

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 1 November 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Regent's Park	
Subject of Report	12 Elm Tree Road, London, NW8 9JX,		
Proposal	Variation of Condition 2 of planning permission dated 5 April 2016 (RN: 15/08361/FULL) for excavation of basement with a rear lightwell, to provide a swimming pool. Installation of associated plant; namely, to vary the hours of construction works so that building work can be carried out on Saturdays between 08.00 and 13.00 hours.		
Agent	Mrs Tori MacCabe		
On behalf of	Mr Sachin Khajuria		
Registered Number	16/04081/FULL	Date amended/ completed	5 May 2016
Date Application Received	3 May 2016		
Historic Building Grade	Unlisted		
Conservation Area	St John's Wood		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

Permission was granted by this committee on 5 April 2016 for excavation of a basement level with a rear lightwell, to provide a swimming pool. Installation of associated plant was also approved.

The Committee resolved to grant permission subject to a number of amendments to the recommended conditions. This included an amendment to the City Council's standard construction hours condition to preclude noisy working on Saturdays. Accordingly, condition 2 was amended to state:

"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; and*
- *not at all on Saturdays, Sundays, bank holidays and public holidays".*

The applicant seeks a variation to this condition to allow building work (except for basement excavation work) to be carried out between 08.00 and 13.00 on Saturdays.

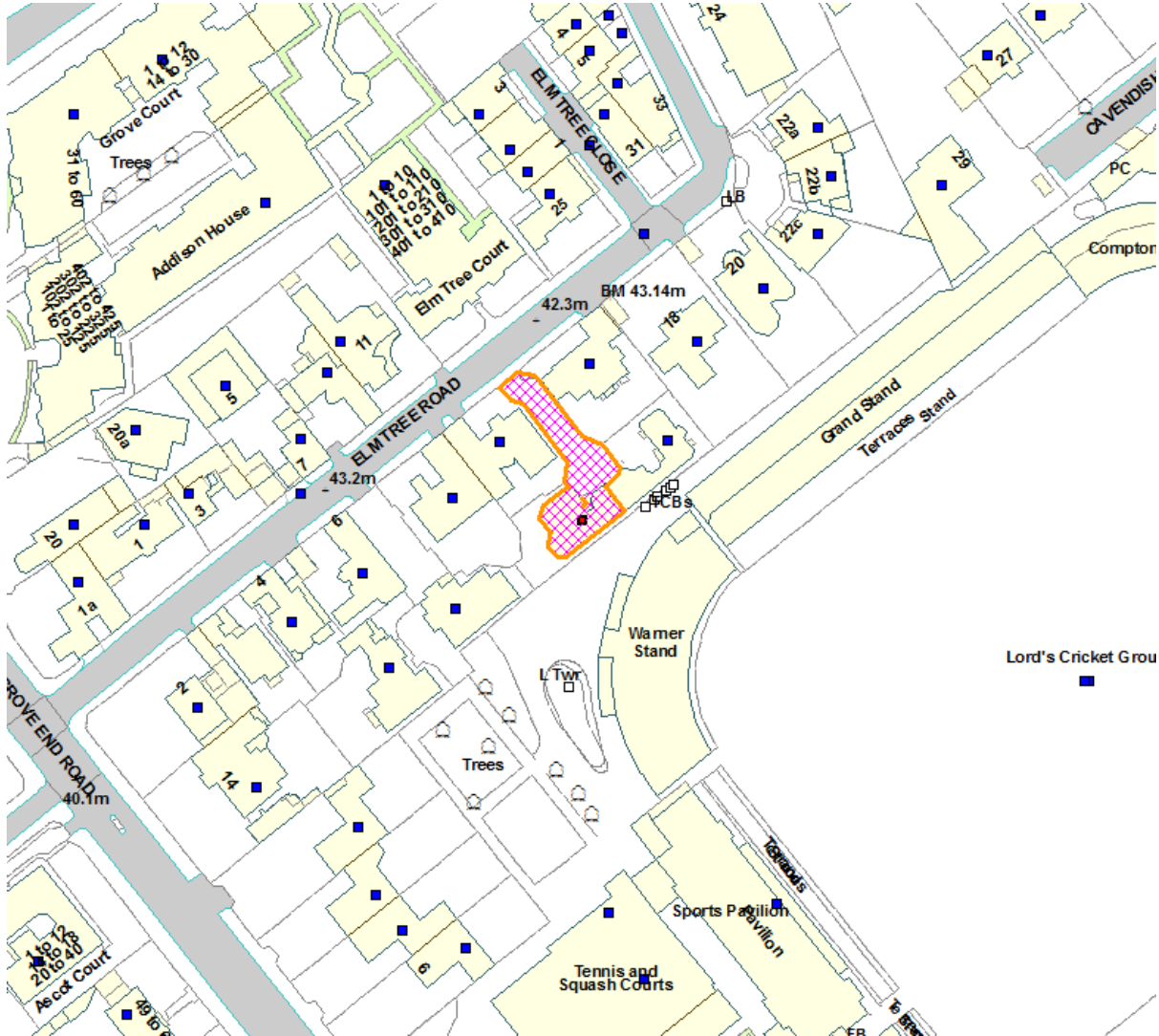
The proposed amendment to condition 2 would be consistent with recent permissions in the area, including at 8 Elm Tree Road (RN: 15/04516/FULL). It would also be consistent with the City

Council's standard practice for applications involving basement excavation, including under the revised basement policy, and continued imposition of the originally worded condition 2 would be unreasonable. The Committee resolution also prohibits 'noisy working on Saturdays' rather than all works only and the amendment sought would be consistent with this.

Whilst residents and the St Johns Wood Societies objections are noted, the amendment sought would not allow particularly noisy work (i.e. basement excavation) to occur on Saturdays. An objection to the proposed amendment on this basis would not be sustainable.

Accordingly, this application is recommended for conditional approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Shared Drive of 12 and 12A Elm Tree Road



5. CONSULTATIONS

WARD COUNCILLORS FOR REGENT'S PARK

No comment to date.

ST JOHN'S WOOD SOCIETY

The Society supports the council's Consultation Draft Code of Construction Practice 2016 and in particular section 3.2 which stipulates that in residential areas noisy works including earthworks should only be carried out on weekdays between 0800 to 1800. Adjoining residents have objected to the proposed extended working hours which would allow basement excavation work on Saturdays between 0800 and 1300. The Society requests that the council considers the loss of amenity to residents and upholds the previously permitted Condition.

HIGHWAYS PLANNING - DEVELOPMENT PLANNING

Acceptable on transportation grounds.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 55

Total No. of replies: 13

No. of objections: 7

No. in support: 6

7 letters/emails objections received on all or some of the following grounds:

- Neighbouring properties and the wellbeing of residents should be protected against noise, dust and pollution as a result of the construction works during the weekends.
- Building works on a Saturday will disrupt parking in the area.
- Works on a Saturday for a period of 3 years is unacceptable.
- The majority of supporting messages have been made by the party interested in doing the work rather than genuine supporters.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 Recent Relevant History

15/08361/FULL

Excavation of basement with a rear lightwell, to provide a swimming pool. Installation of associated plant.

Application Permitted

5 April 2016

7. BACKGROUND PAPERS

1. Application form
2. PAC Minutes of Proceedings dated 5 April 2016.
3. Response from Highways Planning dated 23 May 2016
4. Response from St John's Wood Society, dated 2 June 2016
5. Letter from occupier of 28 Elm Tree Road, London, dated 25 May 2016
6. Letter from occupier of 16, London, dated 27 May 2016
7. Letter from occupier of 12a, Elm Tree Road, dated 24 May 2016
8. Letter from occupier of Elm Tree Road, London, dated 18 May 2016
9. Letter from occupier of 12A Elm Tree Road, st john's wood, dated 15 May 2016
10. Letter from occupier of Flat 105, london, dated 18 May 2016
11. Letter from occupier of 10, London, dated 27 May 2016
12. Letter from occupier of 8C Elm Tree Road, London, dated 27 May 2016
13. Letter from occupier of 4A Elm Tree Road, London, dated 14 June 2016
14. Letter from occupier of 20 elm tree road, london, dated 13 May 2016
15. Letter from occupier of Flat 42, London, dated 4 June 2016
16. Letter from occupier of 2, London, dated 27 May 2016
17. Letter from occupier of 10 Elm Tree Road, London, dated 16 May 2016

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT nbarrett@westminster.gov.uk.

DRAFT DECISION LETTER

Address: 12 Elm Tree Road, London, NW8 9JX,

Proposal: Variation of Condition 2 of planning permission dated 5 April 2016 (RN: 15/08361/FULL) for excavation of basement with a rear lightwell, to provide a swimming pool. Installation of associated plant; namely, to vary the hours of construction works so that basement excavation works can be carried out on Saturdays between 08.00 and 13.00 hours.

Reference: 16/04081/FULL

Plan Nos: Original documents/plans:, 13050-P_00 (location plan), 13050-P_00, 13050-P_01, 13050-P_02, 13050-P_03, 13050-P_04, 13050-P_05, 13050-D_04, 13050-D_05, Design and Access Statement prepared by Marek Wojciechowski Architects, Odhran Brennan, Report on impact of trees prepared by John Cromars's Arboricultural Company, Ground Investigation Report Basement Development prepared by Aviron Associates Limited, Construction Management Plan, Construction Management Report rev B, Noise report prepared by Emtec dated 8 February 2016; For information only: Structural engineer's structural methodology statement Prepared by Engineer.

Case Officer: Agnes Hagan

Direct Tel. No. 020 7641 5651

Recommended Condition(s) and Reason(s):

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Except for 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 occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted

in January 2007. (R11AC)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must apply to us for approval of detailed drawings of the following parts of the development:
- i) Proposed balustrade to rear light well.
 - ii) Details of the proposed car lift including manufacturers specification.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved details.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 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.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (July 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 6 (1) Where noise emitted from the proposed plant and machinery (which serves both the carlift and swimming pool) 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 5 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 (which serves both the carlift and swimming pool) 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 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.
- (3) Following installation of the plant and equipment (which serves both the carlift and swimming pool), 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 schedule of all plant and equipment that formed part of this application;
 - Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
 - Manufacturer specifications of sound emissions in octave or third octave detail;
 - 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:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), 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 (July 2016), 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.

- 7 No vibration from the carlift or swimming pool plant 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.

- 8 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the carlift and swimming pool plant will comply with the Council's noise criteria as set out in Condition 6; of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

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 (UDP), 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 (July 2016), by contributing to reducing excessive ambient noise levels.

- 9 The car stacker installed must be finished in the same surface material as the front drive and shall remain in its closed (down) position at all times other than to allow cars to enter and exit.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St Johns Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 10 The car stacker hereby approved shall only contain one vehicle at a time.

Reason:

To prevent a use that would be unacceptable in highways terms. This is in line with TRANS23 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 11 This permission must be commenced no later than 4 April 2019

Reason:

This permission authorises amendments to the original planning permission granted on 5 April 2016 (RN 15/08361/FULL) which must be commenced no later than the above date.

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 (July 2016), 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 construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, perhaps by issuing regular bulletins about site progress.
- 4 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of

building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)

- 5 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I32AA)
- 6 In respect of condition 8, you are advised that this acoustic report should address both the car lift and any other plant/machinery.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.