

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 18 December 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Maida Vale	
<b>Subject of Report</b>	97 Randolph Avenue, London, W9 1DL		
<b>Proposal</b>	Installation of one external air conditioning unit, shed and enclosure at ground floor level at rear of site.		
<b>Agent</b>	Mr Matt Deeming		
<b>On behalf of</b>	Ms Mary-Claire Pereira		
<b>Registered Number</b>	18/07288/FULL	<b>Date amended/ completed</b>	23 October 2018
<b>Date Application Received</b>	24 August 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Maida Vale		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

97 Randolph Avenue is an unlisted single family dwelling house located within the Maida Vale Conservation Area.

The application seeks permission the installation of a shed/summer house including an air conditioning unit and enclosure at ground floor level to the back of the rear garden of the property.

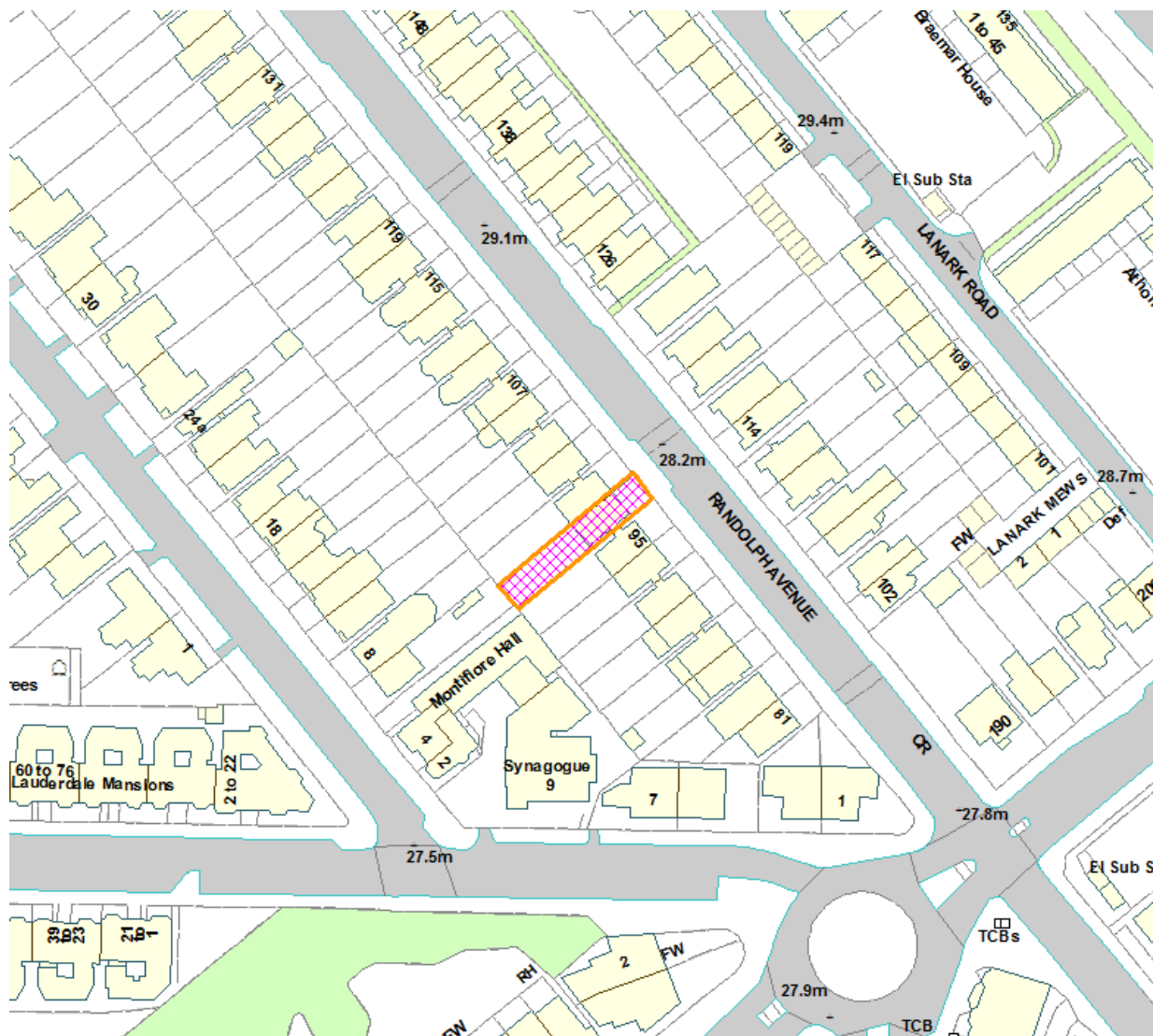
Planning permission was granted for the erection of a similar shed, including plant in the same location in January 2017. This proposal involves a shed which is 242 mm higher than the approved scheme and approximately 200mm deeper and unlike the approved scheme includes glazing to the facade facing the property.

The key issues in this case are:

- The impact on the appearance of the building and the character and appearance of the Maida Vale Conservation Area.
- The impact on the amenity of neighbouring residents.

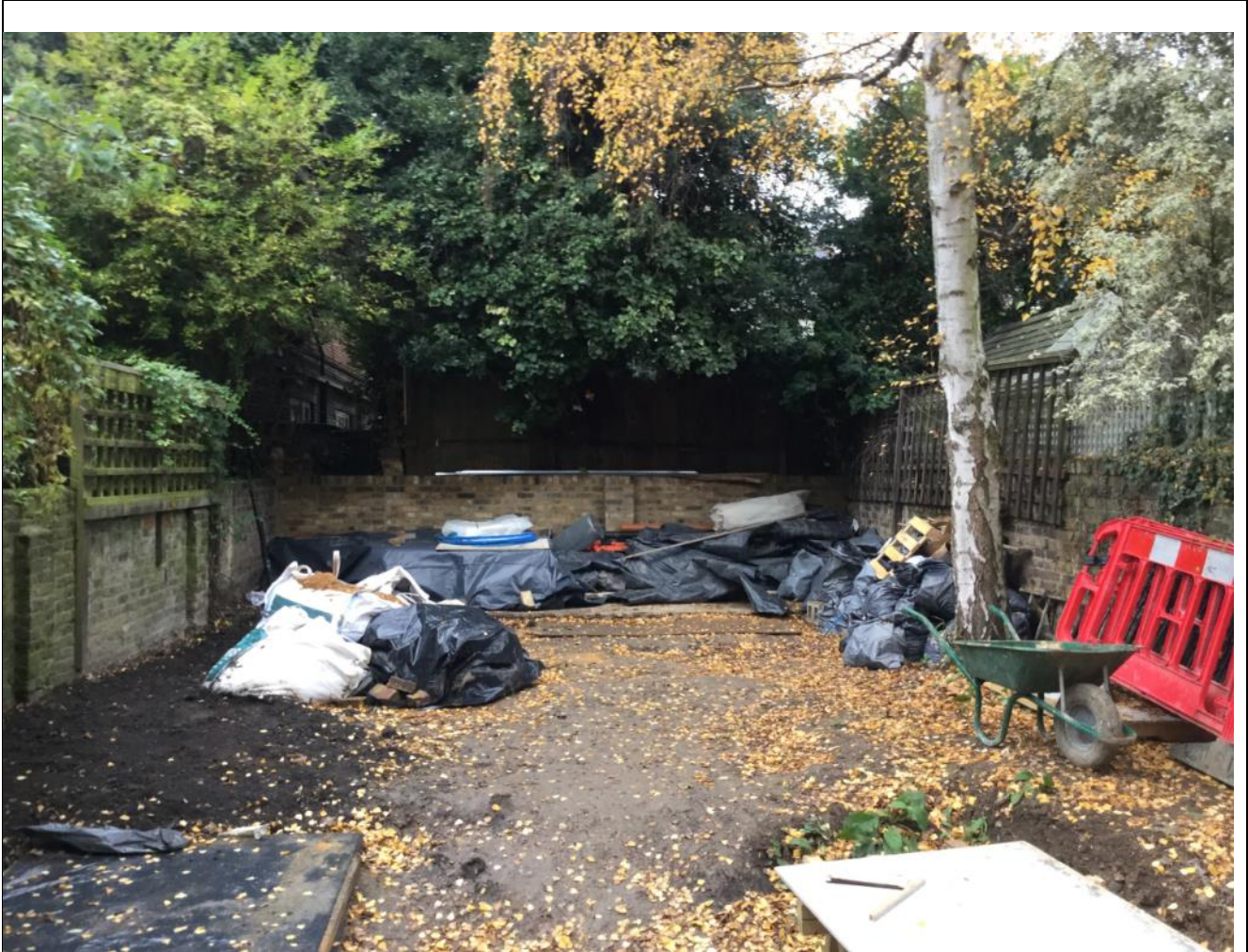
The proposal is not considered to result in an unacceptable loss of amenity to neighbouring residents or to have an unacceptable impact on the appearance of the building and the character and appearance of the Maida Vale Conservation Area. Subject to the recommended conditions, as set out in the draft decision letter at the end of this report, the proposals are considered to accord with the relevant policies in Westminster's City Plan adopted in November 2016 (the City Plan) and the Unitary Development Plan adopted in January 2007 (UDP). It is therefore recommended that conditional permission is granted.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



Photograph showing rear garden towards proposed location of outbuilding.

## 5. CONSULTATIONS

### *FIRST CONSULTATION*

#### PADDINGTON WATERWAYS & MAIDA VALE SOCIETY

Raise no objection, however ask for neighbours views to be taken into consideration.

#### ENVIRONMENTAL HEALTH

Additional acoustic information required.

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

No. Consulted: 15

No. of Responses: 3

No. of objections: 2

No. of general comment: 1

Objections on the following grounds:

#### Amenity

- Acoustic report does not provide conclusive evidence that the quiet enjoyment of the property will not be compromised.
- Inadequate acoustic report.
- Operates 24 hours a day providing no respite.

#### Design

- Unightly and too large (above party walls).
- Loss of garden.

#### Other issues

- Consider gap between shed and party walls should be increased to a minimum of 1m so it does not affect the quiet enjoyment of neighbouring owners and ensure access for maintenance.
- Creates dead space on 3 sides.
- Drawing does not reflect level of rear garden.
- Unclear what height of shed is.
- Proposal unsustainable design.

#### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

### *SECOND CONSULTATION FOLLING SUBMISSSION OF REVISED ACOUSTIC REPORT*

#### PADDINGTON WATERWAYS & MAIDA VALE SOCIETY

The proposed 'shed' would appear to be summer room. We do not object in principle to the proposal but consider that the description should be updated to reflected what is

drawn and be conditional to not permit overnight sleeping or conversion to separate living accommodation. Please take neighbours' views into consideration.

#### ENVIRONMENTAL HEALTH

No objection subject to acoustic louvred enclosures being installed as detailed in Section 7.1 of the Acoustic Report dated October 2018.

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

No. Consulted: 14

Total No. of replies: 1

No. of objections: 1

No. in support: 0

One response re-iterating their objection on design/size grounds.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

97 Randolph Avenue is an unlisted single family dwelling house located within the Maida Vale Conservation Area.

### 6.2 Recent Relevant History

#### 17/03517/FULL

Variation of Condition 1 of planning permission dated 7 October 2014 (RN: 14/04980/FULL) for the excavation of basement extension under garden and house, lower ground floor rear and side extension, conversion of roof space to provide habitable accommodation, insertion of four rooflights. NAMELY, to amend the arrangement of rooflights in the roof of the lower ground floor rear extension from 3 rooflights to one larger rooflight.

Application Refused                      4 January 2018

#### 17/02060/FULL

Alterations of existing boundary wall and brick pier in association with the installation of a new slatted timber bin store within front yard.

Application Permitted                      31 July 2017

#### 16/07619/FULL

Installation of one external air conditioning unit, shed and enclosure at ground floor level at rear of site.

Application Permitted                      4 January 2017

#### 14/04980/FULL

Excavation of basement extension under garden and house, lower ground floor rear and side extension, conversion of roof space to provide habitable accommodation, insertion of 4no. rooflights.

Application Permitted                      7 October 2014

## **7. THE PROPOSAL**

Planning permission is sought for the installation of a shed/summer house to the back of the rear garden which will also house an air conditioning unit.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

No change to the existing residential use.

### **8.2 Townscape and Design**

Objections have been received from neighbours on the grounds of the increased bulk of the structure, including its appearance projecting above the garden boundary walls and the loss of garden space.

Permission was granted in January 2017 for a similar structure at the end of the rear garden, which was also proposed as a shed and acoustic enclosure. This revised scheme increases the size by 242mm higher and 200mm wider. The same timber cladding and window frames are proposed. The air conditioning unit is again to be located within the envelope of the new structure.

While the proposed structure is slightly larger than that previously approved, given the size of the rear garden and as a similar structure has already been approved, it is not considered the proposed changes have a significant harmful impact on the character and appearance of the Maida Vale Conservation Area. The proposals are therefore considered to comply with S28 of Westminster's City Plan and DES 1, DES 5 and DES 9 of Westminster's UDP.

### **8.3 Residential Amenity**

The Environmental Health Officer initially commented that insufficient information was supplied in support of the background noise assessment. Concern was also raised by neighbours that the acoustic report did not provide conclusive evidence that the quiet enjoyment of the property would not be compromised and that the initially submitted Acoustic Report did not provide full information regarding the noise survey. However additional information in an updated Acoustic Report has since been submitted and re-consulted on.

Environmental Health have confirmed that their concerns have now been addressed. Subject to a condition to ensure that the acoustic enclosure is installed it is not considered that the proposals will harm the amenity of neighbouring properties. It is recommended that the same conditions relating to plant that were attached to the 2017 permission. As it has been demonstrated that the proposed plant will not create any significant noise disturbance the objectors suggestion that the structure should be moved away from the garden boundary's to enable the quiet enjoyment of their garden is not sustainable.

The proposal is sited some distance from any neighbouring properties windows and therefore there would be no sense of enclosure or loss of sunlight/daylight issues. The proposed windows and glazed doors face into the garden of the subject premises and would introduce any significant loss of privacy.

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

The proposal has no transportation or parking implications.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

No changes to access are proposed by the application

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

A tree protection condition was attached to the 2017 planning permission at the request of the City Council's Arboricultural Manager. It is recommended that the same condition is attached to this permission and has been agreed by the applicant.

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

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

#### **8.9 Neighbourhood Plans**

No Neighbourhood Plan is in place for this area.

#### **8.10 London Plan**

This application raises no strategic issues.

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

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



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

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure tree protection methods. The applicant has agreed to the imposition of the condition.

### **8.12 Planning Obligations**

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

### **8.13 Environmental Impact Assessment**

An environmental Impact assessment is not required for an application of this size.

### **8.14 Other Issues**

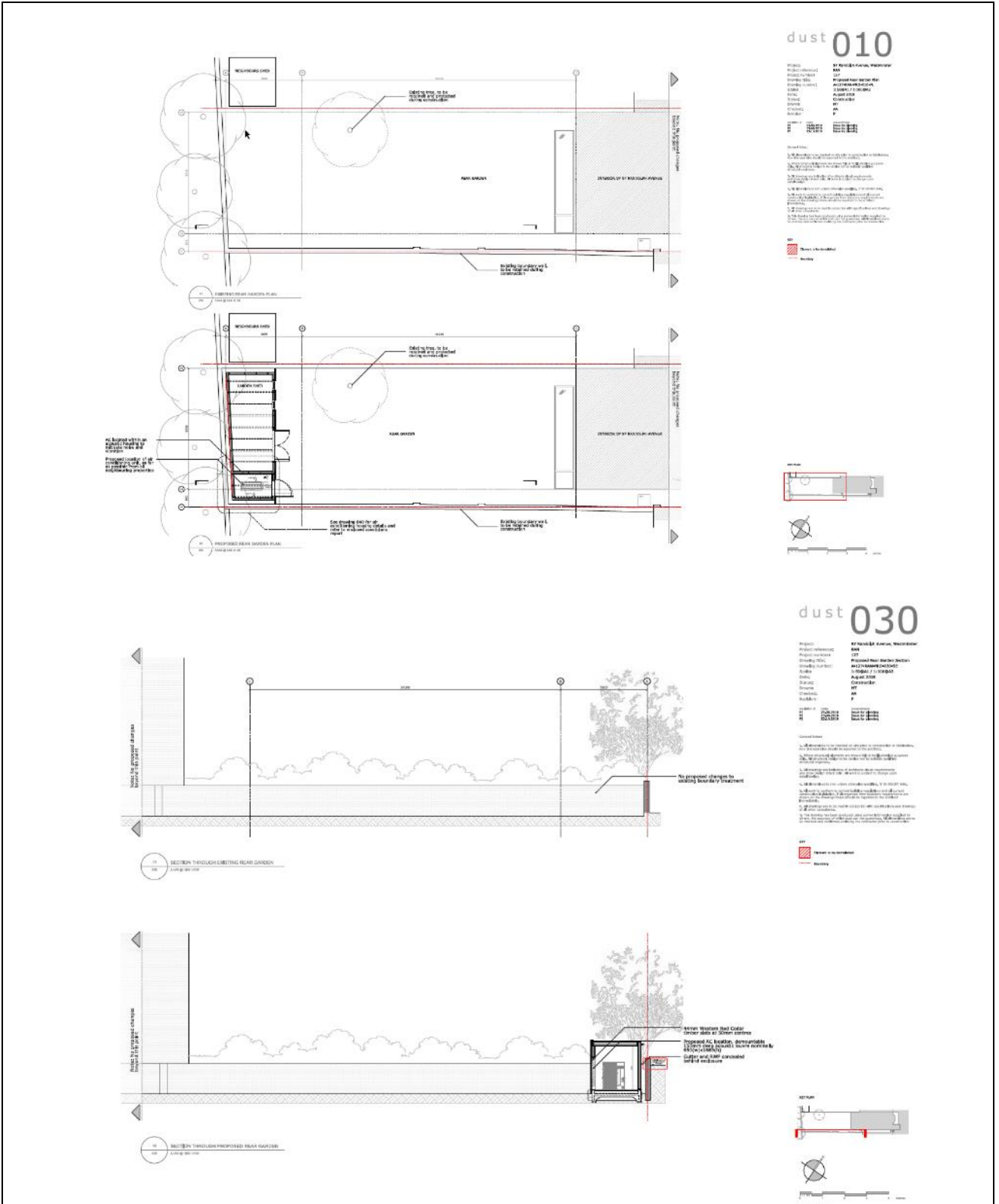
An objection has been received that the proposal will create dead space on 3 sides of the structure and does not provide a large enough maintenance gap between the structure and boundary which would result in the accumulation of debris. The applicant has stated that the shed aims to maximise the space at the back of the garden whilst leaving sufficient space so as to not impose on neighbouring properties and leaving room for maintenance. The gaps are similar to those granted permission in 2017.

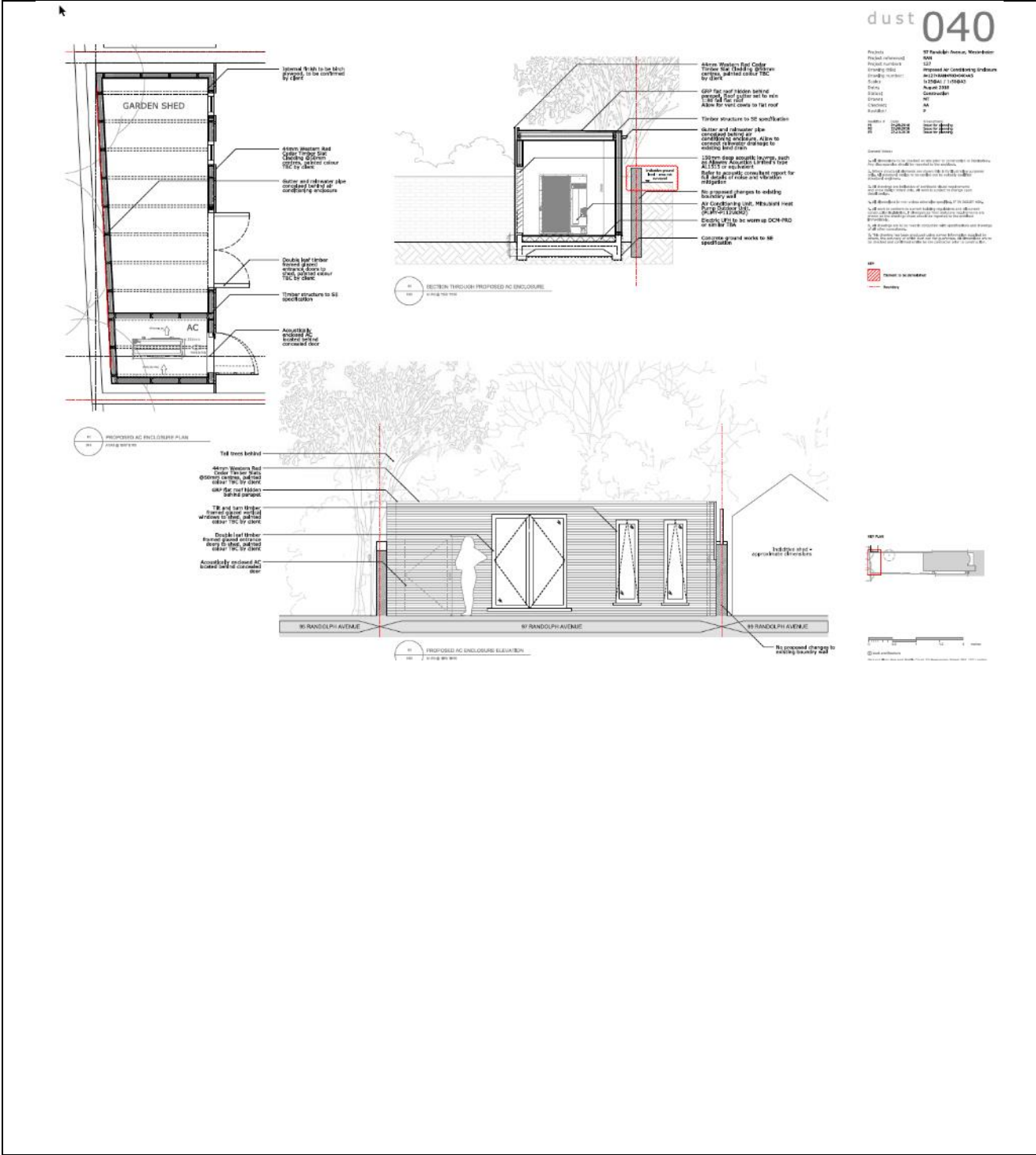
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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



9. KEY DRAWINGS





**DRAFT DECISION LETTER**

**Address:** 97 Randolph Avenue, London, W9 1DL,

**Proposal:** Installation of one external air conditioning unit, shed and enclosure at ground floor level at rear of site.

**Plan Nos:** 000P3; 010P3; 030P3; 040P3; Acoustic Report 160706-002D; October 2018; Design and Access Statement;

**Case Officer:** Richard Langston

**Direct Tel. No.** 020 7641 7923

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

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

**Reason:**

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

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

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

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

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

**Reason:**

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

- 3 The air conditioning plant hereby approved shall not be used until the acoustic enclosure and timber enclosure shown on the plans and detailed in Section 7.1 of the submitted Acoustic Report dated October 2018, have been provided. The enclosures must then be retained in place thereafter.

**Reason:**

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R22CC)

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

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

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

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out

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

- 5 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

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

Reason:

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

#### **Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Conditions 3, 4 and 5 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

- 3 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.
- 4 Condition 6 requires you to submit a method statement for works to a tree(s). The method statement must be prepared by an arboricultural consultant (tree and shrub) who is registered with the Arboricultural Association, or who has the level of qualifications or experience (or both) needed to be registered. It must include details of:
- \* the order of work on the site, including demolition, site clearance and building work;
  - \* who will be responsible for protecting the trees on the site;
  - \* plans for inspecting and supervising the tree protection, and how you will report and solve problems;
  - \* how you will deal with accidents and emergencies involving trees;
  - \* planned tree surgery;
  - \* how you will protect trees, including where the protective fencing and temporary ground protection will be, and how you will maintain that fencing and protection throughout the development;
  - \* how you will remove existing surfacing, and how any soil stripping will be carried out;
  - \* how any temporary surfaces will be laid and removed;
  - \* the surfacing of any temporary access for construction traffic;
  - \* the position and depth of any trenches for services, pipelines or drains, and how they will be dug;
  - \* site facilities, and storage areas for materials, structures, machinery, equipment or piles of soil and where cement or concrete will be mixed;
  - \* how machinery and equipment (such as excavators, cranes and their loads, concrete pumps and piling rigs) will enter, move on, work on and leave the site;
  - \* the place for any bonfires (if necessary);
  - \* any planned raising or lowering of existing ground levels; and
  - \* how any roots cut during the work will be treated.
- 5 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I32AA)
- 6 It has come to our attention that the tree protection measures approved pursuant to Condition 8 of the basement permission (14/04980/FULL) are not currently being implemented. Furthermore, they could not be carried out properly if this planning permission is implemented, as the shed and air conditioning unit and enclosure are within the area which is to be fenced off and from which all construction activity should be excluded (see approval of details application RN: 14/11361/ADFULL). Therefore when you apply to us for our approval of details pursuant to Condition 6 you should also submit an application to approve alternative tree protection measures pursuant to Condition 8 of the planning permission dated 7 October 2014 (14/04980/FULL).