

Item No.
6

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 5 January 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Hyde Park	
Subject of Report	3 Albion Close, London, W2 2AT,		
Proposal	Demolition of single family dwelling and replacement with a new family dwelling incorporating the excavation of a new basement and roof terrace.		
Agent	Mr Dominic Goldfinger		
On behalf of	Mr E.H. Borno		
Registered Number	15/05392/FULL	Date amended/ completed	4 August 2015
Date Application Received	16 June 2015		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		

1. RECOMMENDATION

Refuse permission. - overlooking from roof terrace and detailed design of roof top railings, staircase enclosure and lift over run.

2. SUMMARY

This application seeks approval to demolish this 1930's three storey mews house and build a new mews house with a basement, ground and first floor with a mansard roof above. A roof terrace is proposed on the flat roof of the mansard accessed by a staircase enclosure, and there is a lift over run projecting above the mansard. This latest proposal for a traditional mews house seeks to overcome an earlier appeal decision in 2011 for a new house of a modern contemporary design which was dismissed on design grounds. Objections have been received from the Hyde Park Estate Association and from adjoining neighbours. There are no townscape objections to the principle of demolition and the key considerations of this proposal are:

- i) whether the new house is an acceptable replacement building in terms of its form, height and design;
- ii) the impact of the proposed basement;
- iii) the impact on the amenities of neighbouring residents, in particular the roof terrace on top of the mansard;
- iv) and no off street parking is being provided for the new house.

In townscape terms, the proposed mews house design in keeping with the rest of the mews and in general is welcomed, however there are some aspects of the detailed design which are not acceptable.

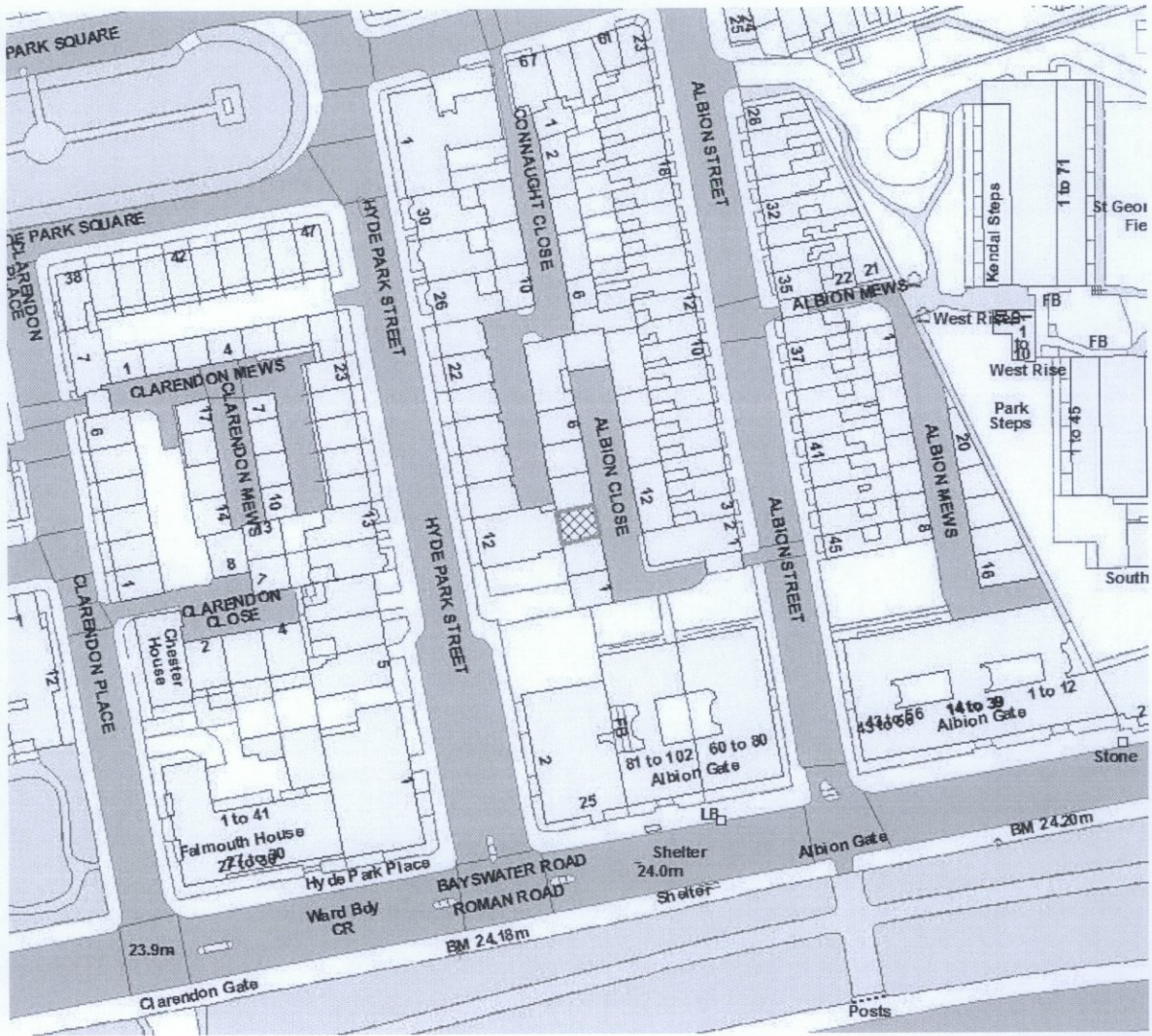
The proposed roof terrace, associated railings, staircase enclosure and lift over run on top of the

mansard have attracted objections. Although the Inspector in 2011 did not consider that a roof terrace would be no worse than the existing situation, further analysis of the planning history has revealed an appeal against an Enforcement Notice which was dismissed in 1993 for rear railings. The Inspector in 1993 allowed the existing access ladder to the flat roof on the basis it was for maintenance access only and upheld the Enforcement Notice in respect of the railings.

The applicant has been requested to omit the roof terrace and associated structures from this latest application but is unwilling to do so. Therefore, the application is being determined as it stands. It is therefore recommended to refuse permission for the roof terrace on overlooking grounds. It is also considered that the design of the roof top railings, the staircase enclosure and the lift over run will all add clutter to the roof, harm the appearance of the new house and this part of the Bayswater Conservation Area, and are unacceptable in design terms.

It is accepted that the currently submitted Construction Management Plan in relation to the proposed basement is not detailed enough, and had this scheme been considered acceptable, this matter could have been reserved by condition. Although no off street parking is being provided for the new house, there is an existing on street space in this private road. It is not considered that the proposal will result in a material loss of light to neighbours. Many of the objections raised are private matters and are not grounds to refuse permission.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

HYDE PARK ESTATE ASSOCIATION:

Object, consider the application to be the worst sort of over-development that will damage the important heritage of the Hyde Park Estate and be just too big to implement without a huge and unacceptable impact on the quiet enjoyment of this important residential area. Albion Close is one of Westminster's most beautiful mews and retains many fine Georgian and Victorian features. Deeply concerned that this development will seriously damage the wonderful heritage of the area and cannot be achieved without unacceptable and unsafe disruption to the neighbourhood. The overdevelopment is not necessary, these mews houses were not built to provide extensive basement areas and neither should they be expected to be rebuilt. Although not a listed building the mews house is an integral part of the close and it should be protected and appropriately enhanced. Request that the Council reject this significantly unnecessary application.

BUILDING CONTROL:

To be reported verbally.

ENVIRONMENTAL HEALTH:

No objection.

THAMES WATER:

No objections, and request a number of informatives.

HIGHWAYS PLANNING MANAGER:

Refuse on transportation terms, loss of existing garage and no parking being provided for the new house. The previous application indicated a dedicated demarcated on street space directly in front of the property within Albion Close. Without this external space, the application is contrary to policy TRANS 23. To make the application acceptable this external space should be included in the red line and linked via a suitable condition. Request conditions to secure waste storage.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No consulted 42 No Replies 22 objections received to date.

Land Use:

- The proposed basement under the footprint of the mews house fails to comply with the draft policy which states that basements should not extend beneath more than 50% of the site curtilage. This application should be refused because the Council is in the process of revising their guidelines and it is in the consultation process before submission to the Secretary of State for examination in September. It would be wrong to grant permission at this stage before the new guidance is known.

Design

- New application is an improved design compared to earlier schemes but significant areas of concern remain to the design of the lift over run, the glazed sliding access at roof level. Although the architect claims that the impact of these two elements on the roof's appearance is limited, no visual assessment to show these features from views within the mews or neighbouring properties.

- These structures which project 0.52 m and 0.255 m above the roof could be reasonably expected to appear as incongruous features which will detract from the character and appearance of this part of the Bayswater Conservation Area.
- Proposal fails to accord with policies S25 and S28 in the City Plan and DES 1 in the UDP and London Plan polices 7.6 and 7.8.
- Request conditions to ensure high quality materials if minded to approve.

Amenity:

- First floor rear window not shown in plan but not on the elevation will be obscured but no restrictions on the proposed second floor mansard windows.
- Loss of privacy to residents at No 12 Hyde Park Place.
- The roof terrace is materially different from previous proposals and in the proposed terrace will result in an increased perception of overlooking and is contrary to policies S29 and ENV13.
- The proposed roof terrace will result in overlooking into bedrooms and bathrooms in the mews.
- The current roof terrace has not been permitted and therefore it should not be approved Roof garden will affect the privacy of No 2; result in overlooking into the skylight of No 2.
- Proposal will be visible from the ground floor balcony of 12 Hyde Park Street, and result in a loss of privacy to garden and balcony.

Other Matters:

- Object to the demolition of the existing building and the construction of a basement as this will affect the structural integrity of adjoining houses. Result in unacceptable noise and disruption for many months in a small cul de sac with limited access and no turning space for large vehicles.
- Health and safety issues for residents with small children, those who work from home.
- Little information on the drawings.
- The new house fails to meet Lifetime Homes standards as there needs to be an accessible toilet at entrance level with drainage provision to allow a shower to be fitted in the future.
- The submitted Construction Management Plan is inadequate and lacking in substance and contains a number of errors. If concrete is to be pumped in from the entrance this will cause a security risk.
- No consultation has been undertaken with the managing agents for Albion Close.
- If the Council is minded to approve a conditions should be imposed to secure a detailed Construction Management Plan.

ADVERTISEMENT/SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

Albion Close is a small mews cul- de sac off Albion Street. It is a gated community and a private road. This application relates to No 3, an existing 1930's house on the west side of the mews on ground, first and second floors. The house is out of character with the rest of

the mews which are the more traditional brick mews houses with mansard roof extensions. The application site lies within the Bayswater Conservation Area. The house currently has an integral garage. The house backs onto the Grade II listed 12 Hyde Park Street.

6.2 Recent Relevant History

Planning permission and conservation area consent were dismissed by the Planning Inspectorate at appeal on 13 November 2011 for the demolition of the existing building and the erection of a new house with a basement. The Inspector concluded that the modern design of the replacement house would perpetuate the incongruity of the property with its neighbours, the mews and the character and appearance of the Conservation Area as a whole and fail to comply with policies DES1, DES4, and DES9. A copy of this appeal decision is set out in the background papers

Planning permission and conservation area consent were refused by Sub-Committee on 10 March 2011 (overturning officers' recommendation for approval) on the unsatisfactory form and detailed design of the proposed development and its adverse impact on the character and appearance of the Bayswater Conservation Area.

Planning permission granted on 19 June 2007 for the conversion of garage to additional living space with associated alterations front elevation at ground, and first floor level, erection of rear extension at first and second floor levels and installation of three rooflights. This permission was valid for 3 years and has now lapsed.

Appeal against an enforcement notice served in respect of the installation of railings to the rear of the roof and access ladder from the first floor rear roof to the main flat roof. The appeal was allowed on 2 March 1993 in respect of the retention of the ladder and granted planning permission subject to a condition that the ladder shall be used as a means of emergency access to the third floor for the purposes of maintenance of the roof and water tanks. The enforcement notice was upheld in respect of the rear railings.

7. THE PROPOSAL

This application seeks approval to demolish this 1930's three storey mews house leaving the side and rear party walls and build a new mews house with a basement, ground and first floors, with a mansard roof. A roof terrace is proposed on the flat roof of the mansard together with a staircase enclosure and a lift over run. This proposed house is of a traditional mews design and seeks to overcome the appeal decision dated 8 November 2011.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Despite the objections raised on over-development grounds, the proposal to redevelop the existing house is acceptable in land use terms.

It has been raised by a number of the objectors that the proposed basement fails to comply with the Council's new policies and this matter is dealt with later in this report.

8.2 Townscape and Design

The existing 1930's building is out of character and an anomaly in this established mews. It is considered that the existing house has a neutral impact on the character and appearance of this part of the Bayswater Conservation Area and as such there are no objections to the principle of its demolition subject to a high quality replacement building. The proposed new house follows the established mews vernacular and will be in keeping with the rest of the mews. It is a suitable replacement building, meeting the policy tests set out in DES 4 in the UDP which requires infill buildings in areas of unified and significant townscape quality to replicate their surroundings.

There is an increase in the massing of the new house at the rear as the existing lightwells and lower roof terrace are shown to infilled, and additional floorspace being created by the excavation of a basement, but the proposal will not affect the setting of the Grade II listed properties in Hyde Park Street at the rear.

In design terms, the railings at roof level to enclose the terrace, the lift over run and the staircase enclosure to provide access onto the roof terrace do represent additional clutter and such features are normally discouraged in design terms. It is accepted that the railings are set back from the front of the mansard and therefore will not be visible from street level but they will be clearly visible from the upper floor windows of neighbouring buildings. The same comment also applies to the proposed staircase enclosure (which projects 0.255 m) which provides access onto the flat roof and the lift over run (which projects 0.52 m) above the flat roof level. The applicant has been advised by officers to remove these aspects from the scheme but is unwilling to do so. Therefore the application is being determined as it stands.

Whilst it is recognised that the design of the mews house is a significant improvement compared to the scheme dismissed at appeal in 2011, there remains detailed design aspects which are not acceptable and regrettably these cannot be overcome by conditions.

8.3 Residential Amenity

Sunlight and Daylight /Sense of Enclosure

Objections have been received from neighbours on loss of light grounds to a rooflight serving No 2 Albion Close, but it is not considered that the proposed mansard will result in a material loss of daylight or sunlight to this house, or to the houses on the opposite side of the Close, or the flats at the rear at No 12 Hyde Park Street.

Overlooking

Objections have been raised to the proposed roof terrace on top of the mansard on overlooking grounds and neighbours request that if the Council is minded to approve, a condition should be imposed to prevent its use as a terrace.

According to the Council's records, an enforcement notice was served in 1992 in respect of unauthorised railings at roof level at the rear and an access ladder at this house. The Inspector at appeal in 1993 allowed the ladder access onto the flat roof but only for maintenance access only. It should be noted that when the last planning application was reported to Committee, this enforcement appeal was not available to officers and Members.

Despite this 1993 appeal decision, it would appear that the flat roof has been used as a terrace by the current owners, albeit its use has been limited by the fact there are no safety railings to enclosure the area, and access to the terrace via the external ladder to the roof has been in breach of the condition.

In dealing with the appeal for the contemporary house , the Inspector in 2011 assessed the objections raised by residents to the proposed roof terrace, and stated in paragraph 24 'that having viewed the proposal from the existing roof and assessed the degree of overlooking that would arise, I consider that this would not be a matter to justify refusal of permission .It would be no more than existing, and there is nothing substantive in the submissions of the parties to indicate that the present access to the roof is in any way not lawful'.

Whilst this Inspector's appeal decision is a material consideration in the determination of this latest planning application, the Inspector was not aware of the full enforcement history in respect of the previous railings.

The applicant has been requested by officers to remove the roof terrace on top of the mansard but is unwilling to do so. Therefore the application is being determined as it stands.

The proposed creation of a roof terrace is considered to result in overlooking to neighbouring residents in Albion Close and Hyde Park Street, and therefore the application is recommended for refusal, as it fails to comply with policies ENV13 and S32. It is not considered that this overlooking could be addressed by screening, which in turn would result in further clutter and bulk at roof level,

An objection has been raised by 12 A Hyde Park Street that the rear dormer will overlook their garden and balcony. Had this scheme been considered acceptable, a condition could be been imposed to ensure that this dormer together with the first floor window below are obscured glazed and fixed shut.

8.4 Transportation/Parking

The Highways Planning Manager advises that permission should be refused as the proposal will result in the loss of existing garage and no parking being provided for the new house. There is a dedicated demarcated on street space directly in front of the property within Albion Close. To make the application acceptable, the Highways Planning Manager requires this external space to be conditioned.

It is regrettable that no integral garage is being proposed for the new house. Albion Close is a private road, but given there is currently an on street space for this house in this private mews, a refusal on parking grounds would be difficult to defend at appeal. It is not considered reasonable to impose a condition on the use of this space, as it is located outside the red line of the application site.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

An objection has been raised that the new house does not comply with Lifetime Homes as there is no wheelchair accessible toilet at entrance level. This is mainly a matter for Building Control and is not a ground to refuse permission.

8.7 Other UDP/Westminster Policy Considerations

Refuse /Recycling

Had this scheme been considered acceptable, refuse storage could have been secured by condition.

8.8 London Plan

This application raises no strategic issues.

8.9 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. Special regard has been had to the desirability of preserving designated heritage assets.

8.10 Planning Obligations

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

8.11 Environmental Impact Assessment

Not relevant in the determination of this application.

8.12 Other Issues

Basement

Strong objections have been received from neighbouring residents to the principle of excavating a basement floor and a number of the objectors cite that the proposal fails to comply with the Council's latest basement policy which states that a basement shall not exceed no more than 50% of the site's curtilage.

Firstly, the City Council in refusing the previous application in 2011 did not raise an objection to the principle of a basement excavation under this mews house. Secondly, this planning application was submitted before the Council's new basement policy which is now being used for development control purposes for new planning applications received after 1 November 2015. Therefore this application has to be determined in the light of the current adopted policies and the basement SPD. Thirdly, the new policy states that basements shall not exceed beneath more than 50% of the garden land and not the curtilage as cited by the objectors. Therefore despite the objections raised, this proposal for a basement under the footprint of the existing house would comply with the new policy.

In respect of the objections received on structural stability grounds and the impact on the water table. The formal views of Building Control are awaited and will be reported verbally to Committee.

Many of the objections cite that the submitted Construction Management Plan (CMP) is not detailed enough and contains a number of errors. It is recognised that a more robust CMP would be required, and has this scheme been considered acceptable, this could have been reserved by condition.

A number of the objections raised regarding construction on this private mews and these are private matters and are not grounds to refuse planning permission.

9. BACKGROUND PAPERS

1. Application forms ,
2. Response from the Hyde Park Estate Association dated 16.9.2015.
3. Memorandum from Environmental Health dated 18.8.2015
4. Memorandum from Highways Planning Manager dated 25.8.2015
5. Email from Thames Water dated 25.8.2015
6. Email from 16 Hyde Park Street London W2 dated 27.8.2015.
7. Email from 9 Albion Close London W2 dated 29.8.2015.
8. Emails from 2 Albion Close London W2 dated 1.9.2015 and 7.9.2015.
9. Email from 6 Albion Close London W2 dated 3.9.2015.
10. Email from 10 Albion Close London W2 dated 5.9.2015
11. Emails from 12 Hyde Park Street London W2 dated 4.9.2015.
12. Email from 11 Albion Close London W2.
13. Email from 5 Albion Close London W 2 dated 8.9.2015.
14. Email from 9 Albion Close London W 2 dated 10.9.2015
15. Email and letter from D Rose Planning 19-20 Bourne Court, Southend Road, Woodford Green Essex IG 8 8 HD on behalf of the Albion Close Management Ltd dated 10.9.2015 .

- 16 Email from 12 A Hyde Park Street London W2 dated 12.9.2015.
- 17 Email from 11 Albion Street London W2 dated 17.9.2015 ,
- 18 Email from 2 Albion Close London W2 enclosing photographs from skylight dated 17.9.2015.
- 19 Email from 4 Albion Street London W2 dated 16.9.2015.
20. Email from 6 Albion Close London W2 dated 30.9.2015
21. Email from 6 Albion Close London W2 dated 12 .11.2015
- 22 Emails x2 from 11 Albion Close London W2 dated 12.11.2015 and 14.11.2015.
- 23 Emails x2 from 2 Albion Close London W2 dated 15.11.2015.
24. Email from 7 Albion Close London W2 dated 16.11.2015
- 25 Email from 12 Albion Close London W2 dated 23.11.2015
26. Copy of appeal decision dated 13.10.2011.
- 27 Copy of Enforcement Appeal 1993 .

Selected relevant drawings

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

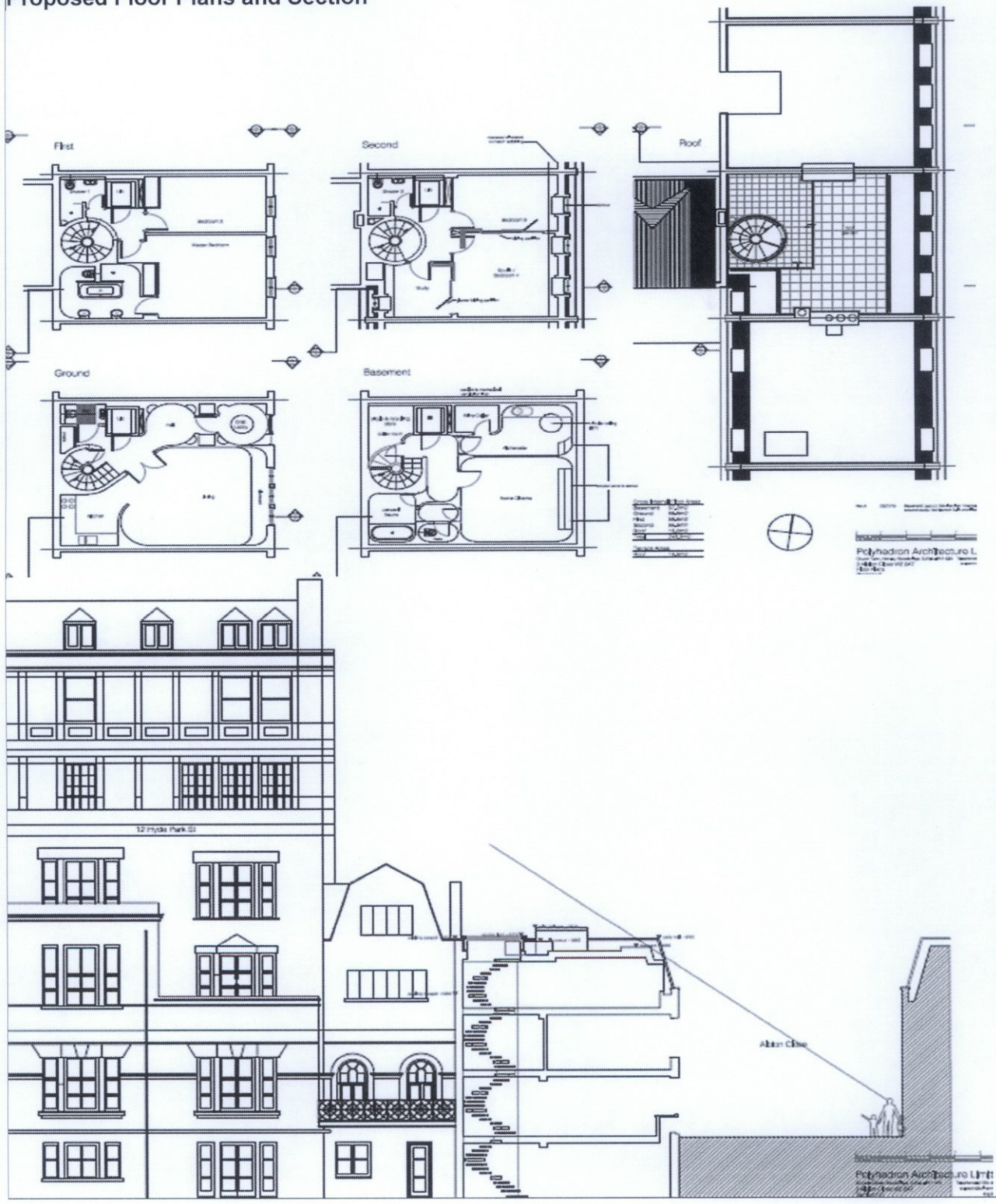
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT AMANDA COULSON ON
020 7641 2875 OR BY EMAIL AT NorthPlanningTeam@westminster.gov.uk

7 KEY DRAWINGS

Proposed Front Elevation(Visual)



Proposed Floor Plans and Section



Item No.
6

DRAFT DECISION LETTER

Address: 3 Albion Close, London, W2 2AT,

Proposal: Demolition of single family dwelling and replacement with a new family dwelling incorporating the excavation of a new basement and roof terrace.

Plan Nos: Location plan ; ALB/001/00/B , ALB/001/01, ALB/001/00/B ALB/100/01, ALB/200/00/B, ALB/200/01; ALB/201/00/B ALB/100/00/B, ALB/101/01, ALB/101/00/A, ALLB/301/00/C NALB/400/00/C, AALB/401/00/B ALB/500/00/C, ALB/501/00/C ALB/502/00 Section BB Proposed ; ALB/502/00 A Section CC Proposed.
Design and Access Statement ; Noise Impact Assessment ; Preliminary Planning Compliance Report ; Noise and Vibration Management Plan, Structural Method Statement (for information) , Construction Management Plan (for information only) Visuals x2

Case Officer: Amanda Coulson

Direct Tel. No. 020 7641 2875

Reasons for Refusal:

Reason:

The use of the flat roof of the mansard roof extension as a roof terrace would lead to an unacceptable loss of privacy for people in neighbouring properties. This would not meet 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. (X13AB)

Reason:

The railings, staircase enclosure and lift over run projecting above the mansard roof extension by reason of their location and size would present additional clutter at roof level detrimental to the appearance of this new house and fails to preserve or enhance the character and appearance of this part of the Bayswater Conservation Area. As such the proposal fails to comply with policies S25 and S28 of our Westminster's City Plan: Strategic Policies adopted November 2013 and DES 6 and DES9 of our Unitary Development Plan that we adopted in January 2007.

Informatives

1. You are advised to submit a revised application which excludes the roof terrace , and includes the lift over run within the envelope of the mansard roof extension , which will be viewed more favourably . You are also advised to submit a revised Construction Management Plan.