

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 26 November 2019	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Churchill	
<b>Subject of Report</b>	<b>62 Bourne Street, London, SW1W 8JD,</b>		
<b>Proposal</b>	Variation of condition 1 of planning permission dated 7 February 2017 (RN: 16/07755/FULL) for "Excavation of basement extension with lightwell to rear and erection of extensions at rear ground and first floor levels". NAMELY, alterations to height, form and pitch of roof of rear first floor extension, alterations to height and form of ground floor extension and replacement of window with French door and Juliet balcony to rear elevation at first floor level.		
<b>Agent</b>			
<b>On behalf of</b>	Mr Edward Redmond		
<b>Registered Number</b>	19/02250/FULL	<b>Date amended/ completed</b>	2 April 2019
<b>Date Application Received</b>	26 March 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Belgravia		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

Permission was granted on 07 February 2017 for the excavation of a basement extension with a lightwell to the rear and erection of extensions at rear ground and first floor levels. The scheme was not built in accordance with the approved plans. This application seeks permission to retain the unauthorised works which consist of the removal of the set back to the ground floor rear extension and increase in its height, an increase in height of the first floor extension and alterations to the roof line, along with the replacement of a window with French doors and Juliet balcony at first floor level.

The key issues in this case are:

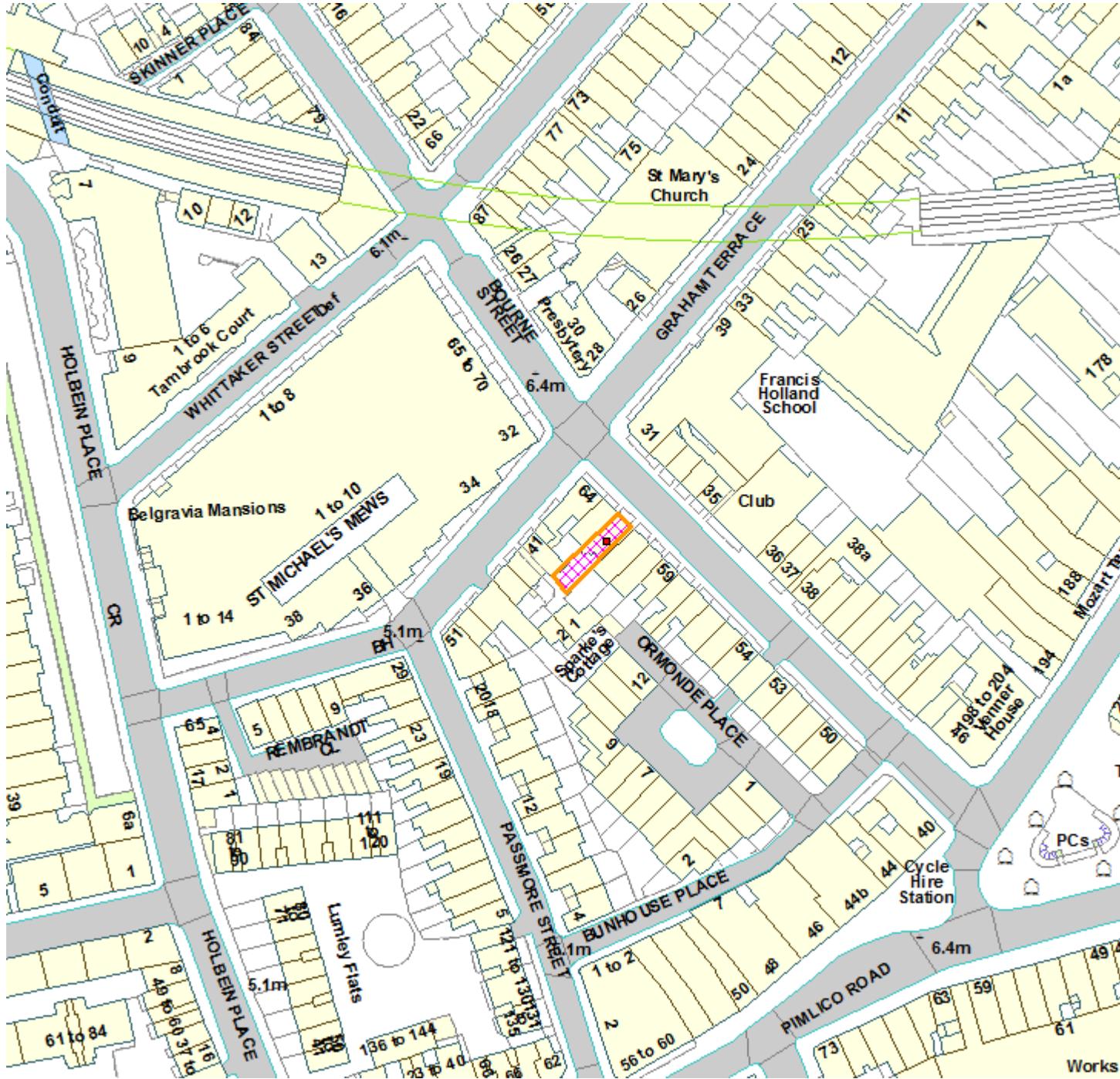
- the impact of the proposed works on the character and appearance of the Belgravia Conservation Area;
- the impacts of the proposals on the neighbouring residential amenities.

Objections from nearby residents have been received on the grounds of design, affect on amenity,

the principle of a retrospective application and inaccurate drawings. Whilst the officers understand the objectors' frustration that the development was not built in accordance with the approved plans, a retrospective application is assessed the same way as any application for planning permission. In design terms, the implemented extensions are not significantly different from the approved scheme and in amenity terms, the increase of heights and change to fenestration are not considered to be of scale to materially reduce the daylight and sunlight or cause a sense of enclosure to an unacceptable level or create overlooking issues.

Whilst the proposals are clearly not as originally approved, they are considered to comply with the Council's policies in relation to design, conservation and amenity as set out in the City Plan and the Unitary Development Plan (UDP). The application is therefore recommended for approval.

### 3. LOCATION PLAN



4. PHOTOGRAPHS



Front elevation



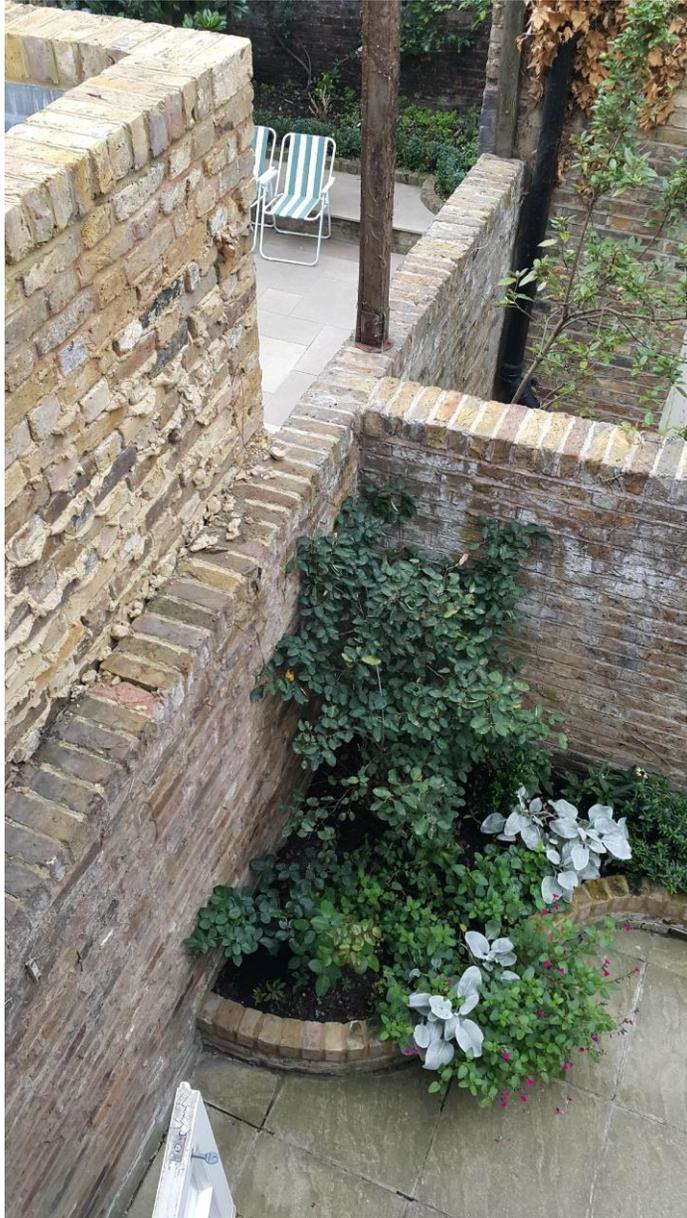
Pre-existing rear elevation



As-built rear elevation



Application site showing boundary with 63 Bourne Street to the left



View from first floor of 63 Bourne St into rear garden with extension to left



Wall when viewed from garden of 63



**View from No. 63 in 2017 with former trellis in place, before works at no. 62.**

## 5. CONSULTATIONS

**BELGRAVIA RESIDENTS ASSOCIATION:** Objection on the grounds of design and loss of privacy. They state that this is a classic case of someone deliberately flouting planning consent, if allowed it will send a message to everyone in Westminster “build what you want and let the council chase you, and if pressurized to conform then simply submit a retrospective application”. The wall is described as atrocious due to the condition of the pointing. The association requests the offending wall is taken down and rebuilt professionally and to the height designated in the original consent. They also have concern about the use of the first floor flat roof as a terrace and request that the planning team visit the neighbouring property.

**THE BELGRAVIA SOCIETY:**  
Any response to be reported verbally.

**BELGRAVIA NEIGHBOURHOOD FORUM:**  
Any response to be reported verbally.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 8  
Total No. of replies: 4  
No. of objections: 4  
No. in support: 0

Four letters of objection on the following grounds:

#### \*Design

- Contrary to Policy DES1 which requires that all development is of high quality, respects the amenities of neighbouring properties and respects the character and context of the area in which it is located. The as built proposal meets none of those tests.
- Small confined area of houses at the end of a terrace so changes to design have a disproportionate impact.
- Overall size of the building as built.
- Size and proportion of the additional wall, namely the parapet wall, has a negative impact upon the view from the garden. Request for the wall to be reduced to match approved.
- Shape, size and impact of first floor roofline, the approved slope was in accordance with other eight houses.
- Small corner of Bourne Street is special as it still has an original Victorian Cottage (Sparkes Cottage), development works should take into account the unique feel of the area.

#### \*Amenity

- Loss of privacy and overlooking from the creation of a terrace to first floor flat roof and introduction of doors at first floor level.
- Loss of daylight and sunlight and sense of enclosure due to alterations to ground and first floor level extension

\*Other matters:

-Inaccuracies of the drawings submitted

-Query about the consultation process

- Applying for retrospective consent seems to fly in face of common sense and, should the Council permit such an application will open the doors to wholesale flouting of planning regulations.

-Permission for substantial changes should be requested before the works commence. Developer is banking upon the Council capitulating because it would seem unreasonable to enforce the original design.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

62 Bourne Street is an unlisted building located within the Belgravia Conservation Area. The building comprises lower ground, ground and first floor levels and is in use as a single family dwellinghouse. The building appears to date from the mid-19<sup>th</sup> century.

### **6.2 Recent Relevant History**

On 7 February 2017 planning permission was granted for the excavation of basement extension with lightwell to rear and erection of extensions at rear ground and first floor levels (RN: 16/07755/FULL).

A planning enforcement investigation (ref 19/69499/H) was subsequently opened when it came to light the extension was not built in accordance with the approved plans.

The application under consideration here was submitted to regularise the situation.

## **7. THE PROPOSAL**

This application seeks permission to retain the unauthorised works which consist of the following:

- removal of the dip (small set back from the party wall with no. 63 Bourne St) to the ground floor extension and retention of the flank wall of the extension built next to the boundary wall (rather than on top of it as shown on the approved drawings)
- increase in height of the ground floor extension
- increase in height of the first floor extension and alterations to its roofline.
- Replacement of a first floor window with French doors and Juliet balcony.

The objection letters received pointed out inaccuracies in the drawings submitted. Upon officers' recommendations revised drawings have been received and objectors were informed through a new consultation letter.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposal is to extend a single family dwellinghouse, the provision of additional accommodation is considered acceptable in principle and is in accordance with Policy S14 of the City Plan and UDP Policy H3.

### **8.2 Townscape and Design**

Objections have been received on the grounds of the overall size of the extensions as built, the importance of the character of this area and the fact that the scheme is contrary to Policy DES1.

At ground floor level the dip has been removed and the extension no longer extends along the boundary wall. The effect of this is that the extension is set very slightly further away from No. 63, but it is higher due to i) the 'dip' (set back) having been removed and ii) the extension having been built 16cm higher along its entire width. There are no changes in terms of depth of the ground floor extension, it is in line with the ground floor extension at No.61 Bourne Street as approved in 2016. With regards to height it has been increased by approximately 16cm in comparison to the approved drawings when measured during the site visit.

At first floor level the French doors and Juliet balcony match the other one approved at that level and this change is not contentious in design terms. In any event, it should be noted that changes to the fenestration of a single family dwelling are usually classed as 'permitted development' which can be done without the benefit of planning permission. The roof level to the first floor extension has been raised by approximately 30 cm and the extent of slope has been truncated by approximately 1.5m to be replaced by a flat roof.

In design terms, the 'as built' extensions are not significantly different from the approved scheme. Whilst the approved scheme is arguably a more successful design approach, the alterations are minor in nature and the extensions at ground and first floor levels remain in keeping with the architectural style of the building in terms of scale and materials.

During a site visit it was noted that the pointing of the side elevation of the ground floor extension has not been finished properly. Revised drawings have been received during the course of consideration of the application with annotation for the side extension wall to be made good. This will be secured via condition.

It is not considered that the proposal as built is harmful to the appearance of the host building or to the surrounding conservation area, providing the pointing is made good. In

view of the scheme previously granted in 2017, it would be unreasonable to refuse permission on design grounds. The proposal is considered to accord with City Plan Policy S28, and UDP Policies DES1, DES5 and DES9.

### 8.3 Residential Amenity

Strong objections have been raised by adjacent residents on the grounds of sense of enclosure, overlooking, loss of privacy, impact on view, and reduction of daylight and sunlight.

Policies ENV13 of the UDP and S29 of the City Plan state that the Council will resist proposals that would result in a material loss of daylight/sunlight and that developments should not result in a significant increased sense of enclosure, overlooking or cause unacceptable overshadowing.

At first floor level the roofline has been raised by approximately 30cm and the extent of the slope has been shortened to be replaced by a flat roof. The changes to the roof are not be considered to be of scale to materially reduce the daylight and sunlight received by the neighbouring properties.

The introduction of French doors at first floor level does not allow access to the flat roof as they are enclosed by a Juliet balcony. In addition, there is no balustrade surrounding the existing flat roof and a condition attached to the original permission does not allow the use of this roof for sitting out. This condition will be retained. It is not considered that the alterations lead to the creation of a roof terrace on top of the ground floor extension, therefore it is not considered sustainable to withhold permission on that basis.

Officers visited adjoining property 63 Bourne Street on 01 May, 10 September and 29 October 2019 and confirmed that the ground floor extension projected higher than the 1.05m increase over the party wall shown on the original permission. Measurements on site show that the constructed extension is approximately 1.24m over the height of the existing party wall. The increase is explained by the removal of the 'dip' and the approximately 16cm increase of the overall height.

This new application highlighted the difference of garden levels between the application site and No 63 Bourne Street (approximately 35.5cm lower than the application site's garden). The drawings submitted during the course of consideration of the original permission did not indicate that difference of levels. Therefore, the existing boundary wall is not 1.65m height as measured from 63 Bourne Street but approximately 2m measured from no. 63. This means that the height of the wall as constructed, measured from the garden of 63, is approximately 3.26m whereas it is 2.96m in height when measured from the garden level of the application site.

The removal of the dip which was previously negotiated is regrettable. The new extension is however marginally further set back as it is not built on top of the party wall. It is recognised that the proposed ground floor rear extension increases the sense of enclosure experienced by occupants of 63 Bourne Street when viewed from their rear garden and the rear lower ground floor windows which serve a small office. Nevertheless, following a site visit to this property, it is considered that taking in to

account the highly built-up environment and close knit buildings, the overall impact would not be so great as to warrant refusal of permission on sense of enclosure, loss of daylight and sunlight or overshadowing of the garden. In addition, 63 Bourne Street is a single-dwellinghouse which benefits from other windows serving the main living rooms that are not affected by the adjacent extension.

The committee report for the original permission notes that the existing boundary wall had trellising on top. The remaining trellises have been removed, noted after a site visit in July 2019.

Whilst objections have been raised on amenity grounds, in the context of the approved scheme it is not considered that the additional impact is sufficient to justify withholding permission and the alterations are considered to be in line with Policies S29 and ENV13.

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

Not applicable

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.6 Access**

The alterations to the scheme do not involve alterations to the access to the property.

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

Not applicable

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

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, the draft plan has been revised and formal consultation is now being carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

#### **8.9 Neighbourhood Plans**

There is no adopted neighbourhood plan 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.

### **8.12 Planning Obligations**

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

### **8.13 Environmental Impact Assessment**

The proposal is of insufficient scale to require an environmental assessment.

### **8.14 Other Issues**

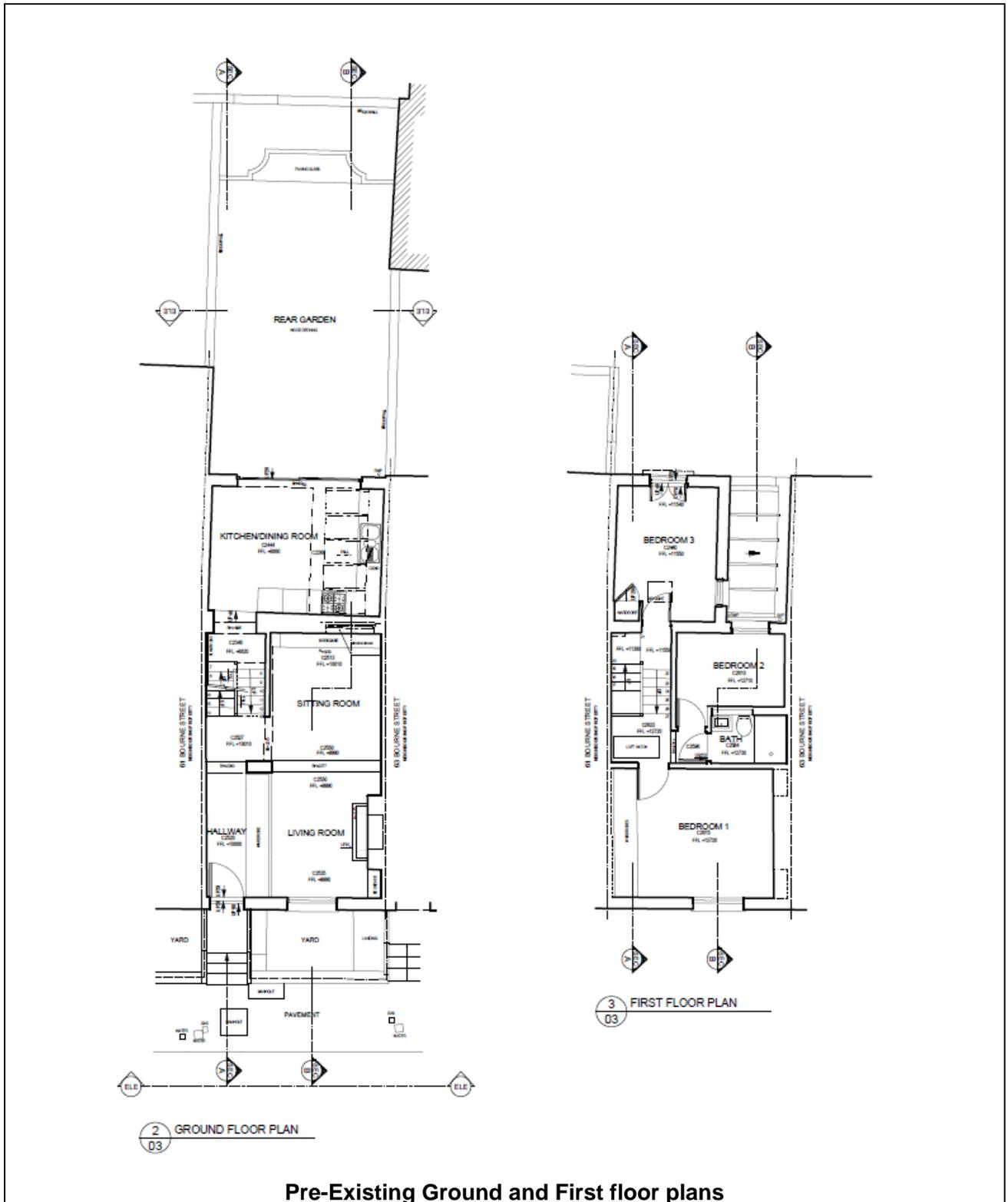
#### **Retrospective application**

Officers understand the objectors' frustration that the development was not built in accordance with what had been approved. It is correct to note that permission should be sought for works prior to implementation. However, failure to comply with planning permission is not illegal. In circumstances where a retrospective application is submitted, the City Council must consider the application the normal way. The decisive issues are whether the changes would unacceptably affect residential amenities and the appearance and character of the building and the Conservation Area. It is therefore not reasonable to refuse permission on the grounds that the works have already been carried out.

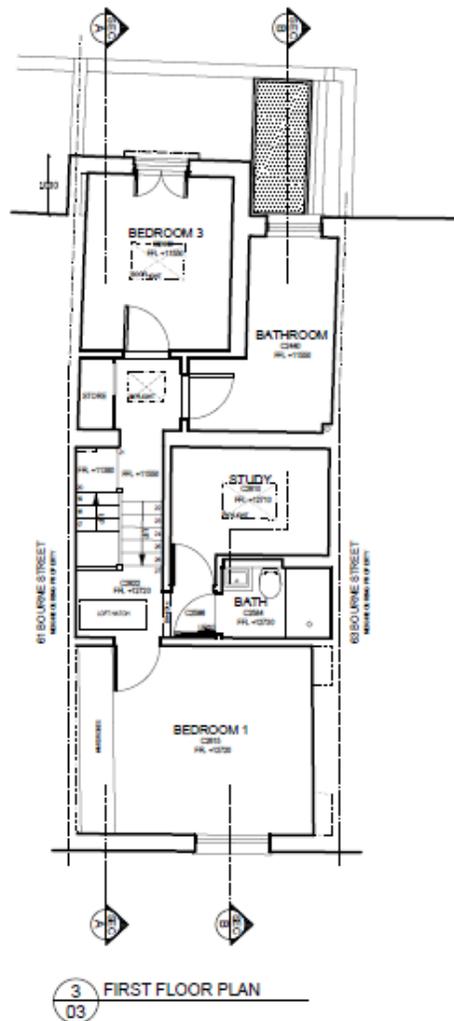
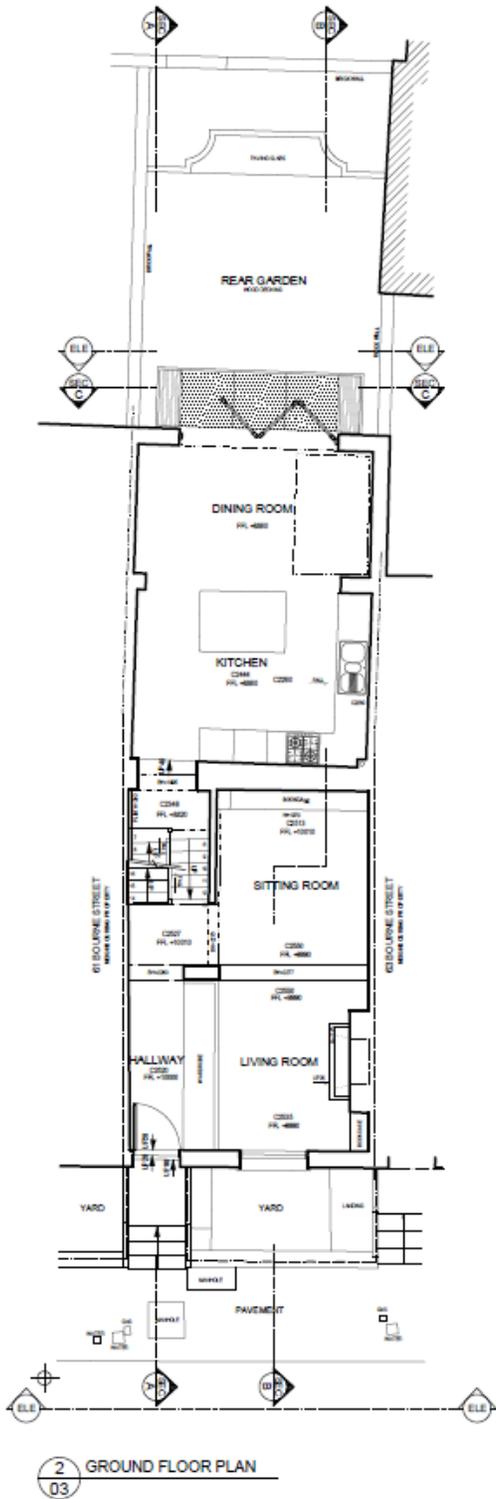
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

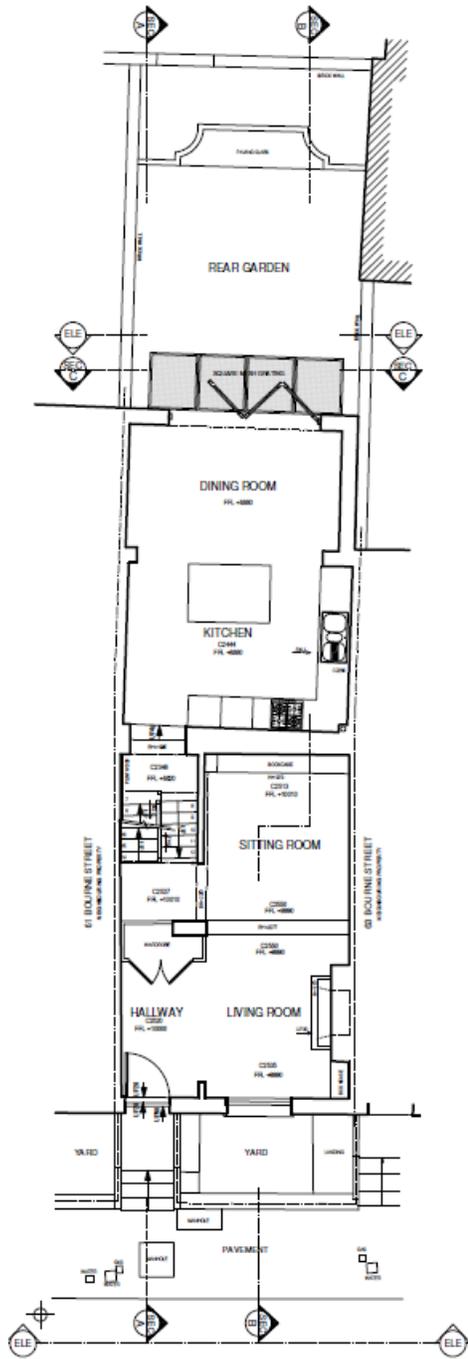
9. KEY DRAWINGS



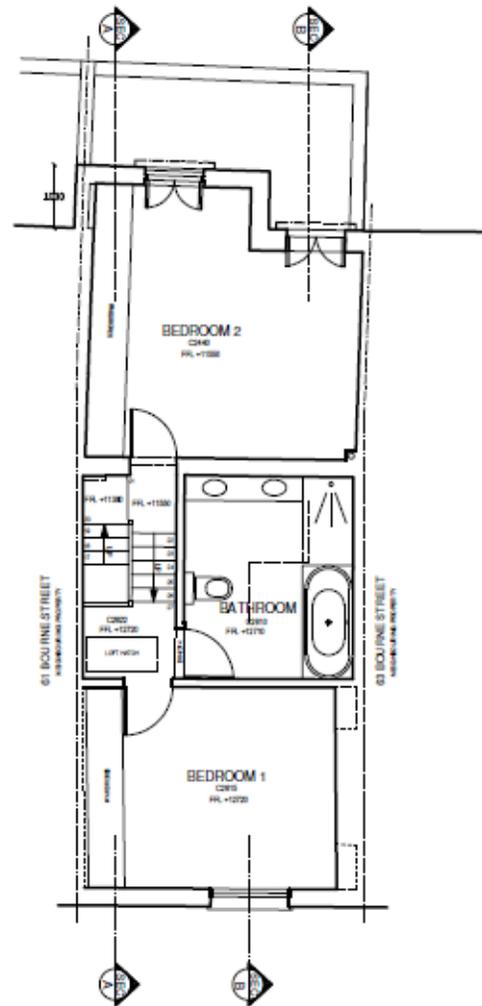
Pre-Existing Ground and First floor plans



Approved Ground and First floor plans

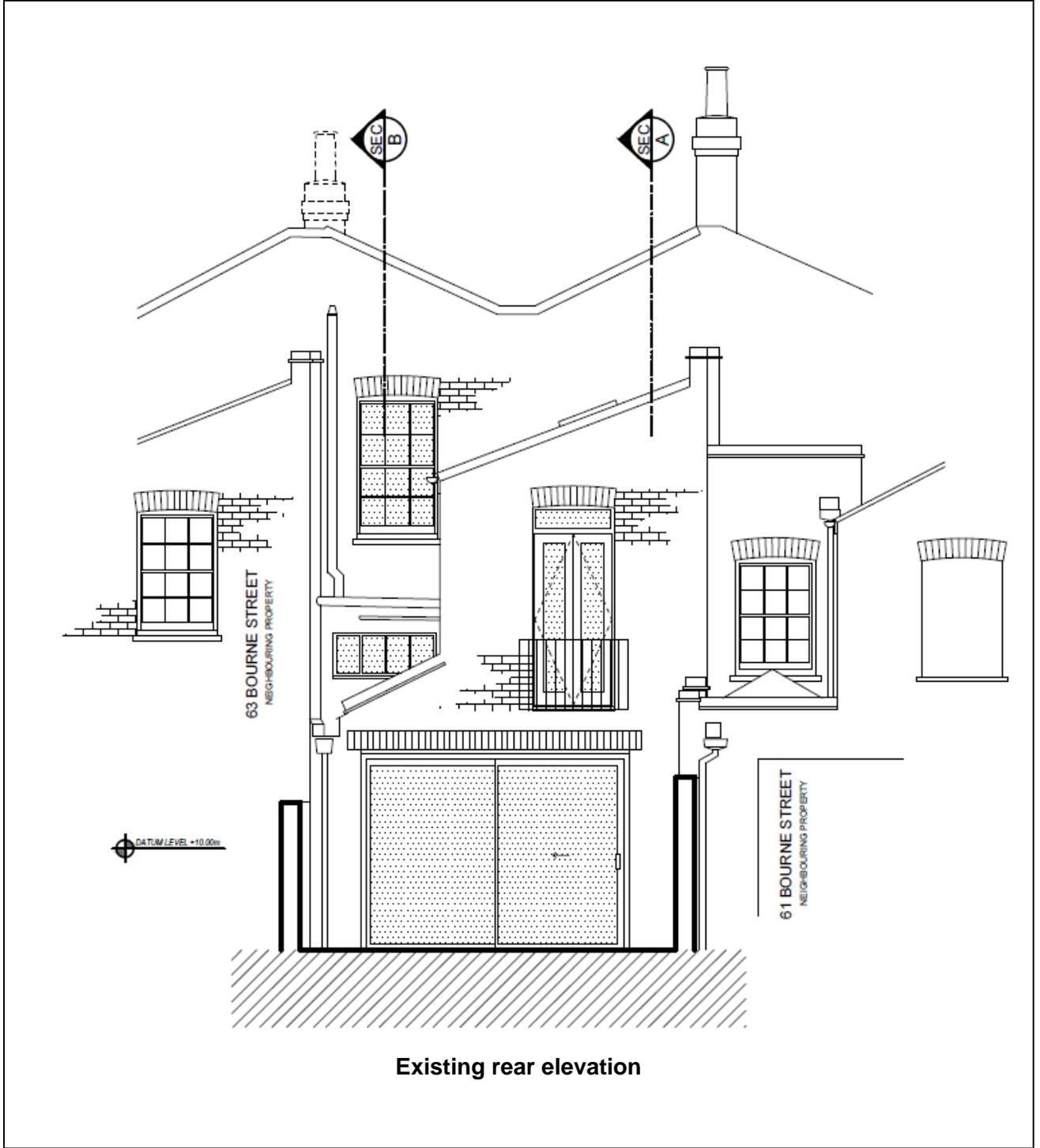


2 GROUND FLOOR PLAN  
03 G.I.A - APPROX. 54.7m<sup>2</sup>

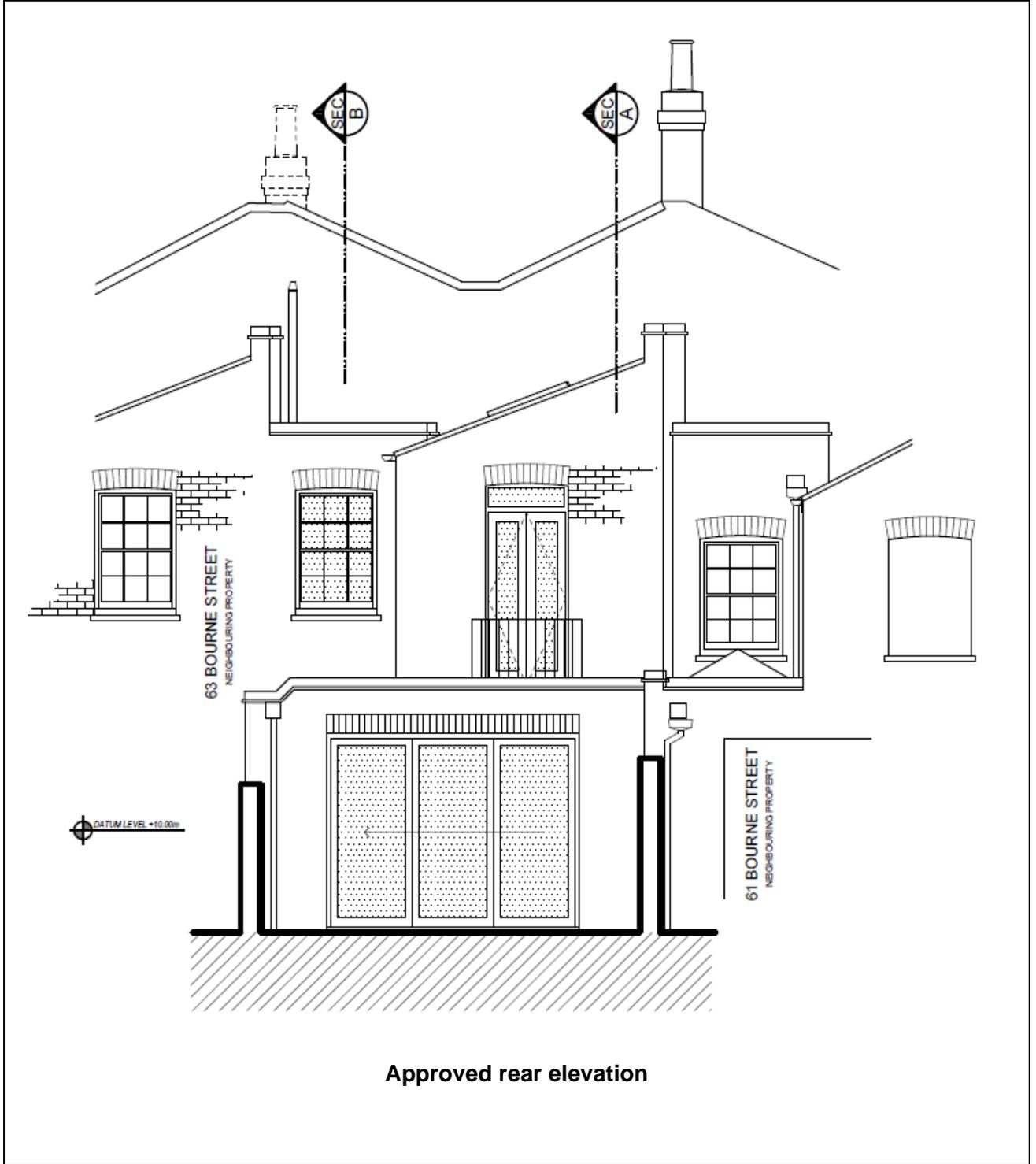


3 FIRST FLOOR PLAN  
03 G.I.A - APPROX. 44.6m<sup>2</sup>

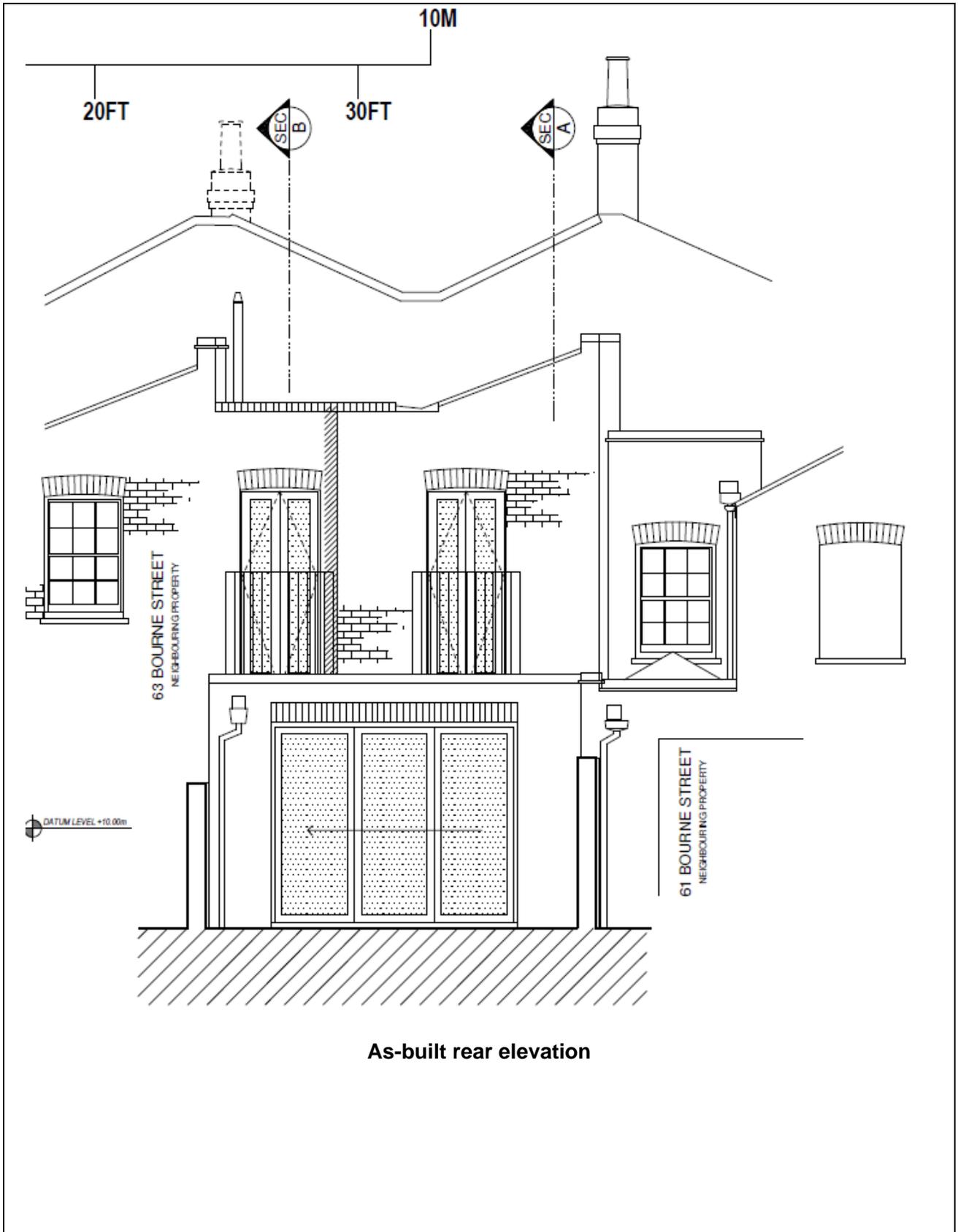
**As-built Ground and First floor plans**

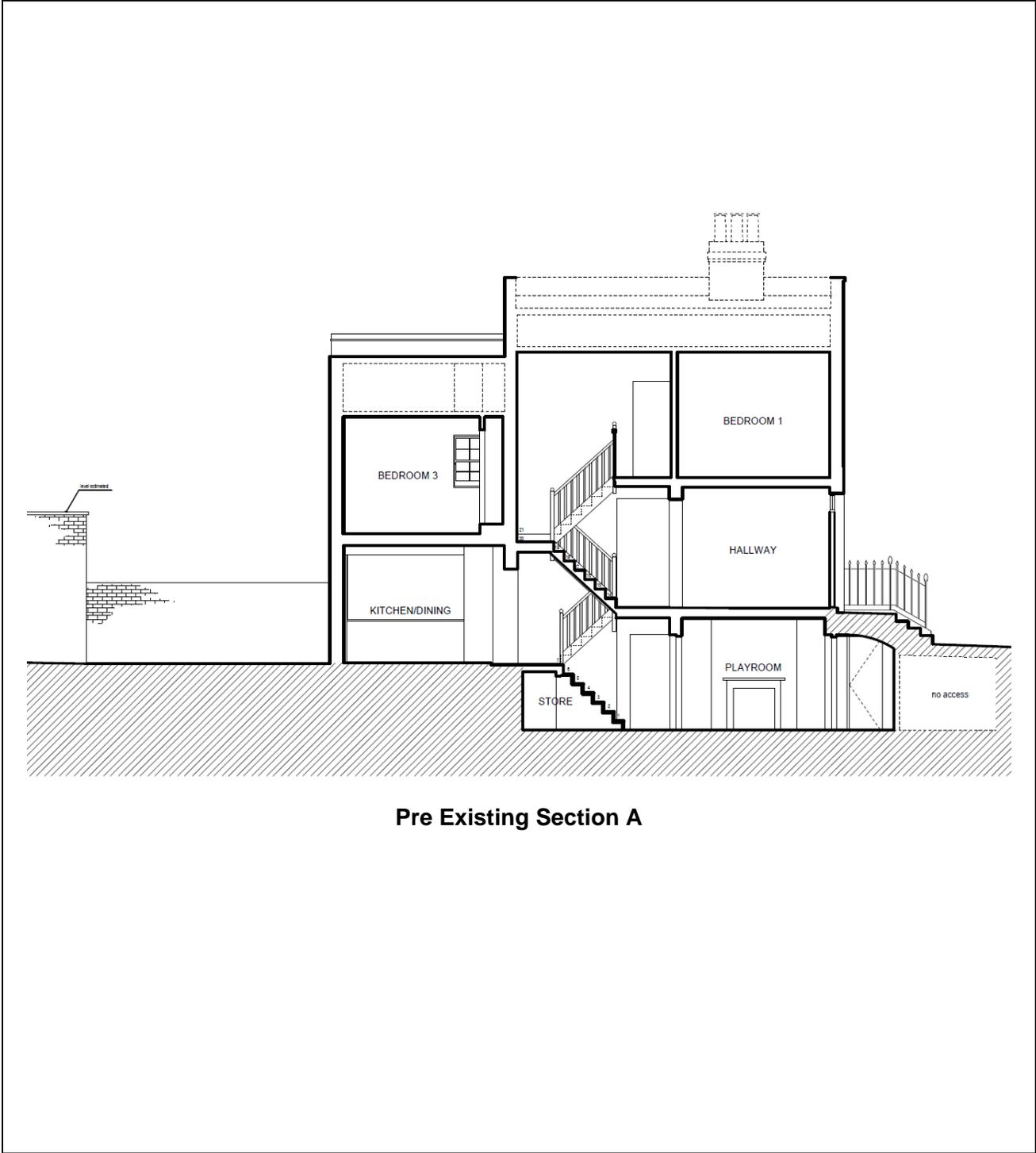


Existing rear elevation

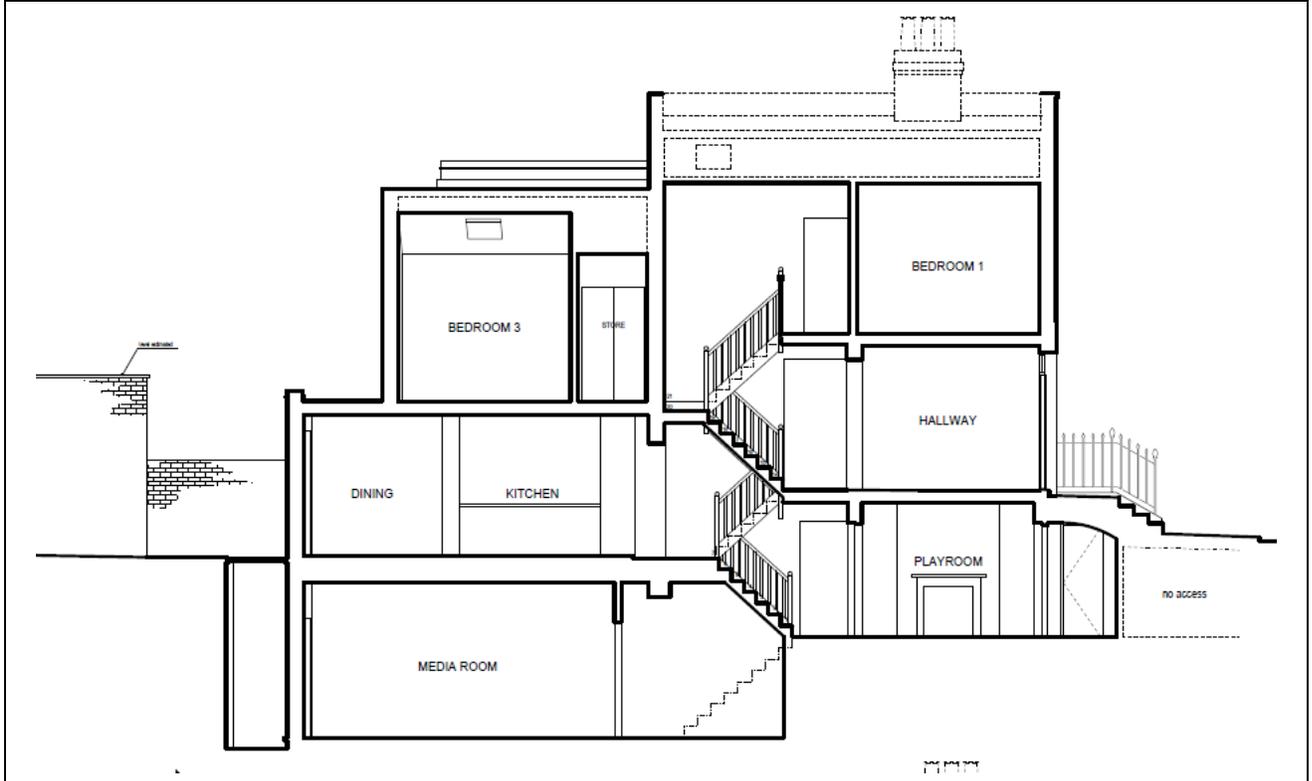


Approved rear elevation

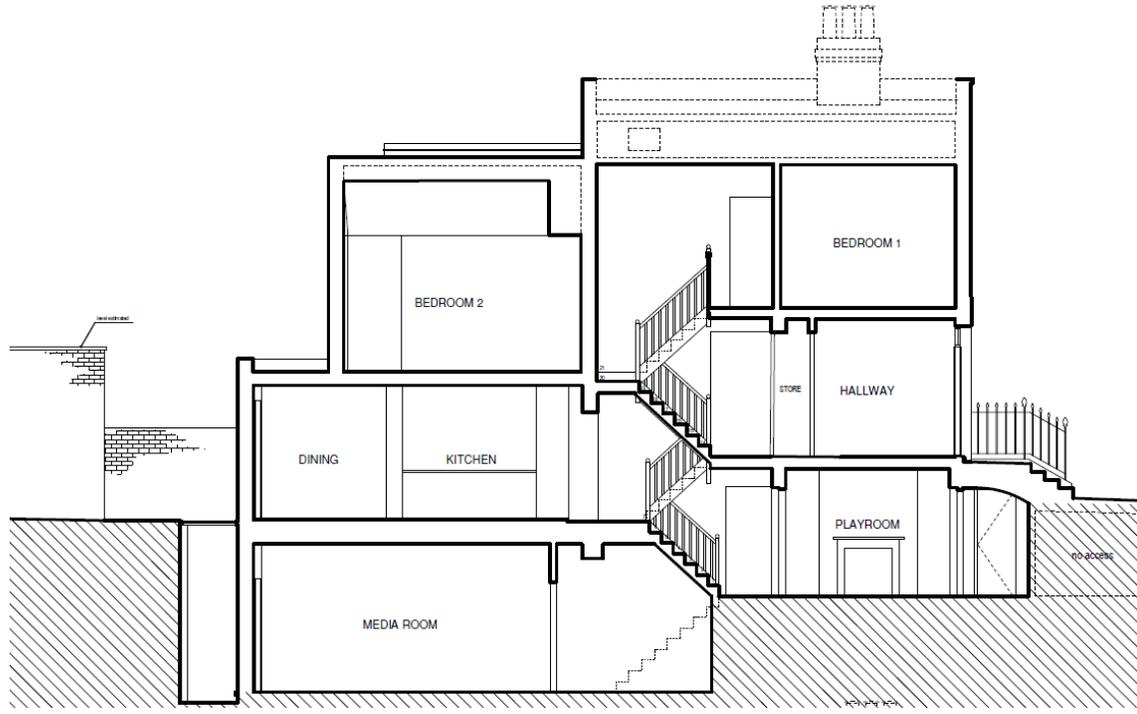




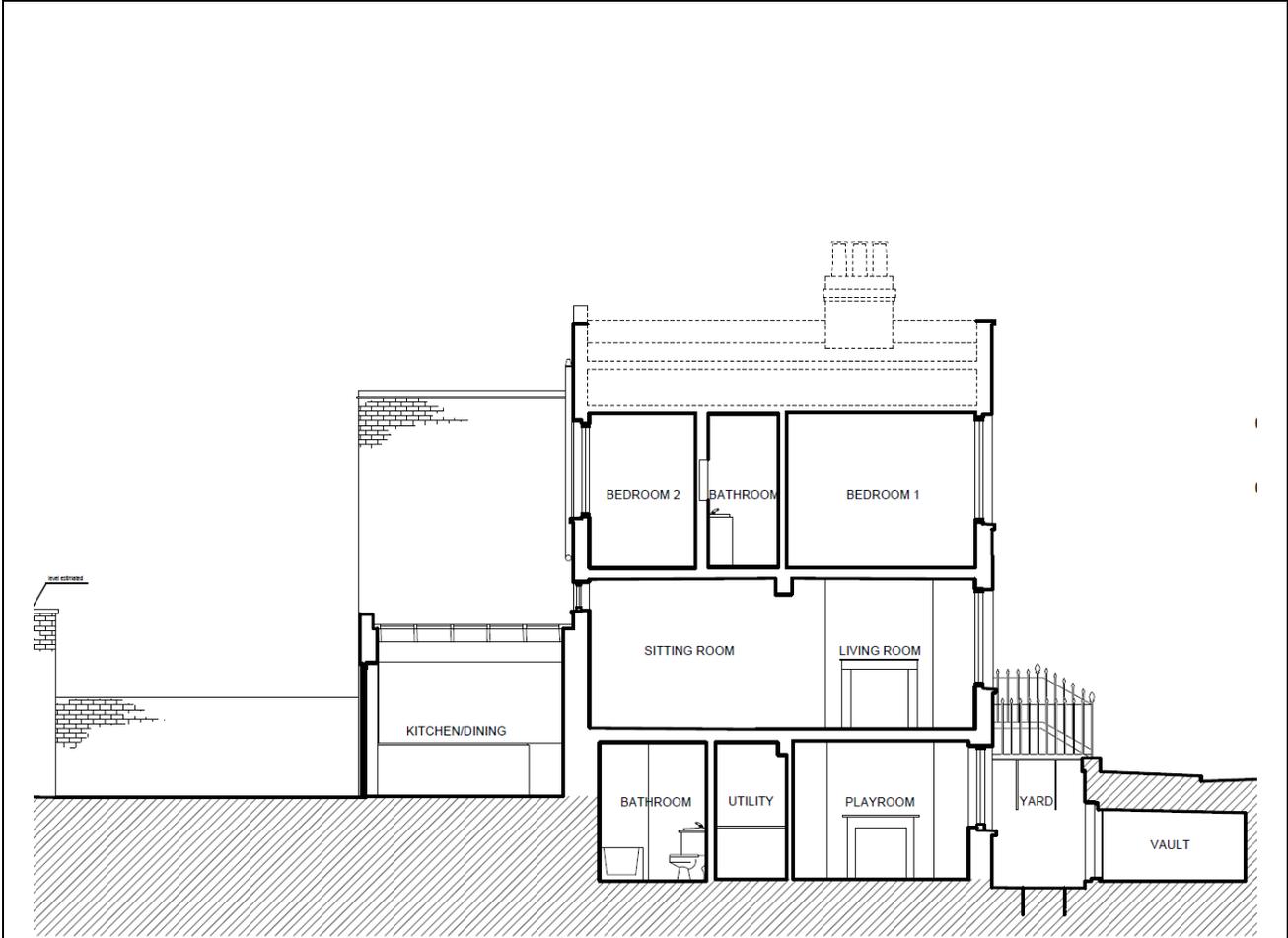
**Pre Existing Section A**



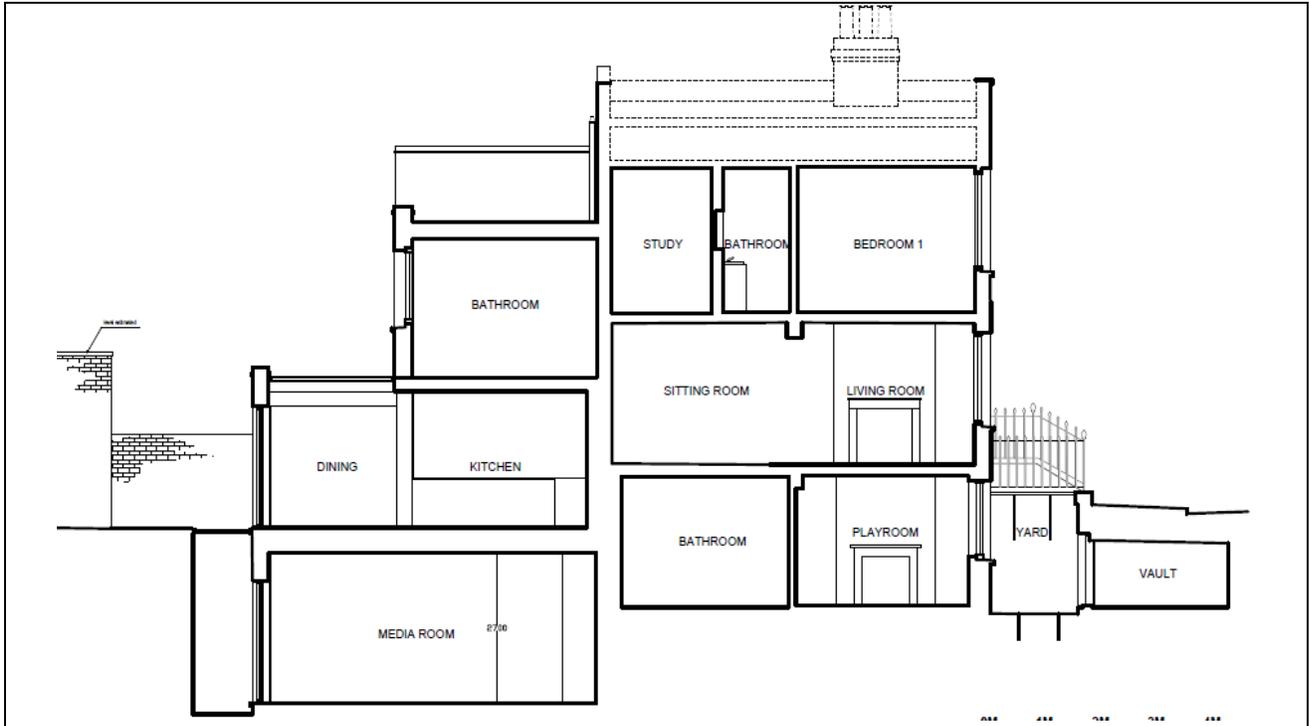
**Approved Section A**



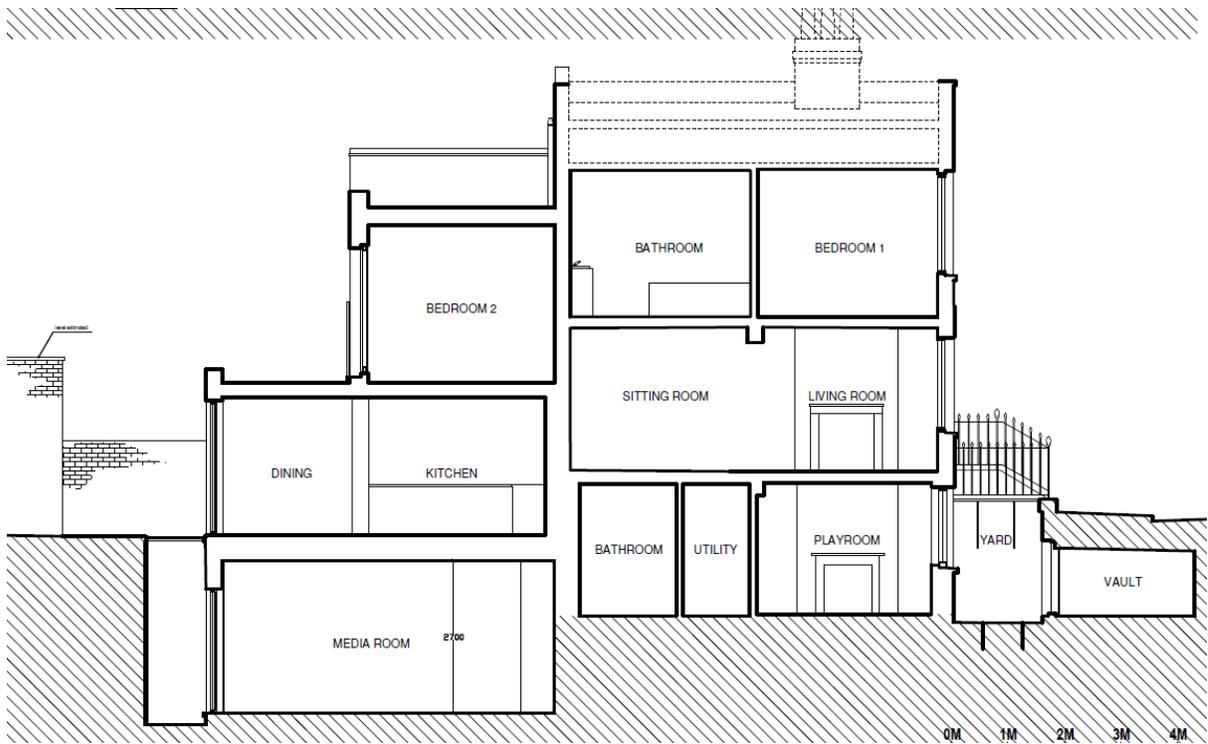
**As-built Section A**



**Pre Existing Section B**



Approved Section B



As-built Section B

**DRAFT DECISION LETTER**

**Address:** 62 Bourne Street, London, SW1W 8JD,

**Proposal:** Variation of condition 1 of planning permission dated 7 February 2017 (RN: 16/07755/FULL) for "Excavation of basement extension with lightwell to rear and erection of extensions at rear ground and first floor levels". NAMELY, alterations to height, form and pitch of roof of rear first floor extension, alterations to height and form of ground floor extension and replacement of window with French door and Juliet balcony to rear elevation at first floor level.

**Reference:** 19/02250/FULL

**Plan Nos:** 16/07755/FULL, 696\_01\_001; 696\_02\_001; 696\_03\_001; 696\_04\_001; 696\_05\_001; 696\_02\_101; 696\_03\_101 Rev D; 696\_04\_101 Rev D; 696\_05\_101 Rev D; (for information only) Proposed Basement Works Structural Methodology dated 21 July 2016, prepared by Vincent and Rymill.

As amended by:, 696\_01\_001; 696\_02\_001; 696\_02\_101; 696\_03\_101; 696\_04\_101; 696\_05\_101.

For information only: 696\_03\_301; 696\_04\_301; 696\_05\_301.

**Case Officer:** Aurore Manceau

**Direct Tel. No.** 020 7641 7013

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

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

Reason:

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

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

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

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

Noisy work must not take place outside these hours unless otherwise agreed through a Control of

Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

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

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

Reason:

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

- 4 You must not use the roof of the extensions for sitting out or for any other purpose. You can however use the roof to escape in an emergency.

Reason:

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

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

Reason:

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

- 6 The new joinery work must exactly match the existing original work unless differences are shown on the drawings we have approved. (C27EA)

Reason:

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

10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 7 Within three months of this decision the pointing of the extension wall facing No. 63 Bourne Street must be carried out and the wall made good as shown in drawing 696\_04\_101. You must then provide confirmation to us that the works have been carried out.

Reason:

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

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