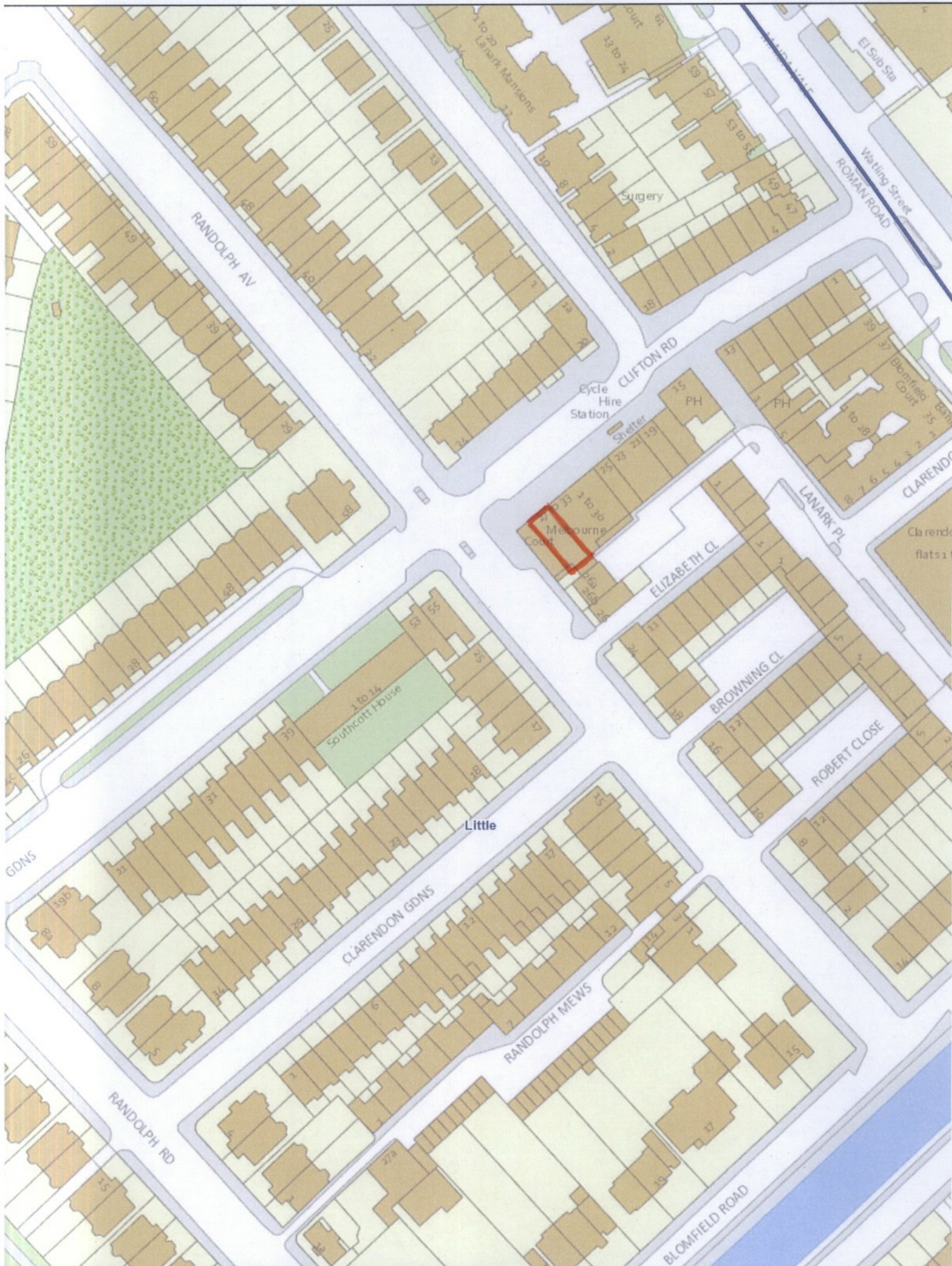


<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 15 September 2015	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Wards involved</b> Little Venice	
<b>Subject of Report</b>	<b>31 Clifton Road, London, W9 1SY</b>		
<b>Proposal</b>	Use of the basement and ground floors for Class A2 (financial and professional services) purposes.		
<b>Agent</b>	Montagu Evans		
<b>On behalf of</b>	Foxtons		
<b>Registered Number</b>	15/03978/FULL	<b>TP / PP No</b>	TP/4199
<b>Date of Application</b>	06.05.2015	<b>Date amended/ completed</b>	22.05.2015
<b>Category of Application</b>	Other		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Maida Vale		
<b>Development Plan Context</b> - 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  Within Clifton Road Local Centre (Core Frontage)		
<b>Stress Area</b>	Outside Stress Area		
<b>Current Licensing Position</b>	Not Applicable		

## 1. RECOMMENDATION

Refuse permission - loss of retail (Class A1).





31 CLIFTON ROAD, W9

## 2. SUMMARY

Permission is sought for a change of use of the ground and basement floors of a shop unit in a parade of shops below a large block of residential flats from Retail (A1) to Estate Agents (A2). The unit forms part of the Core Frontage of the Clifton Road Local Centre as designated by the adopted Unitary Development Plan (UDP).

The key issue in this case is:

- The impact on the retail character and function of the area.

The proposal is considered to be unacceptable in land use terms and would be contrary to the relevant policies in the Unitary Development Plan and Westminster's City Plan: Strategic Policies (the City Plan). It is therefore recommended for refusal.

## 3. CONSULTATIONS

### PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

Concerns raised about the loss of diversity of the retail space in this location where there is already two Class A2 estate agents in this section of the road, and others in the near vicinity. It will also increase pressure on parking which will negatively impact public transport, deliveries and casual shoppers.

### HIGHWAYS PLANNING MANAGER

Conditions should be attached to any permission to secure cycle parking and refuse/recycling storage.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 34; Total No. of Replies: 0.

ADVERTISEMENT/SITE NOTICE: Yes.

## 4. BACKGROUND INFORMATION

### 4.1 The Application Site

The application site is occupied by a ground and basement shop unit in a parade of shops below a large block of residential flats. The unit forms part of the Core Frontage of the Clifton Road Local Centre as designated by the adopted UDP.

### 4.2 Relevant History

8.3.2006: Planning permission refused in respect of use of basement and ground floor shop unit (Class A1) as a dental practice (Class D1) (RN: 06/00244/FULL).

Reason for refusal;

'Your development would lead to the loss of a local convenience shop in a main shopping frontage as defined in our Unitary Development Plan and in a Core Frontage in the Clifton Road Local Centre as defined in our Replacement Unitary Development Plan (Second Deposit version) and Pre-Inquiry Unitary Development Plan. This would harm the retail character and function of the area which would not meet SS1 and SS6 of our Unitary Development Plan, SS1 and SS8 of our Replacement Unitary Development Plan (Second Deposit version) and SS1 and SS8 of our Pre-Inquiry Unitary Development Plan.'

Applications for a new shopfront and advertisements for a Foxtons Estate Agents at 30 Clifton Road were approved by the City Council earlier in the year. The applicant wishes to point out that Foxtons does not intend to use No.30 unless planning permission for No.31 is refused.

## 5. THE PROPOSAL

Permission is sought for the use of the basement and ground floor as an Estate Agent (Class A2).

The proposal does not comprise any external alterations.

## 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

Policy S21 of the City Plan states that existing A1 retail will be protected throughout Westminster except where the Council considers that the unit is not viable, as demonstrated by long term vacancy despite reasonable attempts to let. In the absence of evidence to suggest that the A1 unit is not viable, the proposal would be contrary to this policy.

Policy SS7 of the UDP refers to designated local centres and states that in the Core Frontages at ground floor level, planning permission for change of use from A1 use will only be granted in the most exceptional circumstances and at basement level A2 uses will only be permitted if the proposal would not:

1. Harm the vitality or viability, or character or function of the parade.
2. Have a detrimental effect on the environment or residential amenity.
3. Unacceptably intensify an existing use or existing concentration of uses.
4. Jeopardise the long term A1 use of the ground floor.

The loss of the A1 use at ground floor level in the Core Frontage of a designated local centre would clearly be contrary to this policy, whilst the associated loss of A1 floorspace at basement level would compound the harmful impact on the character and function of the Clifton Road Local Centre.

As part of a supporting statement, the applicant stresses that whilst a change of use from Class A1 to Class A2 is now permitted by Part 3, Class D of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), an application for planning permission has been submitted to provide certainty before making significant investment in fitting out the shop and creating a new shopfront. The applicant was advised to withdraw the application and submit an application for a Certificate of Lawful Development, however, declined to do so on the basis that an Article 4 direction brought into effect between issue of the Certificate and occupation of the premises would have severe financial implications for Foxtons.

The applicant states that the role of high streets has significantly changed since the adoption of Policy SS7 and that this is reflected in Government legislation, with the above change to the GPDO being most relevant. The applicant suggests that this change to permitted development rights is a material consideration that carries significant weight. The applicant also asserts that as the premises is not a convenience store or a launderette, which are considered particularly important by supporting text in the policy and will be occupied by a business with a very active street frontage, that the proposal meets the criteria of being an exceptional circumstance. The employment creation and improvements to the visual amenity of the unit are also suggested to be material considerations.

Section 38(6) of the Town and Country Planning Act requires planning applications to be determined in accordance with the statutory development plan unless material considerations

indicate otherwise. It is acknowledged that the proposal could be carried out under permitted development, however, a planning application has been submitted and it is considered that this change to the GPDO does not outweigh the requirement to protect the A1 use in accordance with adopted Policies S21 and SS7 and therefore does not constitute exceptional circumstances as referred to in Policy SS7. With regard to the other material considerations suggested by the applicant, it is noted that the current A1 use provides employment and an active frontage and that there is no reference to the greater protection of certain Class A1 uses in the main policy wording. As such, they also do not constitute exceptional circumstances. It is considered that the proposal would undermine the character and function of the local centre which provides a valuable service to local residents, visitors and workers, reducing the need to travel. The proposal would therefore be contrary to the objectives of Policy S21 of the adopted City Plan and Policy SS7 of the adopted UDP and planning permission should be refused.

### **6.2 Townscape and Design**

No external alterations are proposed and therefore the proposal does not raise any design concerns. It would therefore comply with Policy S28 of the adopted City Plan as well as Policy DES5 of the adopted UDP.

### **6.3 Amenity**

The proposal is unlikely to attract a higher level of footfall than the existing use and therefore does not raise any amenity concerns. It would therefore comply with Policy S29 of the adopted City Plan as well as Policy ENV13 of the adopted UDP.

### **6.4 Highways/Parking Issues**

The proposed site is well served by public transport and there is no significant change in pedestrian or vehicular traffic expected due to the proposed change to Class A2 use. The City of Westminster GIS mapping system shows a loading bay outside Nos. 27 to 33 Clifton Road to allow for deliveries.

It is considered that in terms of people arriving and departing the site, the levels would be similar to the existing use and therefore no significant change will occur. The site is also within a Controlled Parking Zone which means anyone who does drive to the site will be subject to those controls.

Subject to a condition requiring the provision of refuse storage, the proposal is accordingly considered to be acceptable in terms of highway safety and parking.

### **6.5 Equalities and Diversities**

Not relevant in the determination of this application.

### **6.6 Economic Considerations**

Not relevant in the determination of this application.

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

None relevant.

## **6.8 London Plan**

The proposal does not raise strategic issues and does not have significant implications for the London Plan.

## **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. 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.

## **6.10 Planning Obligations**

Not relevant in the determination of this application.

## **6.11 Environmental Assessment including Sustainability and Biodiversity Issues**

Not relevant in the determination of this application.

## **6.12 Conclusion**

The proposal is considered to be unacceptable in land use terms and would be contrary to the relevant policies in the UDP and the City Plan. It is therefore recommended for refusal.

## **BACKGROUND PAPERS**

1. Application form
2. Memorandum from the Highways Planning Manager dated 19 June 2015
3. Response from Paddington Waterways and Maida Vale Society dated 17 June 2015

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT SARAH WHITNALL ON 020 7641 2929 OR BY E-MAIL – [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk)

**DRAFT DECISION LETTER**

**Address:** 31 Clifton Road, London, W9 1SY

**Proposal:** Use of the basement and ground floors for Class A2 (financial and professional services) purposes.

**Plan Nos:** Site Location Plan, 8744/EX-01, 8744/PL-01 and PB/SS/PD10067.

**Case Officer:** Claire Berry

**Direct Tel. No.** 020 7641 4203

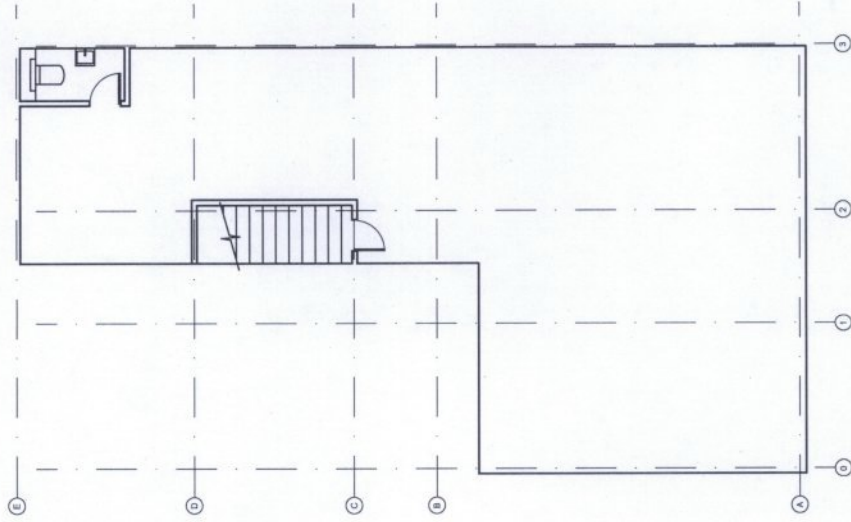
**Recommended Reason for Refusal:****Reason:**

- 1 The proposal would result in the loss of a Class A1 retail unit which would restrict valuable services for local users, would be detrimental to the character and function of the Clifton Road Local Centre and in the absence of full and proper marketing to support the change of use would be contrary to the objectives of Policy S21 of the adopted City Plan (November 2013) and Policy SS7 of the adopted Unitary Development Plan (January 2007).

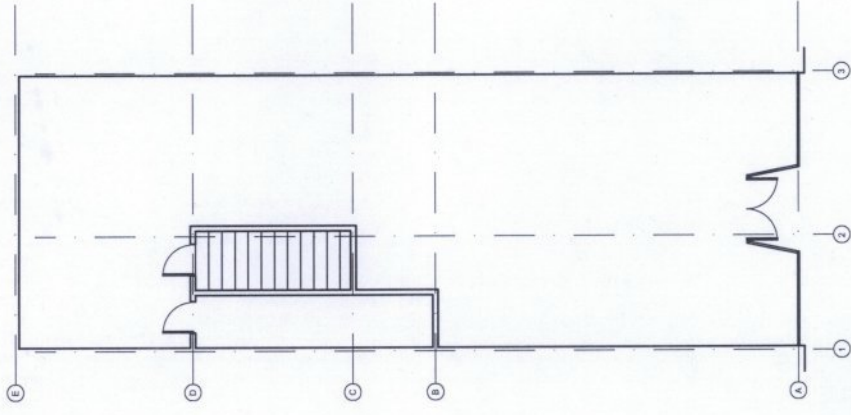
**Informative(s):**

- 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 so far as practicable. 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.





PROPOSED BASEMENT PLAN  
1:100 @ A3



PROPOSED GROUND FLOOR PLAN  
1:100 @ A3

Rev. Date Comments

Where no dimensions are given drawings should not be scaled and the maker should be referred to ICEWIT DESIGN PTN.

Should dimensions or details on these drawings conflict with those on any other drawings, the latter shall prevail.

Where this drawing refers to existing buildings or completed construction the contractor shall check that the dimensions in actual building dimensions and drawing dimensions.

In the event of conflict between this drawing and subcontractor's working drawings for relevant building take precedence.

Such conflicts noted above shall be reported immediately to ICEWIT DESIGN PTN.

It is forbidden to reproduce the drawing in part or full without the written permission of ICEWIT DESIGN PTN.

All dimensions are in millimeters unless otherwise stated.

ICEWIT DESIGN PTN  
103-109 LAVENDER HILL  
LONDON SW11 5QQ  
TEL: 0207 350 2935  
FAX: 0207 350 2935

Client

FOXSTONS

Project 31 CLIFTON RD, LONDON

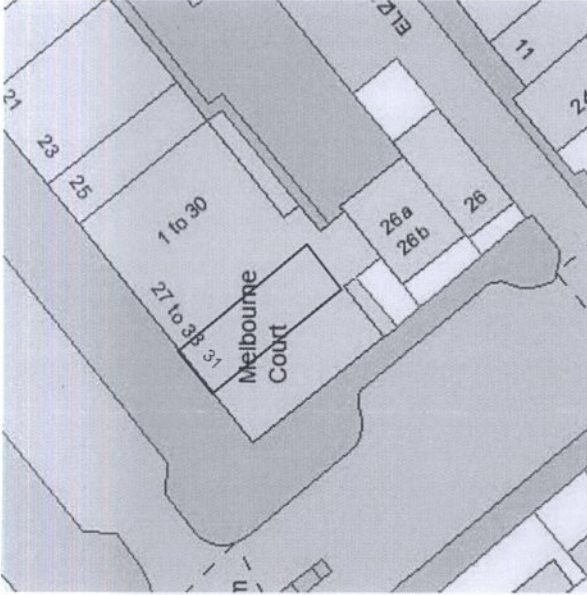
WB ISY

Title PROPOSED BASEMENT AND GF PLANS

Scale 1:100 @ A3

Date MAY 2015

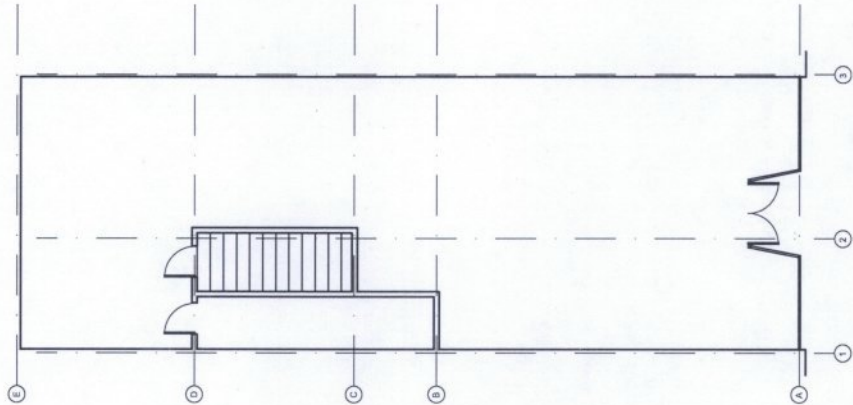
PLANNING



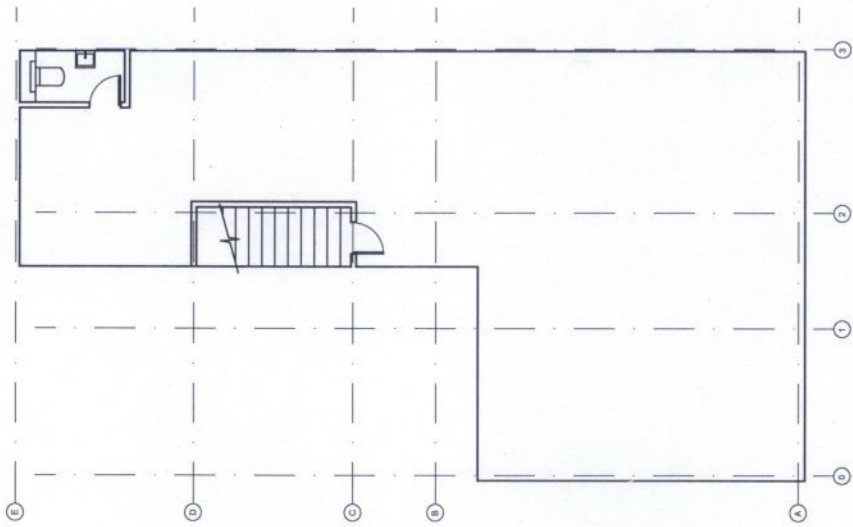
BLOCK PLAN 1:500



SITE PLAN 1:1250



EXISTING GROUND FLOOR PLAN  
1:100 @ A3



EXISTING BASEMENT  
1:100 @ A3

Rev. Date Comments

Where no dimensions are given, drawings should not be scaled and the notes should be referred to ICEWIT DESIGN PTN. Details should be referred to. Should dimensions or details on these drawings conflict with those on any other drawings, the drawings on which the contractor shall place their complete construction shall prevail. In the event of conflict between the drawings and subcontractor's working drawings for relevant building work, the subcontractor's drawings shall prevail. Such conflicts must always be reported immediately to ICEWIT DESIGN PTN. It is forbidden to reproduce this drawing in part or full without the written permission of ICEWIT DESIGN PTN. All Dimensions are in millimetres unless otherwise stated.

ICEWIT DESIGN PTN  
150-1500 WINDMILL HILL  
LONDON SW11 3DL  
TEL: 0207 295 2000  
FAX: 0207 295 2005

Client

FOXTONS

Project

31 CLIFTON RD, LONDON

W9 1SY

Title

EXISTING BASEMENT AND GROUND FLOOR PLANS, SITE PLAN, BLOCK PLAN

Scale

1:100, 1:500, 1:1250 @ A3

Date

MAY 2015

INFORMATION

Drawing Number

8744/ EX-01

