

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 2 May 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Warwick	
Subject of Report	93 & 95 Charlwood Street, London, SW1V 4PB		
Proposal	Use of part ground and lower ground floors of No. 93 as 3-bed flat (Class C3) and part ground floor as retail (Class A1). Creation of front basement lightwells with associated railings and steps to Nos. 93 and 95, replacement pavement light on the Winchester Street frontage and associated works to the pavement vaults. Replacement of rear window with double doors to rear of No. 93.		
Agent	Mr Robin Harper		
On behalf of	Mr R Kenlock		
Registered Number	17/00922/FULL	Date amended/ completed	6 February 2017
Date Application Received	6 February 2017		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The ground floor of 93 Charlwood Street is currently in use as a café, known as 'My Café' with the lower ground floor of Nos. 93 and 95 Charlwood Street in use as one residential flat. In September 2015 planning permission was granted for the use of the lower ground floors of Nos. 93 and 95 as two separate flats and the creation of front basement lightwells and associated railings on the Charlwood Street frontage. In January 2017 planning permission was refused to extend the lower ground floor flat in No. 93 into the rear part of the ground floor, and reduce the retail unit to 22sqm, on the grounds that the reduced retail unit would harm the vitality and viability of the Lupus Street Local Shopping Centre.

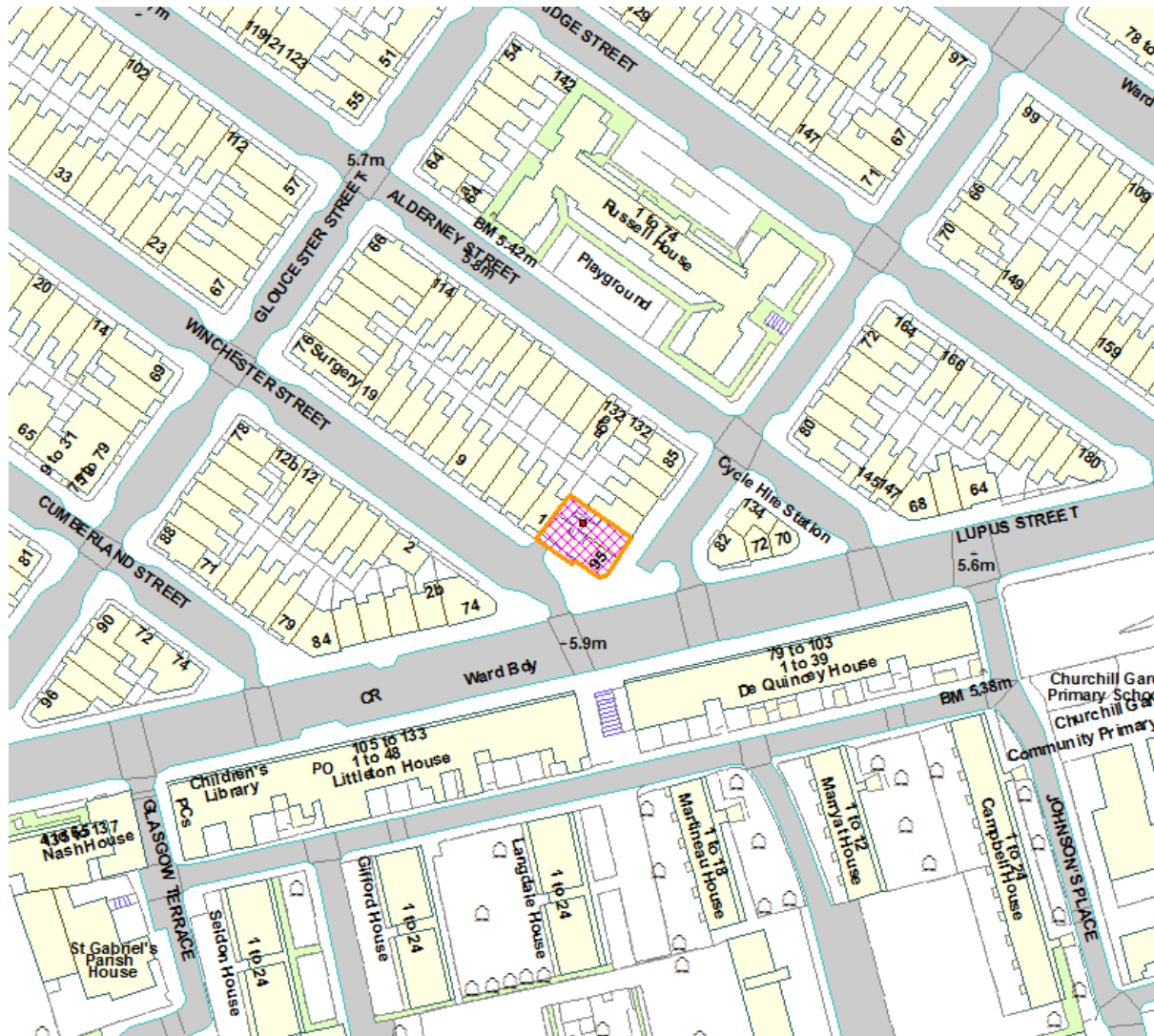
This latest application seeks to extend the residential accommodation into part of the ground floor of No. 93 to create a three bedroom flat (Class C3) with the remaining ground floor area as a retail area of 35sqm. The external works proposed are the same as that granted in the 2015 permission.

The key issues in the determination of this application are:

- The impact of the proposals on vitality and viability of the Lupus Street Local Shopping Centre;
- The impact of the proposals upon the character and appearance of the Pimlico Conservation Area; and
- The impact of the proposals on the amenity of neighbouring occupiers.

The proposed development would be consistent with relevant development plan policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (the City Plan). As such, the proposal is acceptable in terms of land use, design and amenity terms and the application is recommended for approval subject to the conditions set out in the draft decision letter.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Nos. 93 and 95 Charlwood Street



No. 93 Charlwood Street

5. CONSULTATIONS

WESTMINSTER SOCIETY:

No objection.

HIGHWAY PLANNING MANAGER:

Objection: no car or cycle parking provided.

CLEANSING MANGER:

No objection subject to condition.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 198

Total No. of replies: 28

No. of objections: 21

No. in support: 7

Objections from neighbouring residents on some or all of the following grounds:

Landuse

- The loss of the café use is opposed as the existing business is well used, well liked and is considered to be an asset to the community. There are few comparable businesses within the area. It is a social hub for a variety of residents and visitors to Pimlico. Its loss would be to the economic and social detriment of the area.
- The proposed residual commercial unit would provide limited floorspace.
- The proposal would enlarge an existing flat making it more expensive and there are already many large and expensive flats in the area so this is not needed/ is not a benefit to existing residents.

Other

- The proposal does not take into account the rights of the current customers and owners of the businesses under the Equality Act. Protected groups would be disproportionately impacted by the proposals and therefore it is discriminatory. An Equalities Impact Assessment should be undertaken to ascertain compliance with Public Sector Equality Duty.

Support from neighbouring residents on some or all of the following grounds:

- The proposals would improve the quality of the residential accommodation in the building.
- The proposals would improve the visual appearance of the building and area.
- The proposals allow for a retail unit.
- The existing café use impacts negatively on the amenity enjoyed by neighbours in terms of noise, smells, waste, and increased loitering.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site relates to two unlisted buildings located in the Pimlico Conservation Area, they are noted within the conservation area audit as 'unlisted buildings of merit'. The site is located on the corner of Charlwood Street and Winchester Street, where it meets Lupus Street, and forms part of the non-core frontage of the Lupus Street Local Shopping Centre

At ground floor level No. 93 Charlwood Street is in use as a café, known as 'My Café'. The lower ground floor of Nos. 93 and 95 Charlwood Street are currently in use as a single self-contained residential flat.

6.2 Recent Relevant History

Nos. 93 and 95 Charlwood Street

On 27 November 2014 planning permission was refused for the use of the lower ground floor Nos. 93 and 95 including an infill extension of the lightwells and vaults and associated works to the Charlwood Street and Lupus Street elevations, to create two residential units (1 x 1 bed and 1 x 2 bed) (Class C3) on the grounds of visual harm and the poor standard of the proposed living environments.

On 29 September 2015 planning permission was granted for the use of the lower ground floors of Nos. 93 and 95 as two flats, creation of lightwells and associated railings on the Charlwood Street frontage, replacement pavement light on the Winchester Street frontage and associated works to the pavement vaults.

On 10 January 2017 planning permission was refused for use of part of the ground and lower ground floors of No. 93 as a three bedroom flat (Class C3) and use of part of the ground floor as retail (Class A1). Creation of light wells and associated railings and steps to Nos. 93 and 95, replacement pavement light on the Winchester Street frontage and associated works to the pavement vaults. Replacement of rear window with double doors to rear of No. 93, on the grounds of harm to the vitality and viability of the Lupus Street Local Shopping Centre.

No. 93 Charlwood Street

On 15 April 2009 planning permission was refused for the installation of an extract duct to rear to discharge over roof of No. 1b Winchester Street' on the grounds of harm to residential amenity (noise) and harm to the visual appearance of the building.

On 18 June 2009 a Certificate of Lawful Development (Existing) was issued for the use of ground floor as a cafe serving hot food (Class A3).

7. THE PROPOSAL

Planning permission is sought for use of part of the ground and lower ground floors of No. 93 as a three bedroom flat (Class C3) with the remaining part of the ground floor as retail (Class A1). Front basement lightwells are proposed with associated railings and steps to

Nos. 93 and 95, and the replacement of a pavement light on the Winchester Street frontage and associated works to the pavement vaults. It is also proposed to replace a rear window with double doors to rear of No. 93.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The existing and proposed land uses are summarised below:

Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Café (Class A3)	46	0	-46
Retail (Class A1)	0	35	+35
Residential (Class C3)	70*	81	+11
Total	128	128	0

*Figure for lower ground floor flat from 29 September 2015 permission.

Proposed Retail Use

Objections have been received from residents concerned with the loss of the existing café (My Café) on the grounds that it is a valuable facility that positively contributes to the character and function of the area and is the hub of the local community.

The site forms part of the non-core frontage of the Lupus Street Local Shopping Centre. Policy S21 of the City Plan and Policy SS7 of the UDP relate to local shopping centers and aim to safeguard shopping facilities for local residents in order to maintain a range of local shops and protect the character and function of the local shopping area. The policies protect against changes that would jeopardies the long-term use of retail at ground floor level, or would have a negative impact on the character and function of the area.

It should be noted that the existing café (class A3) use could change to a retail use (class A1) without the need for planning permission and the issue for consideration in this case is therefore whether the reduced size of the retail unit is acceptable.

In January 2017 planning permission was refused for the loss of ground floor Class A retail floorspace with a remaining retail unit of 22sqm. Whilst the principle of an A1 retail unit within a Local Centre is supported by the aforementioned policies, in that case, the resultant A1 retail unit was significantly reduced in size in comparison to the existing ground floor café. It was considered that the loss of ground floor non-A1 retail floorspace and the resultant smaller retail unit would have a harmful effect on the vitality and viability of the Lupus Street Local Shopping Centre. It was considered that a unit of only 22sqm would limit the number of retailers that would be able to trade from the premises by such a degree that the unit may be unviable, and consequently could be left vacant, and the application was therefore refused on these grounds.

The current proposal results in the loss of ground floor non-A1 retail floorspace and would provide a ground floor A1 retail unit of 35sqm. The total loss of commercial floorspace in the current application amounts to approximately 11sqm.

The applicant has cited examples of existing small retail units in the area, many of which

have been approved by the City Council in recent years and which are comparable to the size as that proposed.

The proposed retail unit will occupy the two principle ground floor rooms and will provide toilet and small kitchen facility. It is considered that the proposed retail unit will contribute to the vitality and viability of the Lupus Street Local Shopping Centre and would meet policy S21 of the City Plan and policy SS7 of the UDP.

Proposed Residential Use

The rear part of the ground floor of No. 93 is proposed to be converted to residential use to provide a three bedroom 'family sized' unit. The improvement and enlargement of residential units, particularly to create 'family sized' units, is supported by the City Plan and UDP. A condition is recommended to ensure that the residential unit is of such a standard that it protects residents within from external noise.

The proposal would not alter the residential flat to No. 95 approved under the 2015 planning permission.

8.2 Townscape and Design

The design changes proposed in this application are the same as that approved under the September 2015 permission. The front basement lightwells proposed are considered to replicate historic lightwells that are a feature within the Pimlico Conservation Area and would be consistent with the lightwells and railings found at No. 86 Charlwood Street and opposite at No. 74 Lupus Street. The small extension underneath the pavement bridge is discreet and not overly visible from street level. The principle of a replacement pavement light and rear opening is also considered acceptable in design terms. The proposals are therefore considered to comply with Policy S28 of the City Plan and policies DES 1 and DES 5 of the UDP.

8.3 Residential Amenity

The proposals will not give rise to any amenity concerns in relation to light, privacy or sense of enclosure.

A number of letters of support have been received from residents who consider the loss of the existing café would improve residential amenity with regard to noise, smells, and rubbish.

8.4 Transportation/Parking

The Highways Planning Manager has raised concern that no off-street car parking is provided for the residential units and this is contrary to UDP policy TRANS 23. Whilst it is acknowledged that parking levels are high in this area, the proposal would create no additional units in comparison to the 2015 permission, and it is not considered that the application could be refused on this basis.

The drawings submitted do not include the provision for storage of waste and recyclable materials. It is recommended that this be secured by condition.

The proposal involves lowering the floor level to the vaults underneath the highway. The Highways Planner Manager does not object to this aspect of the scheme. An informative is recommended to advise the applicant technical approval for the works will be required.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

There is no level access to the existing café and no alterations are proposed to the retail entrance in this application.

8.7 Other UDP/Westminster Policy Considerations

Not applicable.

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

Not applicable.

8.12 Other Issues

The Equalities Act

Section 149(1) of the Equality Act 2010 sets out the Public Sector Equality Duty (PSED) in that local authorities must have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

In order to discharge the PSED, the City Council must have due regard to the issues, the effect the development may have on those with protected characteristics and the weight which should be given to those effects.

An objector has stated that a proportion of the customers of the café are elderly and disabled and that the operators of the café are from a minority ethnic community, and that these groups would be disproportionately impacted by the development. Officers are satisfied that some groups who have 'protected characteristics' would be impacted by the proposal.

Consideration

The amount of regard that is 'due' (that is, the degree of attention to the needs set out in section 149 that is called for) depends on the circumstances of the case: the greater the potential impact of a decision in planning terms, the greater the regard that must be had.

Whilst the proposal would result in the loss of the existing café use, it would be replaced by an A1 retail unit (albeit 11 square metres smaller than the existing café). The existing unit does not have step free access and there are other cafes nearby – including the wheelchair accessible café within the Library on Lupus Street. The proposed replacement retail unit will provide retail services to a range of local residents, and could be operated by a range of retail businesses.

Whilst officers understand existing users of the café, who enjoy the services provided, do not wish to see its loss, and these users include the elderly and disabled, the degree to which these groups would be impacted would be narrow in the context of an area where other cafes can be found and given A1 retail will be provided in a similar (albeit smaller) space which would protect the viability and vitality of the local shopping area. The proposal also provides an important benefit in terms of allowing the creation of a family-sized dwelling, in the context where there is a shortage of homes of all types and particularly those for families, and this has been given due weight.

The objector also suggests a formal impact assessment ought to be undertaken to determine whether the City Council has discharged the PSED. An assessment is not required in this instance. A properly informed, rational view has been taken on the extent of the likely impact and due regard has been had as required.

9. BACKGROUND PAPERS

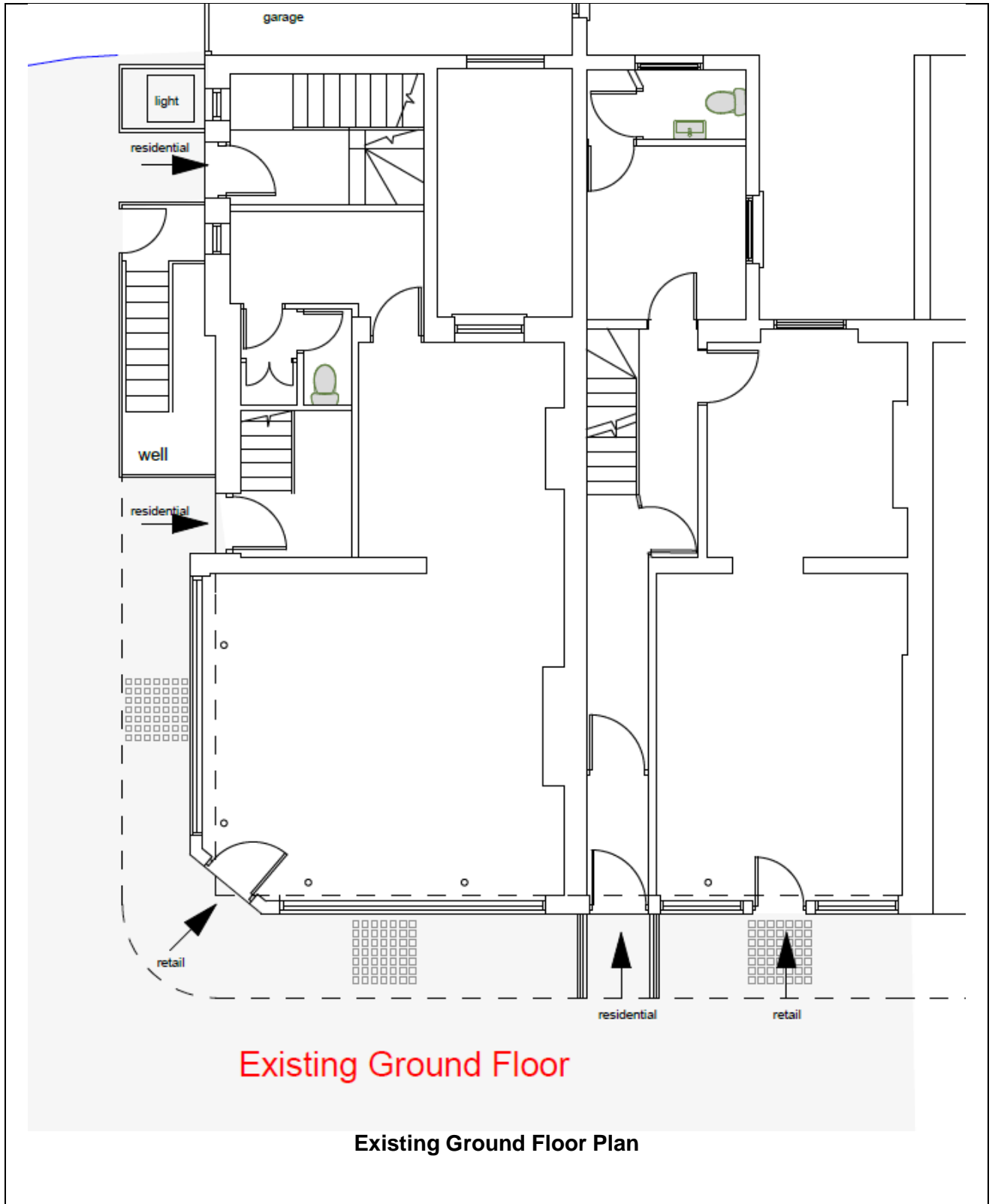
1. Application form
2. Response from Westminster Society, dated 21 February 2017
3. Response from Highways Planning Manager, dated 21 February 2017
4. Response from Cleansing Manager, dated 23 February 2017
5. Letter of support from occupier of 407 Howard House, Dolphin Square, dated 22 February 2017
6. Letter of support from occupier of 93A Charlwood Street, dated 22 February 2017
7. Letter of support from occupier of 95A Charlwood Street, dated 23 February 2017
8. Letter of support from occupier of 1B Winchester Street, dated 25 February 2017

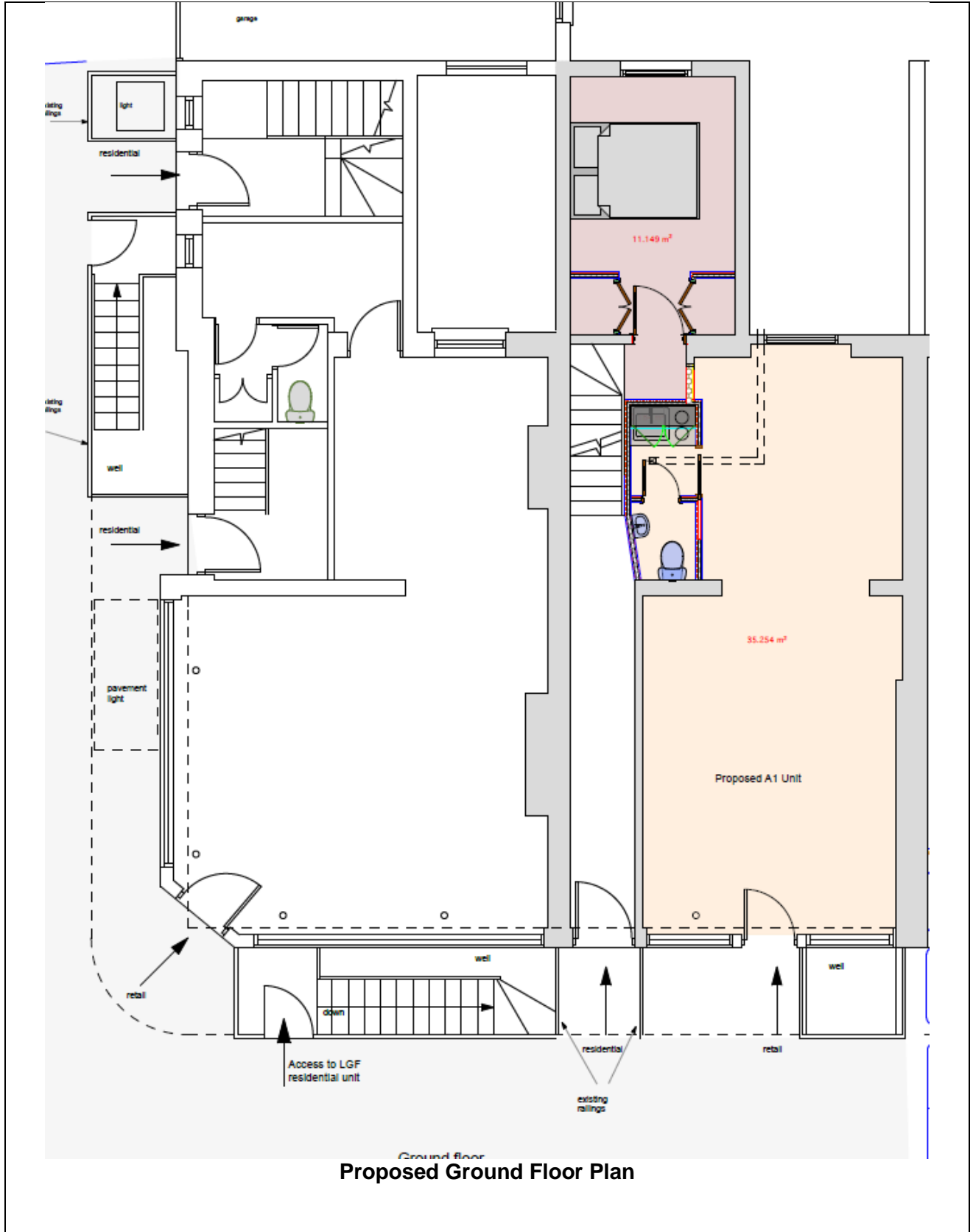
9. Letter of support from occupier of 2 Winchester Street, dated 1 March 2017
10. Letter of support from occupier of Flat 6, 42 Lupus Street, dated 6 March 2017
11. Letter of support from occupier of 95A Charlwood Street, dated 7 March 2017 [N.B. distinct from occupier referred to in 7.]
12. Letters of objection (x2) from occupier of 63 Shelley House, Churchill Gardens, and on behalf of The Churchill Gardens Neighbourhood Forum, dated 20 March 2017 and 11 April 2017
13. Letter of objection from occupier of 604 Beatty House, Dolphin Square, dated 22 March 2017
14. Letter of objection from occupier of 3 Langdale House, Churchill Gardens, dated 22 March 2017
15. Letter of objection from occupier of 35 Kent House, Aylesford Street, dated 22 March 2017
16. Letter of objection from occupier of 74 Lupus Street, dated 23 March 2017
17. Letter of objection from occupier of 52 Keats House, Churchill Gardens, dated 23 March 2017
18. Letter of objection from occupier of Flat 4, Campbell house, Churchill Gardens, dated 24 March 2017
19. Letter of objection from occupier of 114 Glastonbury House, Abbots Manor, dated 25 March 2017
20. Letter of objection from occupier of 5 Noel Coward House, 65 Vauxhall Bridge Road, dated 26 March 2017
21. Letter of objection from occupier of 13 Winchester Street, dated 26 March 2017
22. Letter of objection from occupier of 51A Denbigh street, dated 26 March 2017
23. Letter of objection from occupier of 3 Langdale House, Churchill Gardens, dated 27 March 2017 [N.B. distinct from occupier referred to in 14.]
24. Letter of objection from occupier of Flat 17X, Peabody Avenue, dated 28 March 2017
25. Letter of objection from occupier of 134 Wellington Buildings, Ebury Bridge Road, dated 28 March 2017
26. Letter of objection from occupier of 51 Wilkins House, dated 29 March 2017
27. Letter of objection from occupier of 51 Wilkins House, London, dated 29 March 2017 [N.B. distinct from occupier referred to in 26.]
28. Letter of objection from occupier of Apartment 2 Bramah House, 9 Gatliff Road, dated 5 April 2017
29. Letter of objection from occupier of 44 Tothill House, Page Street, dated 6 April 2017
30. Letter of objection from occupier of 17 Winterleys, Albert Road, dated 10 April 2017
31. Letter of objection from occupier of Flat C 139 Cambridge Street, dated 12 April 2017

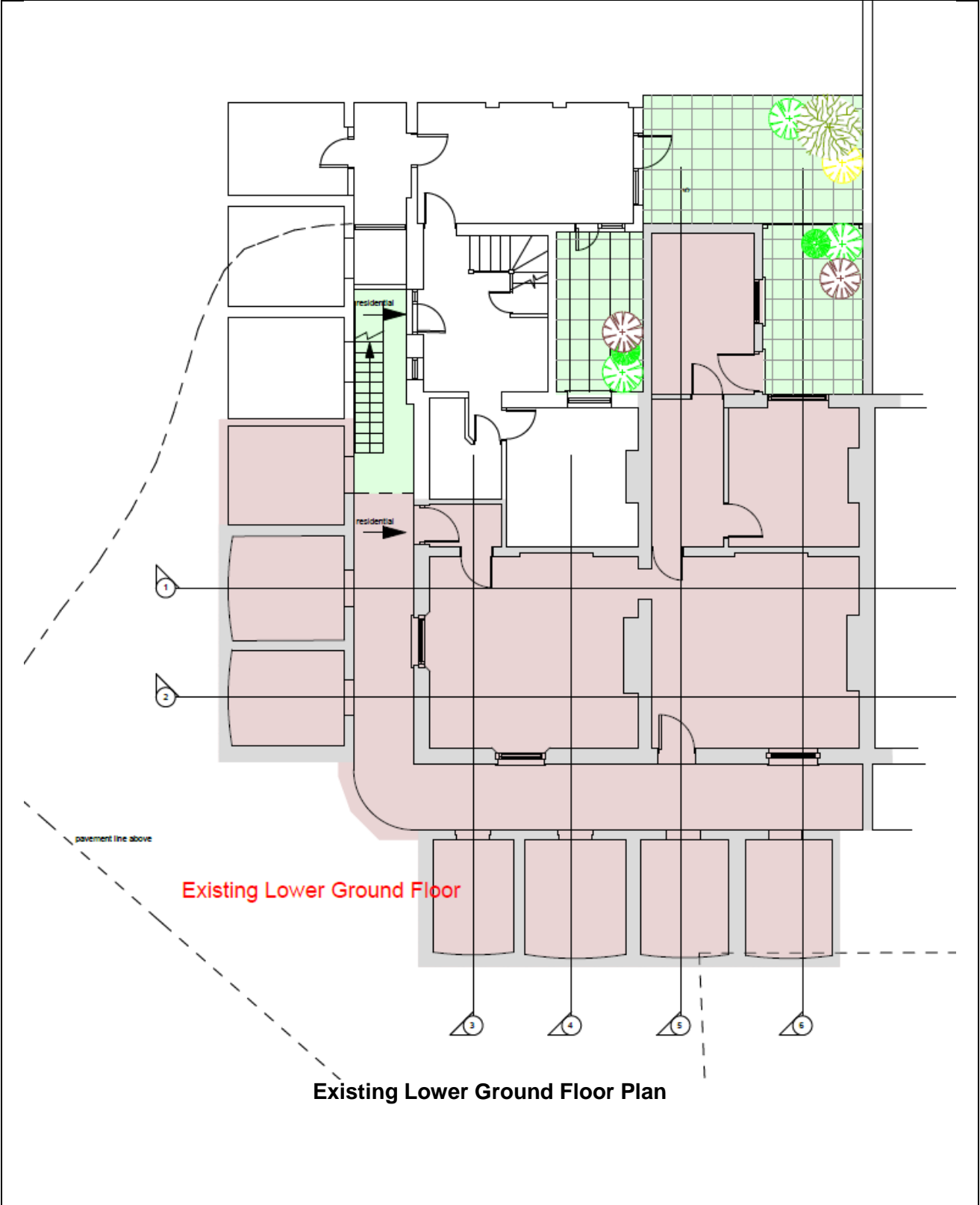
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

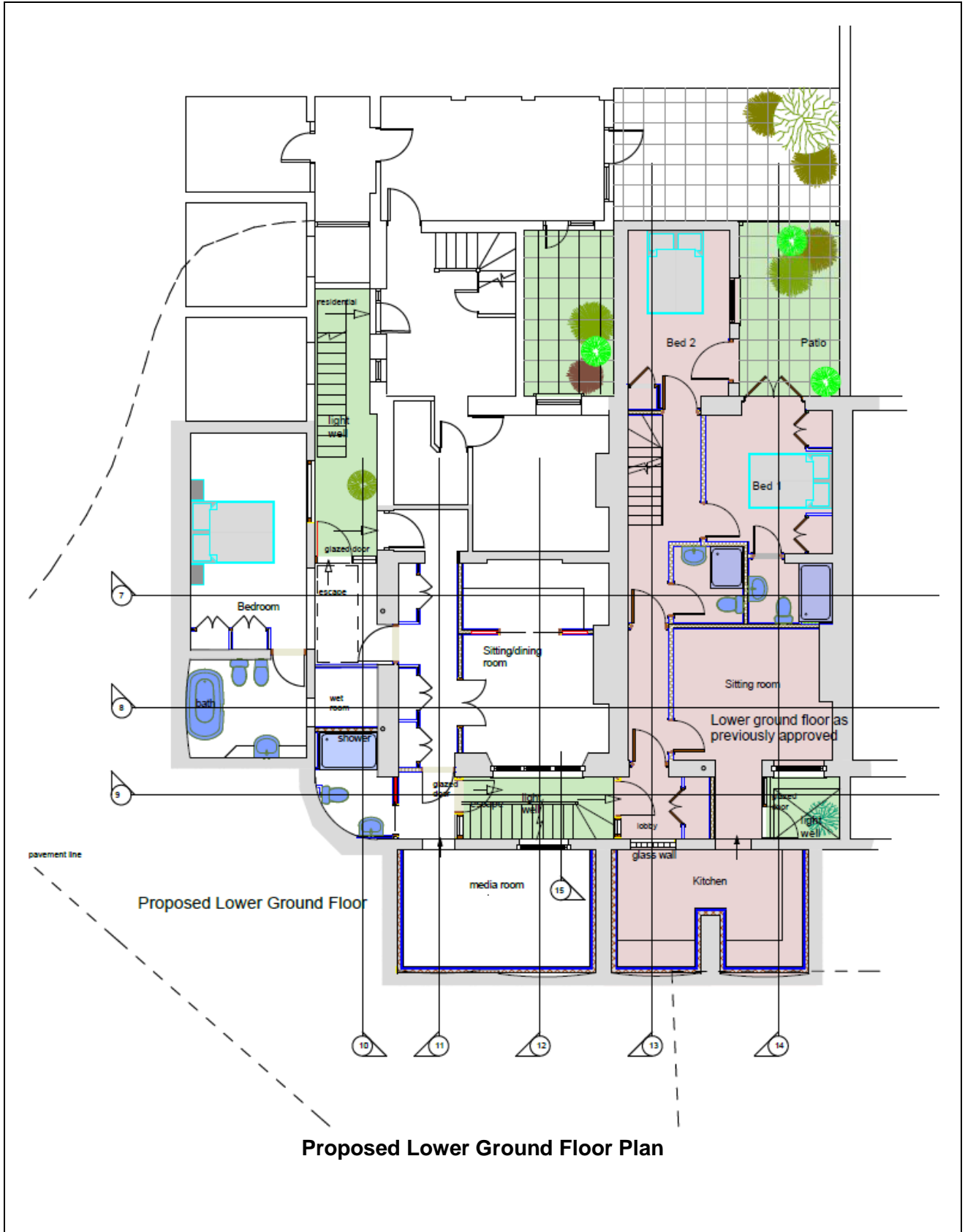
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JULIA ASGHAR BY EMAIL AT jasghar@westminster.gov.uk

10. KEY DRAWINGS









Proposed Lower Ground Floor

Lower ground floor as previously approved

Proposed Lower Ground Floor Plan



Existing elevation Winchester Street
95 Charwood Street



Existing elevation Charwood Street
93-95 Charwood Street



Proposed elevation Winchester Street
95 Charwood Street as approved under
planning consent 15/05600/FULL



Proposed elevation Charwood Street
95 Charwood Street as approved under
planning consent 15/05600/FULL

Existing and Proposed Elevations

DRAFT DECISION LETTER

Address: 93 Charlwood Street, London, SW1V 4PB,

Proposal: Use of part of the ground and lower ground floors of No. 93 as a three bedroom flat (Class C3) and use of part of the ground floor as retail (Class A1). Creation of light wells and associated railings and steps to Nos. 93 and 95, replacement pavement light on the Winchester Street frontage and associated works to the pavement vaults. Replacement of rear window with double doors to rear of No. 93.

Reference: 17/00922/FULL

Plan Nos: Site Location Plan; 15/2028/01 rev B; 15/2028/20 rev C; 15/2018/21; 15/2018/22 rev A; Cover Letter.

Case Officer: Joshua Howitt

Direct Tel. No. 020 7641 2069

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

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

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

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

Reason:

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

- 4 You must apply to us for approval of detailed drawings of the following parts of the development – pavement light and new railings at street level.

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

Reason:

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

- 5 You must apply to us for approval of details of how waste is going to be stored on the site. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the waste store in line with the approved details, and clearly mark it and make it available at all times to everyone using the residential and retail units. You must not use the waste store for any other purpose. (C14CD)

Reason:

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

- 6 The design and structure of the development shall be of such a standard that it will protect

residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

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

Reason:

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

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 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 phone 020 7641 2642. 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). (I09AC)

- 3 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 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 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team,
Environmental Health Service,
Westminster City Hall,
64 Victoria Street,
London,
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 6 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)

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.