

CITY OF WESTMINSTER			
<b>ADDEDNUM REPORT OF PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 29 March 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Little Venice	
<b>Subject of Report</b>	<b>7 Warwick Avenue, London, W9 2PS,</b>		
<b>Proposal</b>	Excavation of new basement beneath existing single family dwelling, extension to existing lower ground floor level and associated internal and external alterations to building including demolition and replacement of existing conservatory. Installation of ventilation plant.		
<b>Agent</b>	Mr James Hart		
<b>On behalf of</b>	Mr Oliver Nesensohn		
<b>Registered Number</b>	15/08069/FULL 15/08070/LBC	<b>Date amended/ completed</b>	28 September 2015
<b>Date Application Received</b>	28 August 2015		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Maida Vale		

## 1 RECOMMENDATION

1. Grant conditional permission
2. Grant conditional listed building consent
3. Agree reasons for granting listed building consent, as set out in Informative 1 of the draft decision letter.

## 2 SUMMARY

This application was first reported to the Planning Applications Committee on the 1<sup>st</sup> of March 2016. Councillor Melvyn Caplan addressed the Committee in his capacity as Ward Member to express some concerns about the application and it was subsequently resolved to defer a decision pending a site visit. A site visit is in the process of being arranged.

No additional representations received since the Planning Applications Committee report of 1<sup>st</sup> March 2016 was published.

Planning Applications Committee (4) Decisions – Tuesday, 1<sup>st</sup> March 2016

**2 7 WARWICK AVENUE, LONDON W9 2PS**

Excavation of new basement beneath existing single family dwelling, extension to existing lower ground floor level and associated internal and external alterations to building including demolition and replacement of existing conservatory. Installation of ventilation plant.

Councillor Melvyn Caplan addressed the Committee in his capacity as Ward Member to express some concerns about the application.

**RESOLVED:**

That the application be deferred for a site visit.

<b>CITY OF WESTMINSTER - ORIGINAL REPORT FOR COMMITTEE DATED 1 MARCH 2016</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 1 March 2016	<b>Classification</b> For General Release	
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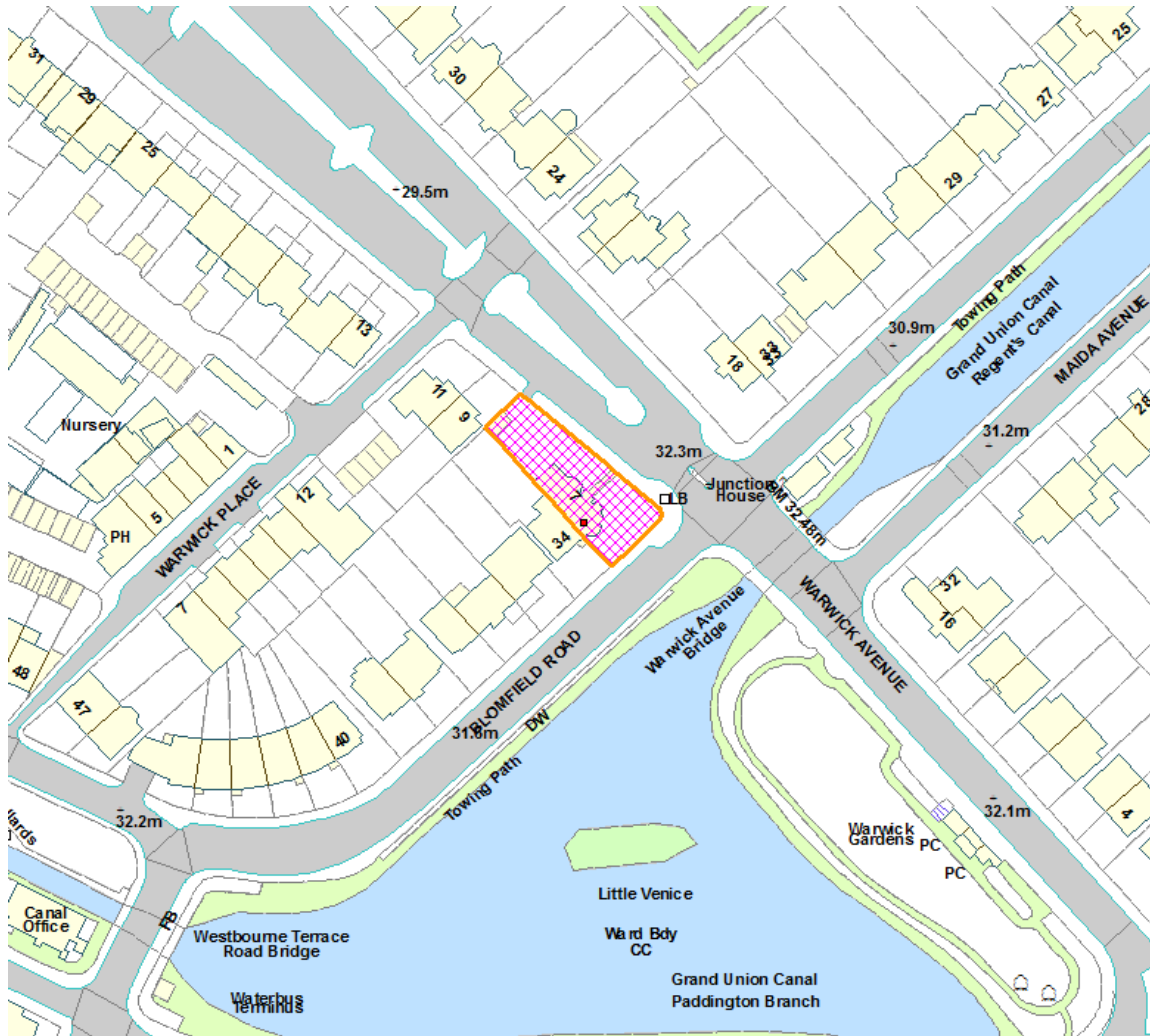
7 Warwick Avenue is a Grade II listed building located within the Maida Vale Conservation Area.

Planning permission and listed building consent are sought for the excavation of a new basement beneath the existing single family dwelling, extension to the existing lower ground floor level and associated internal and external alterations to the building including demolition and replacement of the existing conservatory and installation of associated plant. This application follows an application for a much larger basement which was withdrawn last year.

Several objections have been received on a variety of grounds including structural issues, impact of construction works, impact on the Grade II Listed Building and the Maida Vale Conservation Area, impact on amenity of neighbouring occupiers, sustainability issues, impact on trees, failure to comply with policy and problems with consultation.

Notwithstanding the objections received, the proposed development is considered to be acceptable and would accord with the relevant policies in Westminster's City Plan: Strategic Policies adopted in November 2013 (the City Plan) and the Unitary Development Plan adopted in January 2007 (the UDP).

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### **London Underground Limited:**

No objections in principle. However, there are a number of potential constraints on the redevelopment of a site situated close to undergrounds tunnels and infrastructure.

Therefore it will need to be demonstrated to the satisfaction of LUL engineers that:

- The development will not have any detrimental effect on their tunnels and structures either in the short or long term;
- The design must be such that the loading imposed on their tunnels or structures is not increased or removed;
- They offer no right of support to the development or land.

### **Highways Planning:**

The proposal is acceptable on transportation grounds.

### **Building Control:**

No objections.

### **Environmental Health:**

No objections on environmental noise and nuisance grounds however, following concerns raised by neighbouring occupiers a condition stipulating the requirement of a post commissioning survey is recommended.

Concerns have been raised in respect of contaminated land following preliminary investigations. Further details on this matter should therefore be sought by condition.

### **Arboricultural Section:**

Further to the receipt of revised plans during the course of the application, no objections are raised subject to the provision of tree protection details and an amended construction method statement, which along with a suitable landscaping scheme, should be secured by conditions.

### **Ward Councillors for Little Venice:**

Any comments to be reported verbally.

### **Paddington Waterways & Maida Vale Society:**

The proposed conservatory is wholly out of context to the host building. Whilst the existing conservatory is not architecturally pleasing it sits more comfortably with the host building and wider conservation area. The elevation is highly visible from Warwick Avenue and the proposals will be harmful to the host building and conservation area.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 6

Total No. of replies: 8

No. of objections: 7

No. in support: 0

Objections were raised on the following grounds;

### Structural Issues

- Potential subsidence, especially given proximity to Bakerloo line;
- The buildings are built on clay which is susceptible to movement;
- The land bordering the canal tilts towards the canal and the proposed excavation would further encourage this landslide;
- Most swimming pools have leakage problems which are difficult to identify and this will cause further damage to the soundness of foundations;
- Long terms structural damage to adjoining Grade II Listed Building;
- The estimates of damage to the neighbour's rear wall have been made without the surveyor having access to said wall and hence the conclusions are reliant on their assumptions proving correct;
- The impact of the underpinning has not been modelled;
- The applicant should fund an independent surveyor to properly assess the likely damage to the adjoining building;
- Press articles relating to the effects of basement extensions are provided.

### Construction Works

- 78 weeks is an intolerable amount of time for the noise, dust, dirt and vibrations associated with construction works;
- It will destroy the tranquil setting of the area where many occupiers are at home during the day;
- It is alleged that the applicant has not fully considered the problems arising from the proximity of the underground and the canal and therefore the works will take much longer than the anticipated 78 weeks;
- Based on other developments in the area, it is expected that a more realistic estimate is 2-3 years;
- The works would interfere with enjoyment of life in a residential area with many young families;
- Traffic disruption and car parking disruption in an already oversubscribed area;
- The increased traffic from construction vehicles would cause danger especially to young children;
- The proposed hours of work are unsuitable for a totally residential area;
- The CMP includes provisions about community engagement however there has been no evidence of this to date;
- There is insufficient information in the CMP to fully assess the realistic impact of this proposed development.

### Design

- Basements under listed buildings should be resisted and some Councils have accordingly banned them. It is questioned why Westminster has not done the same;
- As the building is listed, any alteration should be carefully considered in case irreparable damage occurs;
- The proposal will cause damage to the character of the area;
- The Council has a legal duty and policy requirement to protect listed buildings;
- The creation of a basement level would significantly alter the historic hierarchy of floor levels in the property;
- The site is already over-developed and should not be developed any further;
- The proposed conservatory is grotesque, overly bulky, totally incongruous and obtrusive.
- The proposals would not preserve or enhance the property or the conservation area.

### Amenity

- Noise emitted from condenser unit in garden;
- The applicant's sound report is not fit for purpose and a document prepared by Sound Barrier Solutions is submitted in this respect;
- Loss of residential amenity to a large number of people.

### Sustainability

- The development would not improve the environmental performance of the property, would increase the energy and emissions of the building and would result in an excessive use of natural resources.

### Flooding

- The proposal increases the risk of ground water flooding.

### Impact on Trees

- Trees are crucial to the local environment and they may be threatened.

### Basement Policy

- The proposal conflicts with policy as it does not provide much needed extra accommodation where room to extend otherwise than by a basement is limited (the property could be extended to the side whilst a pool, hammam and gym cannot really be considered much needed extra accommodation).
- It is suggested that the application may have been rushed through to avoid the implications of the new basement policy;
- The determination of this application should be postponed pending the outcome of the Planning (Subterranean Development) Bill.

### Discrepancies in Submitted Documents

- The Environmental Performance Survey (pg. 8) states that all plant is contained in the basement;
- One documents states that the site is within 5m of the Bakerloo Line whilst all other documents state that the tunnels are over 10m away;
- The final Basement Impact Assessment (pg.6) references Gerald Road;
- Such discrepancies raise concerns over the reliability of all of the documents submitted.

### Other Issues

- A request has been made by Nursery Amenity Limited, who is the company responsible for managing the rentcharge deed for sixty five properties including 7 Warwick Avenue, for discussion to take place between themselves and the planning officer to ensure that the applicant is not given conflicting advice;
- A request is made by a neighbour to address the committee;
- The application site has been vacant for some time and therefore the works will not impinge upon those who are proposing the works;
- Aggressive attempts of newcomers to destroy the charms and the safety of the old historical London homes;
- The absence of any public benefit to outweigh the harm; a recent appeal decision which addresses this issue has been provided;



- Lack of faith in this particular resident to comply with building regulations and reassurance is sought that regulations will be enforced;
- The Council's procedures are inadequate with the odds stacked in favour of the developer.

#### Consultation and planning process

- Consultation by the City Council was inadequate;
- Problems with the website, which have prevented neighbours from submitting objections;
- Cavalier attitude to a project which could have a massive negative impact on the neighbourhood particularly since each objection could contain new grounds for consideration;
- Objections received in relation to the previously withdrawn application should be taken into consideration when determining the current application;
- Planning Officers have ignored neighbours' concerns when discussing a revised proposal with the applicant.

#### Conditions Should Planning Permission be Granted

- In view of emerging basement policy, development should commence within one year;
- Hours of construction to be restricted to 9-12.30 and 13.30-17.30 Mon-Fri with no work on weekends or bank holidays;
- A programme of construction to be agreed with local residents prior to commencement of development;
- A bond (amount to be determined), to be secured should the need arise to repair any structural damage to the adjoining Grade II Listed Building.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

There have been no further representations received since the application was first reported to the Planning Applications Committee on the 1<sup>st</sup> of March 2016.

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

7 Warwick Avenue is a Grade II listed building located within the Maida Vale Conservation Area. It occupies a prominent corner plot on the corner of Warwick Avenue and Blomfield Road.

### **6.2 Recent Relevant History**

#### 15/08070/LBC

Excavation of new basement beneath existing single family dwelling, extension to existing lower ground floor level and associated internal and external alterations to building including demolition and replacement of existing conservatory. Installation of ventilation plant.

#### 15/04707/FULL & 15/04708/LBC

Excavation of new basement beneath existing single family dwelling, extension to existing lower ground floor level and associated internal and external alterations to building including demolition and replacement of existing conservatory.  
Applications withdrawn: 24 July 2015

## **7. THE PROPOSAL**

Planning permission and listed building consent are sought for the excavation of a new basement beneath the existing single family dwelling, extension to the existing lower ground floor level and associated internal and external alterations to building including the demolition and replacement of existing conservatory and the installation of associated plant. This application follows an application for a much larger basement which was withdrawn last year.

Some additional details have been received and minor amendments have been made to the proposal during the course of the application. Given that these details either relate to concerns raised by the Arboricultural Officer or could have been sought by condition, it was not considered necessary to re-consult neighbouring occupiers.

## **8. DETAILED CONSIDERATIONS**

### **8.1 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.

Concerns have been raised by neighbouring occupiers in respect of the requirement for a basement especially one that includes a pool, a gym and a hammam as this cannot be considered much needed accommodation. It is therefore suggested in the letters of objection that this proposal is not policy compliant and that the potential for extending above ground should have been explored in the first instance. However, it is not within planning control to resist the proposal on the basis of the alleged non-justified need.

### **8.2 Townscape and Design**

#### **Basement**

The basement extension will sit beneath the footprint of the historic core and beneath the extension at lower ground floor level. The staircase down into the new basement would be located by a staircase outside the envelope of the historic core within the lower ground floor extension. It is considered that the basement proposed will not have an adverse impact on the hierarchy of the interior and the original scale of the main house. It is also considered unlikely that the excavation of the basement and the demolition and reconstruction of the vaults would cause unacceptable structural impacts. As such, the basement is considered acceptable in design and conservation terms.

Neighbouring occupiers have stated that basements under listed buildings should have been banned as they have been by some other Councils. However, this is a matter for

wider planning policy in the City Council and not a matter to be discussed as part of the assessment of this individual application.

#### Conservatory

The scale of the replacement structure has been kept within the built line of the current structure, with a reduction in height due to the introduction of a shallower pitched roof therefore the scale of the replacement conservatory is considered to be acceptable. The introduction of a contemporary design is not considered to detract from the architectural style of the host building as it is interpreted as an honest addition. The use of the timber panelling breaks up the north-west elevation and due to its positioning at lower ground floor level in the less formal area of the outdoor space, it can be interpreted as a garden structure, subservient to the principal building. Notwithstanding objections from Paddington Waterways and Maida Vale Society as well as neighbouring occupiers, it is considered that the proposed replacement conservatory is acceptable in design terms.

#### External Alterations

Additionally the alterations to the hard and soft landscaping, including increasing the height of the paving, is considered to have a limited impact on the setting of the heritage asset and the character and appearance of the conservation area, as is the introduction of an acoustic enclosure within the setting of trees.

#### Internal Alterations

To the lower ground it is proposed to recreate the cruciform plan by reintroducing a central hallway and passageway, which in turn generates a cellular arrangement of rooms. This alteration is considered to be acceptable in design and conservation terms. Given the level of alteration that has previously occurred at this level and the limited amount of remaining historic fabric the alterations to create the additional stairs to the basement levels and the insertion of additional partitioning walls is considered to have a limited impact on the special interest of the heritage asset.

At ground floor level it is proposed to remove the existing staircase to the lower ground floor level which is located in the current living room; the current staircase is a modern introduction and therefore its removal is considered to be acceptable with the area to be made good. It is proposed to introduce a staircase in a more traditional location, under the principal staircase, however separate from it. In principle the proposed location is acceptable and whilst its scale and projection at ground floor level could have been reduced, this in itself is not considered to be grounds for refusal.

At present on the first floor one of the principal rooms has been subdivided to create an en-suite and dressing area. Through the proposed scheme the cellular plan form of the level will be restored, with the required subdivision contained within the later addition; this proposal is welcomed in heritage terms as the interpretation of the core is enhanced. The retention of the chimney breast in the proposed master bedroom is welcomed. No alterations are proposed to the second and third floors.

The proposals would therefore preserve the character and appearance of the listed building and the Maida Vale Conservation Area and would comply with policies S25 and S28 of the City Plan and policies DES1, DES5, DES9 and DES10 of the UDP.

### **8.3 Residential Amenity**

Given its limited external manifestations; 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, and loss of privacy and would therefore comply with Policy ENV13 of the UDP and policy S29 of the Westminster City Plan.

Given the presence of the existing conservatory that the proposed conservatory would replace, as well as the existing boundary treatment, this part of the proposal does not raise any amenity concerns either.

### **8.4 Transportation/Parking**

The proposal does not represent an increase in residential units or a loss of parking as such the proposal is not contrary to policy TRANS23 of the UDP. Equally, as the proposal does not comprise an increase to the number of residential units on the site, it would not be reasonable to attach conditions requiring details of cycle parking and refuse storage.

Both neighbours and London Underground Limited (LUL) have raised concerns about the impact the proposed excavation of the basement could have on the underground tunnels and infrastructure close to the site. It is recommended that the condition requested by LUL requiring further details on this matter, is attached to this permission.

### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

### **8.6 Access**

The proposed works would not affect access to the site.

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

#### **Noise/Plant**

Objections have been received on the grounds of the unacceptable noise levels associated with plant including the condenser unit in the garden. It is alleged that the applicant's sound report is not fit for purpose and a document prepared by Sound Barrier Solutions has been submitted in support of the neighbour's assertions.

The City Council's Environmental Health Officer has reviewed both the applicant's acoustic report and the neighbour's acoustic report and has confirmed that whilst the applicant's report could have been better, it does not indicate that the plant would materially affect the amenities of neighbouring occupiers in terms of noise and disturbance. Nevertheless, given strong opposition to the proposal, it is recommended that a condition requiring a post commissioning survey is attached to the planning permission. Along with the standard condition on noise levels, this should address concerns raised by neighbours.

### Trees

The scheme has been amended to address concerns raised by the City Council's Arboricultural Officer. Subject to conditions requiring an amended construction method statement and a suitable landscaping scheme, the proposal is considered to be acceptable in accordance with policy ENV16 of the adopted Unitary Development Plan.

### Sustainability

One objector states that the development would not improve the environmental performance of the property, would increase the energy and emissions of the building and would result in an excessive use of natural resources. However, given the scale of development which relates solely to a single family dwellinghouse, it is considered that the associated increase to energy and emissions etc, would not constitute sufficient grounds to refuse the entire application.

### Contaminated Land

Preliminary investigations, comprising three bore holes, have revealed elevated levels of both lead and asbestos on the site. As none of these boreholes were within the footprint of the proposed works, it is recommended to secure further site investigation details by condition.

## 8.8 London Plan

With the exception of the impact on the London Underground infrastructure, which is addressed elsewhere in this report, 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.

## 8.10 Planning Obligations

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

## 8.11 Environmental Impact Assessment

Environmental Impact issues have been covered in section 8.7 above.

## 8.12 Other Issues

### Basement

The impact of this type of development is at the heart of concerns expressed by residents across many central London Boroughs, heightened by well publicised accidents occurring during basement constructions. Residents are concerned that the excavation of new basements is a risky construction process with potential harm to adjoining buildings and occupiers. Many also cite potential effects on the water table and the potential increase in the risk of flooding. Such concerns have been raised by many neighbouring occupiers. The numerous letters of objection received refer specifically to the impact on the structural integrity and stability of adjoining buildings, including the adjoining Grade II Listed

Building. They also refer to potential problems with ground water flooding, and increased risk of subsidence given the proximity of the canal and the Bakerloo line and given the properties are built on clay which is susceptible to movement, the problems associated with swimming pools leaking and the inadequate surveys undertaken.

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.

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 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.

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 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 have assessed the reports provided and consider that, notwithstanding concerns raised by neighbouring occupiers in respect of alleged inappropriate methods of construction, the proximity to the canal, the problems with swimming pools and the lack of faith they have in the inaccurate surveys submitted by the applicant, the proposed construction methodology appears satisfactory. Should permission be granted, these statements will not be approved, nor will conditions be imposed requiring the works to be

carried out in accordance with them. The purpose of the reports 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, cited above. To go further would be to act beyond the bounds of planning control.

Notwithstanding the comments received from Building Control, given the proximity to the Barkerloo Lane, London Underground Limited have requested that a condition be attached to require details of the construction methodology specifically relating to its infrastructure. This should go some way towards addressing the concerns of neighbouring occupiers.

The City Council have been preparing guidance and policies to address the need to take into consideration land instability, flood risk and other considerations when dealing with basement applications. Last year the City Council adopted the Supplementary Planning Document 'Basement Development in Westminster' (24th October 2014), which was produced to provide further advice on how current policy can be implemented in relation to basement development - until the formal policy can be adopted. Consultation on a revised formal policy, 'Draft Basements Policy', is currently underway, and will form part of the local plan (replacing the UDP) once adopted.

The basement guidelines and basements policy documents have different status in the planning process. The SPD having now been adopted can be given considerable weight (known as material weight or a material consideration). Weight will be afforded to parts of the new basement policy for applications submitted after 1<sup>st</sup> November 2015. Neighbours have suggested that this application should be determined in accordance with the new basement policy. However, as the application was submitted before the 1<sup>st</sup> of November, this would not be reasonable. Others have alleged that the application may have been rushed through to avoid the implications of the new basement however, this appears to be an unfounded allegation and in any event, is not a material planning consideration.

Reference is made to the Planning (Subterranean Development) Bill and it is suggested by neighbouring occupiers that determination of the application for a basement at 7 Warwick Avenue should be postponed pending its outcome. Until such time as this Bill becomes an Act, it holds no weight, and it would be unreasonable to delay the determination on this basis.

### **Construction Impact**

Objections have been received from neighbouring residents regarding the impact of construction work associated with the proposed basement with specific reference to noise, dirt, dust vibrations and traffic, the timescale for the proposed construction phase and general disturbance associated with construction activity.

Whilst planning permission cannot be withheld on the basis of these objections, a Construction Management Plan is required at validation stage and has therefore been submitted with the application. This is considered appropriate and reasonable at application stage. However, a condition is recommended to secure a more fully detailed

construction management plan prior to the commencement of works. A further condition is recommended to control the hours of construction works, particularly noisy works of excavation, which whilst it is inevitable that all construction works will have some impact on neighbours, should go some way to addressing the concerns of residents.

### **Discrepancies in Supplementary Documents**

It was pointed out by objectors that there were discrepancies in some of the supplementary documents submitted with the application. Some of these discrepancies have since been addressed by the applicant. Given that these discrepancies are fairly minor and the plans themselves, which the decision will be based on, did not have the same issues, it is considered that the interests of neighbouring occupiers were not prejudiced and it was not considered necessary to re-consult neighbouring occupiers or to delay the determination of this application pending receipt of any further amended information.

### **Consultation and Planning Process**

Neighbours have stated that consultation by the City Council was inadequate. Nevertheless, the City Council met its statutory obligations by sending letters to all those considered to be directly affected by the proposal as well as displaying both site and press notices. It was alleged that there were problems with the City Council's website which prevented neighbours from submitting objections. However, any temporary problem with the website would not have prevented a representation being sent by email. As the current proposal has sought to address concerns relating to the previously withdrawn application, it would be unreasonable to base this recommendation on any representation that related to the earlier application. Officers have not, at any stage, ignored the concerns of neighbours, however these objections must be considered in light of adopted policy and therefore do not necessarily constitute grounds for refusal.

### **Other Neighbour Objections**

Objections have been raised on the basis of the damage caused by previous extensions at the application site and the lack of faith neighbours have that future work would comply with the relevant regulations. However, the current application should be assessed on its own merits and therefore this is not grounds for refusal. Any breach of regulations would be subject appropriate action by the City Council. A request is made for the planning officer to discuss the proposals directly with the management company however; this is a matter for the applicant to address not the planning officer. With regards to the committee meeting, it is Council policy that no members of the public are permitted to address the committee. Whether or not the applicant lives at no.7 Warwick Avenue is immaterial to the determination of this application; as is the length of time that the applicant has owned the property. The allegation that 'the odds are stacked in favour of the developer' is unfounded. As the proposal is not considered to be harmful to the listed building or surrounding area, the suggested requirement for associated public benefit would not be necessary.

### **Suggested Conditions**

In the event that planning permission is granted, several conditions have been requested by neighbours. However, the suggested conditions are particularly onerous and it is not considered reasonable to impose them on this individual site. The City Council's standard conditions relating to commencement of development, hours of work and construction management should therefore apply. With regard to the requested bond for repairs to



neighbouring buildings, this is something that would need to be addressed through a party wall agreement.

### **8.13 Conclusion**

Notwithstanding the objections received, the proposed development is considered to be acceptable in land use, design, amenity, arboricultural and environmental terms and would therefore accord with the relevant policies in Westminster's City Plan: Strategic Policies adopted in November 2013 and the Unitary Development Plan adopted in January 2007.

## **9. BACKGROUND PAPERS**

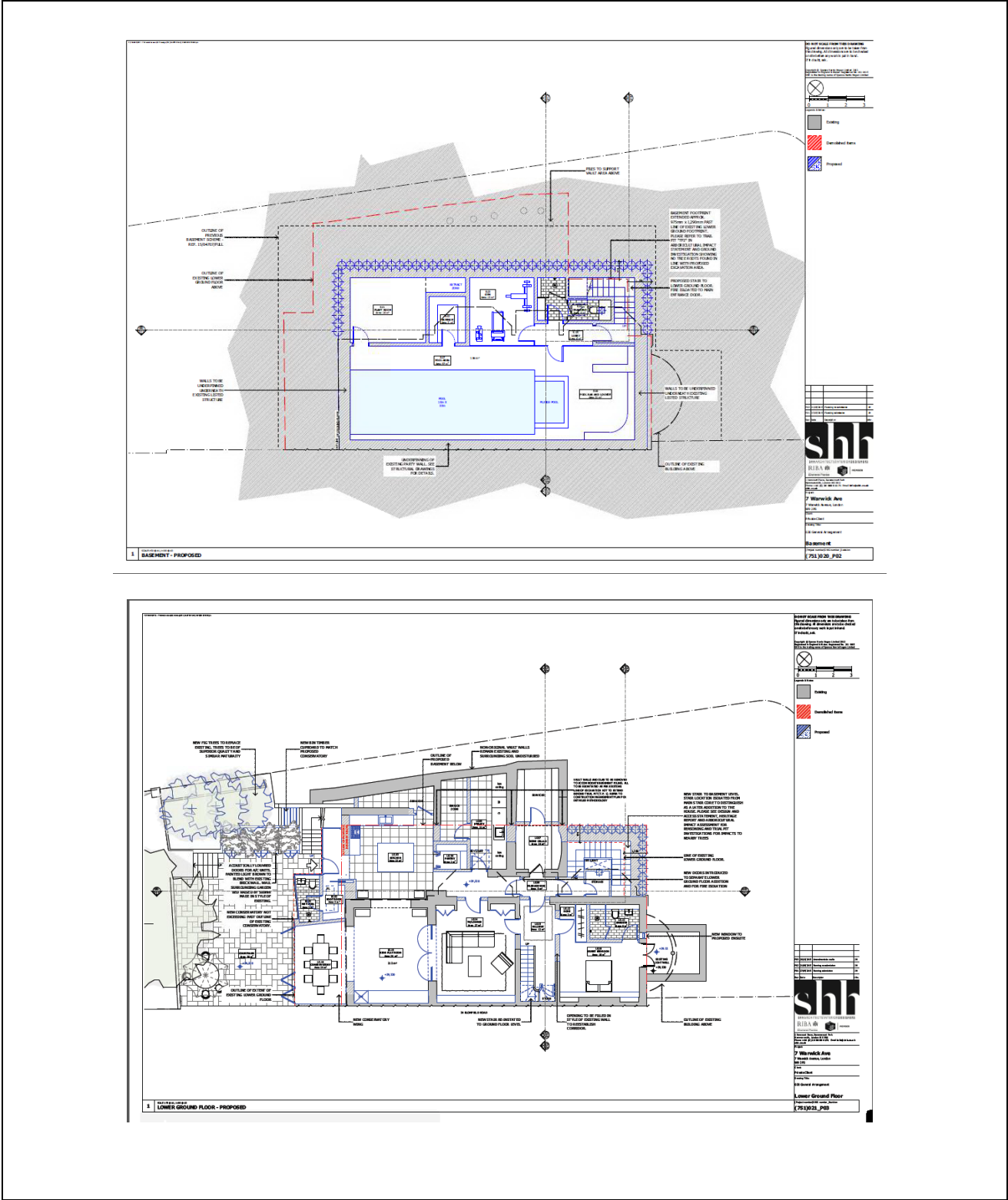
1. Application form
2. Report to Planning Applications Committee, dated 1 March 2016, background papers and minutes of meeting.
3. Response from London Underground Limited, dated 30 October 2015
4. Response from Highways Planning, dated 28 September 2015
5. Responses from Environmental Health, dated 9 October 2015 and 4 December 2015
6. Response from Arboricultural Section, dated 28 October 2015
7. Response from Building Control, dated 8 January 2016
8. Letter from Nursery Amenity Limited, dated 8 July 2015
9. Letter from occupier of 13A Warwick Avenue, London, dated 4 October 2015
10. Letter from occupier of Garden Flat, 38 Blomfield Road, dated 5 October 2015
11. Letter from occupier of 38 Blomfield Road, London, dated 5 October 2015
12. Letters from occupier of 34 Blomfield Road, London, dated 6 October 2015
13. Letter from occupier of 41 Blomfield Road, London, dated 7 October 2015
14. Letter from occupier of The Graden Flat, 11 Warwick Avenue, dated 8 October 2015
15. Letter from occupier of 39 Blomfield Road, London, dated 8 October 2015
16. Letter from occupier of 18 Warwick Avenue, London, dated 13 October & 3 December 2015
17. Correspondence with Karen Buck MP, London.

### **Selected relevant drawings**

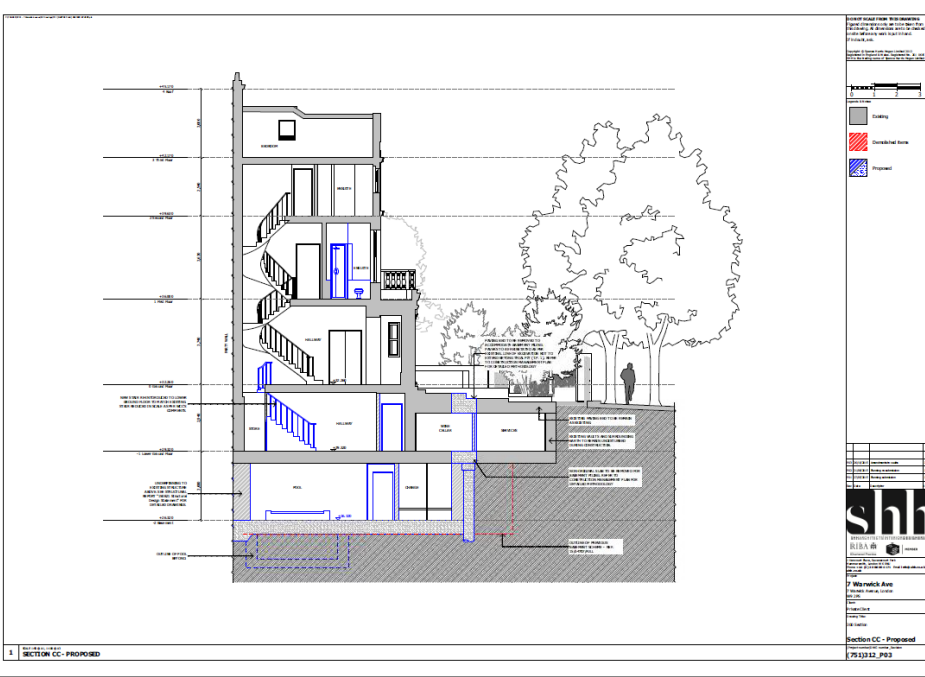
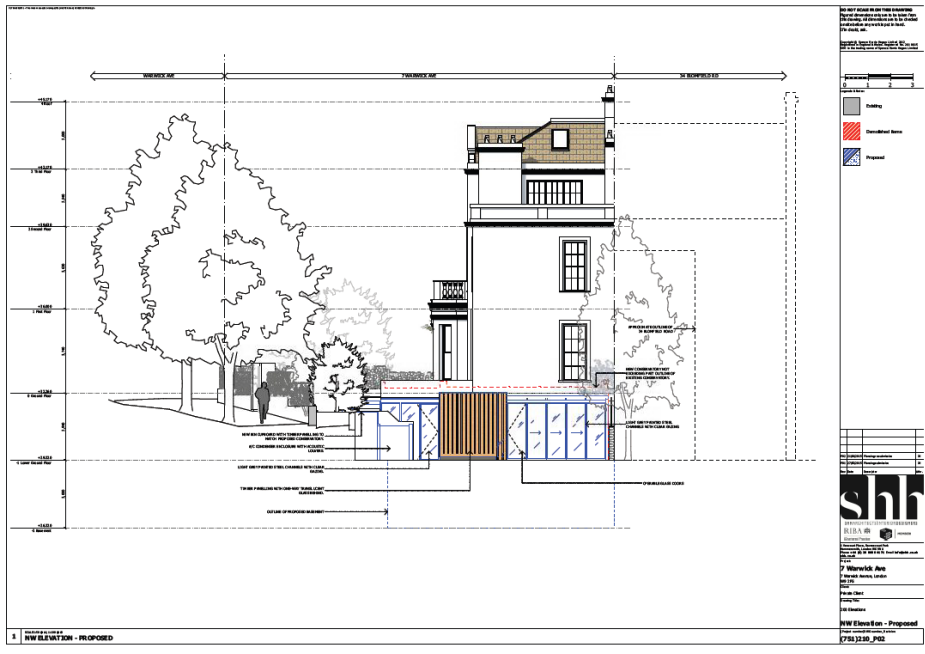
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT CLAIRE BERRY ON 020 7641 4203 OR BY EMAIL AT [NorthPlanningTeam@westminster.gov.uk](mailto:NorthPlanningTeam@westminster.gov.uk)

10. KEY DRAWINGS







**DRAFT DECISION LETTER**

**Address:** 7 Warwick Avenue, London, W9 2PS,

**Proposal:** Excavation of new basement beneath existing single family dwelling, extension to existing lower ground floor level and associated internal and external alterations to building including demolition and replacement of existing conservatory. Installation of ventilation plant.

**Plan Nos:** (751)001\_P02, (751)002\_P02, (751)003\_P02, (751)010\_P03, (751)011\_P03, (751)012\_P02, (751)013\_P02, (751)020\_P02, (751)021\_P03, (751)022\_P03, (751)023\_P02, (751)024\_P02, (751)200\_P02, (751)201\_P02, (751)210\_P02, (751)211\_P02, (751)300\_P02, (751)301\_P02, (751)302\_P03, (751)310\_P02, (751)311\_P02, (751)312\_P03, (751)700\_PL01, (751)701\_PL01, (751)702\_PL01, (751)020\_P01 (Plant), (751)021\_P01 (Plant), (751)022\_P01 (Plant), Planning Statement August 2015, Heritage Statement September 2015, Design and Access Statement August 2015, Environmental Performance Statement 27 January 2016, Residential Energy Statement August 2015, Environmental Noise Survey and Mechanical Plant Assessment 20 August 2015, Arboricultural Method Statement 28 August 2015, Arboricultural Impact Assessment Report 28 August 2015 and Root Excavation Report 8 October 2015.

**Case Officer:** Claire Berry

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

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

- 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 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)

- 3 To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Maida Vale 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 paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)
- 3 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)
- 4 The new joinery work must exactly match the existing original work unless differences are shown on the drawings we have approved. (C27EA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Maida Vale 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 paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 5 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Maida Vale 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 paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 6 **Pre Commencement Condition.** Notwithstanding the Construction Management Plan submitted, 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 environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 7 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
- (a) A schedule of all plant and equipment that formed part of this application;
  - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
  - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
  - (d) The location of most affected noise sensitive receptor location and the most affected window of it;
  - (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
  - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;

- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 8 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 9 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery complies with the noise criteria set out in conditions 7 and 8 of this permission.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 10 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated land, a guide to help developers meet planning requirements' - which was produced in October 2003 by a group of London boroughs, including Westminster.

You must apply to us for approval of the following investigation reports. You must apply to us and



receive our approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.  
(C18AA)

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007. (R18AA)

- 11 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within one planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any trees or find that they are dying, severely damaged or diseased within five of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Maida Vale Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in S25, S28 and S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 16, ENV 17, DES 1 (A) and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R30CD)

- 12 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. 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 what you have sent us. You must then carry out the work according to the approved details.

Reason:

To protect trees and the character and appearance of the site as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31CC)

- 13 **Pre Commencement Condition.** No development shall take place, including any works of demolition, until evidence that the development will not have any detrimental effect on London Underground tunnels and structures either in the short or long term with the design such that the loading imposed on the tunnels or structures is not increased or removed, has been submitted to and approved in writing by the City Council as local planning authority, in consultation with London Underground Limited.

**Reason:**

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2015 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: 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.
- 2 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.
- 3 The applicant is advised to contact London Underground Infrastructure Protection in advance of preparation of final design and associated statements, in particular with regard to demolition, excavation and construction methods.

**DRAFT DECISION LETTER**

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**Case Officer:** Claire Berry

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

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

- 1 The works 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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Maida Vale 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 paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 The new joinery work must exactly match the existing original work unless differences are shown

on the drawings we have approved. (C27EA)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Maida Vale 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 paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Maida Vale 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 paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan July 2011, Westminster's City Plan: Strategic Policies adopted November 2013, and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the character of this building of special architectural or historic interest.

In reaching this decision the following were of particular relevance:

S25 and S28 of Westminster's City Plan: Strategic Policies and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3-2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.