

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 July 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Lancaster Gate	
Subject of Report	4 Tenniel Close, London, W2 3LE		
Proposal	Excavation of a basement under the existing dwelling incorporating a rear lightwell with external staircase to rear, alterations to front and rear elevations including new windows and rooflights.		
Agent	Mr D Adam		
On behalf of	Mr Adib Arabi		
Registered Number	21/01675/FULL	Date amended/ completed	16 March 2021
Date Application Received	16 March 2021		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site forms part of an unlisted terrace located within the Bayswater Conservation Area. The road is set back from Queensborough Terrace and backs onto buildings fronting Porchester Terrace.

Permission is sought to construct a basement under the footprint of the existing house with a lightwell to the rear. It is also proposed to replace all windows and doors with new aluminium double glazed windows and doors and a new rooflight.

Objections have been received from the South East Bayswater Residents Association and neighbouring properties on the grounds of over development; design; impact to highways; trees and impact during the course of construction.

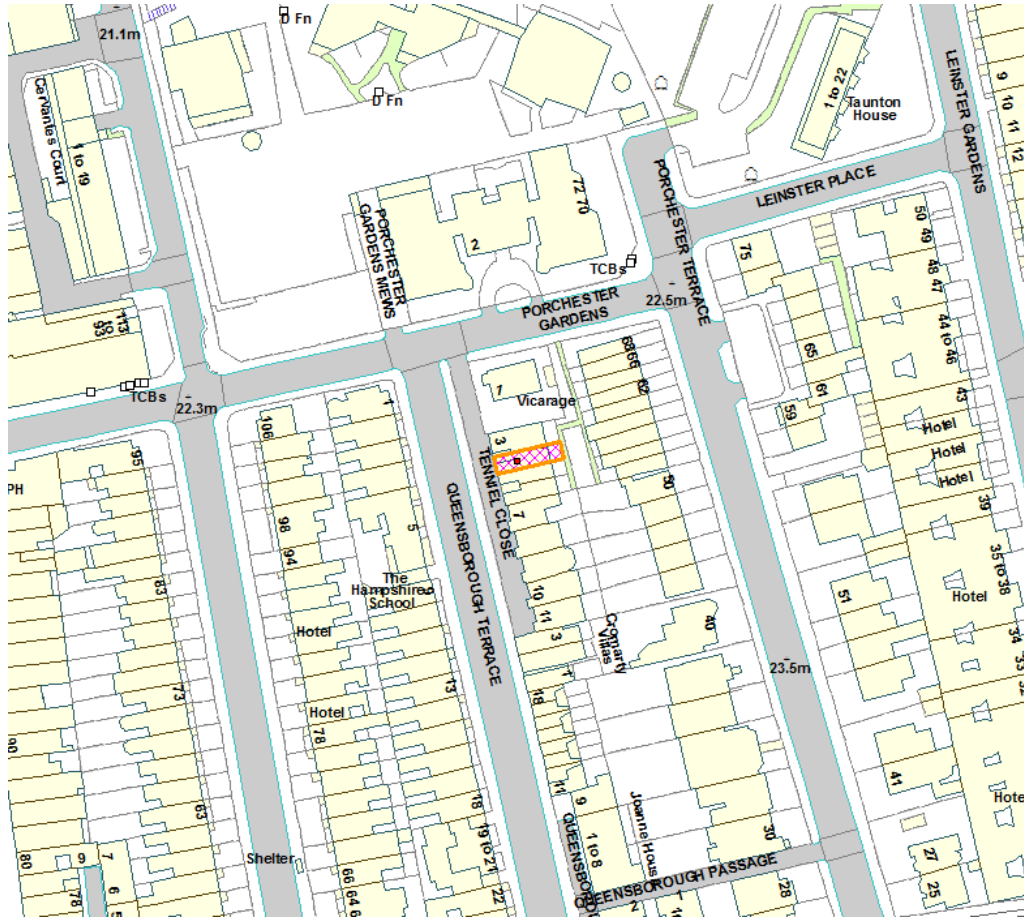
The key issues in the determination of this application are:

- The impact of the works on the character and appearance of the Bayswater Conservation Area;
- The impact of the works in highways terms;

- The impact of the basement excavation.

For the reasons as discussed in the report, the proposals are considered in accordance with City Council policies as set out in the City Plan 2019-2040 with respect to land use, design, basement excavation; highways and trees and recommended for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

1st Round of Consultation:

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Support given to the objections and concerns raised by affected neighbours. Basement construction in this location is very difficult. The proposed basement under the garden is not in accordance with policy and does not leave a perimeter clearance. This size property should not be made larger and be left in order to retain a good size/ mix of units sizes. SEBRA do not agree with the conclusions reached in the tree report.

BUILDING CONTROL:

No objections to the structural method statement.

ARBORICULTURAL OFFICER:

ADJOINING OWNERS/OCCUPIERS:

Total No. Consulted: 76 Total No. Responses: 7

Seven objections received on some or all of the following grounds:

Land Use:

- Basement results in an over development of the site;
- Basement flats shouldn't be allowed (through the excavation of basement).

Design:

- Proposals not shown in their true context with neighbouring properties;
- unnecessary use of metal and glass to rear;
- lightwell is too large and harmful to setting;
- overlarge laundry room to rear;
- no sufficient justification to rear lightwell staircase.

Amenity:

- No details of plant for the basement are given.

Highways:

- Loss of garage space in property to living accommodation will result in parking issues and congestion in Tenniel Close and surrounding properties;
- Access to properties in Tenniel Close during construction;
- As the road is a private road access to contractors could be refused.

Basement:

- Extent of basement excavation is over 50%, extending under the garden;
- The basement doesn't contain 1.2m of soil depth above;
- No margin of undeveloped land.

Trees/ Biodiversity:

- Proposals are detrimental to 'greening' concept of Westminster Council;
- Impact of excavation to trees on Queensborough Terrace;

Other:

- No notification of proposals received from Westminster Council;
- Noise and disruption from proposed excavation and construction;
- Structural stability and no supporting evidence to application proposals;
- Permission cannot be given without significant preparatory works and party wall surveyors being instructed;
- Inaccuracies in drawings (specifically showing a door to neighbouring garden);
- Impact to shared utilities;
- The works are not being done for the owners to live there and presumably for financial reasons.

SITE AND PRESS NOTICES:

Yes

2nd Round of Consultation (as a result of the removal of the utility room to rear garden and increased soft landscaping):

ADJOINING OWNERS/OCCUPIERS:

Total No. Consulted: 76 Total No. Responses:3

Three objections received, raising some of the earlier comments raised and in addition:

- The revisions ignore all the previous comments made;
- Absence of drawings showing proposals from the rear.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site forms part of an unlisted terrace located within the Bayswater Conservation Area. The road is set back from Queensborough Terrace and backs onto buildings fronting Porchester Terrace. The terrace comprises 4 similar properties (No's3-6), all 3 stories and roof terraces (and appears to have been built as part of the redevelopment of the properties to the rear on Porchester Terrace) and a further 5 properties (No's7-11) of two stories plus mansard roof.

6.2 Recent Relevant History

None relevant.

7. THE PROPOSAL

Permission is sought to construct a basement under the footprint of the existing house with a lightwell to the rear. It is also proposed to replace all windows and doors with new aluminium double glazed windows and doors. A new rooflight is also proposed to the main roof.

The application originally proposed the excavation of all the garden, to allow a rear garden/ utility room. This element of the scheme has been omitted following officer concern regarding the extent of excavation. Adjoining neighbours were consulted on this revision.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposals to extend this single family dwellinghouse are considered acceptable. The construction of a basement to this property is not considered to be an overdevelopment of the site and as addressed below the size of the basement is in accordance with the City Council's basement policies.

Comment has been made the new rear escape stair could allow for the basement of this property to be used as a flat. The proposals are for additional living accommodation to this property. Any new residential would require planning permission and therefore these objections can not be sustained.

8.2 Townscape and Design

Introductory Text

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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."*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, City Plan policy requires development will preserve or enhance the character and appearance of Westminster's conservation areas and features that contribute positively to the significance of conservation areas and their settings will be conserved and opportunities taken to enhance conservation areas and their settings, wherever possible.

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 principle of a basement beneath the host building does not raise design concerns. The only external manifestation of the basement is the rear lightwell and the external stairs to the garden. As the rear garden is not generously sized, the rear lightwell does appear quite generous, however the scale is considered to be appropriate to the size of the basement and is not considered to compromise the garden setting in accordance

with policy 45. As such the character and appearance of the existing building and the garden is not considered to be harmed by the external manifestation of the basement and as such is not considered to harm the character and appearance of the Conservation Area.

The alterations to the fenestration on the front and rear elevations do not raise design concerns as the scale of the existing openings are retained and the materiality is comparable with the existing. The detailed design is different from the existing but this is not considered to detract from the architecture of the building.

The proposal is considered to accord with the aims of the identified policies and will preserve the character and appearance of the Bayswater Conservation Area.

As such, the proposal is considered acceptable, mindful of policies 38, 39, 40 and 45 of the City Plan 2019-2040 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

Development that could result in a change to the amenity of neighbouring residents such as that of the proposals here must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers.

The excavation of a basement with a lightwell to the rear is not considered to harm the amenity of neighbouring properties. A means of escape staircase is proposed to the rear lightwell. This raises no overlooking concerns given that it replaces a rear garden in which the occupiers of the properties could sit out in. The means of fall protection at garden level of metal and glass and replacement windows and doors are not considered to raise any amenity concerns.

A new rooflight is proposed. Whilst there is no internal staircase to access this roof and no fall protection from the main roof; it is considered appropriate to condition the roof not be used as a roof terrace.

The proposals are therefore considered acceptable in amenity terms.

8.4 Transportation/Parking

The garage at ground floor level is to be converted into living accommodation. This has attracted objection from neighbours on the grounds that this will impact parking availability in the close and the surrounding streets and against Council policy.

The garage does not meet the current parking standards for the parking of a motor vehicle and the narrowness of the close would make it difficult to manoeuvre in and out of such a space in any event. It appears that the majority of the other properties in this wider terrace have either formally converted these or 'blocked' them up and converted

the space behind them to additional living accommodation.

As noted in a similar proposal for 3 Tenniel Close there are no planning conditions requiring that the garage space should be maintained for parking vehicles. Given that an off-street parking space is available to the front of the property; that the loss of one parking space will unlikely have a detrimental impact on the existing highway network and that there has been a general shift in parking policies as set out in the newly adopted City Plan, the proposals are considered acceptable in highways terms.

8.5 Economic Considerations

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

8.6 Access

The proposals are to a single family dwelling house and access is not proposed to be altered.

8.7 Other UDP/Westminster Policy Considerations

Noise

Objections have been raised on the grounds of noise from the proposed external amenity space. As noted above, as this stair is to replace garden floorspace where occupiers of the house could sit out, it not considered that this is any worse a situation.

Plant

Objections have been received on the grounds that basements generally require plant for ventilation. The rear lightwell has sliding doors accessing the rear lightwell and this will provide ventilation.

Trees

Objections have been received on the grounds that the basement excavation will impact the plane trees on Queensborough Terrace. The Council's arboricultural officer has reviewed the tree report submitted with the application, and on the basis of confirmation from the applicant that there is to be no excavation, nor access closer to the trees to the front of the property (as confirmed by the structural report) that there are no objections to the proposals. Tree protection details are to be secured by condition.

Objections have also been received on the grounds that the owners don't do any planting currently and that the offer of a planters surrounding the fall protection at the rear garden and the ivy wall to the lightwell are not sufficient enough and doesn't comply with the aims of the 'greening' of the City, nor would anyone else benefit the ivy wall. Grass is proposed to the rear of the garden and whilst the planters and ivy wall are welcome (although it is not clear how successful a living ivy wall would be in this fairly narrow lightwell); this is considered to be a personal choice by the applicant. It should be noted that to the rear gardens of these properties it appears that it is very much hard landscaped with paving slabs etc, although between the properties of the Tenniel Close and Porchester Terrace there is a communal garden to the rear of the application site and this is considered to provide visual amenity.

8.8 Westminster City Plan

The City Plan 2019 - 2040 was adopted at Full Council on 21 April 2021. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

There are no neighbourhood plans for this location.

8.10 London Plan

This application raises no strategic issues.

8.11 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 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 the applicant's adherence to the City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development and tree protection details. 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.

The proposals are not CIL liable.

8.13 Environmental Impact Assessment (EIA)

The proposals are not of a scale to require an EIA.

8.14 Other Issues

Basement

Policy 45 of the City Plan refers to basement development. Part A states that basement developments should 1) incorporate measures recommended in the structural statement or flood risk assessment to safeguard structural stability, and address surface water and sewerage flooding; 2) be designed and constructed to minimise the impact at construction and occupation stages on the surrounding area; 3) protect heritage assets, and in the case of listed buildings, not unbalance the building's original hierarchy of spaces where this contributes to its significance; and 4) conserve the character and appearance of the existing building, garden setting and the surrounding area, ensuring lightwells, plant, vents, skylights and means of escape are sensitively designed and discreetly located.

The site is not within a surface water flooding hotspot, although a flood risk assessment has been submitted. It identifies that the site is within a flood zone 1 (Environment Agency), and is therefore at low risk of flooding. Objections have been received on the grounds of structural stability and that no preparatory works or party wall agreements have yet been made. The construction of the extended basement has been assessed and is considered acceptable by the Council's Building Control Officer. As the structural method is approved for information only in this instance, the details submitted for the assessment of the application are applicable. Matters of party wall agreements are a private matter and normally dealt with further to the granting of a planning permission. The external manifestation of a lightwell to the rear, adjacent the rear elevation and within this modern building is considered to preserve the heritage asset and the works are considered to be acceptable in conservation and design terms. The proposals comply with part A of the policy.

Part B of the policy states that basement developments will be supported where they: 1) do not extend beneath more than 50% of the garden land - on small sites where the garden is 8m or less at its longest point, basements may extend up to 4m from the original building in that direction; 2) 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; 3) not comprise more than one storey beneath the lowest original floor level - exceptions may be made on large sites with high levels of accessibility for construction; 4) provide a minimum of one metre of soil depth (plus minimum 200mm drainage layer) and adequate overall soil volume above the top cover of the basement; and 5) not encroach more than 1.8m under any part of the adjacent highway and retain a minimum vertical depth below the footway or carriageway of 900mm between the highway surface and vault structure.

The basement is under the footprint of the existing building, with the rear lightwell not extending more than 50% into the garden and is one storey. The proposal complies wholly with Part B.

Construction Impact

Neighbours have objected to the proposed basement excavation on the grounds of noise and disruption and access to the properties further within Tenniel Close, with some referring to the prohibiting of construction vehicles to the close. The applicant has submitted a draft Appendix A indicating that they are to sign up to the Council's Code of Construction Practice. The CoCP has been set up to help reduce the impact of

developments on neighbouring occupiers and provides the council with funding to help to inspect construction sites and address issues should they arise. Whilst the issues of access to the remaining properties in Tenniel Close is noted, this is a private road and matters of access are likely to be a private matter but the COCP will seek to control construction vehicles in the wider street network.

In addition, a condition is recommended to protect the amenity of the surrounding area by ensuring that core working hours are kept to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturday. The condition states that noisy work must not take place outside these hours except as may be exceptionally agreed by other regulatory regimes such as the police, by the highway's authority or by the local authority under the Control of Pollution Act 1974. An informative is also recommended to advise the applicant to join the considerate constructor's scheme. Through the use of the above conditions and informative, it is considered that the impact of the development on surrounding occupiers is being suitably controlled and mitigated as far as practicable under planning legislation.

Consultation

One resident from the close queries why only some residents were notified of the proposals by the City Council. Those properties directly adjacent the development and opposite were notified, and the site and press notices were displayed in order to capture the wider audience.

Other

An objection has been raised on the grounds that the proposals are not shown in the context of other properties and that a door from the applicant's garden to the neighbouring communal garden is shown when no access is allowed. Whilst it is helpful for assessing officers and neighbours to see proposals in the wider context, it is not considered a reason to withhold permission. On the matter of the door to the garden, whilst this is shown, it is clear that properties 3-6 Tenniel Close all have doors onto the communal gardens. It is not proposed to be altered as part of the proposals and therefore is accepted as the 'existing' situation.

Concern has been raised on the impact to shared utilities. This is not considered to be a material planning consideration.

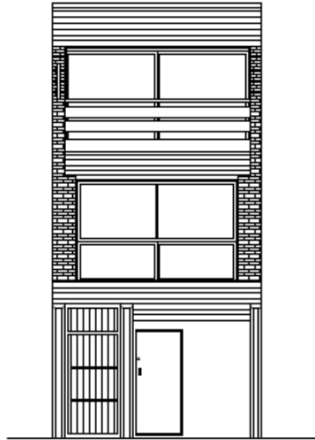
And finally, in response to the comment that the application has been submitted for financial reasons rather than for the owners to actually live in the property; reasons as to why an application has been submitted, are again not considered to be a material planning consideration.

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

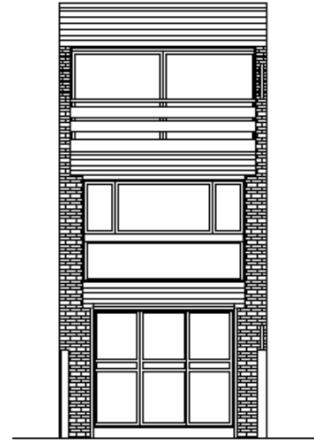
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT kdavies1@westminster.gov.uk

9. KEY DRAWINGS

Existing Front and Rear Elevations

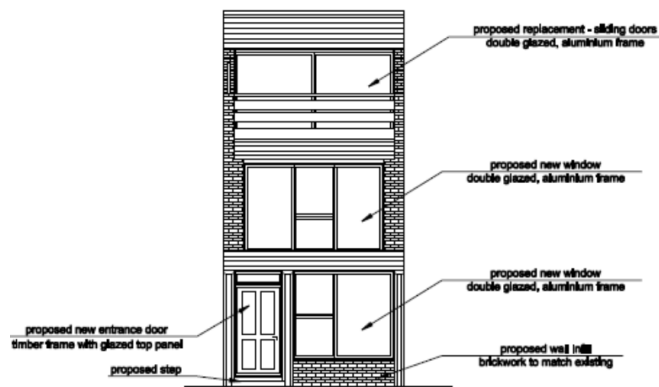


Existing Front Elevation

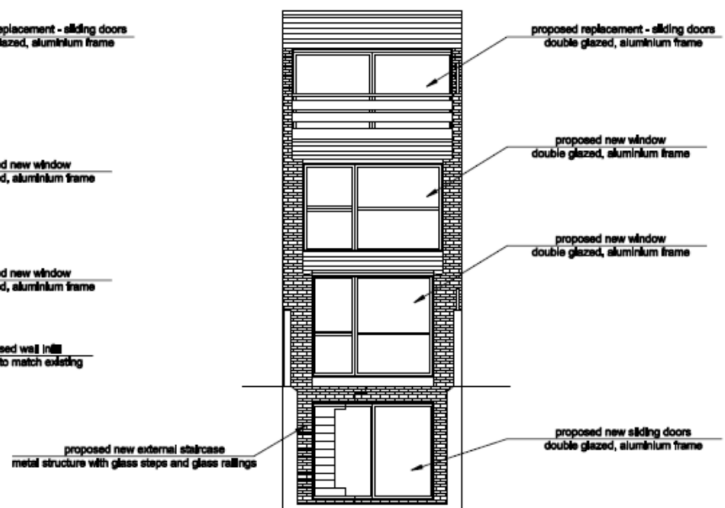


Existing Rear Elevation

Proposed Front and Rear Elevations



Proposed Front Elevation



Proposed Rear Elevation

DRAFT DECISION LETTER

Address: 4 Tenniel Close, London, W2 3LE

Proposal: Excavation of a basement under the existing dwelling incorporating a rear lightwell with external staircase to rear, alterations to front and rear elevations including new windows and rooflights.

Reference: 21/01675/FULL

Plan Nos: 4D01; 4D02; 4D03; 4D04; 4D01P B; 4D02P B; 4D03P; 4D04P; Draft Appendix A; Design and Access Statement dated March 2021; Arboricultural Report dated 11 March 2021 and plan 8627-D-A1A, For Information Only: Construction Statement for Basements CA6429.02.

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641
07866036948

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 **Pre Commencement Condition.** Prior to the commencement of any: , (a) demolition, and/or, (b) earthworks/piling and/or, (c) construction , , on site you must apply to us for our written approval of evidence to demonstrate 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 the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 4 You must apply to us for approval of detailed drawings of a landscaping scheme which includes the surfacing of any part of the site not covered by buildings. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the landscaping according to these approved drawings within 3 years of completing the development (or within any other time limit we agree to in writing). (C30AC)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Bayswater Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 5 **Pre Commencement Condition.** You must apply to us for approval of the ways in which you will protect the trees which you are keeping, as shown on drawing 8627-D-A1A. 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. The tree protection must follow the recommendations in section 7 of British Standard BS5837: 2012. You must then carry out the work according to the approved details. (C31AC)

Reason:

To protect the trees and the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R31DD)

- 6 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 Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 7 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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 HIGHWAYS LICENSING:, 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 visit our website at www.westminster.gov.uk/guide-temporary-structures., , CONSIDERATE CONSTRUCTORS:, 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 or visit www.ccscheme.org.uk., , BUILDING REGULATIONS:, You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at www.westminster.gov.uk/contact-us-building-control
- 3 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.

- 4 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)

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.