

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 12 May 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Warwick	
Subject of Report	69C Gloucester Street, London, SW1V 4EA		
Proposal	Installation of new windows and a replacement door within the lightwell, in connection with the amalgamation of the front vaults into existing lower ground floor flat, and associated alterations.		
Agent	Turley		
On behalf of	FND Group		
Registered Number	19/10035/FULL	Date amended/ completed	20 December 2019
Date Application Received	20 December 2019		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		

1. RECOMMENDATION

Grant conditional permission.

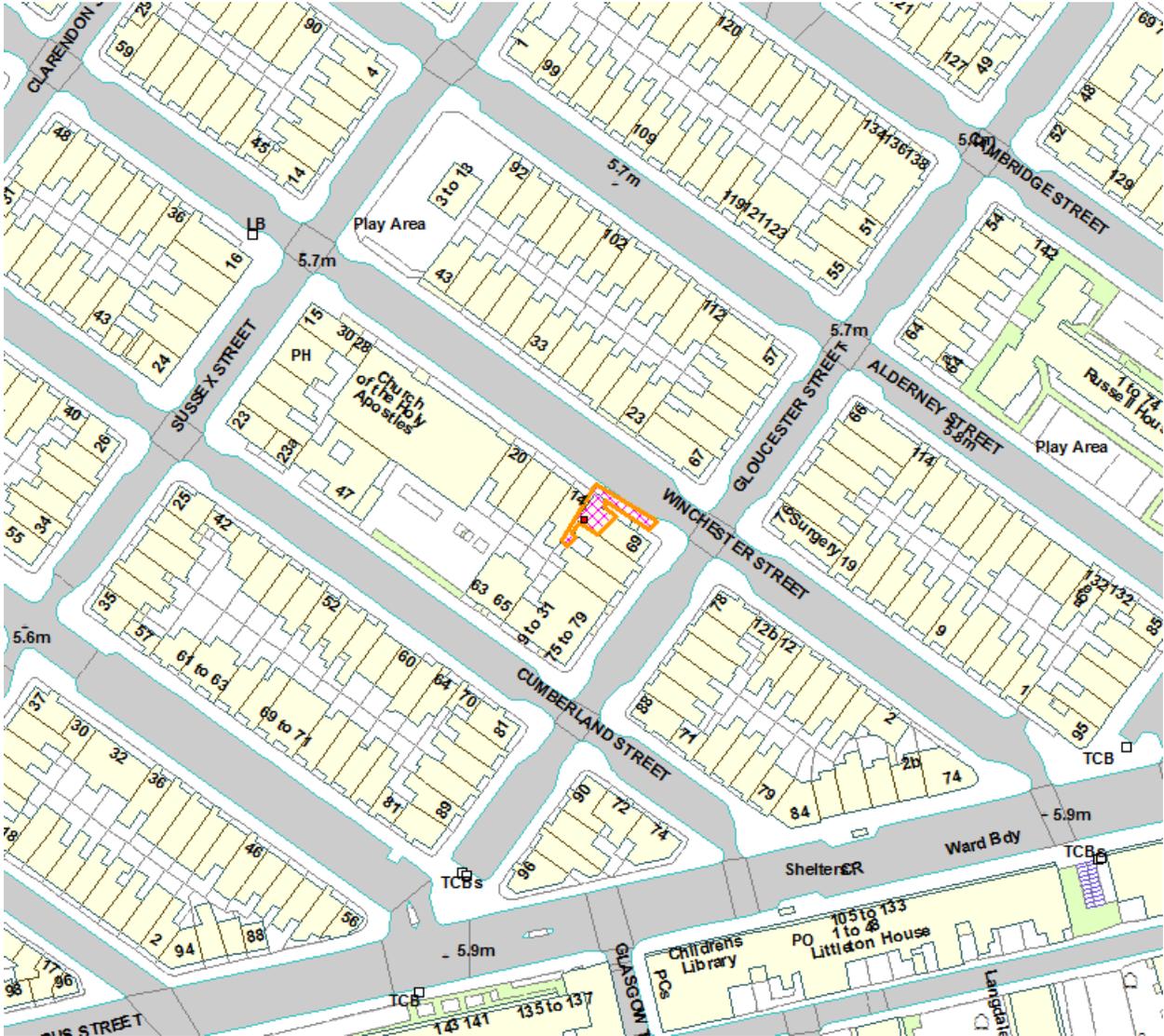
2. SUMMARY

69 Gloucester Street is an unlisted building located on the junction with Winchester Street, and it is within the Pimlico Conservation Area. The application relates to a one bedroom residential flat located at lower ground floor level. The applicant seeks permission to install a replacement door and to install two new windows on the return elevation of the front lightwell, in connection with the amalgamation of the flat into the front vaults. These front vaults oppose the application flat and an adjoining floor flat at lower ground floor level.

On 7 February 2019, the City Council refused permission for the installation of new windows on the return elevation of the front lightwell on the grounds it would have created a perception of overlooking and light spill harmful to the occupier of the adjoining flat. The main differences between the February 2019 scheme and the current scheme are the reduction in the number of windows from three to two and the redesign of one of the windows so it is high level.

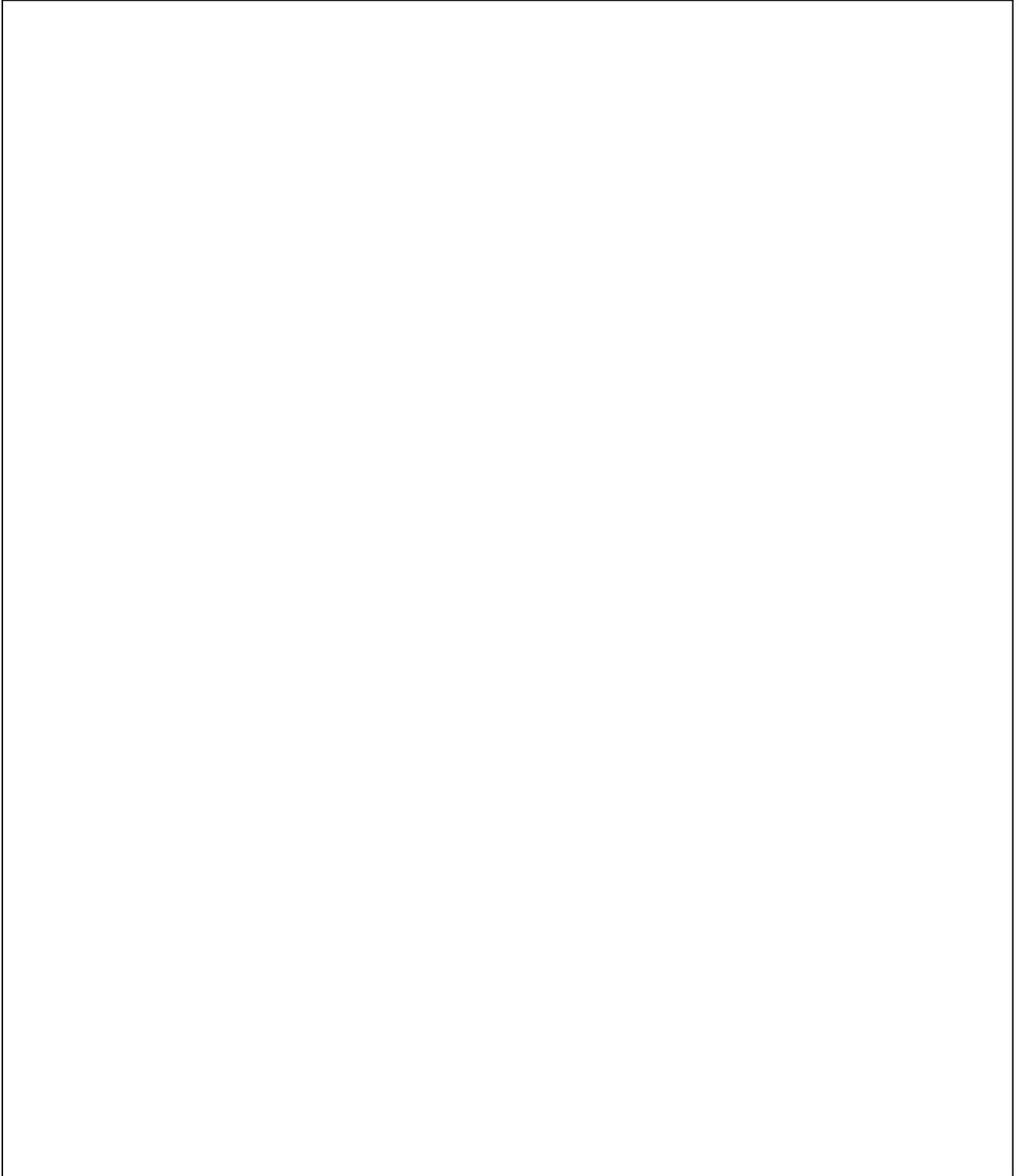
The key issue in this case is the impact on the amenity of neighbouring residents. 11 neighbours object primarily on the grounds of harm to residential amenity. As set out in this report, the proposed development accords with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan) and is therefore acceptable in land use, design and amenity terms and is recommended for approval subject to the conditions set out on the draft decision letter.

3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013.
 All rights reserved License Number LA 100019597

4. PHOTOGRAPHS





Front Entrance of Flat

Item No.

5





View of Lightwell

Item No.

5

5. CONSULTATIONS

ENVIRONMENT AGENCY:

No objection. The application site is located within Flood Zone 3a and is protected by the Thames Tidal flood defences up to a 1 in 1000 (0.1%) chance in any year flood event. The Environment Agency's most recent breach hazard modelling study shows the site to be outside of the areas impacted by flooding if there was to be a breach in the defences or they were to be overtopped. The Environment Agency consider this development to be at a low risk of tidal and fluvial flooding.

WESTMINSTER SOCIETY:

Any response to be reported verbally.

PIMLICO FREDA:

Any response to be reported verbally.

PIMLICO NEIGHBOURHOOD FORUM:

Any response to be reported verbally.

HIGHWAY PLANNING MANAGER:

Alterations to the vaults should not impact on the highway above. No requirement for cycle parking, no harmful impact on on-street car parking stress.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 31

Total No. of replies: 13

No. in support: 1

No. neutral: 1

No. of objections: 11 (from 10 neighbours/ interested parties)

1 neighbouring resident supports the proposal on the following grounds:

- It is a neat way of improving a disused vault while protecting the visual appearance of the area.

1 neutral comment received from the building's management company stating:

- The ownership/ occupation of the vaults are disputed and freeholder consent has not been obtained;
- Leaseholders objected to the previously refused proposals;

10 neighbouring residents and other interested parties object on some or all of the following grounds:

Residential Amenity:

- The new windows would create a perception of overlooking, in particular the 'high level' window for the gym;
- The development will result in intrusive light spill, and it would interfere with sleep;
- Activity within the vaults would create noise disturbance;

- Because fewer windows are proposed as compared to the refuse scheme, additional ventilation will be required for the flat which could vent in a manner/ location harmful to neighbours;
- The new vault windows would be overlooked by neighbours;

Design:

- The new windows and door would be harmful to the character and appearance of the conservation area;
- Use of the vaults as habitable space is against the spirit of conservation guidelines, there have never been windows to these vaults historically;

Land Use:

- The vaults are unsuitable as habitable space, including in terms of light;
-

Flood Risk:

- The site is within a flood risk zone, and the applicant has not assessed the risk

Other:

- The ownership/ occupation of the vaults are disputed and freeholder consent has not been obtained;
- The floor level within the vault and what is shown on the drawings are inconsistent, and substantial structural and building work will have to be carried out;
- There was a previous suspected planning control breach relating to works to the vaults.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

69 Gloucester Street is an unlisted building located on the junction with Winchester Street, and is within the Pimlico Conservation Area. The application relates to a one bedroom residential flat located at lower ground floor level. There is an adjacent flat at this level and both these flats oppose a series of front vaults which are underneath the pavement on Winchester Street.

6.2 Recent Relevant History

On 7 February 2019, the City Council refused permission, for the installation of new windows and a replacement door within the lightwell, in connection with the amalgamation of the front vaults into existing lower ground floor flat, on the grounds the new windows would have generated a perception of overlooking and light spill harmful to the enjoyment of the adjacent flat, 69B Gloucester Street (RN: 18/10246/FULL).

On 18 October 2019, the Planning Inspectorate dismissed an appeal the applicant made against the City Council's decision to refuse permission.

7. THE PROPOSAL

The applicant seeks permission to install a replacement door and to install two new windows on the return elevation of the front lightwell, in connection with the amalgamation of the flat into the front vaults.

The main differences between the February 2019 scheme and the current scheme are:

- The reduction in the number of windows from three to two; and
- The redesign of one of the windows so it is high level.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The front vaults are associated with residential flats within the main building and are therefore ancillary residential floorspace. As such, their amalgamation into the flat would not result in a land use change.

Objectors raise concern regarding the suitability of using the vaults as residential accommodation, however. The February 2019 application was not refused on these grounds.

The vaults would not be converted into habitable rooms (defined as living rooms, bedrooms and kitchens if they greater than 12.6sqm). Instead, they would be a non-habitable shower room and w/c, gym and small kitchen. Given their location, and that the one window would be high level and obscure, the light reaching these rooms would be minimal and outlook would be very limited. However, it is not reasonable to refuse an application because of low levels of light/ outlook afforded to non-habitable rooms because these are not the main living spaces of the flat. In fact, the conditions in the principal habitable rooms within the main building would improve because locating non-habitable rooms in the vaults results increases floorspace for the main living areas. A condition is recommended to ensure that the front vaults are not used as bedrooms or living rooms. In these circumstances, the proposal is not opposed in land use terms.

8.2 Townscape and Design

Legislation, NPPF and Development Plan

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

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Section 72 of the same Act requires that "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

The relevant design policies include S25 and S28 of Westminster's City Plan, policies DES 1, DES 5 and DES 9 of the Unitary Development Plan (UDP).

Consideration

Objectors consider the works would harm the character and appearance of the property and area. The February 2019 application was not refused on these grounds, and the current proposals involve fewer external alterations.

Historically, the vaults would have been used as stores and access into them would have been through doors within the lightwell and there would have been no windows. Within the wider area, there are numerous examples of where redundant vaults have been amalgamated into residential units. This is normally achieved by infilling part of the lightwell under the front footpath which creates an internal link into the vault. In this case, this link already exists. In addition, while objectors state works to the vaults (including excavation within the vaults) were previously carried out in breach of planning control, the City Council's planning enforcement team have already investigated these claims (in 2016) and concluded there was no evidence of a breach of planning control. The proposal is for new windows, and a replacement door, within the lightwell. The interior works are proposed to refurbish the vaults for use but, as these are internal works, they do not require planning permission.

The applicant notes that similar window openings on the return elevation of lightwells can be found elsewhere in the area, and this is indeed the case. While in this case there would be some views of the new windows from street level, they would not be prominent or incongruous. One of the windows would be high level, and therefore not a sash window and neighbours have raised concern that this is not suitable. This window is designed in this way to reduce potential light spill and overlooking, it is small and return elevation of the lightwell so not highly visible from the public realm. Overall, the windows would not therefore be harmful to the appearance of the building or conservation area.

Similarly, the replacement door would be timber and similar in appearance to the existing, albeit with a greater degree of glazing to allow more light to reach inside the flat. This again would not harm the appearance of the building or area.

The applicant provided detailed drawings of the new door and sash window, but because they have not submitted a detailed drawing for the high level window a condition is recommended to secure this.

As such, the proposal is considered acceptable, mindful of policies S25 and S28 of Westminster's City Plan, policies DES 1, DES 5 and DES 9 of the UDP, and therefore, a

recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8.3 Residential Amenity

Policies S29 of the City Plan and ENV13 of the UDP seek to protect residential amenity in terms of light, privacy, sense of enclosure and encourage development that enhances the residential environment of surrounding properties. ENV 13 states in part (F) that developments should not result in a significant increase in the sense of enclosure or overlooking.

Objectors consider the proposal would harm residential amenity, particularly in terms of privacy, noise and light spill.

In February 2019, officers concluded the new windows proposed in that application would be unacceptable because they would have resulted in a significant increase in a sense of overlooking and light spill harmful to the occupier of 69B Gloucester Street. These windows would have been sash windows and because of their number and positions, would have been visible from significant portions of the bedroom and living room at 69B Gloucester Street. They would not have been harmful to other occupiers in the building given the position of these neighbours relative to the new windows.

The current application has removed two of the previously proposed windows and amended a third to be a smaller high level window. This means that from the living room of 69B Gloucester Street (the room on the corner of the building) the new windows would not be visible because of the extremely acute angle between these locations and because the external staircase within the lightwell would obscure it. From the bedroom, which is adjacent to the application flat and closer to the new windows, some glimpsed views of the new high level window may be possible in a small portion of the bedroom. However, given this new window would be small, high level, have obscure glazing and not visible in a significant majority of the bedroom this would not be harmful to the amenity of the residents such that a refusal on that basis could be justified. The other new sash window and door are further from the neighbour so would have no impact.

The proposal would increase activity within the vaults. However, residential uses are generally compatible with existing residential units. The lightwell is narrow and the proposed and the concern of residents in terms of noise is understood, given the size of the window closest to 69B is small and that other windows a floor above are a similar distance, if not closer, it is not considered that the impact would be so severe as to justify withholding planning consent on that basis.

Some objectors have raised concern regarding the possibility of a requirement for the shower room to require a vent to remove air from the shower room, and this expelling into the shared lightwell. Given this would be air (rather than fumes) and would only be required when the shower room is in use, the impact this would have on neighbours is limited. Flues and vents are often required for boilers and bathrooms and, for flats, these are inevitably close to neighbours, but they do not cause detrimental harm. As a vent has not been included on the applicant's drawings, a condition is recommended to ensure this detail is provided.

8.4 Transportation/Parking

Vault

The Highway Planning Manager has noted that TRANS19 of the UDP restricts the lateral and vertical extent of new or extended basement areas under the adjacent highway so that there remains a minimum vertical depth below the footway or carriageway of about 900 mm and the extent of the new or extended basement area does not encroach more than about 1.8 m under any part of the adjacent highway.

The proposal does not involve a lateral extension of the works and a condition is attached to ensure that any alterations to the ceilings of the vaults do not reduce the gap between it and the footway by less than 900mm.

Car and Cycle Parking

Given no additional units are proposed, there is no requirement to provide cycle parking and the enlarged flat would likely have a similar impact on parking stress in the area as the existing flat.

8.5 Economic Considerations

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

8.6 Access

The access arrangements are unchanged.

8.7 Other UDP/Westminster Policy Considerations

Flood Risk

Several objectors have raised concern regarding the lack of a flood risk assessment to accompany the planning application, and that there could be an increased flood risk. The applicant has since provided a flood risk assessment.

The site is located within Flood Risk Zone 3a, but is protected to a very high standard by the Thames Tidal flood defences up to a 1 in 1000 (0.1%) chance in any year flood event. The submitted flood risk assessment also indicates that the site is at a low risk of other types of flooding, such as surface flooding. Indeed, the site is outside of a Critical Surface Water Location identified in Westminster's Strategic Flood Risk Assessment.

Furthermore, the application relates to an existing flat – the main habitable spaces will be located at the same position/ level in the existing and proposed situation. Given this, the development would not increase the risk of flooding compared to the existing situation. The Environment Agency have raised no objection, stating they consider the site to be at a low risk of tidal and fluvial flooding.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, 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

None relevant.

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.

The development is not CIL liable.

8.13 Environmental Impact Assessment

Environmental Impact Assessment is not required for a development of this scale.

8.14 Other Issues

Objectors have raised concern that the freeholder has not granted consent for these works and that there is a dispute regarding ownership. Ownership is not a material planning consideration. An applicant can apply for planning permission on land not within their ownership – ensuring that the correct ownership certificate is signed. If there is a dispute or other consents aside from planning are required, this is not a matter for the City Council but for the parties concerned to resolve.

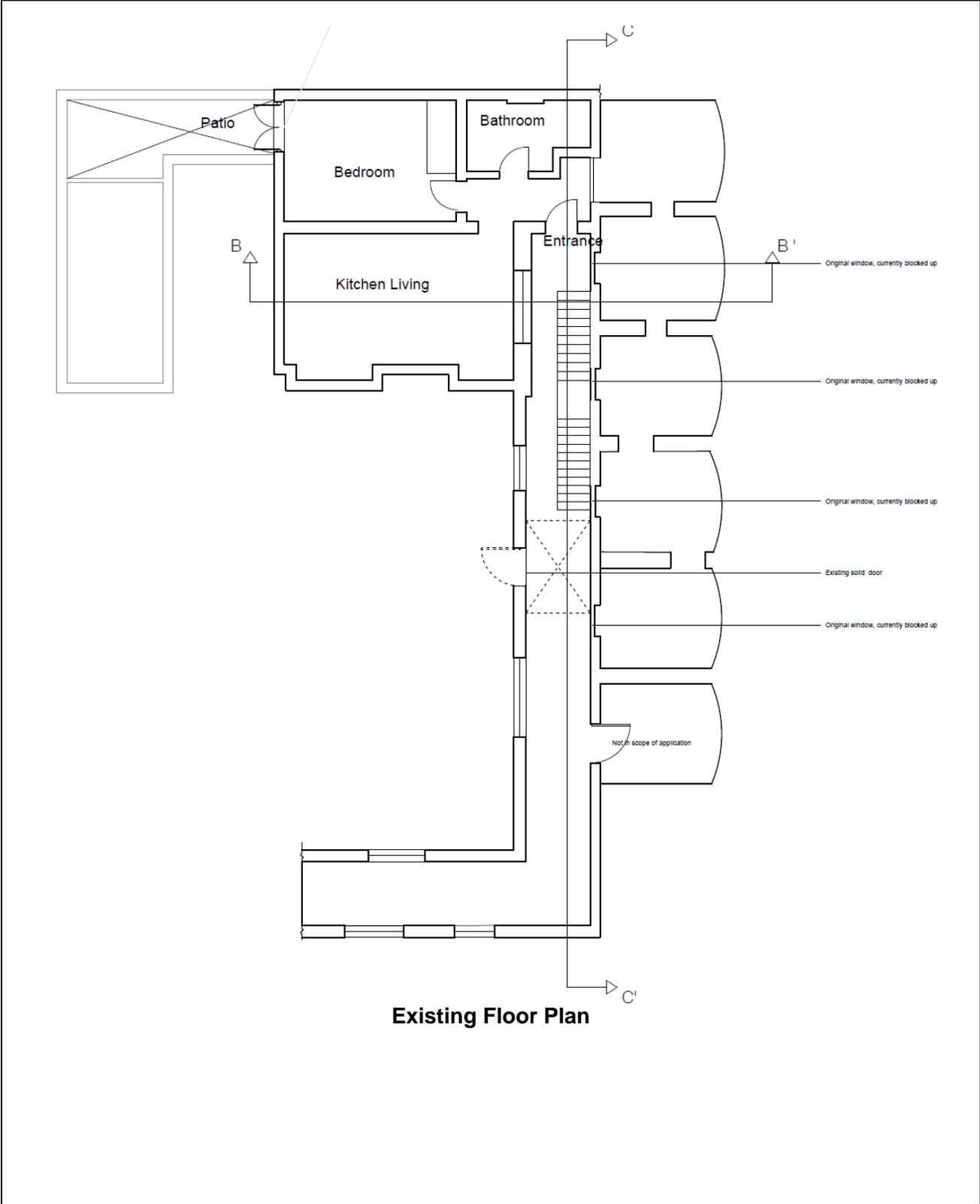
Others have raised concern about a previous report of a potential planning control breach. This was investigated at the time, and the case was closed as it was found no planning control breach had occurred.

Some objectors have raised concern regarding the structural stability of the vaults. A condition is added to ensure that the ceiling of the vaults are not altered in a manner that would unacceptable reduce the gap between the vault ceiling and the pavement above. Further, technical approval for the works to the vaults will be required from City Highways prior to commencement of development, and an informative is added to remind the applicant of this.

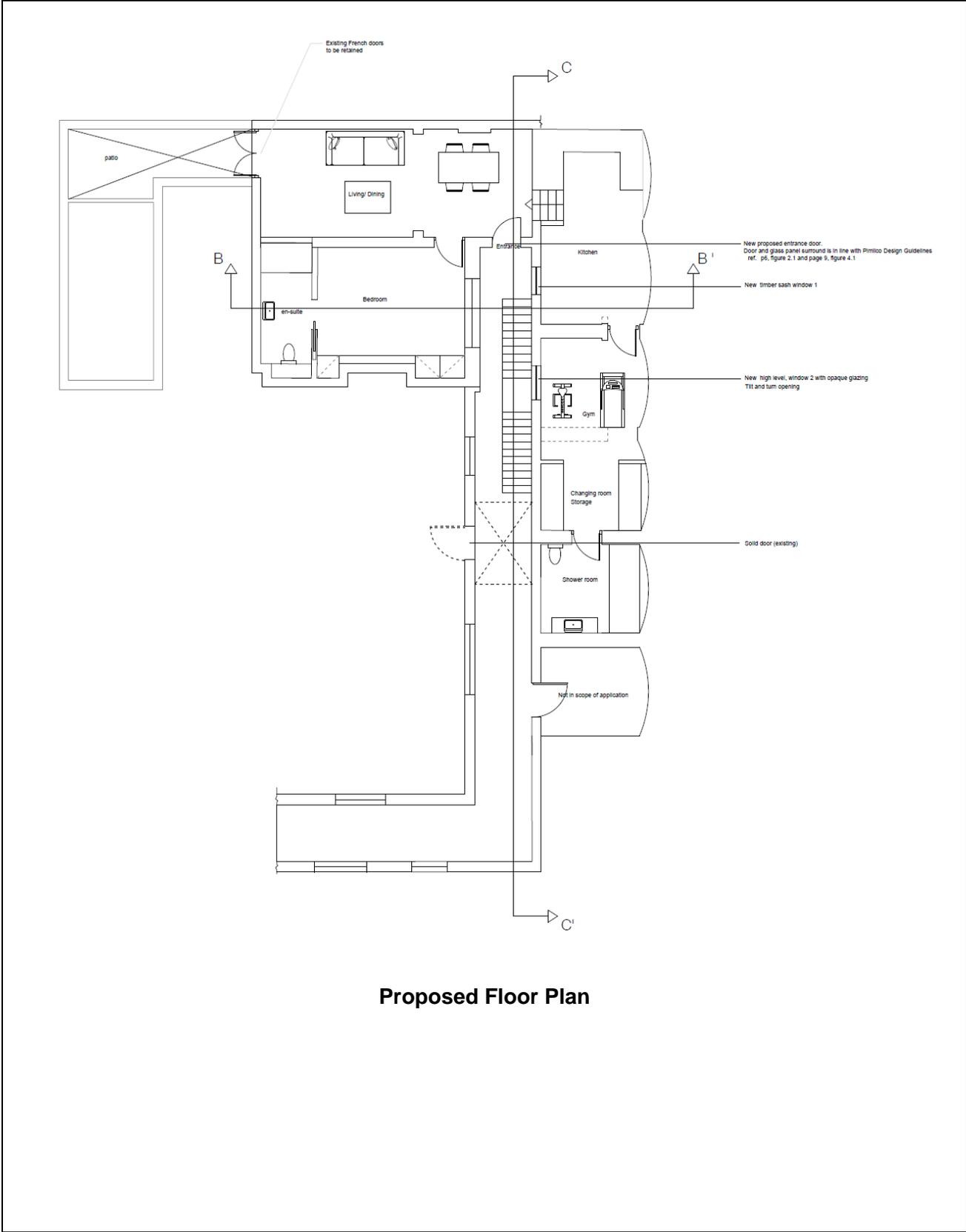
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JOSHUA HOWITT BY EMAIL AT jhowitt@westminster.gov.uk

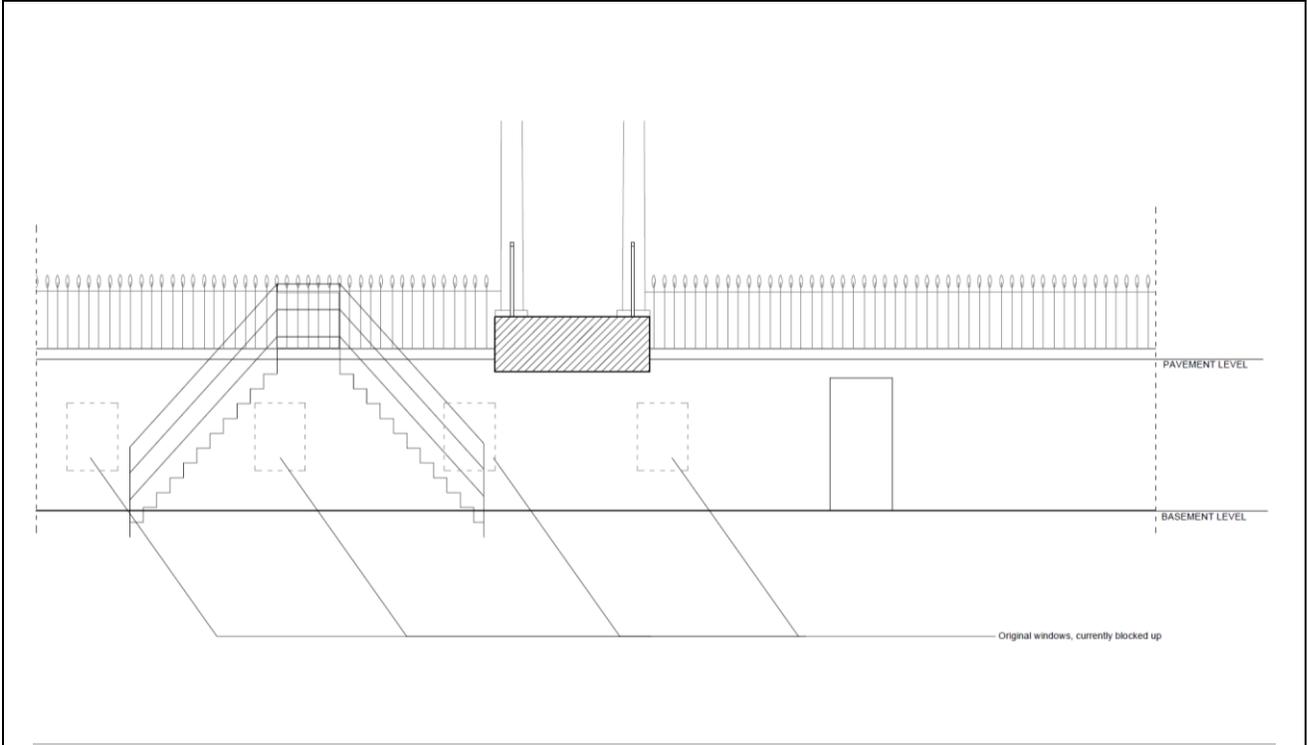
9. KEY DRAWINGS



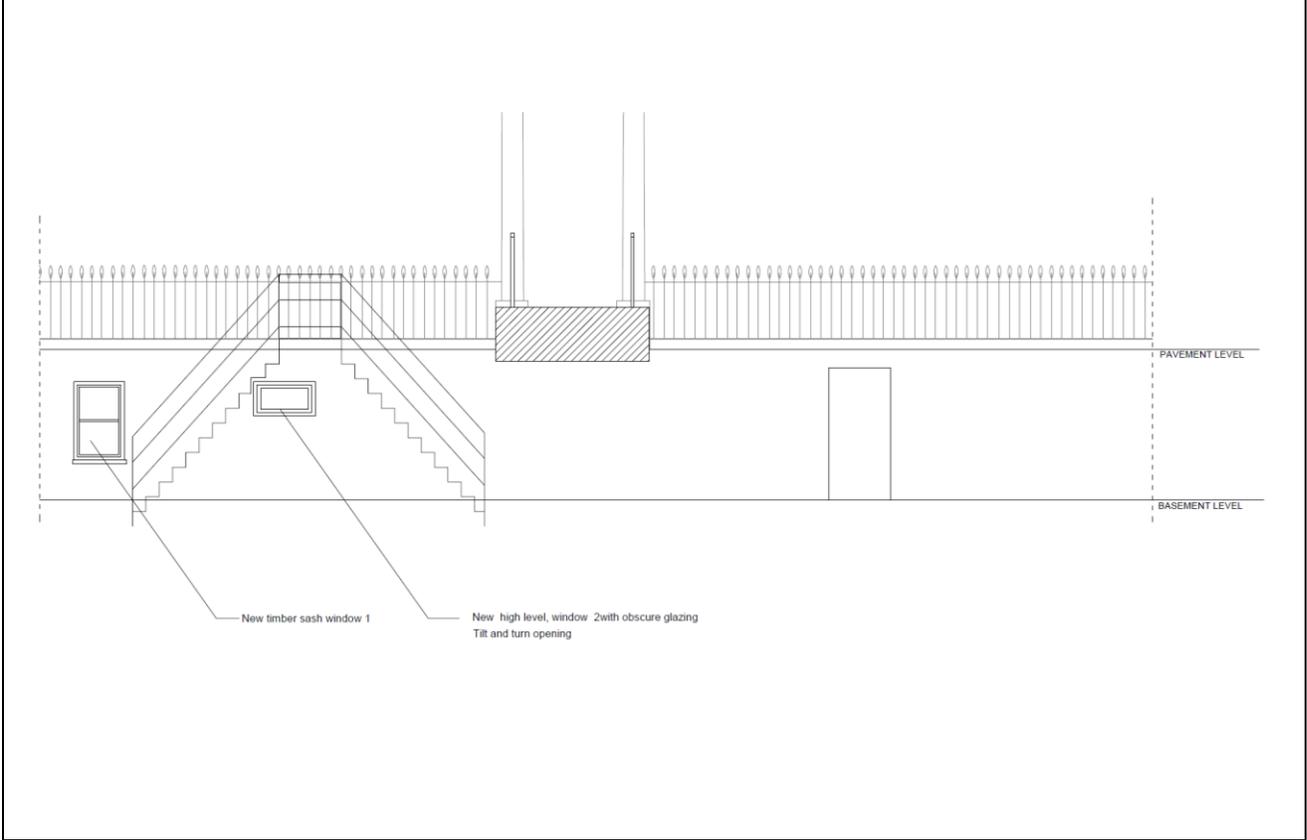
Existing Floor Plan

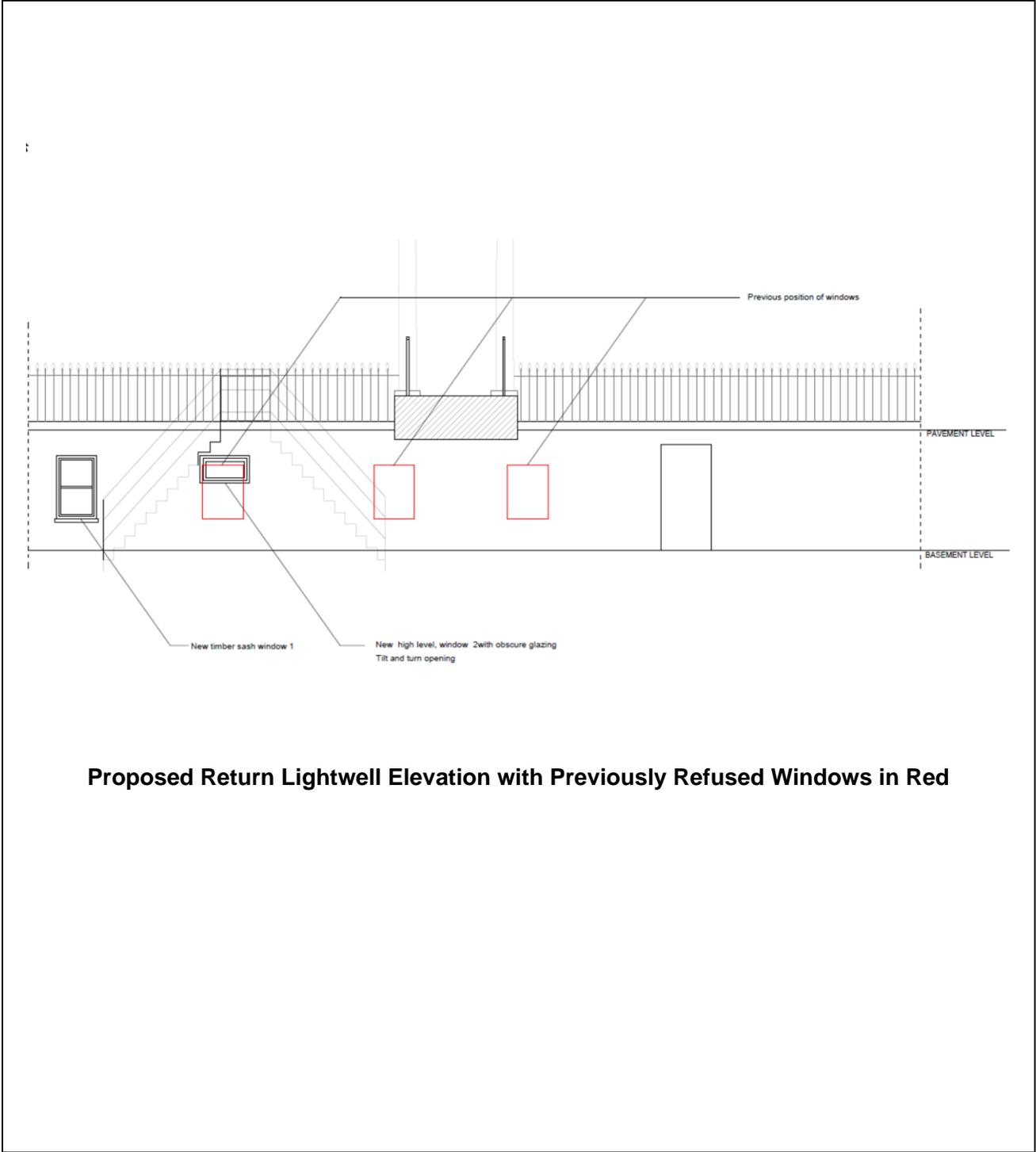


Proposed Floor Plan

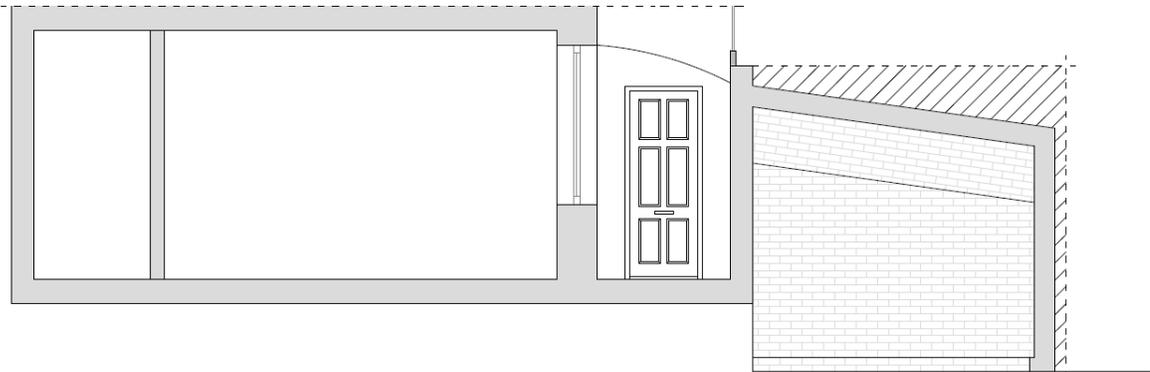


Existing (above) and Proposed (below) Return Lightwell Elevation

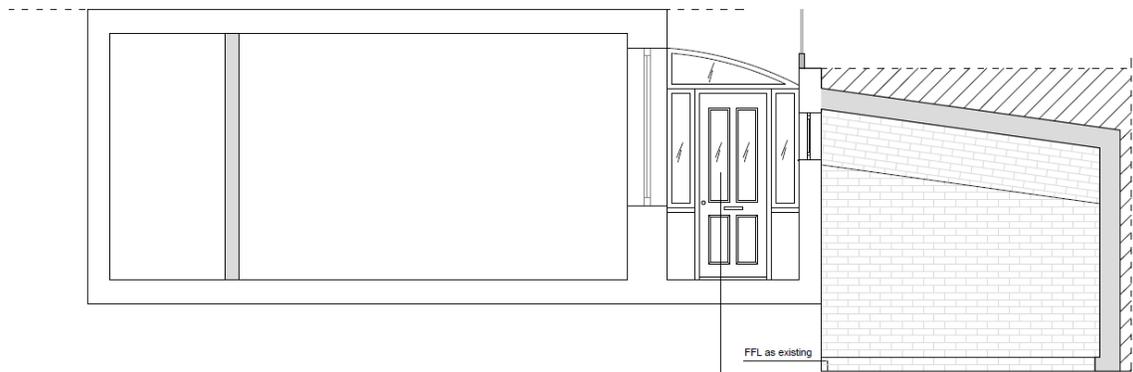




Proposed Return Lightwell Elevation with Previously Refused Windows in Red



Existing (above) and Proposed (below) Section



New proposed entrance door.
Door and glass panel surround is in
line with Pimlico Design Guidelines
ref. p6, figure 2.1 and page 9, figure
4.1

DRAFT DECISION LETTER

- Address:** 69C Gloucester Street, London, SW1V 4EA
- Proposal:** Installation of new windows and a replacement door within the lightwell, in connection with the amalgamation of the front vaults into existing lower ground floor flat.
- Reference:** 19/10035/FULL
- Plan Nos:** Site Location Plan; AP100 rev 00; AP110 rev 00; AP111 rev R00; AP121 rev R00; AP200D rev R01; AP211D rev R02; AP213 rev R0; AP221D rev R0; AT500 rev R00; AT501 rev 00; Design and Access Statement (dated Dec 2019); Cover Letter (dated 20 Dec 2019).
- For Info Only:
Flood Risk Assessment (dated 25 March 2020).

Case Officer: Joshua Howitt

Direct Tel. No. 07866038007

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

- 4 You must apply to us for approval of detailed of the following parts of the development –

- a. High level window (sections and elevations scaled at 1:10)
- b. New vent in the lightwell (sections and elevations scaled at 1:10 or 1:20)

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

Reason:

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

- 5 The glass that you put in the windows in the return elevation of the lightwell must not be clear glass. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

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)

- 6 You must ensure that any alterations to the ceiling of the vaults keep a minimum depth of 900mm between the footway and vault ceiling. Where the depth between the footway and vault ceiling is already less than 900mm, you may not reduce it.

Reason:

In the interests of public safety and to avoid damage to the road as set out in TRANS 19 of our Unitary Development Plan that we adopted in January 2007.

- 7 You must not use the rooms within the underground vaults as bedrooms or living rooms.

Reason:

To make sure that the development is completed and used as agreed, and to make sure that it meets ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R07AB)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), supplementary planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You will need technical approval for any works to the highway (supporting structure) prior to commencement of development. You find information and useful forms here: http://westminstertransportationservices.co.uk/pageContent/index.php?page_id=7&type=1
- 3 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email AskHighways@westminster.gov.uk. 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).
- 4 The rooms in the underground vaults are only considered acceptable by our Environmental

Health officers on the basis that they are used in connection with the main house. If used as separate living accommodation (e.g. for staff accommodation) the lack of sufficient natural light and reasonable views would mean the proposal fails the Housing Health and Safety Rating System - Housing Act 2004.

Additionally, the conversion of vault areas for human habitation is not normally recommended because of the low headroom, potential damp problems and 'remote room' issues. The potential for rising dampness (from the ground) and penetrating dampness (from the entrance slab above) together with condensation due to lack of through ventilation is great. Experience has shown that despite thorough "tanking" (complete damp proofing) of vaults, the integrity of the tanking can be damaged by nails/screws etc. New techniques, such as 'Delta membrane', may be more appropriate as alternatives to traditional 'tanking' methods.

You are recommended to seek advice from our Environmental Health Department on appropriate damp proof treatment and ventilation (including additional mechanical ventilation as necessary). However, any works that affect the external appearance may require a further planning permission. For further advice, please contact the Environmental Health Consultation Team (Regulatory Support Team 2) by email to ehconsultationteam@westminster.gov.uk.

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.