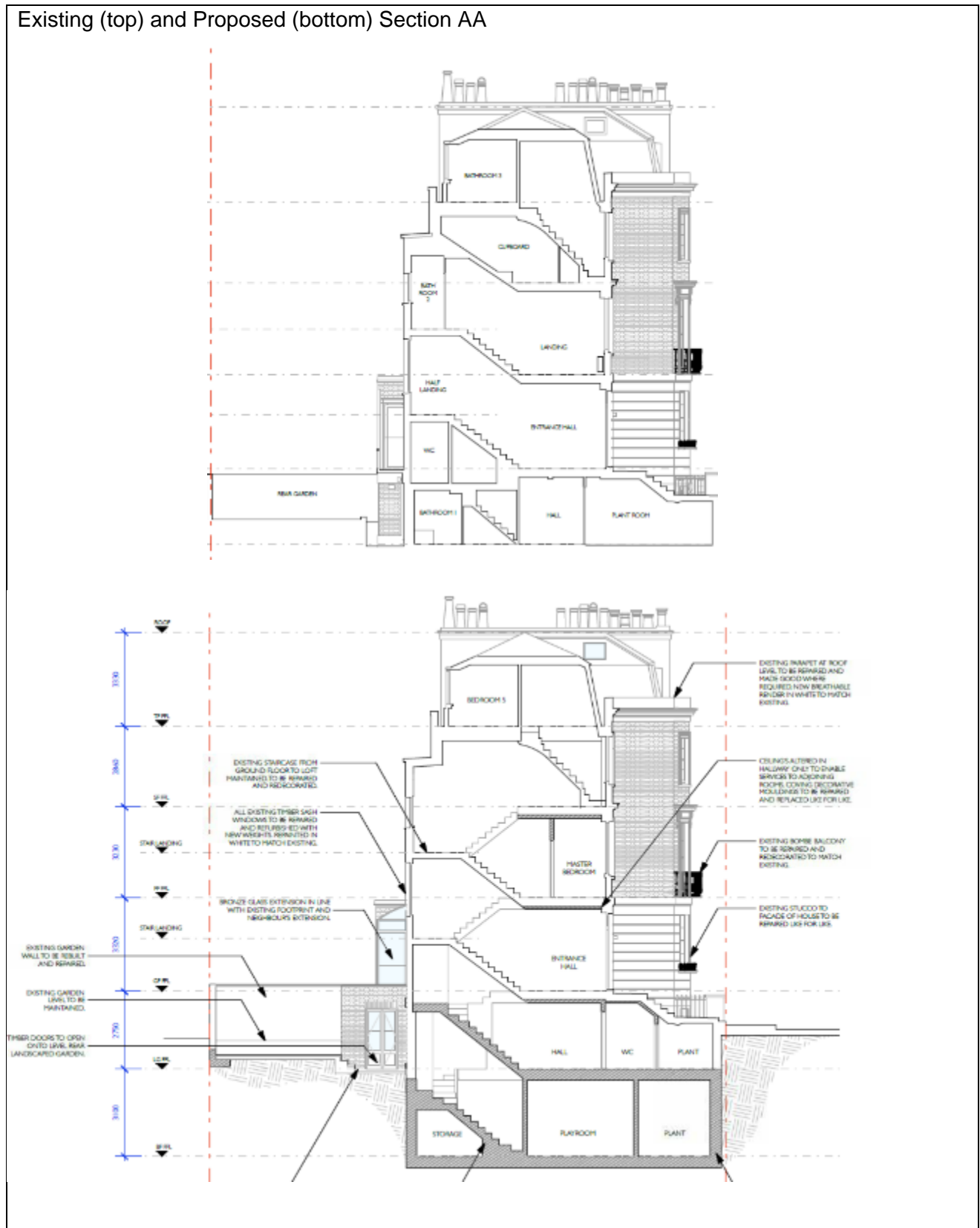
**9. KEY DRAWINGS**



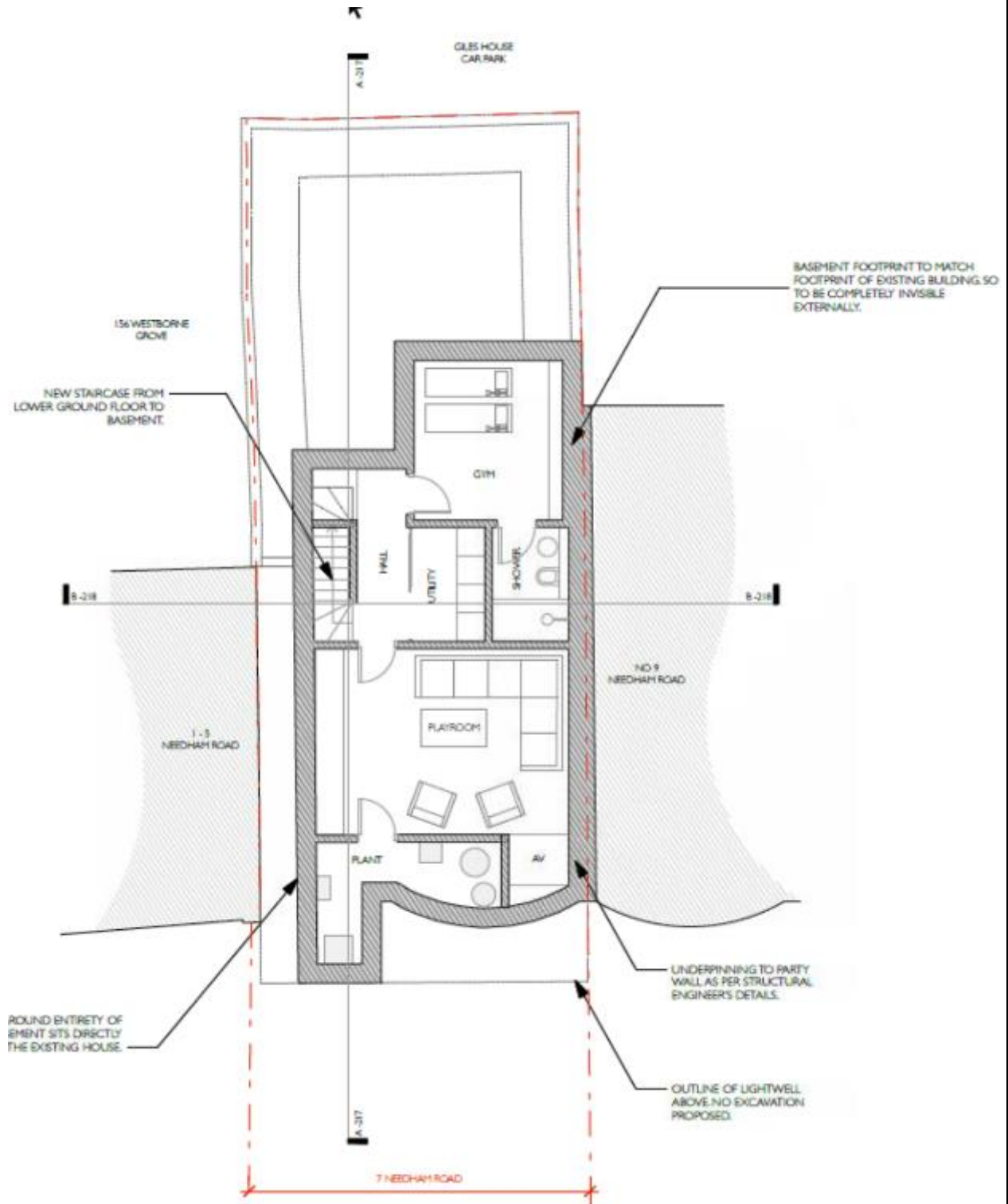
### Proposed Rear Elevation



Existing (top) and Proposed (bottom) Section AA

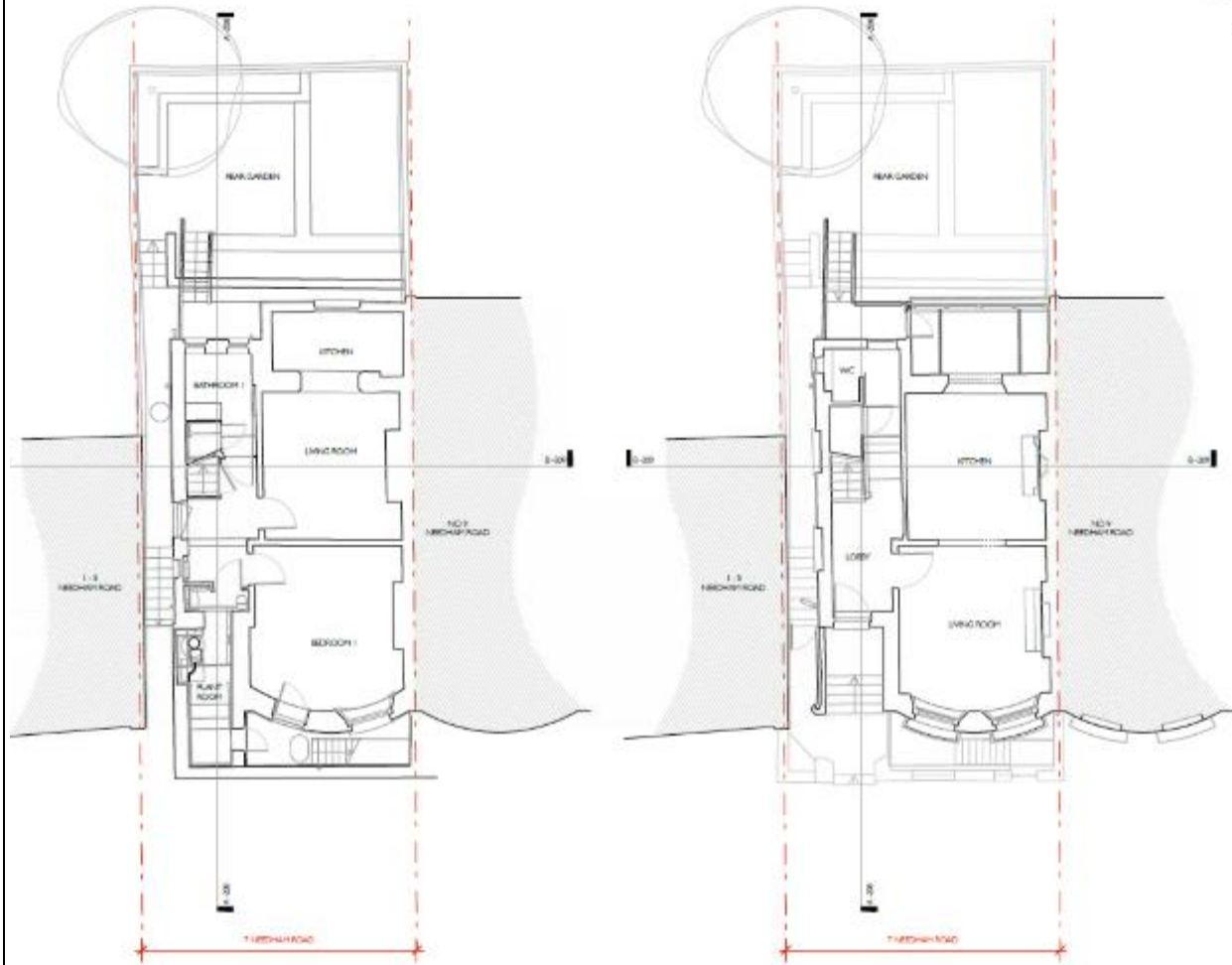


Proposed Basement Plan

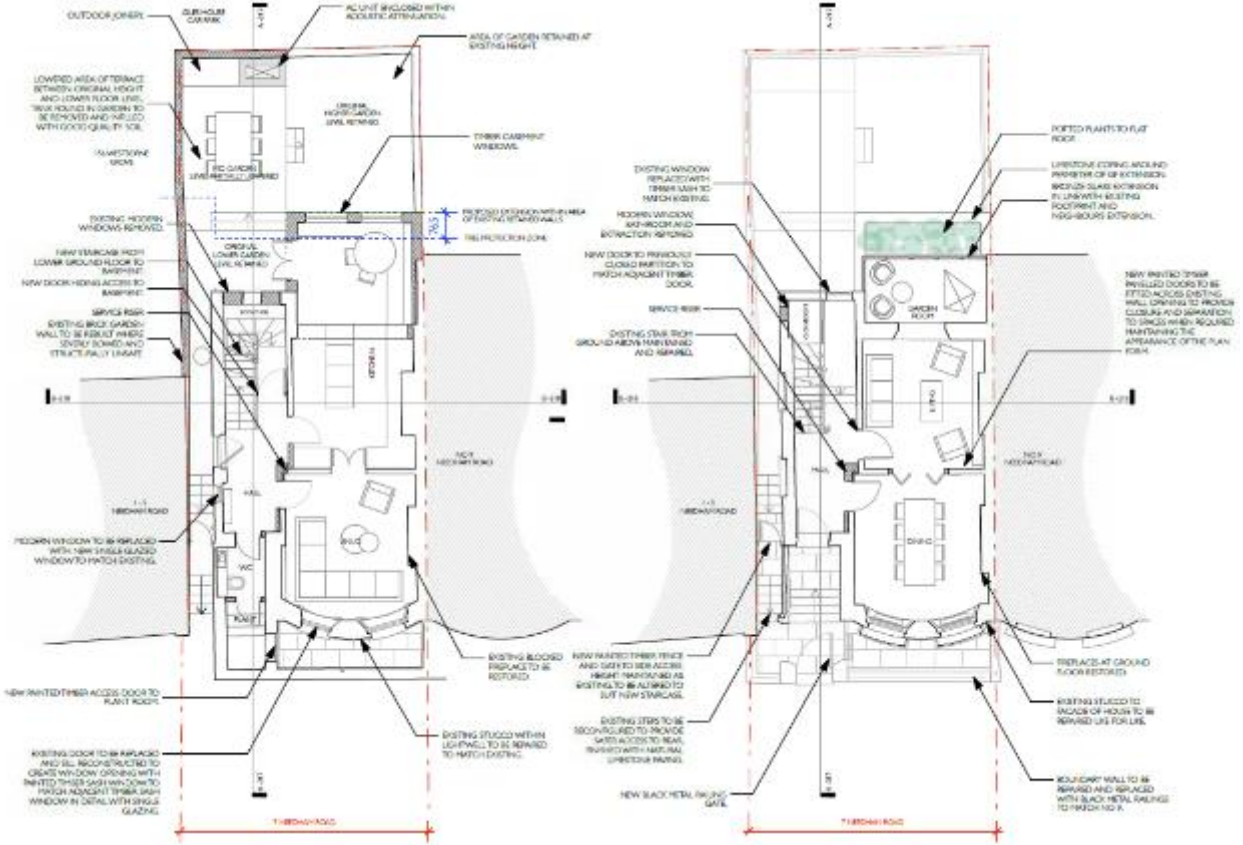




Existing Lower Ground and Ground Floor Plan



Proposed Lower Ground and Ground Floor Plan



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## DRAFT DECISION LETTER

**Address:** 7 Needham Road, London, W11 2RP,

**Proposal:** Amalgamation of two maisonettes to create a single dwelling house [Class C3], excavation beneath the footprint of the existing building and excavation of part of rear garden at lower ground floor level. Demolition of the existing extension to the rear and construction of a new lower ground and ground floor rear extension. Repair work to the facade, alteration to street frontage in line with the street and landscaping to the rear garden. Installation of acoustically attenuated condenser to the rear garden. (Linked to 20/03624/LBC)

**Plan Nos:** 200; 201; 202; 203; 204; 205; 206; 207' 208; 209; 210 Rev B; 211 Rev A; 212 Rev A; 213 Rev G; 214 Rev J; 215 rev F; 216 Rev F; 217 Rev C; 218 Rev D; 219 Rev D; 220 Rev F; 221 Rev D;  
 Updated Planning Statement received 9.11.20; Arboricultural Impact Assessment and Method Statement dated 30.11.20 Rev B; Tree Constraints Plan and Tree Protection Plan TPP-01 L received 30.11.20; Arboricultural Supervision Report dated 4.9.20 (updated); Tree Contractors Report dated 6.8.20; Environmental Noise Survey and Plant Noise Assessment 20195-R01-A dated 10.6.20; Heritage Statement

For Info only: Design and Access Statement Basement methodology report dated 29.5.20; CMP received 9.1.20; Tree Contractors Report

**Case Officer:** Kimberley Davies

**Direct Tel. No.** 07866036948

### 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.

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

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

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operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

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

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AB)

- 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 Between 07:00-23:00hrs, the 1No. Panasonic U-6LE2E5 shall be operated at Quiet mode 1 and

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between 23:00-07:00hrs, the 1No. Panasonic U-6LE2E5 shall be operated at Quiet mode 4 to comply with condition 4. The Quiet mode 1 and 4 shall be the pre-set maximum speed and the pre-set maximum speed shall not be increased. The unit must operate in accordance with these times and pre-sets speed at all times, unless otherside agreed in writing by the City Council.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AB)

- 7 You must not use the roof of the lower ground floor extension (outside of the garden room at ground floor level) for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21BA)

Reason:

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

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

Reason:

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

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

Reason:

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

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- 10 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:
- i) The brick work voussoirs must match existing historic examples at the rear of the building.

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

Reason:

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

- 11 You must apply to us for approval of detailed drawings at scale 1:50/1:20/1:10/1:1 of the following parts of the development -
- a. Enclosure (for the air condenser unit) and joinery in the rear garden.
  - b. Front boundary railings.
  - c. Conservation rooflight in the main roof.

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

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

Reason:

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

- 12 You must apply to us for approval of a sample of the bronze framing materials you will use for the rear conservatory. 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. (C26BD)

Reason:

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

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

Reason:

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

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

- 15 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. 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)

**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



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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 need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk). However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority).

- 3 **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)

- 4 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 5 With reference to condition 3 please refer to the Council's Code of Construction Practice at ([www.westminster.gov.uk/code-construction-practice](http://www.westminster.gov.uk/code-construction-practice)). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work.

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Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Sciences team (environmentalsciences2@westminster.gov.uk) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition. The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition.

You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement.

Where you change your plans after we have discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Sciences team must be paid on submission of the details relating to the relevant phase.

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

- 6 Conditions 4, 5, 6 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)
- 7 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.
- 8 In relation to condition 14, The Tree Protection Plan shows tree protection fencing installed to protect the Root Protection Area of T4 within the higher level of garden to be retained, but it must be updated to show the proposed midlevel section protected as well (before and after the soil is lowered by 500mm), we would normally expect tree protection fencing to be used as well, which can be dismantled and if necessary reinstalled directly after the lowering of the soil

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has taken place; the need for reinstallation will depend on the timing of the works as it might not be necessary if this is done as part of final landscaping works (after the other development works are complete).

The Tree Protection Plan must also make clear any areas of careful soil excavation where any roots shall be cut cleanly (i.e. the ground works for the extension, the lowering of the soil for the mid-level garden, the formation of new steps and for making good the boundary wall around the area of garden to be lowered).

The Method Statement must be updated to change the recommendation of the type of fencing at paragraph 1.2 to an instruction (e.g. omit the word 'ideally') and a provision to send monitoring and supervision notes to the Westminster City Council Tree Officer within 5 days of any site visits (within Table 1 at page 28).

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**DRAFT DECISION LETTER**

**Address:** 7 Needham Road, London, W11 2RP,

**Proposal:** Excavation beneath the footprint of the existing building and excavation of part of rear garden at lower ground floor level. Demolition of the existing extension to the rear and construction of a new lower ground and ground floor rear extension. Repair work to the facade, alteration to street frontage in line with the street and landscaping to the rear garden. Installation of acoustically attenuated condenser to the rear garden. Internal alterations. (Linked 20/03623/FULL)

**Plan Nos:** 200; 201; 202; 203; 204; 205; 206; 207' 208; 209; 210 Rev B; 211 Rev A; 212 Rev A; 213 Rev F; 214 Rev J; 215 rev F; 216 Rev F; 217 Rev C; 218 Rev D; 219 Rev D; 220 Rev F; 221 Rev D;

Heritage Statement

**Case Officer:** Kimberley Davies

**Direct Tel. No.** 07866036948

**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 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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:
  - i) The brick work voussoirs must match existing historic examples at the rear of the building.

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

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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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

4 You must apply to us for approval of detailed drawings at scale 1:50/1:20/1:10/1:1 of the following parts of the development -

- a. Enclosure (for the air condenser unit) and joinery in the rear garden.
- b. Front boundary railings.
- c. Conservation rooflight in the main roof.
- d. Internally located service riser with reinstated architectural details such as cornice, skirting boards.
- e. New internal architectural details at lower ground floor.
- f. New internal timber staircases at lower ground floor and basement.

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

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

Reason:

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

5 You must apply to us for approval of a sample of the bronze framing materials you will use for the rear conservatory. 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. (C26BD)

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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

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

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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 Westbourne 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)

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

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BD)

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

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

Item No.
<b>3</b>

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

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