

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 22 May 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Abbey Road	
<b>Subject of Report</b>	<b>12-14 Finchley Road, London, NW8 6EB</b>		
<b>Proposal</b>	Demolition of existing buildings and redevelopment by erection of a part six, part seven storey building comprising basement, ground and five upper floors to provide 11 residential units (1x1 bed, 4x2 bed and 6x3 bed flats), with roof terraces/ balconies to rear elevation and at roof level, mechanical plant within enclosure to rear and landscaping. Erection of replacement front boundary treatment and provision of access ramp to basement car park from existing vehicular basement at Balmoral Court. Removal of four trees to front and rear of site and replacement tree planting to front of site.		
<b>Agent</b>	Montagu Evans		
<b>On behalf of</b>	12-22 Finchley Road Developments Limited		
<b>Registered Number</b>	17/07873/FULL	<b>Date amended/ completed</b>	1 September 2017
<b>Date Application Received</b>	1 September 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	N/A		

## 1. RECOMMENDATION

1. Agree not to make a Tree Preservation Order to protect three London plane trees at the rear of Balmoral Court.
2. Subject to 1, grant conditional permission, subject to completion of a legal agreement to secure the following:
  - a) Notice of commencement of development (three months prior to commencement).
  - b) Provision of a financial contribution of £658,000 (index linked) to the affordable housing fund in lieu of on-site affordable housing provision.
  - c) Measures to facilitate the provision and permanent retention and maintenance thereafter, of the vehicular access to the basement level car park via the vehicular entrance to Balmoral Court.
  - d) Highway works outside the site in Finchley Road to facilitate access to the development and renew the footpath outside the site.

e) Provision of costs for monitoring of agreement (£500 per Head of Term).

3. If the legal agreement has not been completed by 3 July 2018 then:

- a) The Director shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director is authorised to determine and issue such a decision under Delegated Powers; however, if not;
- b) The Director shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

The application site currently comprises one detached Victorian villa and one semi detached Victorian villa located on the east side of Finchley Road. The buildings are comprised of lower ground, ground and two upper floors and are not listed, nor are they located within a conservation area, although the St. John's Wood Conservation Area does neighbour the application site on the opposite side of Finchley Road.

The application seeks permission for the demolition of existing buildings and redevelopment of the site by the erection of a seven storey building comprising basement, ground and five upper floors to provide 11 residential units (1x1 bed, 4x2 bed and 6x3 bed flats), with roof terraces/ balconies, mechanical plant enclosure to rear and landscaping. The scheme also includes the erection of a replacement front boundary treatment, provision of access ramp to the proposed basement car park from existing vehicular basement car park ramp within the neighbouring mansion block, Balmoral Court and provision of landscaping around the proposed building.

Permission for identical redevelopment of this site was granted permission on 1 June 2015 (RN: 12/11010/FULL). This permission remains extant until 1 June 2018 and is therefore a material consideration in the determination of this application.

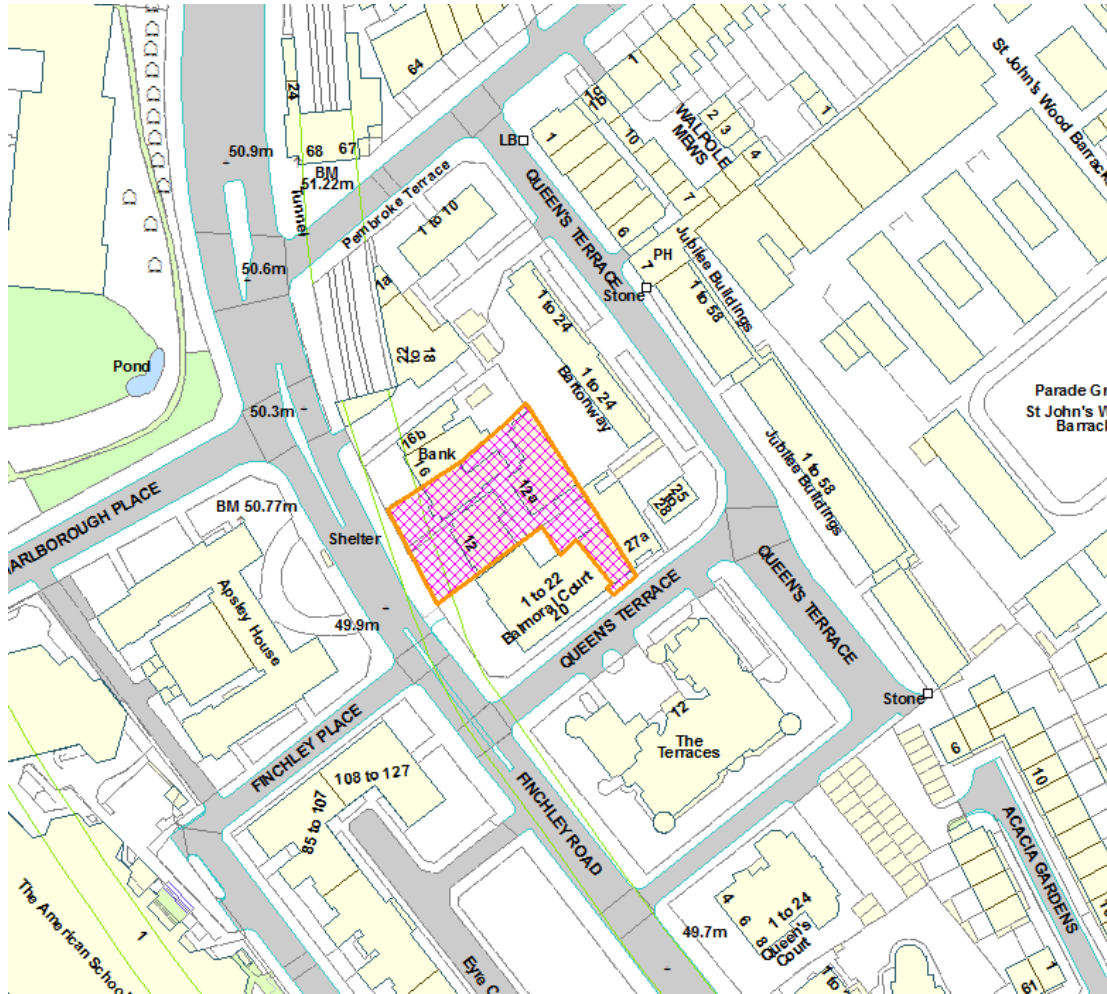
The key issues in this case are:

- The acceptability of the scheme in land use terms.
- The acceptability of the proposed provision of a financial contribution in lieu of on-site affordable housing provision.
- The impact on the appearance of this part of the City and the setting of the neighbouring St. John's Wood Conservation Area.
- The impact on the amenity of neighbouring residents.
- The acceptability of the proposed basement car parking and associated access via Balmoral Court.
- The acceptability of measures proposed to retain the existing Cherry tree that is subject to a Tree Preservation Order (TPO).

- The acceptability of removing the three London Plane trees to the rear of Balmoral Court and whether their amenity value is sufficient to justify making a TPO to provide them with statutory protection.

The London Plane trees to the rear of Balmoral Court are not considered to be of sufficient amenity value to justify the making of a TPO and therefore permission cannot be withheld on the basis of their loss to facilitate the development. The proposed development is considered to be acceptable in land use, design, amenity, transportation and environment terms for the detailed reasons set out later in this report and would accord with the relevant adopted policies within the Unitary Development Plan adopted in January 2007 (the UDP) and Westminster's City Plan adopted in November 2016 (the City Plan). As such, it is recommended that planning permission is granted subject to the conditions set out in the draft decision and the completion of a S106 agreement to secure the provision of affordable housing, the provision of acceptable vehicular access to the basement level car park via the existing ramp at Balmoral Court and the provision of highway works to ensure the development is accessible from Finchley Road.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Front elevation from Finchley Road (top) and trees to be removed from rear of Balmoral Court (bottom).

## 5. CONSULTATIONS

### WARD COUNCILLORS (ABBAY ROAD)

Any response to be reported verbally.

### ST. JOHN'S WOOD SOCIETY

Any response to be reported verbally.

### HEAD OF AFFORDABLE AND PRIVATE SECTOR HOUSING

Any Response to be reported verbally.

### ARBORICULTURAL MANAGER

Comments made on the following issues:

- Submitted tree report is over 5 years old and should be updated. Note that the tree removal referred to in the report is inconsistent with the submitted scheme.
- No objection to removal of Ash tree from Finchley Road frontage of site, subject to suitable replacement tree planting and landscaping.
- None of the three London Plane trees to the rear of Balmoral Court are of particularly good form and they are barely visible from public vantage points. Note though that Tree 9 does serve as a valuable screen for residents. However, it would be difficult to defend refusal of the proposal on the basis of loss of these trees. Concern though that there is no space proposed to the rear to allow for new tree planting.
- Request for a Tree Preservation Order (TPO) for the London planes
- Do not consider Trees 7 and 8 to be of sufficient amenity value to merit statutory protection (i.e. a TPO). Tree 9 is of greater amenity value now than it was in 2012, because it has regrown from the previously lopped points, but on balance it is not consider that the degree of public benefit the tree provides is sufficient to justify the making of a TPO.
- Tree surgery to retained trees needs to be updated in light of an up to date tree survey.
- The scheme provides little scope for any new tree planting to replace the screening and softening which the existing London plane trees provide.
- Do not consider that adequate provision is made for tree planting as per the duty imposed on local planning authorities under the terms of section 197(a) of the Town and Country Planning Act 1990 namely 'to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees'.
- The roof terrace planting should be enhanced and more sustainable greening to the terraces proposed.
- Size of the biodiverse green roof is provided should be increased.
- Raised planters in the front garden are unlikely to be acceptable because they are proposed in the root protection area of the retained cherry tree and should be reconsidered.
- Soil depth over the basement to the front and rear does not appear to comply with the basement development policy in the City Plan.

### BUILDING CONTROL

No objection. Applicant should be reminded that technical approval will be required from the City Council as Local Highway Authority as the basement will support the highway.

**CLEANSING MANAGER**

Objection to the use of six smaller bins given location of site on a red route along Finchley Road. Recommends that the scheme is amended to allow use of two 660 litre bins for waste and a 1,100 litre bin for recycling.

**DESIGNING OUT CRIME ADVISOR**

Where relevant the development should incorporate all of the 'Secure by Design' requirements detailed in the 'Homes 2016 Guide'. Detailed generic guidance provided on a range of aspects of the scheme related to security.

**ENVIRONMENTAL HEALTH**

No objection. Submitted air quality assessment demonstrates the scheme would be air quality neutral. In terms of noise a supplementary acoustic report should be secured by condition. Condition should be imposed to prevent vibration from adjacent London Underground tunnel. Development should be carried out in accordance with the Code of Construction Practice and this can be ensured by condition.

**HIGHWAYS PLANNING MANAGER**

No objection in principle. Concerns raised regarding the lack of electric charging points in the basement car park and the lack of details of a traffic management system for the single carriageway width ramp to basement level. Conditions recommended including conditions to address the areas of concern raised.

**LONDON BOROUGH OF CAMDEN**

No objection.

**LONDON UNDERGROUND LIMITED**

No objection in principle. Condition requested to require full details of the design of foundations, basement and ground floor structures to ensure they do not have an adverse impact on the adjacent London Underground tunnel.

**THAMES WATER UTILITIES**

Request a condition requiring approval of a drainage strategy to avoid risk of sewer flooding. Strategy should be devised with reference to London Plan policy 5.13 and should include SUDS. Note that approval is required from Thames Water for development over or close to sewers. Request a condition preventing piling until a piling method statement has been submitted and approved to project sewerage infrastructure. Informative recommended regarding water pressure.

**TRANSPORT FOR LONDON**

Comments provided on the following grounds:

- Site is located on Finchley Road which is part of the Transport for London Road Network (TLRN).
- Footway and carriageway along Finchley Road must not be blocked during construction.
- All vehicles associated with the development on Finchley Road must only park/ stop at permitted locations and within the time periods permitted by existing on-street restrictions.

- The development should be 'car free' as it has a PTAL rating of 6A (PTAL). The provision of 11 parking space is therefore contrary to London Plan Policy 6.13.
- Any scaffolding or a hoarding on the footway during construction would require a licence from TfL.
- No objection to the provision of 21 cycle storage spaces.

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

No. Consulted: 187.

Total No. of replies: 2.

No. of objections: 2.

No. in support: 0.

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

##### Land Use

- Question whether a larger affordable housing financial contribution could be delivered.
- Policy S20 requires the retention of office uses across the City and not just in the CAZ.

##### Design

- Scale, bulk and mass of the proposed building is too large for the site and surrounding context, especially to the rear.

##### Amenity

- Loss of daylight and sunlight to neighbouring windows in Balmoral Court.
- Increased overlooking from proposed balconies towards windows serving habitable rooms in Balmoral Court.
- Increased sense of enclosure.
- Proposed development is too high, especially in relation to the penthouse flat at Balmoral Court and this would be contrary to Policy 7.6 and Policy S28 in the City Plan.
- Overbearing impact on balcony/ terrace serving top floor flat in Balmoral Court.
- Objectors intend to submit their own daylight and sunlight assessment.

##### Trees and Landscaping

- Trees to Finchley Road are protected by a Tree Preservation Order (TPO) and therefore this proposal is invalid.
- Noted that the submitted arboricultural report is 5 years old and trees are living organisms and have therefore changed in that period.
- Objectors arboricultural assessment identifies the trees to the rear in the curtilage of Balmoral Court to be Category B trees owing to their high visual amenity to residents. Trees have 30-40 year lifespan remaining.
- Consider one of the trees to the rear of Balmoral Court to be a strong candidate for a TPO.
- Objectors arboricultural assessment should be given greater weight than the applicant's assessment in view of it being a much more recent assessment.



#### Transportation/ Parking

- Lack of justification for means of vehicular access being proposed to rear from Balmoral Court and not from Finchley Road as existing.
- Concern that the proposed ramp to basement level would not be functional.
- Adverse impact of proposed vehicular access on the ability of residents of Balmoral Court to receive deliveries and manage refuse and recycling.
- Increased potential for conflicts and accidents on Balmoral Court access road.

#### Other Issues

- Cumulative impact of construction lorry movements (in conjunction with the St. John's Wood Barracks site) will have an adverse impact on pedestrian safety along Queens Terrace.
- Condition should be imposed relocating the refuse store to the opposite boundary of the site in Finchley Road to reduce impact of this structure in terms of odour and noise.
- The 2002 scheme that has been implemented is being used as a threat to force approval of any development on this site.
- There have been material changes to the development plan since the determination of the previously approved scheme that must be considered in the assessment of the current application.

#### ADVERTISEMENT/ SITE NOTICE

Yes.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site currently comprises one detached Victorian villa and one semi detached Victorian villa located on the east side of Finchley Road. The buildings are comprised of lower ground, ground and two upper floors and are not listed, nor are they located within a conservation area, although the St. John's Wood Conservation Area does neighbour the application site on the opposite side of Finchley Road.

The buildings are currently in mixed Class C3 residential use and Class B1 office use. The existing building contain 7 flats over a floor area of 554m<sup>2</sup> (GIA), with 209m<sup>2</sup> (GIA) of office floorspace provided within the basement of No.12 and parts of the ground floor of both Nos.12 and 14.

The site formally included an annex/ studio building to the rear of both Nos.12 and 14 Finchley Road, which was known as No.12a Finchley Road. This was demolished around 2008 in connection with the implementation of the planning permission dated 6 November 2003 (see Section 6.2.2). The rear of the site now comprises a hardstanding comprised of the floor surfaces and rubble of the former annex/ studio building.

### 6.2 Recent Relevant History

#### 6.2.1 12-14 Finchley Road (the Application Site)

1 June 2015 – Permission granted for demolition of existing buildings and redevelopment by erection of a part six, part seven storey building comprising basement, ground and five upper floors to provide 11 residential units (1x1 bed, 4x2 bed and 6x3 bed flats), with roof terraces/ balconies to rear elevation and at roof level, mechanical plant within enclosure to rear and landscaping. Erection of replacement front boundary treatment and provision of access ramp to basement car park from existing vehicular basement at Balmoral Court. Removal of four trees to front and rear of site and replacement tree planting (RN: 12/11010/FULL).

### **6.2.2 Site comprising No.1 Queen’s Grove and Nos.12-22 Finchley Road**

6 November 2003 – Planning permission was granted for the demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements (02/06302/FULL).

22 January 2014 – Certificate of Lawful Proposed Development issued which confirmed that the planning permission dated 6 November 2003 (RN: 02/06302/FULL) for demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements was implemented by the carrying out of material operations prior to its expiry and that therefore the continued development of the site in accordance with the planning permission would be lawful (13/09910/CLOPUD). This permission for redevelopment of the wider site including the current application site therefore remains extant (i.e. it could be carried out at any time) and is consequently a material consideration in assessment of the current scheme. Details of this extant scheme, as varied by the S73 permission dated 21 December 2017 (see below) are provided in the background papers for information.

21 December 2017 – Permission granted for variation of Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL) for the demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements from RN 02/06302/FULL. NAMELY, to vary the hours of construction works that can be heard at the boundary of the site to allow works around the railway cutting to take place between 01.00 and 05.00 hours for a non-consecutive period of up to 72 nights during the overall construction programme (17/00938/FULL).

## **7. THE PROPOSAL**

The application seeks permission for the demolition of the existing buildings and redevelopment of the site by the erection of a part six, part seven storey building comprising basement, ground and five upper floors to provide 11 residential units (1x1 bed, 4x2 bed and 6x3 bed flats). Car parking, cycle storage, a bin store and other services would be provided at basement level with vehicular access provided via a new ramp to the rear of the site which would be accessed from the existing vehicular ramp at Balmoral Court.

The proposed building would have roof terraces/ balconies to rear elevation and at roof level and mechanical plant, including a combined heat and power (CHP) unit, would be provided within an acoustic enclosure to rear at ground floor level. Landscaping around the site is proposed, including new tree planting to the front of the site. The scheme allows for the retention of the Cherry tree to the front of the site, which is subject to a Tree Preservation Order (TPO). Four trees are proposed to be removed, comprising one Ash to the front of the site and three London Planes to the rear of Balmoral Court. The scheme includes proposals for a new front boundary wall treatment.

The current scheme is identical to the scheme for redevelopment of this site which was granted permission on 1 June 2015, save for the proposed energy and sustainability strategy which has been reviewed and amended in light of material changes to relevant policies in the City Plan and London Plan in the intervening period. The permission for the previously approved scheme remains extant and is therefore a material consideration in the determination of the current application; albeit it is also necessary to have regard to all material changes in circumstances since the determination of the approved scheme. In terms of material changes to the development plan, updated versions of the City Plan (November 2016) and the London Plan (March 2016) have been adopted since the determination of the previously approved scheme. On site, objectors consider that the amenity value of the trees to the rear of Balmoral Court has increased since the determination of the previously approved scheme and consider that the London Plane trees are now worthy of a Tree Preservation Order (TPO). All material changes in circumstances, both in terms of policy and site context, are considered in this report.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **8.1.1 Loss of Existing Office Use**

Whilst the site currently includes 209m<sup>2</sup> (GIA) of Class B1 office floorspace, this accommodation is of relatively poor quality and occupies the converted basement and ground floors of the existing buildings, which would originally have both been built as single dwellings.

Objection has been raised on the basis that Policy S20 in the City Plan resists office loss across the City. However, this is incorrect and the policy does not protect existing office uses in this part of the City, which is outside the Core Central Activities Zone (CAZ), Opportunity Areas and Named Streets. Furthermore, as the application site is outside the CAZ and the North Westminster Economic Development Area, Policy S13 confirms that development should predominantly deliver new residential accommodation.

Therefore, the loss of the existing office floorspace in favour of providing additional residential accommodation is considered to be acceptable in principle land use terms.

#### **8.1.2 Proposed Market Residential Use**

At present the site provides 7 self contained flats within the two buildings (Nos.12 and 14 Finchley Road). The proposed development would increase the number of flats on site by 4 to 11 flats. Overall the scheme would increase residential floorspace on the site

from 554m<sup>2</sup> (GIA) to 2,834m<sup>2</sup> (GIA) (including basement parking and all ancillary residential floorspace), an increase of 2,279m<sup>2</sup>. This level of increase generates a requirement to provide affordable housing in accordance with Policy H4 in the UDP, Policy S16 in the City Plan and the 'Interim Note on the Affordable Housing Policy' (2013). The applicant proposes to provide affordable housing in the form of a financial contribution to the Council's Affordable Housing fund. This proposal is considered further in Section 8.1.3 of this report.

The residential accommodation proposed on-site is therefore wholly market residential accommodation and would comprising a mix of 1x1 bedroom flat, 4x2 bedroom flats and 6x3 bedroom flats. The mix of units proposed is therefore compliant with Policy H5 in the UDP and Policy S15 in the City Plan as 55% of the units would contain 3 bedrooms.

In terms of their size, the proposed flats would all exceed the minimum floorspace standards set out in Policy 3.5 in the London Plan (March 2016) and the Government's Technical Housing Standards (2014). The proposed flats would therefore provide an acceptable standard of accommodation, which would be improved relative to the standard of the existing residential units on the site.

The flats proposed are relatively large in size, but are not untypical of flats within St. John's Wood. In this context it is considered that the scheme would make efficient use of residential land and would therefore accord with Policy S14 in the City Plan, which seeks to optimise the provision of units of residential accommodation.

In land use terms the proposed market residential accommodation is considered acceptable and would accord with the relevant policies within the UDP and City Plan.

### **8.1.3 Affordable Housing**

The proposed scheme does not propose the provision of affordable housing on-site, instead the applicant proposes the provision of a financial contribution to the Council's Affordable Housing fund in lieu of on-site provision. A policy compliant financial contribution to the Affordable Housing Fund, assuming the applicant can demonstrate it is not practical or viable to provide affordable housing on site or off-site in the vicinity would be £2,808,960.

As part of the previously approved scheme a financial contribution of £658,000 (index linked) to the Affordable Housing Fund was accepted in lieu of on-site provision. In that scheme the applicant argued that the provision of affordable housing on site was not practical due to the constraints of the site and the difficulty this presents in terms of providing two residential cores to allow separate service charges to be applied to the market and residential units.

Since the determination of the previously approved scheme in June 2015, the City Council adopted its CIL charging schedule in May 2016 and therefore the current scheme is CIL liable; whereas the previously approved scheme was not. The required CIL payment is estimated to be circa £1.32m and this additional development cost, along with reduction in the strength of the residential property market have resulted in a reduction in the ability of the scheme to deliver affordable housing. The applicant has submitted a viability report to evidence their position that, in light of the factors previously

set out, the scheme can now not viably provide affordable housing on-site, off-site or as a payment in lieu of physical provision.

The applicants' viability assessment has been independently assessed on behalf of the City Council by viability consultants at Carter Jonas. The independent viability assessment commissioned by the City Council concludes that, for the reasons identified by the applicant, the scheme is not sufficiently viable to viably provide any affordable housing. Notwithstanding this, the applicants have advised that they are prepared to provide a financial contribution of £658,000 to the Affordable Housing fund on an ex-gratia basis in view of the importance of this development plan policy objective. Whilst this would match the financial contribution agreed as part of the previously approved scheme, it would represent a reduced contribution to affordable housing given the contribution to be provided has not been increased in line with indexation since June 2015. Notwithstanding this, given this financial contribution is being provided on an ex-gratia basis and would be well in excess of the evidenced viability position, it is not considered that permission could reasonably be withheld on the basis of the affordable housing offer that has been made.

In view of the limited viability of the proposed development, it is considered that the proposed financial contribution to the Affordable Housing Fund represents an acceptable affordable housing offer in the context of Policy H4 in the UDP, S16 in the City Plan and the interim guidance published in 2013. As per the previously approved scheme, it is recommended that the affordable housing contribution in lieu of on-site affordable housing is secured via a S106 agreement, with the financial contribution index linked (albeit the financial contribution shall not be reduced below the amount specified in this report in the event that the RPI index falls over the period of the permission) and provided prior to commencement of development.

## **8.2 Townscape and Design**

### **8.2.1 Existing Buildings**

The site is not within a conservation area and the buildings on the site are not listed. The St. John's Wood Conservation Area does though surround the site and therefore the development of the site must have regard to the setting of the conservation area.

Notwithstanding this, the existing buildings on the site, by virtue of their age, form and detailed design are considered to be heritage assets (non-designated) and therefore their proposed demolition must be considered with reference to paragraph 135 of the National Planning Policy Framework (NPPF), which states that a balanced judgement must be made based on the significance of the asset and the benefits of the proposed development.

In this case, given the immediate context of the site, the relative isolation from other similar buildings and having regard to the extant permissions for their demolition (by virtue of the 2003 and 2015 schemes), it is considered that their removal can be considered acceptable provided the proposed replacement building is of sufficient architectural and design quality. In accordance with paragraph 136 of the NPPF, it is recommended that a condition is imposed requiring that the existing buildings are only demolished as part of a concurrent scheme of redevelopment for the whole site. This

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would ensure that the development would not have an adverse impact on the setting of the neighbouring St. John's Wood Conservation Area.

### **8.2.2 Proposed Development**

The proposed scheme would comprise a 6 storey building, which would be broken down in to two staggered vertical elements to the front elevation, to maintain the existing front building line, with recessed roof storeys at fourth and fifth floor levels to assist with the transition in scale between No.16 Finchley Road to the north and Balmoral Court to the south. To the rear the bulk of the building would be stepped down towards the rear boundary with Bartonway, which faces Queen's Terrace.

The splitting of the scheme into two vertical elements to form two separate building forms reflects the context and proportions of the adjacent building at No.16 is considered to be an appropriate design approach that assists the scheme in providing a transition between the lesser bulk and height of No.16 and the larger bulk and height of Balmoral Court.

In terms of the main elevations of the proposed building, the use of white water-struck brick as the main façade material is considered acceptable in design terms and would be an appropriate and high quality material that would relate well to the retained white render building at No.16. It is proposed to utilise textured brickwork (comprised of raised brickwork set within the prevailing masonry) to the parapets to form a decorative cornice, provide Portland stone surrounds to windows with balustrades in clear glazing. The general palette of materials is restrained so as to ensure that the decorative detailing proposed, particularly in the brickwork below the roof top parapets, does not over power the overall architectural composition.

The proposed roof top storeys are considered acceptable in terms of their overall height and are set back sufficiently to ensure that they would have a subordinate appearance in views along Finchley Road, particularly from the north. The roof storeys would be largely glazed structures to the front and rear elevations with simple white glass panels to the side elevations. Whilst the proposed building would exceed the height of Balmoral Court by approximately 0.7m, it is not considered that this additional height will be readily appreciable in public views of the site. Furthermore, it is preferable for the redevelopment of this site to comprise its own architectural composition, rather than follow the squat form and heavy detailed design of Balmoral Court.

To the rear of the building, its bulk and form, which steps down in height from the height of the principle rear façade, is considered acceptable in the context of the historic extent of development on this site and the extent of the development approved on this part of the site as part of the extant 2003 permission. In this context, it is not considered that the proposed development represents overdevelopment. The detailing to the rear would be similar to that to the street elevation; albeit with lesser detailing to the façade and window openings to reflect the more subservient nature of this façade.

The proposed boundary treatment would utilise the same brickwork as the proposed building. The treatment proposed would provide an overall improvement upon the existing boundary treatment (there is none at present to No.12) and therefore the

proposed wall is acceptable in design terms; albeit coping stones should be incorporated to the wall and piers. A condition is recommended to require this minor amendment.

Conditions are recommended to secure samples of all facing materials and details of all windows and doors. Subject to the recommended conditions, it is considered that the proposed development is acceptable in design terms and would not harm the setting of the neighbouring St. John’s Wood Conservation Area. Therefore, the proposal would accord with Policies DES1, DES4 and DES9 in the UDP and S25 and S28 in the City Plan.

### 8.3 Residential Amenity

Concerns have been raised by neighbouring residents in terms of the impact of the scheme on the amenity of neighbouring residents. Objections have been received from (or on behalf of) occupiers in Balmoral Court (see Section 5). As was the case in respect of the identical scheme previously approved in 2015, neighbours are concerned with regard to its impact in terms of loss of daylight and sunlight, increased sense of enclosure and increased overlooking, leading to a loss of privacy. These amenity concerns are addressed in turn in this section of the report.

#### 8.3.1 Daylight

In terms of daylight loss, the applicant has submitted a Daylight and Sunlight report, which assesses all of the surrounding windows in close proximity to the proposed development. The submitted Daylight and Sunlight report demonstrates that, relative to the existing situation on the application site, the proposed development would have a limited material impact on daylight to the rear windows of Balmoral Court. The material losses of daylight (using the Vertical Sky Component (VSC) method of assessment) would affect one of two conjoined rear windows serving the ground floor level porters studio flat, one bedroom window and three parts of a another bedroom bay window at first floor level and parts of bedroom bay windows at second and third floor levels respectively. Windows serving two bedrooms at fifth floor level would also be affected, but these rooms are also served by unaffected windows in other elevations.

The degree of VSC daylight loss to windows between ground and second floor levels is summarised in Table 1 below. Where the level of daylight received by a window remains at 27% VSC or more any loss of light caused would not be perceivable by the occupier of the room served by the window as the room would continue to be very well daylit. The Building Research Establishment guidelines (2011) advise that where the proposed daylight level received by a window would be below 27%, the daylight loss caused would only be appreciable to the occupier of the room served by the affected window where it would suffer a loss of daylight of 20% VSC or greater. Therefore, it is only where daylight losses exceed 20% VSC that the daylight loss can be considered to have a material impact on the level of daylight reaching neighbouring windows.

**Table 1 – Material losses of daylight to windows in rear elevation of Balmoral Court.**

Flat Location	Room Served by window	Existing VSC	Proposed VSC	% Change
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Ground floor rear porter's studio flat	Window 1 of 2 conjoined windows	4.94	3.09	-38%
	Window 2 of 2 conjoined windows	8.48	4.16	-51%
First floor 3 bedroom flat	Window 1 in 5 part bay window to master bedroom.	17.81	17.81	No change
	Window 2 in 5 part bay window.	30.30	30.38	Remains >27%
	Window 3 in 5 part bay window.	30.97	26.12	-16%
	Window 4 in 5 part bay window.	21.55	16.01	-26%
	Window 5 in 5 part bay window.	9.50	6.80	-28%
	Single window serving second bedroom.	26.96	20.95	-22%
	Single window serving bedroom	24.21	18.35	-24%
Second floor 3 bedroom flat	Window 1 in 5 part bay window to master bedroom.	19.13	19.13	No change
	Window 2 in 5 part bay window.	33.75	33.04	Remains >27%
	Window 3 in 5 part bay window.	33.98	29.29	Remains >27%
	Window 4 in 5 part bay window.	25.17	19.47	23%
	Window 5 in 5 part bay window.	12.01	9.03	--24.8%
Third floor 3 bedroom flat	Window 1 in 5 part bay window to master bedroom.	20.37	20.37	No change
	Window 2 in 5 part bay window.	35.85	35.35	Remains >27%
	Window 3 in 5 part bay window.	36.37	3.49	Remains >27%
	Window 4 in 5 part bay window.	29.03	23.74	18% reduction
	Window 5 in 5 part bay window.	14.89	11.92	-20%

As can be seen from table 1, the proposed development would have a material impact on 6 rear windows in Balmoral Court (three of which are bay windows comprised of five window with separate 'faces' at differing angles relative to the position of the application site).

The porter's flat at rear ground floor level, which is used as habitable accommodation by the porter, has two conjoined windows that face the southern side boundary of the application site. Table 1 shows that there would be a material loss of light to both windows serving the studio flat using the VSC method of assessment. Given the existing daylight levels to this studio unit are low owing partly to the overhang of the building above the windows, it is necessary to consider the impact in terms of the No Sky Line method of daylight assessment (i.e. measurement of the extent of the room which would receive daylight at the working plane). The No Sky Line assessment of the Porters flat indicates that it would suffer a 14.6% in daylight reaching the working plane within the room, which is below the 20% reduction level above which the BRE guidelines advises would result in a noticeable loss of daylight to the occupant of the room.

At first floor level the proposed scheme would result in a material loss of light to two of the rear facing bedrooms of one of the flats, with a further partial material impact on the



faces of the bay window serving the master bedroom of the same flat, which faces the proposed development. However, the rooms affected in this flat would continue to receive relatively good daylight levels and furthermore, the flat benefits from a large well lit living room with a bay window and side light windows to the street elevation facing Queen's Terrace.

The layout of the materially affected flats at second and third floor levels mirrors that at first floor level and at these higher levels only the bay windows to the master bedrooms are materially affected and to a far lesser degree than at first floor level. The flats have three bedrooms and benefit from large living areas facing the street elevation, which are well lit and which would be unaffected by the proposed development.

At fifth floor level two bedrooms in the side elevation of the penthouse flat adjacent to the flank wall of the proposed development would have windows that would suffer a material loss of light using the VSC method of assessment. However, these bedrooms would be served by other windows to the front and rear of the Balmoral Court that would not suffer a material loss of daylight using VSC. Furthermore, No Sky Line assessment of daylight within the two bedrooms indicates that the rooms would remain well day lit as a result of being served by multiple windows.

Whilst other windows serving habitable rooms to the rear elevation of Balmoral Court would see some reduction in daylight levels, the level of reduction would not be material and therefore would not be readily noticeable to occupiers. As such, permission could not be withheld on the basis of this impact on daylight. All flats with rear elevation windows within Balmoral Court have other habitable rooms to the street elevations of the building.

In this context, it is not considered that proportionately the material losses of daylight to flats in Balmoral Court would amount to an impact so significant that permission could be withheld on grounds of loss of daylight. Furthermore, the impact of the proposed development would be identical to the extant 2015 scheme and is unlikely to be significantly worse than the implemented (and therefore extant) 2003 scheme, which includes similar additional bulk to the rear adjacent to Balmoral Court in the form of a part four, part five storey block.

The only other material impacts in terms of daylight loss would be to rear facing windows at first and second floor level within No.16 Finchley Road. The proposals would result in a material loss of daylight to four windows at first floor level and one window at second floor level. However, the use of the rooms in question is unclear as no objections have been received from the occupiers of this property and access has not been possible during the course of the application. The two small obscure glazed windows to the centre of the rear first floor level elevation are bathroom windows and therefore do not serve a habitable room and the Council's records indicate that the first and second floor are in use as a single unit of accommodation. The daylight impact to No.16 is summarised in table 2 below.

**Table 2 - Material losses of daylight to windows in rear elevation of No.16 Finchley Road.**

Window Location	Room Served by window	Existing VSC	Proposed VSC	% Change
First floor	Window to left of rear elevation (thought to serve a kitchen)	27.84	21.72	-22%
First floor	Window to right of rear elevation (use of room unknown – assumed to be habitable)	31.98	20.84	-35%
Second floor	Window to left of rear elevation (use of room unknown – assumed to be habitable)	33.62	25.33	-27%

Whilst the daylight losses to the three windows serving habitable rooms at No.16 are material, given that the windows would continue to receive a good level of daylight, all in excess of 20% VSC, and as the upper floors serve a single unit of accommodation with other habitable rooms and windows to the front elevation, it is not considered that the daylight loss to this neighbouring property would be sufficient to merit withholding planning permission. Furthermore, the impact on the No Sky Line within the affected rooms would be very minimal and therefore the extent of daylight penetration in to these rooms would not be noticeable reduced.

The Daylight and Sunlight report demonstrates that there would be no significant or material losses of daylight to windows serving other immediate neighbouring residential buildings; namely, Bartonway, 1-14 Queen's Terrace to the rear and Appasley House on the opposite side of Finchley Road to the front of the site.

In conclusion, given the limited extent of material daylight losses that would be caused it is considered that the scheme is acceptable in daylight terms and would accord with Policy ENV13 in the UDP and Policy S29 in the City Plan.

### 8.3.2 Sunlight

In terms of the impact of the development on levels of sunlight reaching neighbouring residential windows, the submitted Daylight and Sunlight report demonstrates that the scheme would have no significant impact given its orientation and distance from neighbouring windows. As such, the proposal is acceptable in this regard and would accord with Policy ENV13 in the UDP and Policy S29 in the City Plan.

### 8.3.3 Sense of Enclosure

The proposed development would have no adverse impact to its front elevation where it forms a continuation of the existing building line between Balmoral Court and No.16 Finchley Road.

To the rear the proposed development would have a stepped built form above ground floor level at the side boundary with the rear elevations of Balmoral Court.

The ground floor to the rear would extend to the boundary with Balmoral Court and this is considered acceptable in sense of enclosure terms given that its height above the existing boundary fence would be limited (an increase of 1.4m). A condition is

recommended to prevent the use of the flat roof at first floor level at the boundary with the rear of Balmoral Court being used as a terrace.

Above ground floor level the bulk of the proposed building, where it projects backward of the existing rear building line, would be limited to two storeys and be set back by 4.7m from the boundary with the rear of Balmoral Court. In combination with the width of the basement access ramp to the rear of Balmoral Court, this would ensure that the rearward projecting elements of the proposed building would be approximately 11m from the north west facing rear windows of Balmoral Court. The shallower rearward projections of the proposed building at 4<sup>th</sup> and 5<sup>th</sup> floor levels would be approximately 19m from the rear north west facing windows of Balmoral Court. At these distances it is considered that there would be sufficient distance between north facing rear windows in Balmoral Court and the proposed development to ensure that these rear windows would not suffer an unacceptable increase in terms of sense of enclosure.

The proposed development would be apparent in more oblique views from windows in the north east rear facing rear windows in Balmoral Court (i.e. the rear of the element of the building facing Finchley Road). However, whilst the proposed building would be readily visible in such views, it is not considered that this would amount to an unacceptably increased sense of enclosure; rather it represents a change in the outlook from these windows.

At fifth floor level the proposed building would rise above the height of the adjoining top floor roof terrace and recessed roof storey to Balmoral Court. Whilst the proposed building would be only 0.7m higher than Balmoral Court, given the differing architectural approaches to the two buildings, this would result in a 3.7m flank wall being formed along the north facing edge of the existing roof top terrace serving the penthouse flat at Balmoral Court that is closest to the application site and objection has been raised in respect of this relationship. However, whilst this is a relatively un-neighbourly relationship in amenity terms, the terrace in question, which also extends around the front and rear elevations of half of Balmoral Court, would retain an open aspect to the south west and north east.

In terms of the impact on other neighbouring properties, the proposed development would be visible in more oblique views to the south from rear windows in No.16 Finchley Road; however, this would represent a change in outlook rather than an increased sense of enclosure, given the entirely open outlook that would remain to the north and north east.

To the rear, the proposed development would be approximately 20m from the rear elevation of Bartonway, the residential block facing Queen's Terrace and at this distance it is not considered that the scheme would cause a materially increased sense of enclosure to rear windows in this block.

The proposals are considered acceptable in sense of enclosure terms and would accord with Policy ENV13 in the UDP and Policy S29 in the City Plan.

#### **8.3.4 Overlooking/ Loss of Privacy & Noise Disturbance (excluding Mechanical Plant)**

In terms of overlooking, the scheme does not include any terraces at lower floor levels adjacent to the boundary with Balmoral Court. Where terraces are proposed. The Juliette balconies proposed to the rear at first and second floor levels would face north east towards Bartonway and would offer only oblique views towards Balmoral Court. As such, they would not give rise to a significantly increased sense of overlooking. The small projecting terraces to the rear at first and second floor levels would be screened at either end to prevent overlooking towards the rear windows of Balmoral Court. The small terraces would face the rear windows of Bartonway, but would be sufficiently distant from these windows (approx. 21 metres) so as not to cause a significant increase in overlooking.

The garden areas at rear ground floor level would be enclosed by boundary walls and would not overlook neighbouring windows.

At third floor level the proposed building steps back and the bulk of the building is significantly reduced. The application proposes the use of part of the roofs of the building below to provide roof terraces. This is considered to be acceptable in the locations proposed, as the terraces would be set back from the rear of Balmoral Court and 16 Finchley Road and screened with 1.8 metre high privacy screens comprised of low walls with an obscure glazed screens above. The terraces are considered to be sufficiently modest in size so as not to give rise to significant concerns in terms of noise disturbance.

The proposed roof terraces at fourth and fifth floor level to the northern side of the site would not cause any significant overlooking given the open aspect to the north and the significant distance to neighbouring windows to the south east and north east of the site.

The proposed roof terraces to the front and rear elevation of the roof top storey at fifth floor level include a privacy screen at the boundary with Balmoral Court to prevent overlooking to the roof terrace of the neighbouring penthouse flat. It is recommended that this privacy screen and those proposed to terraces at lower levels on the building are secured by condition.

Subject to the recommended conditions the proposed scheme is acceptable in overlooking and noise disturbance terms and would accord with Policies ENV6 and ENV13 in the UDP and Policies S29 and S32 in the City Plan.

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

As per the extant scheme approved in June 2015, the current scheme proposes the provision of vehicular access to a basement car park for residents of the development via the existing access ramp below Balmoral Court, which is accessed from Queen's Terrace.

To the front of the site, No.12 Finchley Road currently has an open front boundary with parking across the whole forecourt. The proposed scheme would retain a smaller paved forecourt across the front of the site for the purpose of accommodating deliveries and collection vehicles.

Occupiers of Balmoral Court have restated their objection to the proposed basement access arrangements. The grounds on which they object to the proposed access arrangements are that they would have an adverse impact on deliveries/ trades persons servicing Balmoral Court; that there is insufficient justification as to why vehicular access cannot be provided from Finchley Road; inadequate details of proposed basement ramp and associated traffic management measures have been provided; the survey of Balmoral Court basement access was only carried out over only one 24 hour period in 2011; and the proposed scheme would provide an overprovision of car parking.

In terms of the quantum of parking proposed at basement level, the scheme would provide 12 car parking spaces (including one disabled space). This level of provision would be in accordance with Policy TRANS23 in the UDP and would not exceed the maximum level of provision set out in the adopted policy. In terms of cycle parking, 21 spaces are proposed and this accords with the requirements of Policy 6.9 in the London Plan (March 2016).

The applicant proposes to utilise part of the existing vehicular access below the adjoining residential block, Balmoral Court, to provide access to the basement level car parking. This has the benefit of reducing the prominence of the vehicular access to the site and overcomes potential difficulties of providing vehicular access via a ramp from Finchley Road, which is part of the Transport for London Road Network (TLRN), over the London Underground tunnel.

The use of the existing access below Balmoral Court, from Queen's Terrace, will result in additional traffic using this point of access and neighbouring residents are concerned that this would give rise to noise disturbance. However, surveying of the use of the existing vehicular access demonstrates that it is relatively lightly used by vehicles accessing the 21 space car park below Balmoral Court. The existing vehicle movements for Balmoral Court when surveyed amounted to 0.38 vehicle movements per day per flat (a total of 8 inward and 8 outward movements). Although this survey data was collected in March 2011, it is considered to remain representative of the general level of vehicle movements connected with basement parking. The applicant's transportation consultant notes that no overnight vehicle movements were recorded; although given that the survey was limited to a single 24-hour period this observation is considered to carry limited weight.

By increasing the number of vehicle movements on a pro-rata basis in line with the 12 additional parking spaces that would be provided the submitted Transport Assessment concludes that the vehicle movements would be likely to increase to around 10 inbound and 10 outbound movements per day. It is not considered that this relatively small increase in infrequent and low speed traffic using the existing ramp to access the proposed ramp and basement in the proposed development would result in a significant increase in noise disturbance to neighbours and the Highways Planning Manager is satisfied that the increase in vehicular movements is acceptable.

The Highways Planning Manager has confirmed that the proposed vehicular access ramp and its relationship to the existing Balmoral Court ramp are acceptable in highways safety terms. Road markings and a traffic light system are proposed at the top and bottom of the new ramp are proposed to ensure safe entry and egress from the basement of the application site and Balmoral Court. Given the low level of vehicle

movements it is not considered that this would result in queuing on the public highway. Priority for access would be given to vehicles entering and leaving Balmoral Court, with the new ramp set as a red light, except when a vehicle wishes to enter or exit. It is recommended that details of ramp and associated traffic management measures are reserved by condition and that the condition requires the installation of this equipment prior to occupation of the building.

The Highways Planning Manager requests that electric vehicle charging points are provided at basement level and a condition is recommended to secure these in accordance with the requirements of Policy 6.13 in the London Plan (March 2016).

Given that the existing forecourt to No.12 Finchley Road is fully accessible to vehicles and as Finchley Road is part of the TLRN where stopping is precluded, the retention of a serving area of hard standing to the front of the site is considered acceptable. A condition is recommended to ensure it is used for this purpose and not to provide further residents or visitor parking.

The Cleansing Manager objects to the use of six 360 litre bins for waste and recycling storage on the basis that this will slow down the collection of waste and recycling. However, this arrangement was considered acceptable by the Cleansing Manager as part of the previously approved scheme and as the scheme includes a bin presentation enclosure on the forecourt of the site, it is not considered that the arrangement proposed would cause such a significant delay in refuse collection so as to warrant withholding permission. A condition is recommended to ensure the provision of both the basement level refuse store and the presentation enclosure on the front forecourt so that the scheme accords with Policy ENV12 in the UDP.

Subject to the recommended conditions the scheme is considered acceptable in highway and parking terms and would accord with Policies ENV12, TRANS2, TRANS3, TRANS21 and TRANS23 in the UDP, Policies S41 and S42 in the City Plan and Policy 6.9 in the London Plan (March 2016).

## **8.5 Economic Considerations**

The proposal is in accordance with the relevant policies in the development plan and the economic benefits generated are welcomed.

## **8.6 Access**

The proposed development would provide level access from the highway and a lift would provide level access to all floors in accordance with Policies DES1 and TRANS27 in the UDP. All residential units are to be provided to lifetime homes standards in accordance with Policy H8 in the UDP. All of the units within the development would be 'accessible and adaptable dwellings' as defined by Part M4(2) of the Building Regulations and this would accord with Policies 3.5 and 3.8 in the London Plan (March 2016).

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

### **8.7.1 Trees and Landscaping**

As per the 2015 previously approved scheme, which remains extant, the current scheme would involve the loss of an Ash tree (T10) within the front garden and a group of three London Plane trees (T7, T8 and T9) in the rear corner of Balmoral Court. The application would retain the Cherry tree in the front garden of No14 Finchley Road.

The Arboricultural Manager notes that the submitted Arboricultural report is that submitted with the previously approved scheme and recommends that an updated assessment is undertaken. Whilst an updated assessment has not been submitted, the Arboricultural Manager has been able to make a full assessment of the trees on the site and therefore the absence of an updated professional opinion on behalf of the applicant is not considered to justify withholding permission. The Arboricultural Manager also notes that there is inconsistency between the arboricultural report submitted and the details shown on the submitted drawings, as the former indicates the removal of the TPO Cherry tree to the front of No.14. The applicant has subsequently amended the arboricultural report to remove this disparity.

Removal of the Ash tree from the Finchley Road frontage of the site is not objectionable. The Arboricultural Manager notes that it appears to be a self-seeded specimen, and whilst it is clearly visible from Finchley Road, it is of below average form and its loss is therefore not objectionable subject to suitable replacement tree planting and landscaping being proposed.

The removal of the three London Plane trees to the rear of Balmoral Court was agreed as part of the scheme previously approved in June 2015, which remains extant, at which time it was noted that the three trees were inappropriately large for the location in which they have been planted. Tree 'T9' was badly topped in 2012, but has since regrown. Objection has been raised on behalf of the occupiers of Balmoral Court to the current application on the basis that these trees should be retained and furthermore, the City Council should make a TPO for them. In support of the request that the trees are made subject of a TPO, the objectors have commissioned an assessment of the three London Plane trees, which identifies what the objectors consider to be the amenity value of the trees (this assessment is provided in full in the background papers). The Arboricultural Manager has made a full assessment of the request for a TPO, having regard to the assessment carried out on behalf of the objectors, the response to the objection provided by the applicant (see the background papers) and following on site assessment of the trees. Her detailed assessment of the trees is set out in Appendix A of her memorandum dated 19 April 2018, which is also included in the Background Papers. She concludes that two of trees are of poor form and are barely visible from public vantage points. Consequently, she considers that trees 'T7' and 'T8' are definitely not of sufficient amenity value to merit statutory protection and furthermore, their loss to facilitate the development is not objectionable.

The Arboricultural Manager acknowledges that tree 'T9' is of greater amenity value now than in 2012, because it has regrown from the previously lopped points. Despite this regrowth and resultant improvement in its form, she considers that the tree remains below average in terms of its form. As per the other two London Plane trees, 'T9' is barely visible in public views and its amenity value is therefore localised to the occupiers of neighbouring properties, principally those in Balmoral Court, for whom it is recognised the tree, along with trees 'T7' and 'T8' provides visual screening. However, the tree (along with trees 'T7' and 'T8') is suppressed in terms of its future potential to provide

increased visual amenity by virtue of the small raised planting bed. On balance, the Arboricultural Manager concludes that because of its indifferent form as a result of previous lopping, its limited visibility and the insignificant contribution to the character and appearance of the neighbouring St. John's Wood Conservation Area, tree 'T9' does not provide the degree of public benefit necessary to justify making a TPO pursuant to Section 198 of the Town and Country Planning Act 1990 (as amended). In this context, the removal of this tree, which is not within a conservation area and is not subject of a TPO is not a ground on which permission could reasonably be withheld.

The Arboricultural Manager has noted that proposals for tree surgery and tree protection in respect of the trees to be retained on site and close to the site will need to be reviewed and updated given the time that has elapsed between the date of the assessment submitted with the application and the current date, during which the trees will have grown and changed from the point of assessment. It is recommended that updated tree surgery and tree protection details are secured by condition.

The Arboricultural Manager has expressed strong concerns regarding the form and extent of replacement landscaping and tree planting on the application site. To the rear planting would be confined to planters within the proposed court yard gardens and terraces. Given this site is not within a conservation area and has historically been extensively developed to the rear (i.e. the building at No.12a which has now been demolished), the landscaping arrangement proposed, which would include brown roofs to all available flat roofs not used to provide terraces or photovoltaic panels, would not be materially worse than the existing or historic situation on this part of the site.

To the front of the site, owing to the proximity of the London Underground tunnel, there is limited scope to provide a significant depth of top soil within the part of the front garden located over the roof of the tunnel. The scope for landscaping on this part of the site is further reduced by the retention of the TPO Cherry tree at the boundary of the site with No.16 Finchley Road. The indicative landscaping scheme shown in the application drawings (which is identical to the indicative landscaping shown in the previously approved scheme drawings) shows new tree planting to mitigate the trees to be removed within the 600mm soil depth to be formed between the London Underground tunnel and the front elevation of the proposed development. The proposed trees would be smaller and more ornamental in form and arrangement than the existing arrangement of trees and shrubs within the front garden of No.14.

The St. John's Wood Conservation Area, which the site is seen in context with in views along Finchley Road, and the St. John's Wood area more generally, is characterised by more informal landscaping and tree planting. In this context and given the TPO Cherry tree is to be retained, it is considered that the number of new trees proposed to the front of the site should be reduced and a generally a less formal landscaping arrangement adopted. Therefore, as per the scheme previously approved in 2015, a condition is recommended to reserve details of revised landscaping to the front of the site to enable these concerns to be addressed. It is considered that the recommended condition would serve to address in part the Arboricultural Managers concerns regarding quality of the landscaping and tree planting to be provided to the front of the site, as well as her concerns regarding the positioning and design of the raised planters, which could, as currently proposed, have an adverse impact on the roots of the retained TPO Cherry tree.



In conclusion, for the reasons set out earlier in this section of the report and as set out in detail in Appendix A of the Arboricultural Managers memorandum dated 19 April 2018, the objections raised on grounds that the London Plane trees should be retained and made subject of a TPO cannot be supported as grounds on which permission could reasonably be withheld/ a TPO made. Furthermore, subject to the recommended conditions it is considered that the concerns of the Arboricultural Manager in terms of tree protection, landscaping and replacement tree planting can be suitably addressed. Therefore, the proposed development would accord with Policies ENV4, ENV16, ENV17 and DES9 in the UDP and Policies S25 and S38 in the City Plan.

### **8.7.2 Basement Development and Construction Impact**

The applicant has submitted a structural methodology, ground investigation report and flood risk assessment to address the technical requirements of new basement development in Part A of Policy CM28.1 ('the basement development policy'). These documents have been assessed by Building Control who do not raise objection to the structural methodology proposed for the ground conditions in this location. The applicant has confirmed that they would accept the imposition of a condition requiring the development to be carried out in accordance with the City Council's Code of Construction Practice (CoCP) and for construction works to be monitored by the Environmental Inspectorate at the applicant's expense. Compliance with the CoCP would enable the Environmental Inspectorate to better manage the cumulative effect of the development should it be carried out at the same time as the redevelopment of St. John's Wood Barracks in Queen's Terrace. The undertaking to accord with the CoCP therefore addresses the specific requirements of Part A.2(b) and the objections raised on cumulative construction impact grounds.

In respect of Part A.6, the site is not within an Archaeological Priority Area and therefore it would not have a significant impact on archaeological deposits.

In terms of Part B of the basement development policy, the scheme would deliver an acceptable landscaping scheme that would be an enhancement upon the existing landscaping on the site and would not result in the loss of trees that are considered to be of significant townscape, ecological or amenity value (see full assessment of this issue in Section 8.7.1). The development would be required to meet building regulations and would be highly sustainable relative to the existing buildings on this site (see full assessment in Section 8.11). The basement floor would provide parking, storage and plant room space and would therefore would not require mechanical ventilation or any external manifestations, such as lightwells or rooflights, to provide natural light.

The submitted Drainage Strategy considers the options for sustainable urban drainage systems on this site having regard to the options set out in Policy 5.13 in the London Plan (March 2016). For site specific ground condition reasons, the application proposes that all waste water will be discharged into the public sewer. The submitted strategy references the provision of measures such as brown roofs to slow water run-off from roofs, but does not explain in detail how water run off at peak times (such as during storms) would be attenuated to reduce the risk of sewer flooding. Thames Water raise concerns in this regard and suggest that a condition is imposed requiring further details of the drainage strategy for the site. It is therefore recommended that details of the

sustainable urban drainage systems to be employed are reserved by condition to ensure compliance with Part B.4 of the basement development policy and Policy 5.13 in the London Plan.

Whilst the site is not within a 'Surface Water Flood Risk Hotspot', as identified in the 'Basement Development in Westminster' SPG (2014), the applicant's drainage strategy identifies that Environment Agency records indicate that the site is in an area of increased risk of surface water flooding. The submitted drainage strategy indicates that measures have been considered to make the proposed development resilient to surface water flooding, but the measures proposed are not included in the strategy. It is recommended that these details are secured by condition.

In terms of Parts B.5 and B.6 of the policy, the proposed basement would have no external manifestations, save for the vehicular access ramp, which would be discreetly located to the rear of the site. Therefore, the proposed basement would have no adverse impact on the appearance of this part of the City or the setting of the neighbouring St. John's Wood Conservation Area.

The applicant has confirmed that the development would include a pumped device to avoid sewer flooding and this accords with Part B.7 of the policy.

Part C of the Basement Development policy seeks to control the size and extent of new basement development. Part C.1(a) requires basement development to not extend under more than 50% of the garden land ('garden land' is defined as the area of land not covered by the 'original building', which is the building as it existed in 1948). In this case the site formally included an annex building to the rear (known as No.12a Finchley Road), which was demolished around 2008 as part of the works to implement the 2003 permission on the larger site comprising Nos.12-22 Finchley Road. As this annex building existed in 1948, its footprint forms part of the original building and is not garden land. When this is taken into account, the area of garden land that existed in 1948 was approximately 422m<sup>2</sup>. The proposed basement would extend under approximately 178m<sup>2</sup> of the garden land, with 244m<sup>2</sup> remaining undeveloped. The proposed basement therefore extends under approximately 42% of the garden land and is therefore compliant with Part C.1(a).

Part C.1(c) requires basement development to leave a margin of undeveloped garden land proportionate to the scale of the development and the size of the garden around the entire site boundary except beneath the existing building. The policy defines 'undeveloped garden land' as land which does not have any impermeable surfacing installed. In this case, the entire front forecourt of No.12 Finchley Road is impermeably paved, whilst the surface of the site to the rear of both Nos.12 and 14 Finchley Road is entirely comprised of impermeable surfaces consisting of the former floor plate of No.12a Finchley Road and associated walkways around that now demolished building. The front garden of No.14 Finchley Road is currently predominantly soft landscaped and is therefore the only area of undeveloped garden land on the site. In this context, whilst the proposed basement would extend to the full extent of the site boundaries to the south eastern, north eastern (rear) and north western boundaries of the site, this would not conflict with the requirements of Part C.1(c). The proposed basement would extend only 1.4 metres beyond the front elevation of the proposed development. Therefore, whilst this projection would not be set in from the boundary with No.16 Finchley Road

where it would be below part of the existing undeveloped garden land to the front of No.14, it is not considered that it would be reasonable or proportionate to require this small section of the proposed basement to be set in from the north western boundary of the site.

Part C.2 requires the provision of 1 metre of soil depth, plus at least a 200mm drainage layer, over new basement development. The scheme would not provide this level of soil depth over the basement that extends under part of the front forecourt area, with the maximum soil depth provided over this part of the basement being 580mm (including drainage layer). However, given this is a relatively small area of the site (projecting between 1.4m and 4.4m from the front elevation of the proposed building), it is not considered that permission could reasonably be withheld on the basis of the lack of soil depth proposed. To the rear, the proposed courtyard gardens at ground level would not have any soil depth beneath them. However, the text supporting the Basement Development policy states '*Exceptions [to the normal soil depth requirements] may be considered in small courtyard gardens...*'. It is considered that this scheme is one where it is reasonable to make an exception in respect of the proposed courtyard gardens, particularly given there is an extant scheme for redevelopment of the site that could be implemented, which would deliver identical courtyard gardens with no soil depth.

The proposed basement would be limited to a single storey in accordance with the requirements of Part C.3 of the policy.

Part D of the Basement Development policy is not relevant in this case as the proposed basement does not extend under the public highway.

### 8.7.3 Mechanical Plant Noise

Environmental Health are satisfied that in principle the proposed combine heat and power unit located to the rear of the site at ground level and associated mechanical plant can be designed to operate sufficiently below the existing background noise level so as to not cause noise disturbance to neighbouring residents or occupiers of the development itself. However, a precautionary approach is recommended by imposing a condition requiring the submission of a supplementary acoustic report demonstrating compliance with Policies ENV6 and ENV7 in the UDP and Policy S32 in the City Plan.

Further conditions are recommended to control future noise and vibration from mechanical plant within the development and to ensure the fabric of the building protects occupiers of the development from external noise.

Environmental Health recommend that a condition is imposed requiring the submission of details of noise and vibration attenuation measure to prevent noise and vibration being transmitted from the adjoining London Underground tunnel. The applicant has agreed to such a condition and it has been included in the draft decision letter accompanying this report.

Subject to the recommended conditions, the proposals are considered to be acceptable in terms of noise and vibration from mechanical plant and the London Underground tunnel and would accord with Policies ENV6 and ENV7 and Policy S32 in the City Plan.

#### **8.7.4 Air Quality**

Environmental Health initially raised concern that the application was not accompanied by an air quality assessment demonstrating the impact of the development on air quality. An air quality assessment was subsequently submitted by the applicant and has been assessed by Environmental Health. They advise that they are content that the scheme would have a neutral impact on air quality and therefore the scheme accords with Policy ENV5 in the UDP and S31 in the City Plan.

#### **8.8 London Plan**

The proposed development would accord with the London Plan (March 2016). Specific London Plan policies are referred to where relevant elsewhere in this report.

#### **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**

The application would generate a requirement for the provision of affordable housing. In this case the provision of this planning obligation in the form of a financial contribution to the Council's affordable housing fund is considered acceptable for the reasons set out in Section 8.1.3. It is recommended that this contribution is secured via a S106 agreement and that it is index linked and delivered prior to commencement of development.

As set out in Section 8.4 it is also recommended that heads of terms are included in the S106 agreement to secure alterations to the public highway along Finchley Road to form access to the new forecourt area and make good the existing footpath, and to ensure the provision and permanent retention and maintenance thereafter of the vehicular access to the basement level car park via the vehicular entrance to Balmoral Court.

In support of the heads of terms set out in the two preceding paragraphs and to aid monitoring of the agreement, the S106 agreement will also secure notice of commencement of development and a financial contribution to cover the cost of monitoring the agreement.

In addition to the planning obligations to be secured by the S106 agreement, the scheme is CIL liable and generates an estimated Mayoral CIL contribution of circa £131,000 and an estimated Westminster CIL of £1,185,000. Note that these figures are estimates and the precise CIL contribution will need to be determined prior to commencement of development the City Council's CIL administration team. The figures above do not account for any relief or exceptions that the development may qualify for.

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

The proposed development is of insufficient scale to require an Environmental Impact Assessment. However, it is a major development and therefore it is necessary to consider its impact in in sustainability, biodiversity and energy usage terms.

The extant scheme, which was previously approved in 2015 proposed the use of air source heat pumps and heat pump boilers to provide space heating and hot water. The roofs of the building were provided as 'living' brown roofs, with no photovoltaic panels.

The previously approved sustainability and energy strategy has been reviewed as part of the current application in light of the material changes in relevant adopted policies in the latest versions of the City Plan and London Plan which were both adopted in 2016, subsequent to the determination of the previously approved scheme. The currently adopted policies set more significant targets for reduction of CO<sub>2</sub> emissions, with Policy 5.2 in the London Plan requiring developments to be 'zero carbon', which the Mayor's 'Energy Planning' guidance defines as a 35% CO<sub>2</sub> emissions saving relative to the Target Emissions Rate (TER) set by 2013 Building Regulations.

The currently proposed scheme therefore proposes a combined heat and power (CHP) system serving all of the residential units in the development, with renewable energy provided via photovoltaic panels located at roof level. The energy strategy would be combined with higher specification materials and fixtures and fittings throughout the development than in the approved scheme to deliver a regulated CO<sub>2</sub> emissions reduction of 68% relative to the TER set by the 2013 Building Regulations. This reduction in regulated CO<sub>2</sub> emissions meets the requirements of Policy 5.2 in the London Plan and accords with the Mayor's 'Energy Planning' guidance document (2016).

Of the 68% reduction, 9% would be derived from the use of photovoltaic panels to contribute to the electrical demand from the development. Whilst this falls below the 20% target for reductions in CO<sub>2</sub> emissions from on-site renewable energy sources that is set by Policy S40 in the City Plan, given the overall reductions in regulated CO<sub>2</sub> emissions, and as the 9% reduction would be compliant with Policies 5.2 and 5.7 in the London Plan, the strategy proposed is considered acceptable.

Policy 5.2 and the supporting guidance seeks that CO<sub>2</sub> emissions from unregulated sources (cooking, domestic appliances etc.) are mitigated by a financial contribution to the Carbon Off-setting Fund. However, given the limited overall viability of the proposed development (see Section 6.1.3) and the significant reduction in regulated CO<sub>2</sub> emissions that would be achieved relative to the policy requirement, it is not considered that permission could reasonably be withheld on this ground.

Passive design measures are proposed to prevent overheating within the proposed development.

'Living' brown roofs are proposed at roof level, as per the previously approved scheme, albeit the brown roof at main roof level at 5<sup>th</sup> floor level would be reduced relative to the previously approved scheme to enable the provision of the photovoltaic panels. The provision of brown roofs is welcomed and has been maximised to improve the biodiversity of the site in accordance with Policy S38 in the City Plan. In this context, the Arboricultural Managers concerns in respect of the extent of brown roofs proposed is not supported.

Conditions are recommended to ensure that the development is delivered in accordance with the submitted Sustainable Design and Energy Strategy and to ensure that the 'living' brown roofs and photovoltaic panels are provided at roof level as part of the development. Subject to these conditions, the scheme is acceptable in environment and sustainability terms and accords with Policies S28, S39 and S40 in the City Plan and Policies 5.2, 5.3, 5.6, 5.7, 5.9, 5.10 and 5.11 in the London Plan (March 2016).

## 8.12 Other Issues

Concern has been expressed that the refuse enclosure along the boundary of the site with Balmoral Court could cause odour and noise nuisance to neighbours in Balmoral Court. However, this structure is for 'bin presentation' on the day of collection and it is not intended for use to store refuse at other times. Therefore, the potential for odour nuisance is limited. Similarly, as the enclosures would only be used when bins are brought out from the basement level bin store on the day of collection, they are unlikely to give rise to regular or persistent noise disturbance.

An informative is recommended to draw the applicant's attention to the advice from the Crime Prevention Design Advisor that the scheme should be designed to comply with the advice provided in the 'Secured by Design Homes 2016' guidance document.

## 9. BACKGROUND PAPERS

1. Application form.
2. Email from Thames Water dated 12 September 2017.
3. Email from the Metropolitan Police dated 19 September 2017.
4. Memo from Building Control dated 21 September 2017.
5. Letter from London Underground dated 22 September 2017.
6. Email from Transport for London dated 26 September 2017.
7. Memo from the Cleansing Manager dated 26 September 2017.
8. Memo from the Highways Planning Manager dated 5 October 2017.
9. Letter from the London Borough of Camden dated 14 December 2017.
10. Memos from Environmental Health dated 14 February 2018.
11. Memo from the Arboricultural Manager dated 19 April 2018.
12. Letter from the occupier of 6 Balmoral Court, Queens Terrace dated 24 September 2017.
13. Letter from Rackham Planning on behalf of the occupiers of Balmoral Court dated 30 October 2017 with appended letter dated 5 September 2014 and report titled 'Report on the amenity value of Three Plane Trees' dated October 2017.
14. Letter on behalf of the applicant from Landmark Trees dated 19 February 2018.
15. Copy of decision letter dated 1 June 2015 (12/11010/FULL) and relevant drawings.
16. Copy of decision letter dated 21 December 2017 (17/00938/FULL) and relevant drawings.

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

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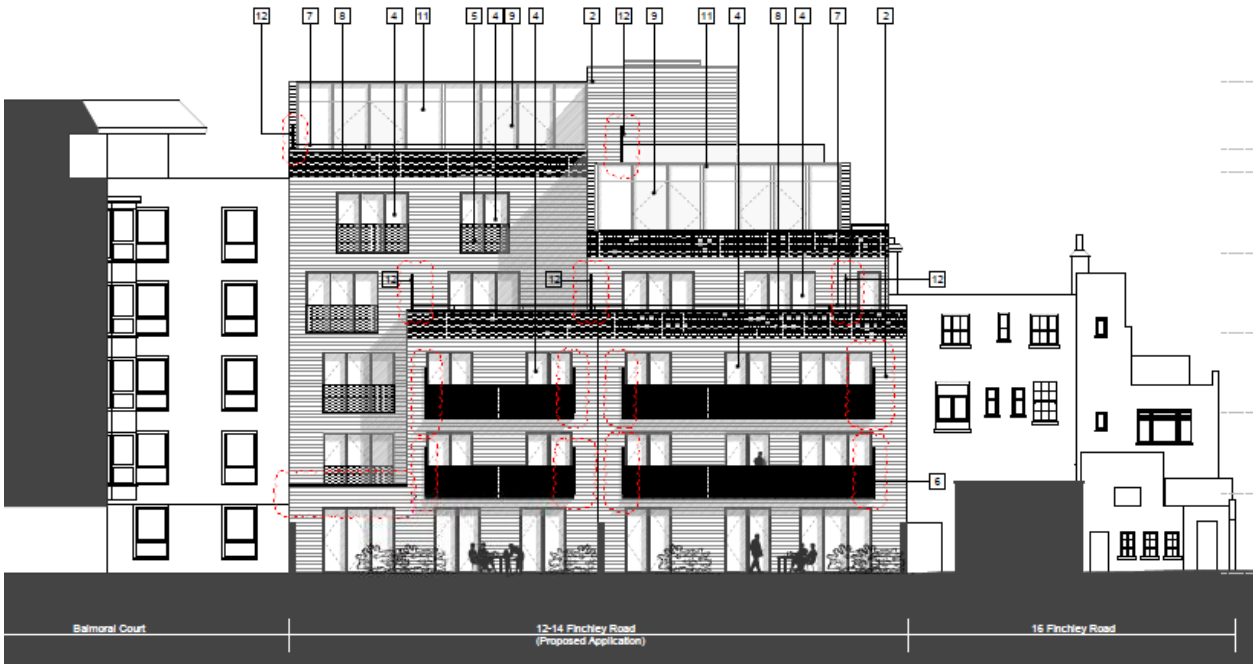
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).

10. KEY DRAWINGS

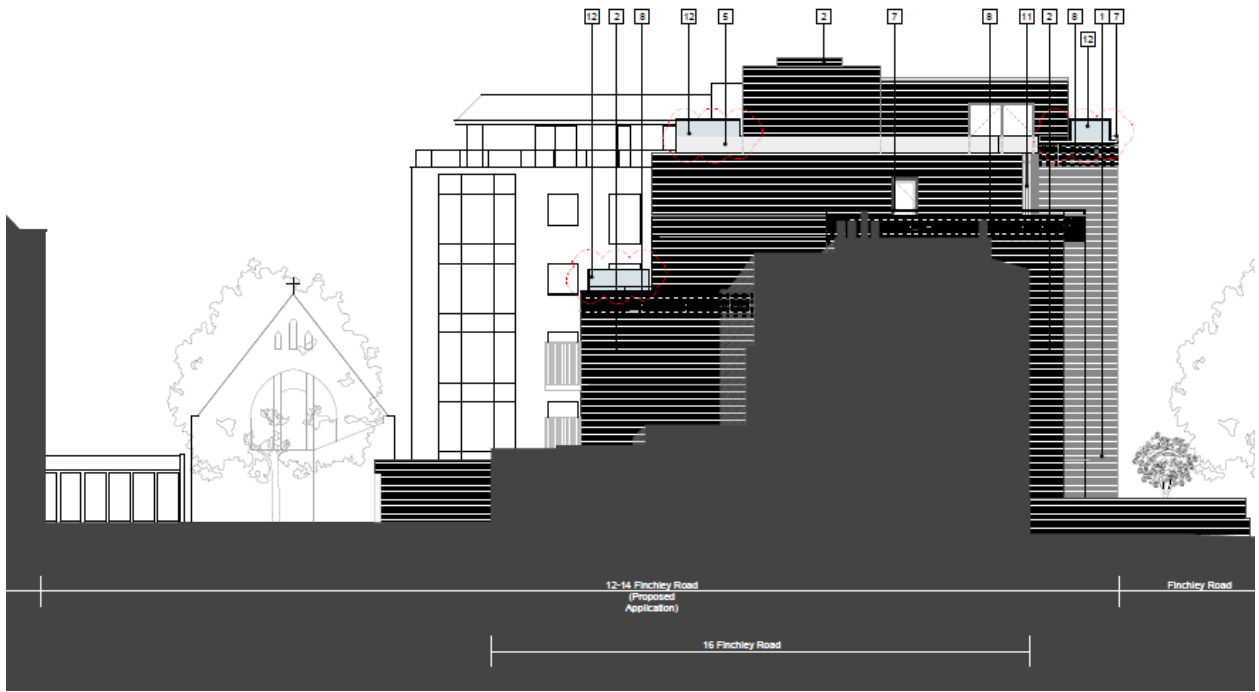
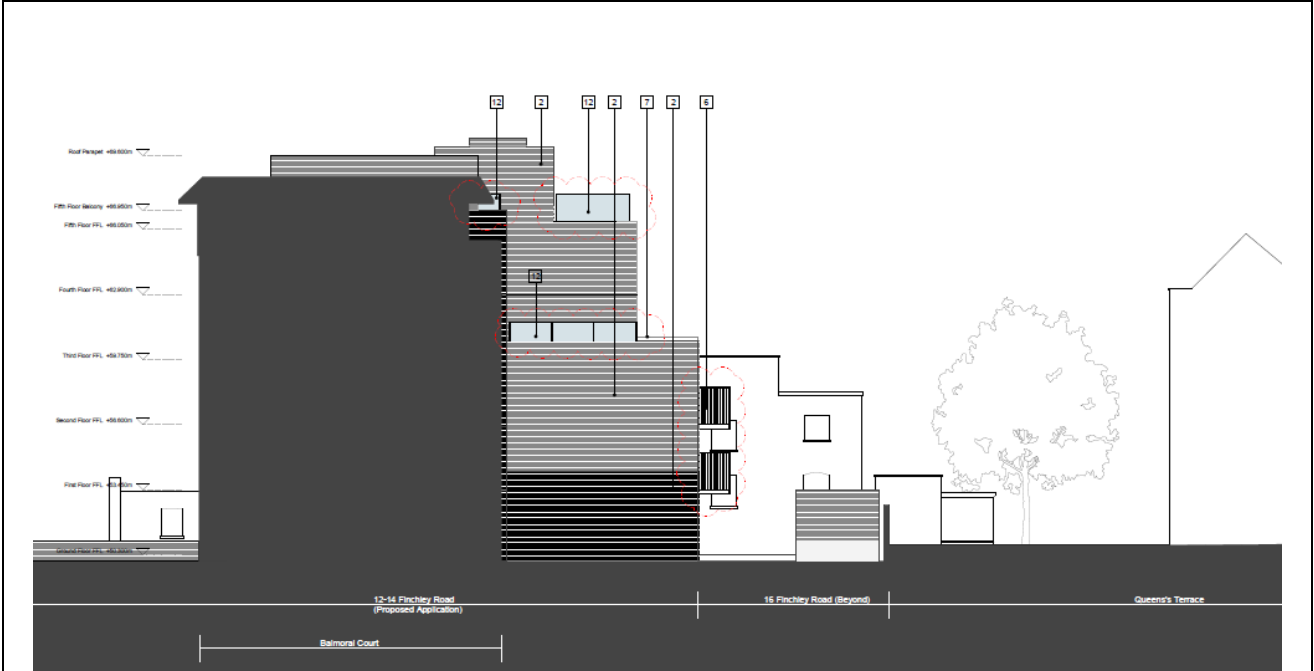


Montages of front elevation of proposed development from Finchley Road.

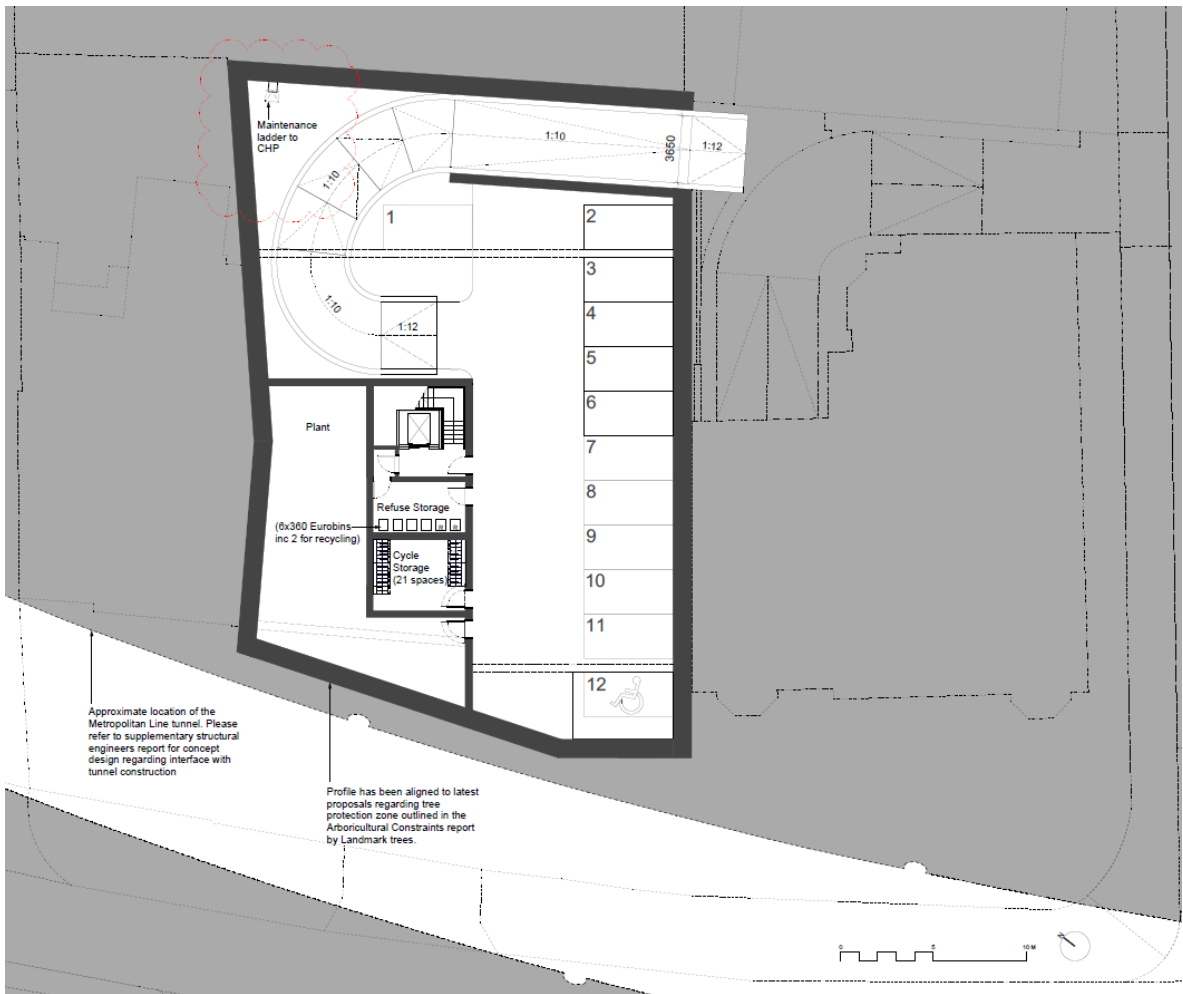




Front elevation (top) and rear elevation (bottom).



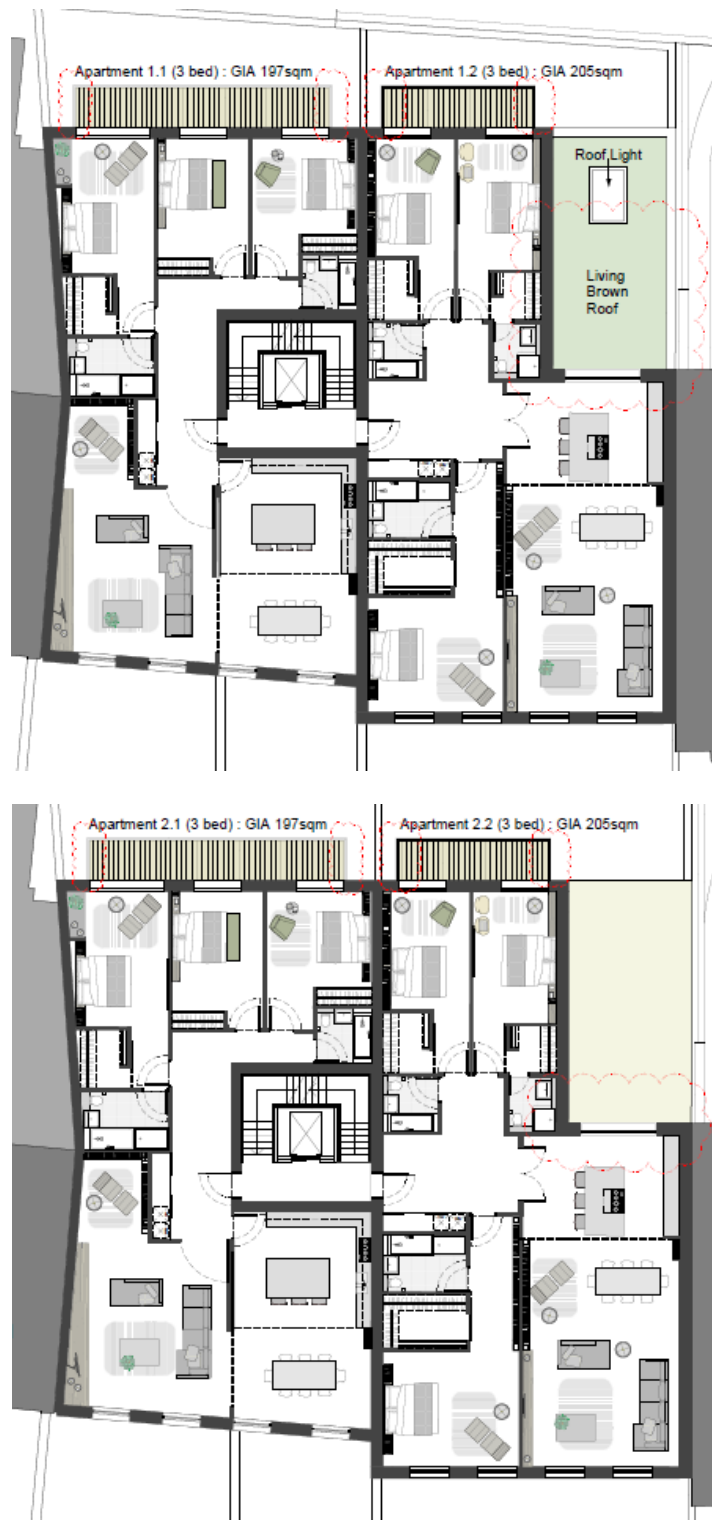
South eastern side boundary with Balmoral Court (top) and north western boundary with No.16 Finchley Road (bottom).



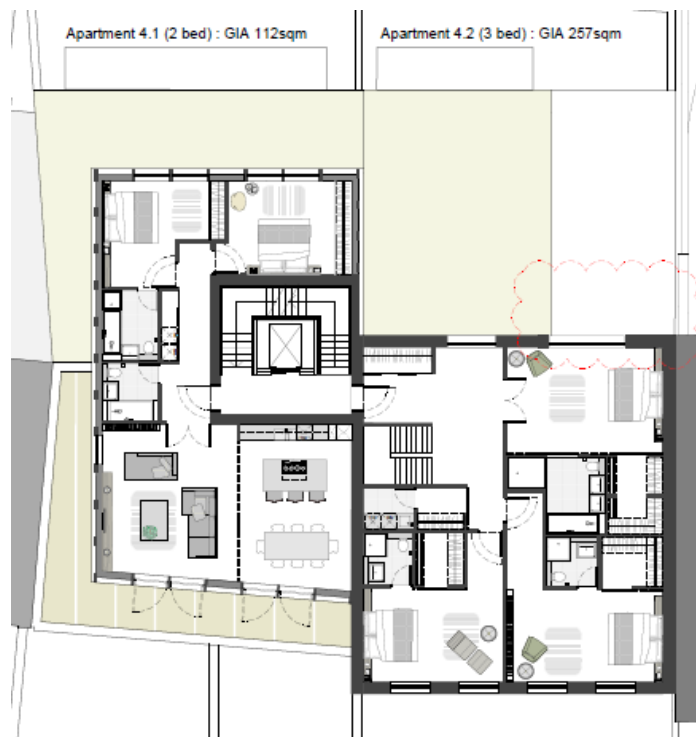
Proposed basement floor.



Proposed ground floor.



Proposed first floor level (top) and proposed second floor level (bottom).



Proposed third floor (top) and proposed fourth floor (bottom).



Proposed fifth floor level (top) and proposed roof plan (bottom).

**DRAFT DECISION LETTER**

**Address:** 12-14 Finchley Road, London, NW8 6EB,

**Proposal:** Demolition of existing buildings and redevelopment by erection of a part six, part seven storey building comprising basement, ground and five upper floors to provide 11 residential units (1x1 bed, 4x2 bed and 6x3 bed flats), with roof terraces/ balconies to rear elevation and at roof level, mechanical plant within enclosure to rear and landscaping. Erection of replacement front boundary treatment and provision of access ramp to basement car park from existing vehicular basement at Balmoral Court. Removal of four trees to front and rear of site and replacement tree planting to front of site.

**Plan Nos:** PL\_00\_005\_P2, PL\_00\_010\_P1, PL\_00\_011\_P1, PL\_00\_012\_P1, PL\_00\_013\_P1, PL\_00\_020\_P1, PL\_00\_021\_P1, PL\_00\_100\_P4, PL\_00\_101\_P4, PL\_00\_102\_P2, PL\_00\_103\_P2, PL\_00\_104\_P2, PL\_00\_105\_P2, PL\_00\_106\_P3, PL\_00\_107\_P3, PL\_00\_200\_P2, PL\_00\_201\_P2, PL\_00\_202\_P3, PL\_00\_203\_P3, PL\_00\_204\_P3, PL\_00\_301\_P3, PL\_00\_302\_P2, PL\_00\_303\_P2, PL\_00\_304\_P2, PL\_00\_305\_P2, PL\_00\_401\_P2, 17000000 PL\_21\_6000000 P1, Design and Access Statement dated August 2017, Planning Statement dated August 2017, Heritage Impact Statement dated August 2017, Transport Statement dated September 2012, Sustainable Design and Energy Statement dated August 2017 (Rev.1), Arboricultural Constraints Report dated 24 January 2013, Plant Noise Assessment dated 2 August 2018, Daylight/ Sunlight Report dated September 2012 (as supplemented by the GVA letters dated 23/01/14 and 04/02/14), Archaeological Desk Based Assessment dated November 2011, Air Quality Assessment dated January 2018, Structural Engineering Report dated October 2012 (for information only - see Informative 2), and Factual Report on Ground Investigation dated March 2008 (see information only - see Informative 2).

**Case Officer:** Oliver Gibson **Director:** 020 7641 2680

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

- 1 The development hereby permitted shall be carried out in accordance with the conditions and other documents listed on this decision letter, and any drawings approved 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 basement excavation work, you must carry out any building work which can be heard at the boundary of the site only:
  - \* between 08.00 and 18.00 Monday to Friday;
  - \* between 08.00 and 13.00 on Saturday; and
  - \* not at all on Sundays, bank holidays and public holidays.



You must carry out basement excavation work only:

- \* 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. (C11BA)

Reason:

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

- 3 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

Reason:

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

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 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)

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

- (a) All windows and doors (at a scale of 1:20 or larger).
- (b) Typical below parapet brick detailing (at a scale of 1:10 or larger).
- (c) Elevations and roof plan of mechanical plant/ CHP enclosure to rear with materials annotated (at a scale of 1:20 or larger).
- (d) Sections through the photovoltaic panels showing their projection above roof level relative to the roof edge parapet.

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 the area. This is as set out in S28 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)

- 6 You must apply to us for approval of detailed drawings showing the following alteration to the scheme: plans and elevations showing a coping stone to walls and piers comprising the front boundary and side return walls. 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 7 You must not use the roofs of the building for sitting out or for any other purpose, except where the drawings hereby approved are annotated or otherwise marked to show their use as roof terraces. You can however use the roofs to escape in an emergency. (C21AA)

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)

- 8 You must install the roof terrace and balcony privacy screens shown on drawing PL\_21\_650\_P1 in the locations shown the proposed plans and elevations hereby approved prior to occupation of the flats. Thereafter the roof terrace screens shall be permanently retained in the approved locations for the lifetime of the development.

Reason:

To protect the amenity of neighbouring residents and to make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 and S29 of Westminster's City Plan: Strategic Policies that we adopted in November 2013 and DES 1, DES 4 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 9 (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.

- 10 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.

- 11 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.

- 12 You must apply to us for approval of details of a supplementary acoustic report and detailed drawings of any noise mitigation measures that may be required to demonstrate that the mechanical plant will comply with the Council's noise criteria as set out in Conditions 10, 11 and 12 of this permission in respect of the residential accommodation within the proposed development. You must not start work on this part of the development until we have approved what you have sent us. You must not occupy the flats hereby approved until any noise mitigation measures we approved have been installed. Thereafter the noise mitigation measures must be maintained in accordance with the details we approve.

Reason:

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

- 13 You must not occupy any of the flats hereby approved until the plant room enclosure at rear ground floor level has been provided in accordance with the approved drawings. Thereafter the plant room enclosure must be maintained in accordance with the approved drawings and shall not be removed unless or until the mechanical plant is removed from the site.

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.

- 14 You must apply to us for approval of vibration isolation methods to be incorporated into the building design to demonstrate that the residential units will be protected against underground train vibration to reduce sound pressure and vibration unit values to those in the submitted acoustic report dated December 2011. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

Reason:

As set out in ENV6 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.

- 15 **Pre Commencement Condition.** Notwithstanding the method statement submitted at application stage, you must apply to us for approval of a method statement explaining all tree surgery proposed to facilitate the carrying out of the development and 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 what you have sent us. You must then carry out the work according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 16 Notwithstanding the landscaping shown on the drawings hereby approved, you must apply to us for approval of detailed drawings of a revised landscaping scheme, including replacement tree planting, for the front of the site, which includes amendments to address the following issues:

- (a) amended tree planting to include less trees, which are of less formal form and arrangement;
- (b) amendment of the design and position of the raised planter so that it would not harm the retained TPO Cherry tree where it is within its RPA.

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 according to these approved drawings within one planting season of completing the development (or within any other time limit we agree to in writing). If you remove any trees that form part of the landscaping scheme that we approve or find that they are dying, severely damaged or diseased within five years of planting them, you must replace them with trees of a similar size and species.

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To improve the appearance of the development, to make sure that it contributes to the character and appearance of the area, and to improve its contribution to biodiversity and the local environment. This is 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. (R30BC)

- 17 The development hereby approved shall be carried out in accordance with the Sustainable Design and Energy Statement dated 24 August 2017 (Rev.1) and you must install the combined heat and power system prior to occupation of the flats hereby approved. Thereafter the CHP system shall be permanently retained and maintained for the lifetime of the development.

Reason:

To make sure that the development affects the environment as little as possible, as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44BC)

- 18 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application.

- Photovoltaic panels at roof level.

You must not remove any of these features. (C44AA)

Reason:

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

- 19 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the living brown roofs to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

Reason:

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

- 20 **Pre Commencement Condition.** You must apply to us for approval of detailed drawings and a supporting statement of the following parts of the development:

- A traffic management system comprising a system of traffic lights (or similar) and road markings installed at the top and bottom of the vehicular access ramp to ensure safe access and egress from the basement car parking within the development and Balmoral Court.

You must not start any work on the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings and supporting statement. The flats hereby approved shall not be occupied until the traffic management system we approve has been installed in accordance with the approved details. Thereafter the traffic management system shall be maintained in accordance with the approved details. (C26DB)

Reason:

To ensure vehicular and pedestrian safety and ensure the provision of off-street car parking in accordance with Policies TRANS2 and TRANS3 in the Unitary Development Plan we adopted in January 2007 and Policy S41 in Westminster's City Plan: Strategic Policies that we adopted in November 2013.

- 21 You must provide electric car charging points within the basement car park at a ratio of not less than 1 charging point per 2 car parking spaces. The car charging points shall be installed prior to occupation of the flats hereby approved and thereafter retained.

Reason:

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

- 22 You must provide each car parking space shown on the approved drawings at basement level and each car parking space shall only be used for the parking of vehicles of people living in this residential development. (C22BA)

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 23 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 24 The hardstanding area at ground floor level to the front of the development accessed from Finchley Road shall only be used for deliveries to and collections from the building and shall not be used as vehicular parking for the residents of the development or their visitors. The front forecourt shall also not be used for parking by any other business or person who is not a resident of the development, unless they are making a delivery to or a collection from the building.

Reason:

To prevent an over provision of car parking and to prevent the use of the forecourt for parking

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by non-residents of the development. This is so that the development would accord with Policy TRANS23 in the Unitary Development Plan we adopted in January 2007.

- 25 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)

- 26 Before anyone moves into the flats, you must provide the separate stores for waste and materials for recycling at basement level and the bin presentation enclosures at ground floor level shown on drawings hereby approved. You must clearly mark them and make them available at all times to everyone occupying the development. (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)

- 27 **Pre-commencement Condition:** The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the us which:

- a) provide details on all structures;
- b) confirm tunnel wall measurements as it may affect the basement size;
- c) resolve with London Underground the issues with plant areas adjacent to the tunnel;
- d) accommodate the location of the existing London Underground structures;
- e) demonstrate access to elevations of the building adjacent to the property boundary with London Underground can be undertaken without recourse to entering London Underground land;
- f) demonstrate that there will at no time be any potential security risk to London Underground's railway, property or structures;
- g) accommodate ground movement arising from the construction thereof;
- h) mitigate the effects of noise and vibration arising from the adjoining operations within the structures.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted, which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason:



To ensure that the development does not have an adverse impact on existing London Underground transport infrastructure, in accordance with Policy 6.2 in the London Plan 2011 (with amendments) and the Mayor's Supplementary Planning Guidance 2012 'Land for Industry and Transport'.

- 28 No impact piling shall take place until a piling method statement (detailing the type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to sub-surface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by us in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason:

The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

- 29 **Pre-commencement Condition:** Notwithstanding the drainage strategy listed on this decision letter, prior to commencement of development, you must apply to us for approval (in consultation with the sewerage undertaker) of a revised drainage strategy that includes the following:

(a) specification of sustainable urban drainage system(s) (SUDS) to be implemented to attenuate water water run off into the sewerage system, particularly at peak times, so as to prevent sewer flooding;

(b) specification of SUDS to be implemented to mke the development resilient to surface water flooding.

You must then carry out the development in accordance with the revised drainage strategy that we approve and maintain the drainage system for the development in accordance with the approved strategy for the lifetime of the development.

Reason:

To ensure the development does not contribute to increased flood risk and to make the development resilient to flood risk in accordance with Policies CM28.1 and S30 in Westminster's City Plan adopted in November 2016 and Policy 5.13 in the London Plan (March 2016).

- 30 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the setting of the neighbouring St. John's Wood Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

**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 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.
- 3 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 4 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)
- 5 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)
- 6

Some of the trees on the site are protected by a Tree Preservation Order. You must get our permission before you do anything to them. You may want to discuss this first with our Arboricultural Manager on 020 7641 2922.

- 7 To meet Condition 15 the minimum protection we normally expect is plywood boarding at least 1.2 metres high. The boarding should go around the tree at a distance from the trunk which will keep machinery away from the branches. If this is not possible there should be at least two metres between the trunk of the tree and the boarding. (I33AA)
- 8 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 9 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
  1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
  2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).

This applies to both new and existing residential accommodation. Please see our website for more information: <https://www.westminster.gov.uk/short-term-letting-0>.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).
- 10 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 11 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site

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neighbours should be given clear information well in advance, preferably in writing, perhaps by issuing regular bulletins about site progress.

- 12 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
  
- 13 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to (a) provision of notice of commencement of development, (b) provision of a financial contribution of £658,000 (index linked) to the affordable housing fund, (c) measures to facilitate the provision and permanent retention and maintenance thereafter, of the vehicular access to the basement level car park via the vehicular entrance to Balmoral Court, (d) highway works outside the site in Finchley Road to facilitate access to the development and renew the footpath outside the site, and (e) provision of costs for monitoring of agreement (£500 per Head of Term). (I55AA)
  
- 14 Conditions 10, 11 and 13 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)
  
- 15 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
  
- 16 Fractures and ruptures can cause burst water mains, low water pressure or sewer flooding. You are advised to consult with Thames Water on the piling methods and foundation design to be employed with this development in order to help minimise the potential risk to their network. Please contact:

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

A Ground Water Risk Management Permit from Thames Water will be required for discharging ground water into a public sewer. Thames Water advise that any discharge made without a permit is deemed illegal and may result in prosecution under the Water Industry Act 1991. Thames Water expect the developer to demonstrate what measures will be undertaken to minimise ground water discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by email to [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk). Application forms should be completed online via [www.thameswater.co.uk/wasterwaterquality](http://www.thameswater.co.uk/wasterwaterquality).

- 18 Thames Water advise that they will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9 litres/ minute at the point where water leaves Thames Waters pipes. The development should be designed to take account of this minimum water pressure.
- 19 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form** **immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

**Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

- 20 In respect of Condition 28, the applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement.
- 21 In respect of Condition 27, the applicant is advised to contact London Underground Infrastructure Protection (020 7918 0016 or [locationenquiries@tube.tfl.gov.uk](mailto:locationenquiries@tube.tfl.gov.uk)) in advance of preparation of final design and associated method statements, in particular with regard to: demolition; drainage; excavation; construction methods; security; boundary treatment; safety barriers; landscaping and lighting.

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- 22 You are advised that the development should be designed with regard to the advice on crime prevention and security provided in Secured by Design 'Homes 2016' guidance document.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & 17/07873/FULLPolicies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.