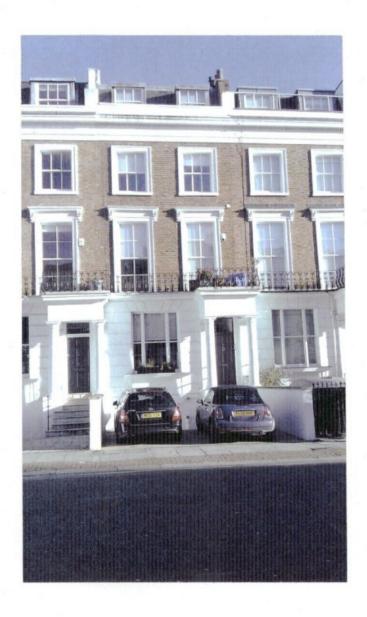
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CITY OF WESTMINSTER			AND ASSESSED ASSESSED.	
PLANNING APPLICATIONS	Date	Classification	1	
COMMITTEE	3 February 2015	For General Release		
Report of		Wards involve	Wards involved	
Operational Director Developme	nt Planning	Bayswater	Bayswater	
Subject of Report	98 Ledbury Road, Lor	ndon, W11 2AH		
Proposal	Excavation to construct new sub-basement beneath house and part of rear garden with associated front and rear lightwells.			
Agent	Brian O'Reilly Architects			
On behalf of	Mr Jason Gee			
Registered Number	14/10994/FULL	TP / PP No	TP/11561	
Date of Application	04.11.2014	Date amended/ completed	14.11.2014	
Category of Application	Other			
Historic Building Grade	Unlisted			
Conservation Area	Westbourne			
Development Plan Context  - London Plan July 2011  - Westminster's City Plan: Strategic Policies 2013  - Unitary Development Plan (UDP) January 2007	Outside London Plan Central Activities Zone Outside Central Activities Zone			
Stress Area	Outside Stress Area			
Current Licensing Position	Not Applicable			

# 1. RECOMMENDATION

Grant conditional permission.





#### 2. SUMMARY

Permission is sought for excavation of a basement extension beneath the footprint of the existing dwellinghouse, with front and rear lightwells.

The key issues are:

- The impact on the appearance of the building.
- The impact on the amenity of neighbouring residents.

The proposed development accords with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (the City Plan) and is therefore considered to be acceptable in land use, design and amenity terms. As such, the application is recommended for approval subject to the conditions set out in the draft decision letter.

#### 3. CONSULTATIONS

### ROYAL BOROUGH OF KENSINGTON AND CHELSEA

No objection, subject to RBKC being party to agreement on routes for construction traffic.

#### WESTBOURNE NEIGHBOURHOOD ASSOCIATION

Object. Contrary to Design and Access Statement, proposal does not keep to existing house footprint, but extends under the back garden. Do not support proposals that extend beyond original house envelope. No proposals to increase greening.

#### **BUILDING CONTROL**

No objection.

#### ENVIRONMENTAL HEALTH

Object. Covering over lower void. Arrangements for light penetration to the proposed scheme requires clarification.

### HIGHWAYS PLANNING MANAGER

Acceptable on transport grounds.

### THAMES WATER

No objection with regard to water infrastructure capacity. Advice on foul and surface water drainage.

# ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 39; Total No. of Replies: 4.

Objections received on the following grounds:

#### Land Stability

- Houses not built to accommodate extensive excavations and damage to property.
- Will affect stability of area and subsidence to closest houses.
- Houses do not structurally support such deep excavations.

### **Construction Management**

- Four other construction sites in vicinity with construction traffic and associated breaches of planning conditions.
- 26 weeks construction phase is unrealistic (construction at No. 104 Ledbury Road is one year longer).

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- Neighbours subjected to continued construction and associated blocked access (in breach
  of 1986 Road Vehicles Construction and Use Regulations, Section 103).
- Extended construction periods prolong breaches of working hours.
- Request that no construction work at weekend.
- Daily noise, dirt and disturbance, and decreased parking.

# Design

- Basement lightwells exceed 1.2m from the facade exceeding conservation area guidelines and indicate existence of a subterranean basement out of keeping with the area.
- Accommodation will lack essential light and ventilation.
- No other house has six floors.

#### Other

- Kensington and Chelsea is changing policy on basements. Please can Westminster consider opinions of local residents.
- Request that similar guidelines to RBKC are applied to development.
- Creation of double basement negatively affects springs beneath Artesian village.

### 4. BACKGROUND INFORMATION

### 4.1 The Application Site

The application site is a mid terrace four storey single family dwellinghouse with mansard roof and lower ground floor level. The surrounding area is residential in character with terraced properties being the predominant housing type. The property is not listed, but is located within the Westbourne Conservation Area.

# 4.2 Relevant History

Planning permission was granted for the conversion of the property from a House in Multiple Occupation (HMO) to six bedsitting rooms with self-contained flats at basement and third floor level in July 2001 (RN 00/07475/FULL).

A Certificate of Lawful Development was granted in 2012 for the use of the ground, first and second floor levels as three self-contained flats on 30 May 2012 (RN. 12/03336/CLEUD).

Planning permission was granted for use of the building as a single family dwellinghouse with garden (Class C3) on 28 August 2012 (RN. 12/06520/FULL).

#### 5. THE PROPOSAL

Permission is sought for the excavation of a new sub-basement beneath the house and part of the rear garden and associated front and rear lightwells. The rear lightwell will span the width of the property, with two timber sash sliding windows on the rear elevation at basement level. A front lightwell is proposed to be enclosed by black painted metal railings 1m high with one timber sash sliding window to the front elevation at basement level.

### 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

The proposal is considered to accord with Policy H3 of the UDP, which states that extensions to residential properties are acceptable in principle.

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One objection has been received that states that the proposed accommodation will lack essential amenity quality in terms of light and ventilation.

The accommodation proposed in the basement is a study and games room, with internal bathrooms. The accommodation provided will form a limited proportion of the overall floorspace of this six storey dwelling and will be served by windows to the front and rear.

Environmental Health officers initially objected to this application on the basis that a covering over the lightwell was proposed to limit light penetration to lower ground floor levels. For clarification, the covering as originally proposed was a perforated metal grille. However, this element of the proposed scheme has since been amended to metal railings enclosing the lightwell (front) and walk-on glazed rooflight (rear). The proposal is therefore considered to provide an acceptable level of accommodation, provided it continues to be used as part of a larger residential unit.

The objector also comments that the upper floors of the property refers to bedrooms with no windows. Whilst this is not relevant to the consideration of this application, for clarity, the bedrooms located at second and third floor level are all served by windows allowing natural daylight and ventilation.

# 6.2 Design and Townscape

The bulk and scale of the proposed basement will be largely below the footprint of the existing dwelling and will therefore have minimal impact on the character of the terrace and surrounding streetscene.

Amended plans have been submitted during the course of the application, to reduce the size of the front and replace the rear lightwell with a glazed walk-on rooflight. This follows officer concerns regarding the large size of the rear lightwell in particular that originally extended beneath part of the rear garden to a depth of 1.7m from the building line and incorporated a metal grille. This element of the proposed scheme was considered to be unacceptable in design terms by officers.

The amendment also addresses the concerns of the Westbourne Neighbourhood Association regarding the excessive rearward projection of the basement beneath the garden. The rear lightwell is reduced in size with a walk-on glazed rooflight that is discreetly sited at the rear of the building and is limited in scale and consequently, has limited visual impact on the conservation area and is not considered to harm the appearance of the building. The two proposed windows at basement level will be timber sash sliding windows, in keeping with the fenestration of the host property. Details of the windows and metal balustrade enclosing the rear lightwell may be secured by condition.

The front lightwell is also reduced in size and will be enclosed by 1m black metal railings, rather than a metal grille, which is a more appropriate means of enclosure to the character of the property and the wider terrace. One objector states that the basement lightwells exceed 1.2m from the facade and are out of keeping with the character of the conservation area. For clarification, the proposed depth of the front and rear lightwells as amended is 2.1m and 800mm respectively. Front lightwells of this size are a feature of the immediate terrace and this element of the proposed scheme is therefore considered acceptable in design terms by officers. A timber sash sliding window is proposed on the front elevation at basement level that will align with windows above. No rooflights are proposed in the front or rear gardens. The proposal as amended is therefore considered to preserve the character and appearance of the Westbourne Conservation Area.

Subject to a condition to secure details of the external balustrades and windows, the proposal is considered to preserve the character and appearance of the property and the wider terrace,

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and the Westbourne Conservation Area, to comply with Policies DES1, DES5, DES9 of the UDP and Policies S25 and S28 of the Westminster City Plan.

# 6.3 Amenity

The proposed basement extension, once built, will have no impact on the amenities of neighbouring properties in terms of loss of daylight, outlook or sense of enclosure, to comply with Policy ENV13 of the UDP and Policy S29 of the Westminster City Plan.

The application does not indicate the installation of ventilation plant to serve the proposed basement bathrooms. An Informative is recommended to advise the applicant that the installation of plant and any associated external manifestations will require a further planning application to be submitted.

# 6.4 Transportation / Parking

The proposal does not represent an increase in residential units or a loss of parking and as such is not contrary to TRANS23. Adequate off-street parking will be retained on the front driveway with the proposed scheme.

### 6.5 Economic Considerations

Not applicable.

### 6.6 Equalities and Diversities (including Access)

No alteration to existing means of access to the private dwellinghouse is proposed.

### 6.7 Other City Plan/ UDP/ Westminster Policy Considerations

None relevant.

#### 6.8 London Plan

The application does not raise strategic issues.

### 6.9 National Policy/Guidance Considerations

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

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

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# 6.10 Planning Obligations

The proposal is of insufficient scale to generate the need for planning obligations.

### 6.11 Environmental Assessment including Sustainability and Biodiversity issues

There are no trees within the immediate vicinity of the application site that would be affected by the proposal.

#### 6.12 Other Issues

#### 6.12.1 Basement Excavation

Several objectors state that structural impacts, subsidence and land instability associated with the proposed basement extension is of significant concern. This follows other basement developments permitted in the surrounding area, some of which have resulted in cracks to walls and damage to properties. Another objector refers to evolving basement planning policy at the Royal Borough of Kensington and Chelsea, following a recent Inspector's decision.

The planning application under consideration cannot be assessed against a neighbouring Borough's planning policies, which do not form part of the adopted Unitary Development Plan (2007) and Westminster City Plan (2013). In respect of Westminster City Council's progression of policy towards basements, the City Council recently adopted its Supplementary Planning Document (SPD) 'Basement Development in Westminster' on 24 October 2014. The SPD provides detailed advice on how current policy is implemented in relation to basement development. It does not introduce any additional restrictions on basement development above and beyond the precautionary approach that the City Council had already adopted in response to such development.

The Draft Basements Policy remains the subject of consultation and has not yet been adopted. It is this document which will provide a specific basement policy and it will form part of the local plan (replacing the UDP) in due course. It has some, but only very limited, legal weight (known as material weight or a material consideration). It will not gain more legal weight until after consultation and amendment and will need to be tested at an independent examination before formal legal adoption.

The new basements policy may introduce restrictions on basement excavations provided there is a valid planning reason for doing so, but, as explained above, it has to go through a formal process including an examination in public by an independent Inspector and then legal adoption and it is not, therefore, likely to be formally adopted until later this year.

While the Building Regulations determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely, the National Planning Policy Framework (NPPF) March 2012 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by land instability.

Studies have been undertaken which advise that subterranean development in a dense urban environment, especially basements built under existing vulnerable structures, is a challenging engineering endeavour and that in particular it carries a potential risk of damage to both the existing and neighbouring structures and infrastructure if the subterranean development is ill-planned, poorly constructed and does not properly consider geology and hydrology.

The NPPF goes on to state that in order to prevent unacceptable risks from land instability, planning decisions should ensure that new development is appropriate for its location. It

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advises that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The NPPF advises that planning decisions should ensure that a site is suitable for its new use taking account of ground conditions and land instability and any proposals for mitigation, and that adequate site investigation information, prepared by a competent person, is presented.

Officers consider that in the light of the above it would be justifiable to adopt a precautionary approach to these types of development where there is a potential to cause damage to adjoining structures. To address this, the applicant has provided a structural engineer's report explaining the likely methodology of excavation. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage.

The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

Building Control has assessed the report and considers that the proposed structural statement appears satisfactory. Should permission be granted, this statement will not be approved, nor will conditions be imposed requiring the works to be carried out in accordance with it. The purpose of the report is to show that there is no foreseeable impediment to the scheme satisfying the Building Regulations in due course. It is considered that this is as far as this matter can reasonably be taken as part of the consideration of the planning application. Detailed matters of engineering techniques, and whether these secure the structural integrity of the development and neighbouring buildings during the course of construction, are controlled through other statutory codes and regulations, as cited above. To go further would be to act beyond the bounds of planning control.

# **6.12.2 Construction Management**

Objections have been received from neighbouring properties regarding the cumulative impact of construction work associated with the proposed basement and others permitted in the immediate vicinity, the timescale for the proposed construction phase, general disturbance associated with construction activity and previous breaches of conditions relating to construction hours/activity.

A Construction Management Plan (CMP) has been submitted with the application. The Plan is in outline form only and sets out the duration of the construction phase (anticipated to be 26 weeks), the position of the skip and conveyor (on the front driveway), the storage of plant and material (on site and in the rear garden), the erection of 2.4m security hoarding, and the hours of construction activity (Monday to Friday 08.00-17.00 and 08.00 to 12.30 Saturday). The 24 hour emergency contact information is stated as the project architects and measures are proposed to mitigate dust and noise.

The level of detail provided falls below the level expected in a CMP (for example, construction routes are not specified) and the CMP has been prepared in advance of the appointment of a principal contractor. In its current form, the CMP is therefore deficient. However, refusal of the scheme on this basis could not be sustained and an appropriate CMP could be secured by condition.

The Royal Borough of Kensington and Chelsea raises no objection to the proposal, but comments that the CMP, as currently submitted, is insufficiently detailed. They request

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amongst other matters, that agreement is reached on routes associated with construction activity. A condition is recommended to secure a robust CMP. As part of the approval of details, officers will formally consult the Royal Borough of Kensington and Chelsea's Transportation Team and neighbouring properties.

In respect of the coordination of construction traffic with other basement developments in the vicinity of the application site, the Planning Authority has limited powers, as the applicant is under no obligation to implement the planning permission. However, the Highways Licensing Authority has greater controls to manage the combined effects of construction traffic on the highway network. In respect of alleged breaches of conditions associated with permitted basement construction in the immediate vicinity, any specific breaches should be reported to the Planning Enforcement Team for further investigation and action where necessary.

#### 7. CONCLUSION

In summary, the proposed development is considered to be acceptable in land use, design and amenity terms, and would accord with the relevant policies in the UDP and City Plan. Therefore, subject to the conditions set out in the draft decision letter, it is recommended that permission is granted.

#### **BACKGROUND PAPERS**

- 1. Application form.
- 2. Email from Westbourne Neighbourhood Association dated 9 December 2014.
- 3. Letter from Royal Borough of Kensington and Chelsea Planning and Borough Development dated 10 December 2014.
- 4. Memo from Building Control dated 15 January 2015.
- 5. Memo from Highways Planning Manager dated 27 November 2014.
- 6. Memo from Environmental Sciences Premises Management dated 17 December 2014.
- 7. Letter from Thames Water dated 24 November 2014.
- 8. Email from the owner of 105 Ledbury Road dated 15 December 2014.
- 9. Email from the owner of 35 Courtnell Street dated 26 November 2014.
- 10. Email from the owner of 100 Ledbury Road dated 24 November 2014.
- 11. Email from the owner of 33 Courtnell Street dated 17 December 2014.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT NATHAN BARRETT ON 020 7641 5943 OR BY E-MAIL – nbarrett@westminster.gov.uk

### **DRAFT DECISION LETTER**

Address:

98 Ledbury Road, London, W11 2AH

Proposal:

Excavation to construct new sub-basement beneath house and part of rear garden

with associated front and rear lightwell.

Plan Nos:

380-100-E, 380-102-E rev B, 380-103-E rev A, 380-104-E rev A, 380-105-E rev A, 380-106-E rev A, 380-107-E rev A, 380-200-E rev A, 380-101-P rev B, 380-102-P rev B, 380-103-P rev B, 380-104-P rev B, 380-105-P rev B, 380-106-P rev B, 380-106-P rev B, 380-200-P rev B, 380-201-P rev A, 380-202-P rev B, 380-108-P, Design and Access Statement, Construction Management Plan, Construction

Method Statement October 2014.

Case Officer:

Katherine Rawlins

Direct Tel. No. 020 7641 6204

# Recommended Condition(s) and Reason(s):

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

You must carry out basement excavation work only:

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

Noisy work must not take place outside these hours. (C11BA)

#### Reason

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

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 Westbourne Conservation Area. This is as set out

in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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 drawings at 1:20 scale or larger of the following parts of the development: the external metal balustrade and the glazed walk-on rooflight.

You must not start work on these parts of the development until we have approved the details in writing and then carry out the work in accordance with the approved details.

#### 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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

The windows hereby permitted shall be timber sash sliding painted white and maintained as such thereafter in that material and finish.

#### 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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- Pre Commencement Condition. No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority. The plan shall provide the following details:
  - (i) a construction programme including a 24 hour emergency contact number;
  - (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction):
  - (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;
  - (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);
  - (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and
  - (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works.

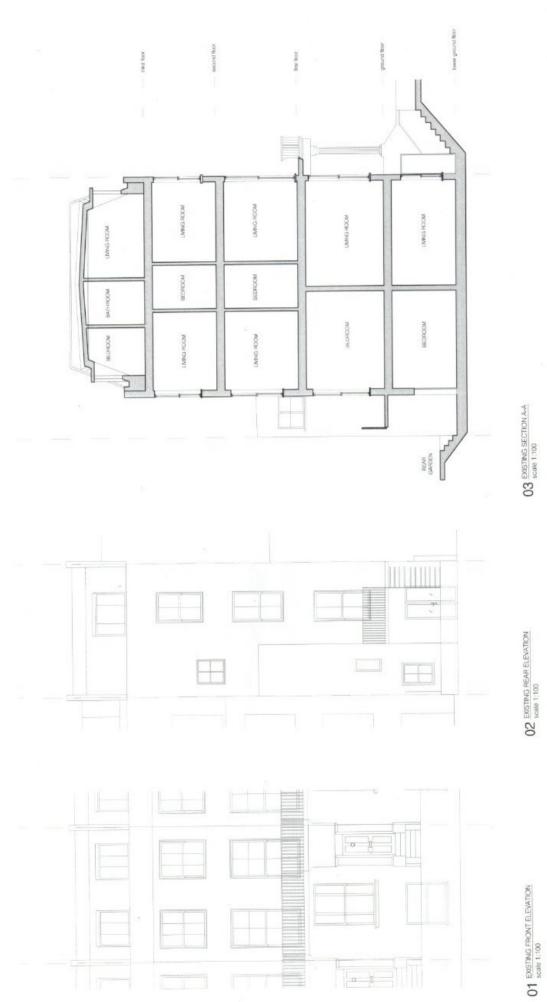
You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

#### Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

### Informative(s):

- 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: Strategic Policies adopted November 2013, 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.
- 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.
- Any plant or equipment to be installed in connection with the basement may require separate planning permission.
- The Council considers that the amount of daylight that is likely to reach the basement would not be enough for the use of these rooms as living areas. The proposals have been accepted because the dwelling as a whole has enough main rooms with adequate daylight and as ancillary accommodation by one household. If any occupier in the future was to consider using the basement in a different way, for example as living / bedrooms, staff accommodation, the basement area is likely to be considered for action under the Housing Act 2004 by our Residential Environmental Health Team. In those circumstances, officers would have the power to require works to improve daylight to the affected rooms or prohibit their use.



03 EXISTING SECTION A-A scale 1:100

A-A

03 PROPOSED SECTION A-A scale 1:100

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380-200-P 090-12016
season
1:100ph/3 PLANBRGSNr 0
880AN O'RELY ARCHTECTS
1:100ph/3 PLANBRGSNr 0
1:100ph/3 PLANBRGSNr PHOPOSED ELEVATIONS AND SECTIONS

