

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB-COMMITTEE</b>	<b>Date</b> 13 June 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Abbey Road	
<b>Subject of Report</b>	<b>Development Site At 1 1/2 Queens Grove And, 12-22 Finchley Road, London, NW8 6EB</b>		
<b>Proposal</b>	Variation of Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL) for the demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements from RN 02/06302/FULL. NAMELY, to vary the hours of construction works that can be heard at the boundary of the site to allow works around the railway cutting to take place between 01.00 and 05.00 hours for a non-consecutive period of approximately 67 nights during the overall construction programme.		
<b>Agent</b>	Mr Kevin Henson		
<b>On behalf of</b>	Gerald Eve LLP		
<b>Registered Number</b>	17/00938/FULL	<b>Date amended/ completed</b>	6 February 2017
<b>Date Application Received</b>	6 February 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	N/A		

## 1. RECOMMENDATION

1. Grant conditional permission, subject to completion of a deed of variation to the original legal agreement dated 6 November 2003 to secure the following additional planning obligations:
  - i. Agreement to fund the provision of secondary glazing to rear windows of neighbouring properties in Pembroke Terrace, Bartonway and Balmoral Court and the front windows of properties in Queens Grove Court and Aspley House, for those flats that request it, so as to reduce noise disturbance during the course of the night time works. The night time works shall not commence until all secondary glazing to the flats where it is requested has been installed.
  - ii. Agreement to fund the provision of temporary air conditioning during the period of the night time works (if any of the night time working occurs between 1 April and 31 September) for those properties in Pembroke Terrace, Bartonway and Balmoral Court with rear facing windows and those properties in Queens Grove Court and Aspley House with front facing windows, where the occupiers of those flats request it. The temporary air conditioning shall

- be provided within 3 working days of a written request from a neighbouring resident.
- iii. Cost of monitoring the additional heads of terms (£500).

2. If the deed of variation has not been completed by 25 July 2017 then:

- a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;
- b) The Director of Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

The application site is located on the north east side of Finchley Road at the corner with Queens Grove. Residential blocks neighbour the site to the north east and south east (Pembroke Terrace, Bartonway and Balmoral Court). Queens Grove Court is located on the opposite side of Queens Grove to the north of the site and Aspley House is located on the opposite side of Finchley Road to the west of the site. The site does not contain any listed buildings and is not in a conservation area, but is visible in views from within the neighbouring St. John's Wood Conservation Area, which is adjacent to the site to the east and west.

Planning permission for the redevelopment of this site by demolition of the existing buildings and erection of a residential building of 6-8 storeys comprising 66 apartments, including 17 affordable units and provision of 64 parking spaces in two basement levels was granted on 6 November 2003 (RN: 02/06302/FULL). This permission was implemented prior to expiry in November 2008 and this was confirmed by the Certificate of Lawfulness issued on 22 January 2014 (RN: 13/09910/CLOPUD). The 2003 permission therefore remains extant and can continue to be implemented at any time.

The current application seek permission to vary Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL); namely to amend the hours during which construction works that can be heard at the boundary of the site can take place. In this case the proposed development includes the enclosure of the existing shallow Metropolitan Line cutting that crosses the north western corner of the site. Works to form the enclosure over the cutting can only take place outside the operational hours of the railway. The application therefore seeks to vary Condition 2 to allow night time working between 01.00 and 05.00 hours for a non-consecutive period of approximately 67 nights during the overall construction programme.

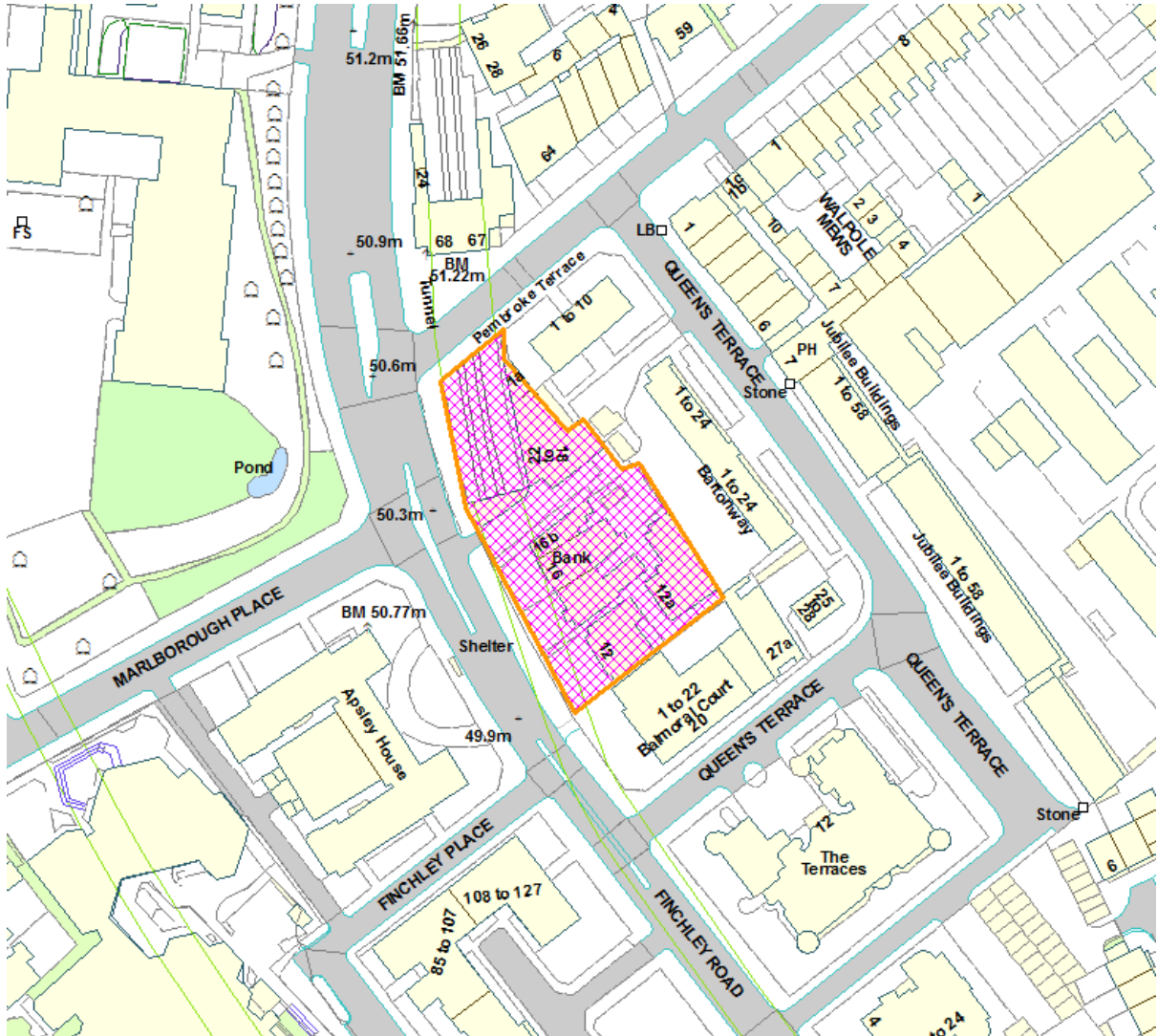
On balance, subject to the recommended conditions, including the new condition to ensure compliance with Code of Construction Practice adopted in July 2016, and the recommended planning obligations to secure secondary glazing and air conditioning for those closest neighbouring occupiers who wish to receive these additional mitigation measures, the proposed amendments to the hours of construction works are considered to be acceptable given the site specific exceptional circumstances in this case. It is also a relevant material consideration that by facilitating the implementation of the 2003 permission, the scheme will deliver significant public benefit in the form of provision of a significant number of new

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residential units, provision of 17 on-site affordable housing units and long term improvements in the local noise environment by eliminating existing noise from the Metropolitan Line by enclosing the existing open cutting. As such, the proposed amendment of Condition 2 accords with Policies TRANS2, TRANS3 and ENV6 in the Unitary Development Plan adopted in January 2007 (the UDP) and Policies S29, S32, S41 and CM28.1 in the City Plan adopted in November 2016 (the City Plan).

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



View of the site looking north along Finchley Road (top) and view of site from the junction of Finchley Road and Queen's Grove (bottom).



VIEW ONE



View of railway cutting (top) and aerial view of site looking south (bottom left) and aerial view of site looking north (bottom right).

## 5. CONSULTATIONS

### WARD COUNCILLORS (ABBAY ROAD)

Any response to be reported verbally.

### ST. JOHN'S WOOD SOCIETY

No objection to the proposed working hours overnight on the condition that there are adequate measures in place for noise control and a contact telephone number for residents who may be disturbed. Request that the local community and the Society are consulted on a traffic management scheme before any work commences.

### ENVIRONMENTAL HEALTH

No objection. Applicant has undertaken to accord with the Code of Construction Practice (CoCP) adopted in 2016 (can be secured by condition). Compliance with the CoCP means the applicant will have to submit a Site Environmental Management Plan and also submit a Section 61 application under the Control of Pollution Act 1974. This will ensure the methodology for all works is agreed, including the proposed night time works. CoCP compliance will ensure real time noise and vibration monitoring along with a requirement to demonstrate that Best Practical Means are employed during construction.

Noted that secondary glazing and air conditioning (during warmer months) are to be offered to residents that are materially impacted by construction noise from night-time works. Note also that original permission does not include any conditions with regard to potential impacts of noise and/or vibration from the train line on residents in the new development and recommend that an informative is added to provide guidance to the applicant on this issue.

### HIGHWAYS PLANNING MANAGER

No comments from a highways perspective. Note that principle issues are amenity related.

### LONDON UNDERGROUND LIMITED

Confirm that the applicant is in communication with London Underground engineers regarding the development. Therefore have no comment to make on the application, but advise that the applicant should continue to work with London Underground engineers.

### TRANSPORT FOR LONDON

No objection. Note that Finchley Road is part of the Transport for London Road Network (TLRN) and proposal should not affect its performance and safety. Note that London Underground do not object, but comment that the developer should continue to work with London Underground engineers. TfL Property add that the raft over the cutting must be built outside of operational hours of the Metropolitan line. Note the benefits of delivering the approved scheme in terms of housing delivery and state that they understand that the construction techniques and methodology proposed have been designed to minimise disturbance to local residents.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 370.

Total No. of replies: 1.

No. of objections: 1.

No. in support: 0.

Objection raised on the following grounds:

#### Construction Impact

- Anti-social hours of works will cause noise and disturbance at night with further noise and disturbance from St. John's Wood Barracks site during the day.
- Serious risk to neighbouring residents in terms of dust, fumes and sleepless nights.

#### Other Issues

- Loss of daylight and sunlight as a result of the previously approved development.
- Development will block view from properties to the rear of the site.
- Development is for the benefit of the developer.
- Question affordability of affordable housing units.

#### PRESS ADVERTISEMENT/ SITE NOTICE

Yes.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is located on the north east side of Finchley Road at the corner with Queens Grove. Residential blocks neighbour the site to the north east and south east (Pembroke Terrace, Bartonway and Balmoral Court). Queens Grove Court is located on the opposite side of Queens Grove to the north of the site and Aspley House is located on the opposite side of Finchley Road to the west of the site.

The site does not contain any listed buildings and is not in a conservation area, but is visible in views from within the neighbouring St. John's Wood Conservation Area, which is adjacent to the site to the east and west.

Planning permission for the redevelopment of this site by demolition of the existing buildings and erection of a residential building of 6-8 storeys comprising 66 apartments, including 17 affordable units and provision of 64 parking spaces in two basement levels was granted on 6 November 2003 (RN: 02/06302/FULL). This permission was implemented prior to expiry in November 2008 and this was confirmed by the Certificate of Lawfulness issued on 22 January 2014 (RN: 13/09910/CLOPUD). The 2003 permission therefore remains extant and can continue to be implemented at any time. See section 6.2 of the report for the full planning history.

### 6.2 Recent Relevant History

#### (02/06302/FULL)

Planning permission was granted for demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements  
Granted - 2 November 2003

#### 06/07473/ADFULL



Details of hard and soft landscaping scheme pursuant to Condition 10 of planning permission dated 02 November 2003 (RN: 02/06302).  
Granted - 10 October 2006

07/03915/ADFULL

Samples of facing materials and details of typical elevations, boundary treatment, replacement of terracotta rain screen with cast masonry on east elevation and privacy screens pursuant to Conditions 6, 12, 13, 14 and 15 of planning permission dated 6 November 2003 (RN: 02/06302).  
Granted - 13 August 2007

07/07332/ADFULL

Details of tree protection measures pursuant to Condition 11 of planning permission dated 6 November 2003 (RN: 02/06302)  
Granted - 12 October 2007

13/09910/CLOPUD

Certificate of Lawful Proposed Use or Development was issued confirming that the planning permission dated 6 November 2003 (RN: 02/06302/FULL) for demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements was implemented by the carrying out of material operations and that the continued development of the site in accordance with the planning permission at any time is lawful  
Granted - 22 January 2014

## 7. THE PROPOSAL

The current application seek permission to vary Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL); namely to amend the hours during which construction works that can be heard at the boundary of the site can take place. In this case the proposed development includes the enclosure of the existing shallow Metropolitan Line cutting that crosses the north western corner of the site. Works to form the enclosure/ raft over the cutting and adjacent tunnel can only take place outside the operational hours of the railway. The application therefore seeks to vary Condition 2 to allow night time working between 01.00 and 05.00 hours for a non-consecutive period of approximately 67 nights during the overall construction programme.

The applicant has worked with London Underground to seek to address their requirements for construction works to be carried out during Engineering Hours (between 01.00 and 05.00 hours) and have also engaged Ramboll to provide a noise assessment that seeks to identify how noise from the night-time working can be minimised so as to limit the impact on the amenity of neighbouring residents (see this document in full in the Background Papers).

By reviewing and rationalising the construction programme, the applicant has been able to limit the number of nights during which construction work is required to 67, although it is noted that this an estimate and is not a definitive maximum number. A total of 399 days of construction will be required to complete the raft/ enclose the existing railway cutting.

The night- time construction working would be spread though out the build programme and would not be carried out in a single block (see Table 5 and Figure 6 of the Ramboll noise assessment in the Background Papers). No more than 10 nights of working will be carried out over any 15 day period, so as to provide neighbouring occupiers with respite from the construction works.

The applicant's Noise Assessment by Ramboll recommends that mitigation measures are put in place during night-time working. These include the following measures:

- Fixed plant to be located away from noise receptors and surrounded by noise barriers.
- Site hoarding constructed to a significant height with all gaps closed to provide a 5-10dB acoustic screen.
- Temporary sound barriers placed around hand held equipment (to provide 10dB attenuation).
- Works to be undertaken in a specially constructed sound shield comprising an 'A' frame structure delivering an approximate 16dB noise attenuation.
- Community liaison to provide advanced warning of forthcoming works.
- Only modern, quiet and well maintained plant to be used by contractors on site (expected to meet 'Noise Emission in the Environment by Equipment for Use Outdoors Regulations 2001' implementing the EU Directives 2001/14/EC).
- Equipment to be shut down when not in use.
- Engine compartments closed when in use.
- Semi-static equipment sited as far as practicable from occupied buildings and screened.
- Mains electricity to be used where possible rather than on-site generators.
- All site personnel to be briefed on noise reduction measures to be adhered to.
- Minimise vehicle movements at night.
- Regular noise monitoring and monitoring of integrity of noise attenuation measures.
- Robust complaints procedure with complaints to be responded to in 24 hours.
- Provision of noise hotline direct to the site controller for local residents if they feel noise levels are excessive. Site controller to have power to stop any or all works which complaint is investigated.
- Site operatives to meet off site and to be transported to the site in minibuses and held within waiting rooms on the site prior to the night-time working hours to avoid noise disturbance to neighbours prior to the 01.00 hours start of works.
- Vehicle movements at night to be minimised (estimated to be 3-4 per night of working) with plant, machinery and materials deliveries to be undertaken during normal construction hours.

In addition to these site wide measures, the applicant proposes a number of further measures to further mitigate the impact of night-time working:

1. The provision of a four storey acoustic screen adjacent to the side elevation of the closest noise receptor, Pembroke House (see Figure 15 of the Ramboll noise assessment in the background papers).

2. Provision of an undertaking to provide secondary glazing and temporary air conditioning (in summer months when windows cannot be opened without additional noise disturbance being caused) to the nearest noise sensitive properties.
3. Use of self-compacting concrete for some of the construction works (phases W6 and E5 in Ramboll noise assessment in the background papers) to avoid need for compacting.
4. Undertaking to seek to carry out as much of the night-time working in the winter when neighbouring occupiers are less reliant on opening windows for ventilation.
5. The applicant has agreed to the imposition of an additional condition requiring compliance with the Code of Construction Practice adopted in July 2016.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The application does not raise any land use issues as the scope of the application is limited to the hours of construction works.

### **8.2 Townscape and Design**

The application does not raise any townscape or design issues as the scope of the application is limited to the hours of construction works.

### **8.3 Residential Amenity/ Construction Impact**

The key consideration in this case is the impact on the amenity of neighbouring residents during the course of the proposed night-time construction works between 01.00 and 05.00 hours Monday to Friday.

To construct the raft over the cutting/ enclose the underground cutting it is projected that a total of 399 days of construction work will be required. Of these it is estimated that 67 of these days will also involve night-time working. The applicant's Noise Assessment, prepared by Ramboll, sets out the degree of noise impact the night-time construction works would have by assessing the noise impact using the methodology set out in BS 5228: Part 1: 2009.

The applicant has assessed the potential noise levels caused by night-time working as an average over the four hours of proposed night-time working (LAeq,T) and as a maximum noise level (LAmax), which could occur at any time during the night-time working hours, but may occur only once on a given night or not at all on some nights.

In terms of average noise levels over night-time working hours, the applicant's assessment identifies that the adjusted level of significance (set by the British Standard) would only be breached at one receptor, Pembroke Terrace, and would be breached on 17 nights out of the total 67 nights of night-working. It should be noted though that whilst the noise levels as an average over four hours would be below the level of adjusted significance for other for properties in other neighbouring buildings and for Pembroke Terrace on 50 of the 67 nights, this does not mean that construction works would not be

audible. Rather the level of adjusted significance indicates, where it is breached, that the level of noise disturbance would be significant and would be likely to be readily appreciable to occupiers of properties in the affected buildings. The applicant notes that the breach of the adjusted significance criteria at Pembroke Terrace would be limited to be limited to 2dB above the level of adjusted significance.

In terms of maximum noise levels, the night-time construction works would exceed the highest measured maximum noise level from existing sources at Bartonway, Queens Grove Court and Pembroke Terrace. At Queens Grove Court the existing highest maximum noise level would be breached by 2dB on 18 of the 67 nights of night-time working. At Bartonway the maximum noise level from night-time construction works would be 5dB higher than existing maximum noise levels (from traffic noise) for 57 of the 67 nights. At Pembroke Terrace the highest maximum noise levels would exceed the existing highest maximum noise level between 01.00 and 05.00 by approximately 16dB. The applicant notes that the maximum noise level would exceed the existing maximum train noise level by only 6dB; although trains on the Metropolitan Line currently cease running by approximately 01.00 hours.

It is clear from this noise impact data, which includes predicted noise attenuation from standard construction noise attenuation screening, that night-time working will have a material impact on neighbouring residents during the proposed night-time construction period, particularly those in Pembroke Terrace. However, it is evident from the submitted documents that the applicant has achieved significant efficiencies in the construction programme though working with its own project managers and London Underground and that this means the night-time working proposed (approximately 67 nights) is the shortest period possible to enable delivery of the development. Coupled with this, the applicant proposes a wide range of measures to ensure that the impact on neighbouring residents from night-time working is minimised as far as can reasonably be achieved (see Section 7 of this report). These measures include a number of site specific proposals, which go beyond best practice construction methods, which are set out below:

- the provision of a four storey 'non-standard' acoustic screen to the south west of Pembroke Terrace (note that the noise reduction achieved by this screen is not included in the applicant's construction noise impact calculations and this would therefore deliver additional noise attenuation);
- the provision of secondary glazing to windows of flats facing the application site in Pembroke Terrace, Queens Grove Court, Bartonway, Balmoral Court and Aspley House (note the applicant's construction noise impact calculations assume that secondary glazing has not been installed and this would therefore deliver additional noise attenuation) and;
- the provision of temporary air conditioning during summer months (1 April to 31 September) to flats in Pembroke Terrace, Queens Grove Court, Bartonway, Balmoral Court and Aspley House, which have windows facing the application site.

It is recommended that these measures are secured by condition and, in the case of the secondary glazing and air conditioning, via a deed of variation to the S106 agreement dated 6 November 2003. In addition to these measures, by breaking down of the night-time working into shorter periods (i.e. so the 67 days do not run on consecutive weekday nights), it is considered that the applicant has gone as far as reasonably

practicable to minimise the disruptive impact of night-time working. It is therefore recommended that Condition 2 is varied to require the night-time working to be limited to between 01.00 and 05.00 and to require the night-time working to be carried out in accordance with the mitigation measures set out in the Ramboll Noise Assessment.

In addition, the applicant has undertaken to comply with the requirements of the CoCP adopted in July 2017, which they are not obliged to comply with under the conditions and S106 agreement attached to the original 2003 permission. Given the 2003 permission has been lawfully implemented and can continued to be carried out at any time, full compliance with the recently adopted basement development policy (CM28.1 in the City Plan), in terms of the design and extent of the basement, cannot reasonably be required as part of the current application. However, the applicant's undertaking to comply with the CoCP in respect of this major development, which includes a double basement, is welcome and it is recommended that compliance with the CoCP is secured by condition.

Compliance with the CoCP will allow the City Council to have significantly greater control over the construction impact of the development, both during the proposed night-time working hours and during standard daytime working hours than would otherwise be the case. Compliance with the CoCP will require the applicant to agree a Site Environmental Management Plan (SEMP) with the Environmental Inspectorate, as well as ensuring compliance with S61 of the Control of Pollution Act 1974. This approach, which is supported by Environmental Health, would ensure that the developer agrees a detailed methodology for all works (a more detailed methodology than submitted in support of this application), especially in respect of the proposed night-time works. The methodology in the SEMP would include real time noise and vibration monitoring along with demonstrating that a 'Best Practical Means' approach is employed. The CoCP will also ensure that this monitoring by the Environmental Inspectorate throughout the construction period is carried out at the applicant's expense.

In light of the material impact on amenity that the construction works will have in terms of night-time noise from construction, the applicant has drawn attention to the wider public benefits of the scheme; most significantly the provision of a significant quantum of new residential accommodation, including the provision of 17 on-site affordable housing units and, by enclosing the existing open Metropolitan line cutting, the delivery of long term improvements in the local noise environment by eliminating existing noise from this source. The applicant also notes that London Underground are likely to extend the 'night tube' to the Metropolitan Line over the next 5-10 years and this would therefore increase the night-time amenity benefit of enclosing the existing open cutting.

Environmental Health have suggested informatives to draw the applicant's attention to the need to ensure the design of the structure of the building is sufficient to prevent vibration borne noise disturbance to future occupiers of the development and the occupiers of neighbouring buildings. These informatives are included on the draft decision letter appended to this report.

Having regard to the long term public benefit of delivery of the previous approved scheme, which cannot be delivered without night-time working adjacent to and over the Metropolitan Line cutting (see Section 8.4 of this report), as well as the construction noise mitigation measures proposed, it is considered that on balance the variation of the hours of construction works are acceptable in amenity terms given the exceptional site specific

circumstances of that have arisen in this case. As such subject to the recommended mitigation measures, which are to be secured by condition and by legal agreement, the proposal accords in amenity terms with Policy ENV6 in the Unitary Development Plan adopted in January 2007 (the UDP) and Policies S29, S32 and CM28.1 in the City Plan adopted in November 2016 (the City Plan).

#### **8.4 Transportation/ Parking**

Policy 6.3(A) of the London Plan (March 2016) requires that '*Development should not adversely affect safety on the transport network*'. In this case the safety of the transport network (in this case the Metropolitan Line) would be adversely affected if works to raft over/ enclose the existing open cutting were not carried out overnight during Engineering Hours when the railway line is not in operation. This is therefore a significant material consideration when considering the reasonableness of the applicant's request to carry out limited construction works adjacent to and over the cutting overnight between 01.00 and 05.00 hours.

In terms of the construction site at ground level, the proposed construction site would not encroach on Finchley Road (A41) or any other surrounding streets and would utilise an existing crossover at No.12 Finchley Road to form a site entrance. Accordingly, subject to the construction vehicle movements being agreed pursuant to requirements of the Code of Construction Practice (CoCP), the construction works would not cause an obstruction to the Transport for London Road Network (TLRN) or any other local road.

When agreeing construction vehicle/ lorry routes pursuant to the CoCP the applicant will be required to demonstrate that the vehicle movements generated by the construction works on this site would not have a significant adverse cumulative impact on the amenity of neighbouring residents or the local highway network when considered in conjunction with construction vehicle/ lorry movements generated by neighbouring sites. In this case the applicant will need to demonstrate that lorry movements would be coordinated with those generated by the redevelopment of the nearby St. John's Wood Barracks site, should the redevelopment of that site overlap with construction works on the applications site.

The construction phase of the development is therefore not objectionable in transportation terms and would accord with Policies TRANS2 and TRANS3 in the UDP, Policy S41 in the City Plan and Policy 6.3 in the London Plan (March 2016).

#### **8.5 Economic Considerations**

No economic considerations are applicable given the scope of the current S73 application.

#### **8.6 Access**

No alterations to the approved scheme in terms of access are proposed.

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

The objector raises objection in relation to the previously approved development in terms of its daylight and sunlight impact, its impact on private views and the benefits the scheme

will deliver (the affordability of the affordable housing units). Given the previously approved development is extant and can continue to be implemented at any time permission cannot reasonably be withheld on these grounds. In addition the impact of development on private views is not a valid ground for withholding planning permission.

The affordability of the affordable housing units within the development is secured by the S106 agreement accompanying the 2003 permission, which requires the transfer 15 of the 17 affordable units to a Registered Provider prior to the occupation of the market housing units. The recommended deed of variation to this agreement would ensure the continued delivery of the affordable housing units in relation to the S73 permission.

## **8.8 London Plan**

This application does not raise any strategic issues.

## **8.9 National Policy/Guidance Considerations**

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

## **8.10 Planning Obligations**

The planning permission dated 6 November 2003 was granted subject to a S106 agreement to secure the provision of 17 on-site affordable housing units, with 14 car parking spaces for use by the affordable housing units. A deed of variation is proposed to ensure the continued provision of this planning obligation, which is required to address the requirements of Policy H4 in the UDP and Policy S16 in the City Plan.

## **8.11 Environmental Impact Assessment**

The proposal does not necessitate the submission of an Environmental Impact Assessment. Where relevant environmental issues are covered in other sections of this report.

## **8.12 Other Issues**

It is of note that the application has only attracted objection from one neighbouring resident in response to public consultation with 370 neighbouring residents during the course of the current planning application (this includes consultation letters to all residential buildings adjoining or adjacent to the application site).

The applicants have submitted a Statement of Community Involvement with the application and this identifies that the applicants have undertaken significant pre-application consultation with local stakeholders and neighbouring residents in order that they understand the need for night time working and the mitigation measures that the applicants intent to offer. The pre-application consultation exercise included meetings with Councillors, the St. John's Wood Society, City West Homes (who manage neighbouring residential blocks to the rear of the site, a letter drop to 208 local residents and businesses and a public consultation exhibition held on two days in December 2016. The applicants SCI concludes that there was general understanding among residents and stakeholders

that night time working is required in this case to allow works to the London Underground cutting.

## 9. BACKGROUND PAPERS

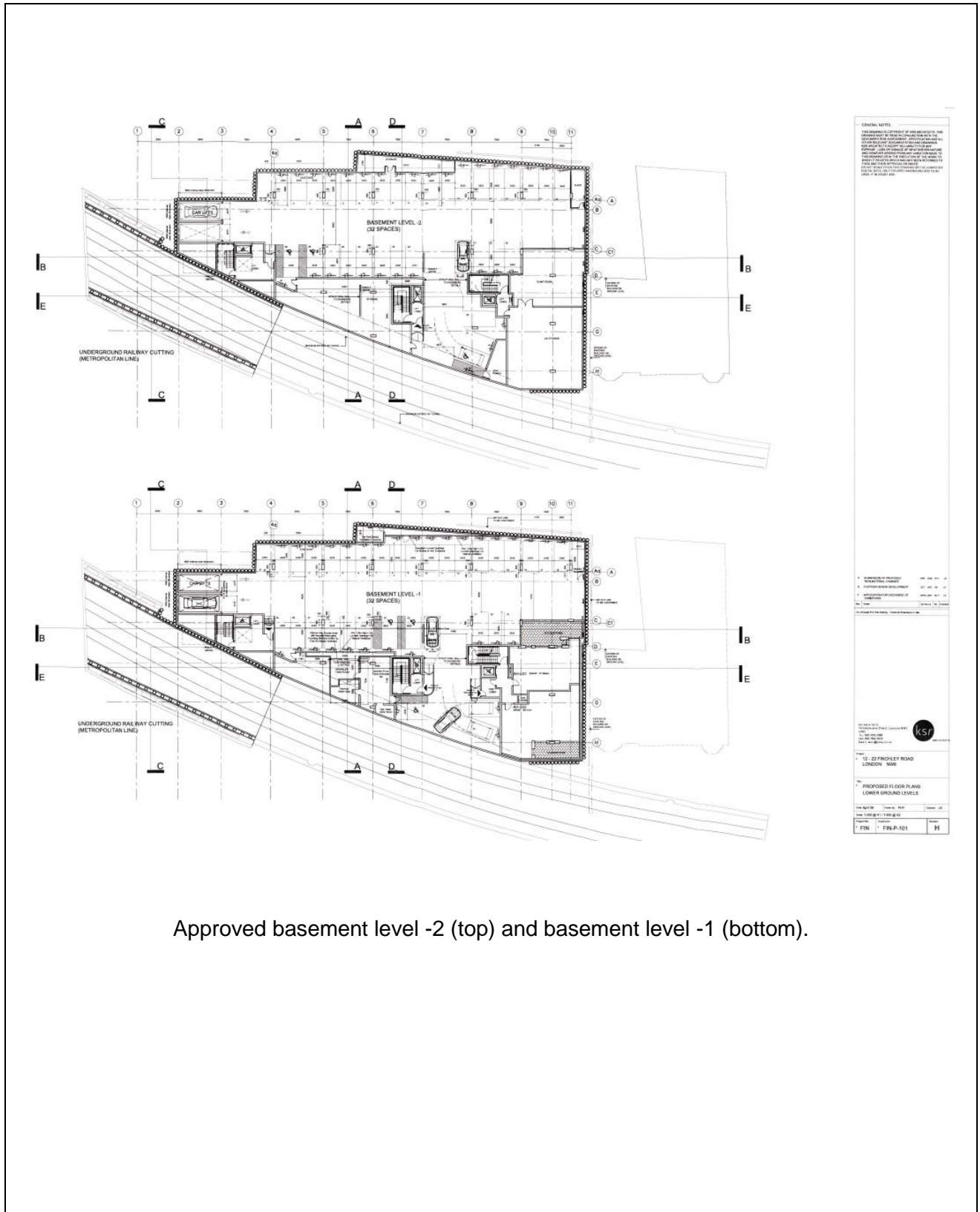
1. Application form.
2. Email from St. John's Wood Society dated 10 April 2017.
3. Response from Environmental Health dated 28 March 2017.
4. Email from London Underground dated 3 April 2017.
5. Emails from Transport for London dated 5 April 2017 and 12 April 2017.
6. Memo from the Highways Planning Manager dated 9 May 2017.
7. Letter from occupier of 13 Bartonway, 27-32 Queens Terrace dated 29 March 2017.
8. Copy of Ramboll Night-time Construction Noise Assessment dated 2 February 2017.
9. Copy of planning permission decision letter dated 6 November 2003.

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

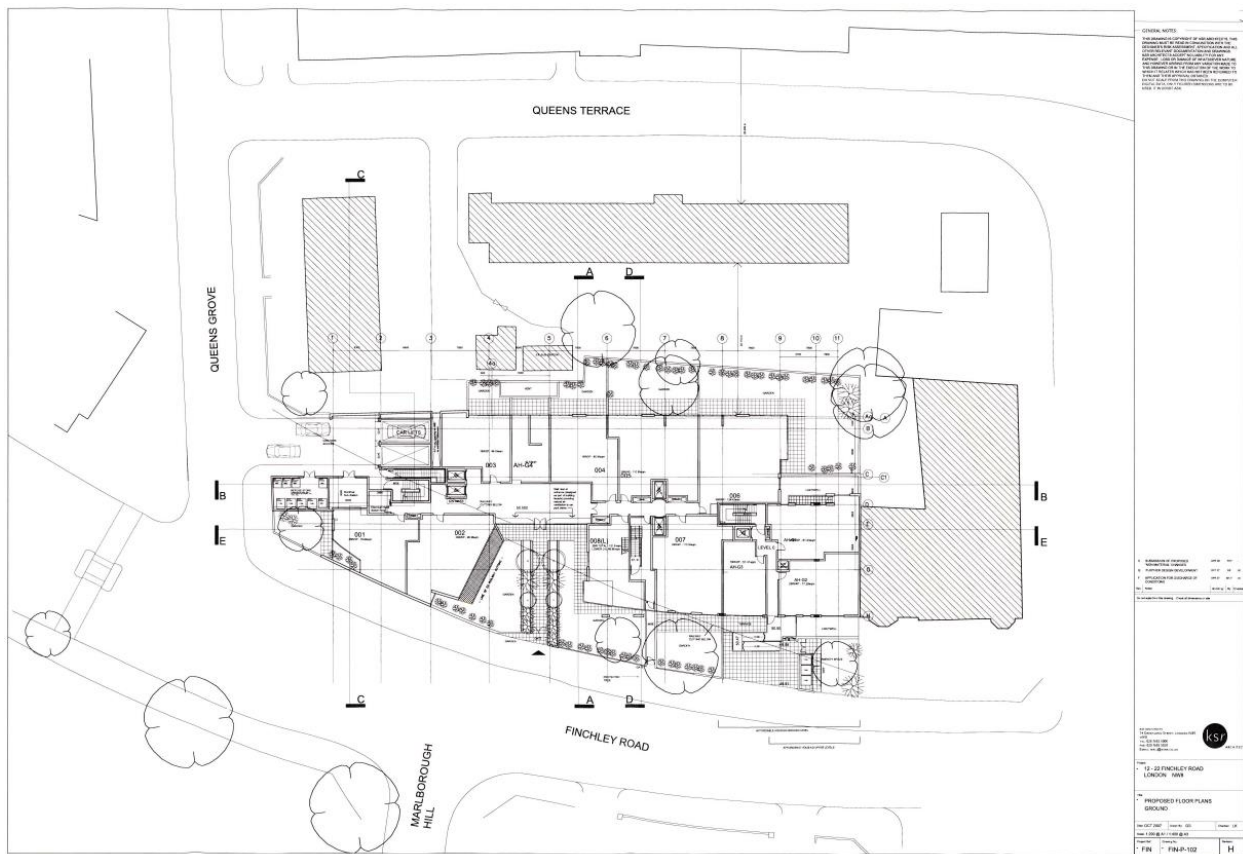
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT [nbarrett@westminster.gov.uk](mailto:nbarrett@westminster.gov.uk).



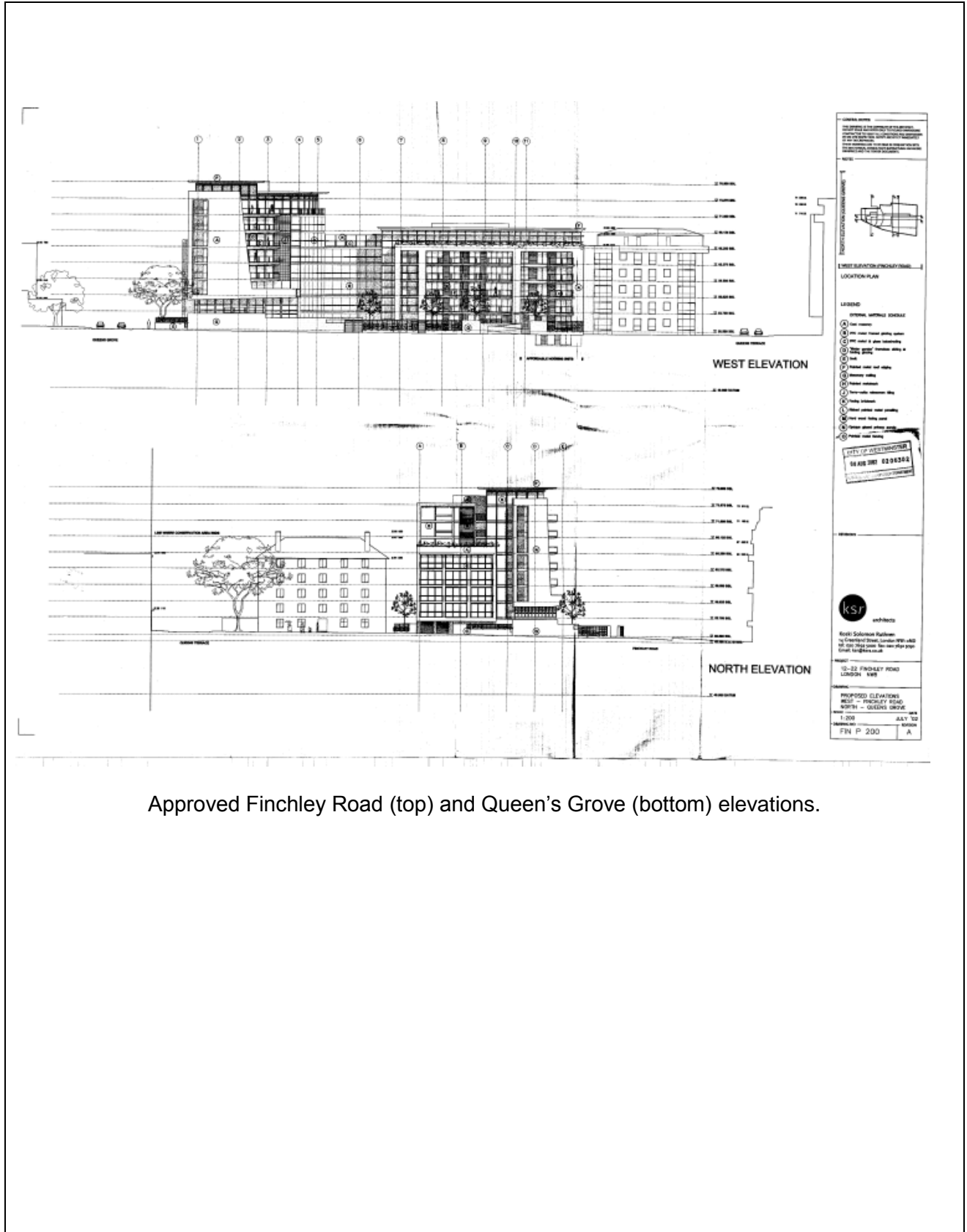
10. KEY DRAWINGS



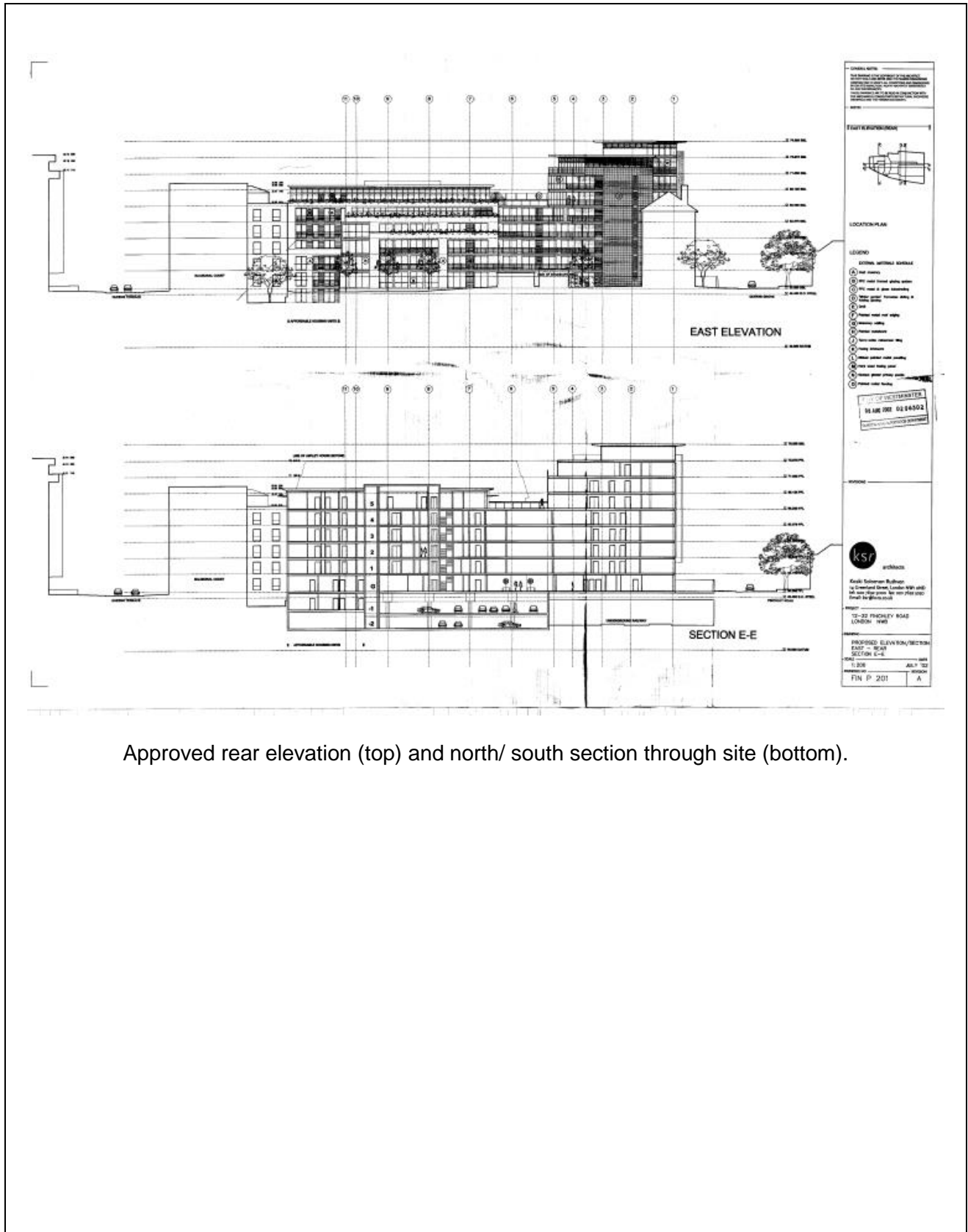
Approved basement level -2 (top) and basement level -1 (bottom).



Approved ground floor plan.



Approved Finchley Road (top) and Queen's Grove (bottom) elevations.



Approved rear elevation (top) and north/ south section through site (bottom).

**STAGE 1**

- HOARDING ERECTION
- SITE DEMO / ACCESS
- DEMOLITION




 BUILDINGS TO BE DEMOLISHED

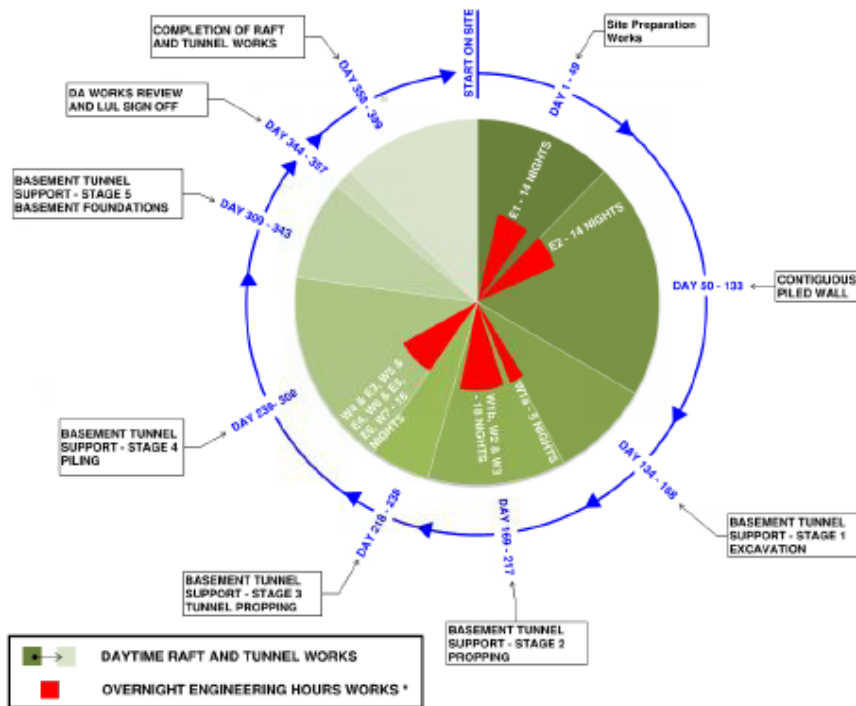
**STAGE 2**

- INSTALLATION OF PILED WALL
- TEMPORARY PROPPING OF TUNNEL WALL
- EXCAVATION
- BASEMENT CONSTRUCTION



 ZONE TO CARRY OUT RAFT WORKS (NIGHT TIME WORKS) AND TRACKSIDE AND TUNNEL EXCAVATION AND/OR PILING (DAY TIME WORKS)

*Figure 3 – Demolition and Construction Sequence Stages 1 & 2*



ENGINEERING HOURS ACTIVITY (1am to 5am)	NO. OF NIGHTS
E1 - Erect hoarding at trackside	14
E2 - Mini piling (trackside)	14
W1 - Re-route trackside services	14
W2 - Construct trackside frame	4
W3 - Construct trackside hoarding	5
W4 & E3 - Install transfer beams	5
W5 & E4 - Install precast deck units	5
W6 & E5 - Cast in place capping slab	1
E6 - Remove hoarding	3
W7 - Remove hoarding and frame	2
<b>TOTAL (A)</b>	<b>67</b>
<b>TOTAL DAYS RAFT &amp; TUNNEL (B)</b>	<b>399 (337**)</b>
<b>PERCENTAGE OF RAFT &amp; TUNNEL (A) AS A PERCENTAGE OF (B)</b>	<b>16.8 %</b>

\*\* Figure in brackets denotes number of working days (Mon-Fri 8am-5pm & Sat 9am-1pm)

*\* no more than 10 nights of works will be carried out over any 15 night period*

*Figure 5 - Construction programme pie chart, night works compared to daytime works.*

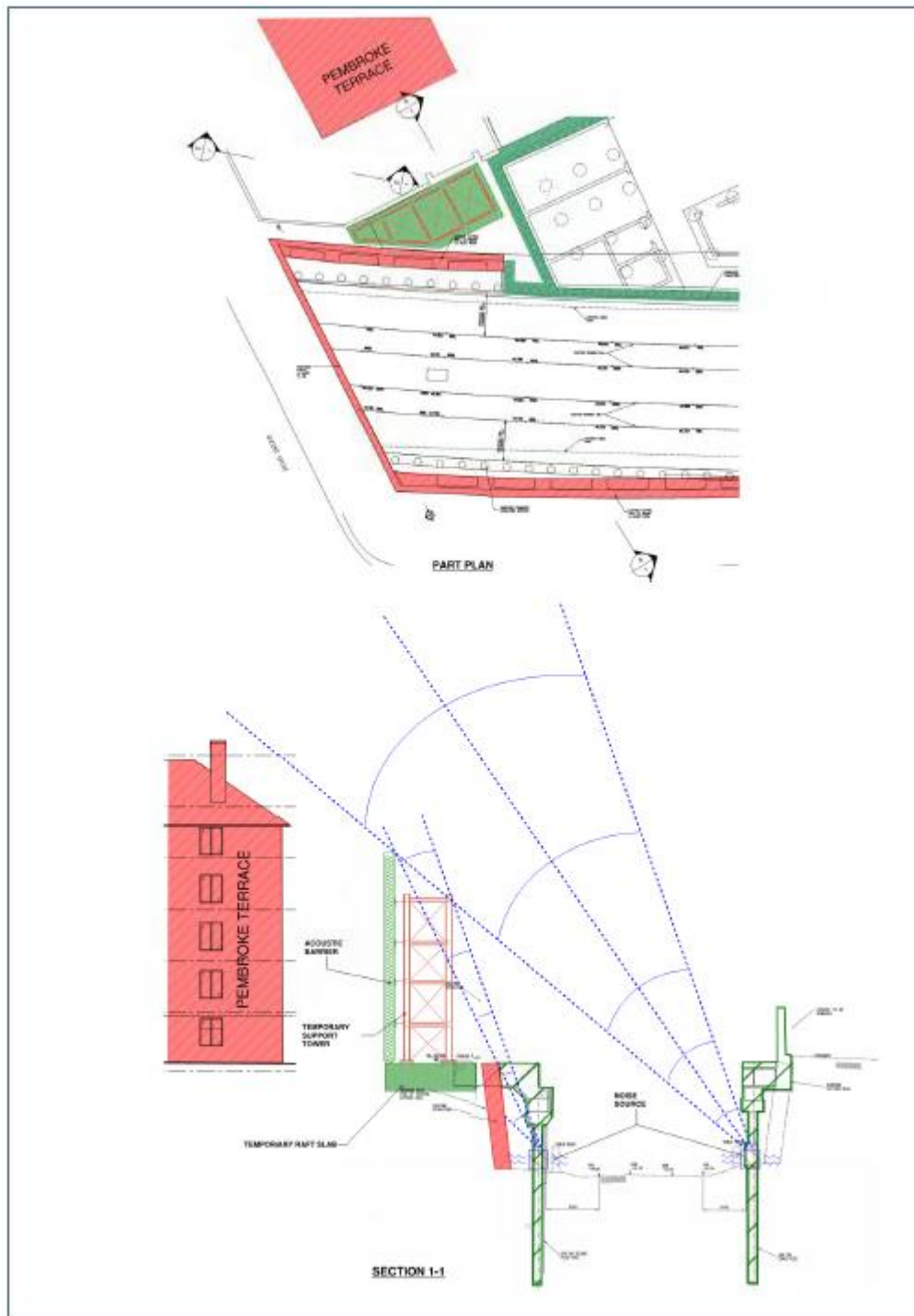


Figure 15 - Temporary Acoustic Screen to Pembroke Terrace

Current Baseline with train events

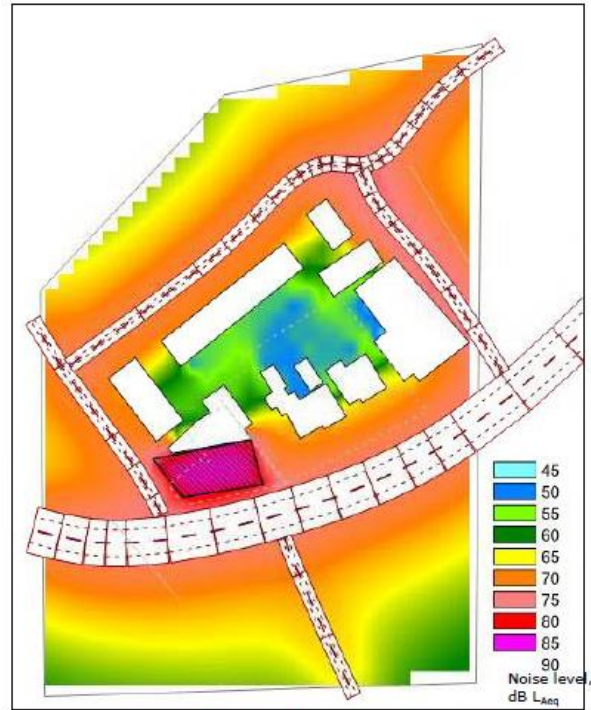


Figure 19 - Noise model, current baseline with train passby.

Proposed completed development

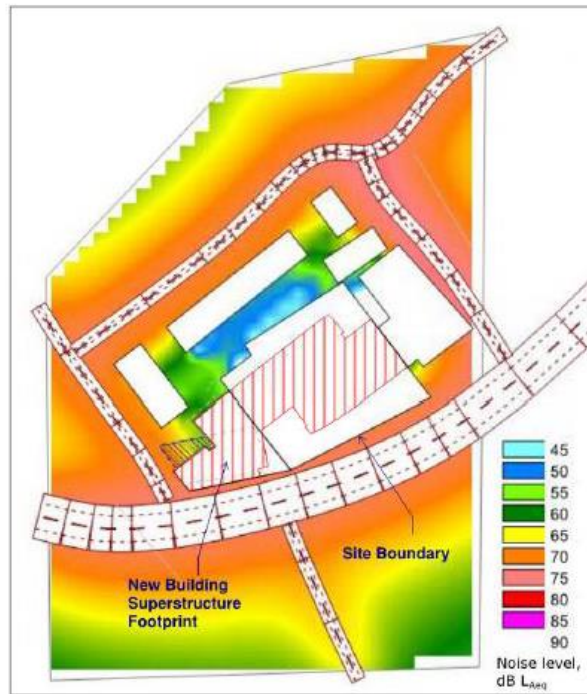


Figure 23 - Proposed development in place.



**DRAFT DECISION LETTER**

**Address:** Development Site At 1 1/2 Queens Grove And, 12-22 Finchley Road, London, NW8 6EB

**Proposal:** Variation of Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL) for the demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements from RN 02/06302/FULL. NAMELY, to vary the hours of construction works that can be heard at the boundary of the site to allow works around the railway cutting to take place between 01.00 and 05.00 hours for a non-consecutive period of approximately 67 nights during the overall construction programme.

**Reference:** 17/00938/FULL

**Plan Nos:** **DRAWINGS ORIGINALLY APPROVED UNDER RN: 02/06302/FULL:** FIN-P-1001A, 002A, 003A, 100A, 102B, 103A, 104A, 105A, 106A, 200A, 201A, 300A, 301A. , , **AS AMENDED/ SUPPLEMENTED BY DRAWINGS AND DOCUMENTS HEREBY APPROVED:** Night-time Construction Noise Assessment by Ramboll dated 3 February 2017, Statement of Community Involvement dated January 2017 and letter from Gerald Eve dated 6 February 2017.

**Case Officer:** Oliver Gibson

**Direct Tel. No.** 020 7641 2680

**Recommended Condition(s) and Reason(s)**

1 You must not use the premises as:

(a) temporary sleeping accommodation as defined in Section 25 of the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015; or

(b) holiday accommodation under either a tenancy agreement or any other form of accommodation contract. (C08AA)

Reason:

To make sure the property provides permanent domestic accommodation as set out in Policy H 2 of the Unitary Development Plan we adopted in January 2007. (R08AA)

2 (A) 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 (except where night working is permitted by part (B));

\* between 08.00 and 13.00 on Saturday; and

\* not at all on Sundays, bank holidays and public holidays.

(B) Building work that endangers the safe operation of the London Underground railway line

around the open cutting or alongside the tunnel, that must take place during the Engineering Hours, may occur between 01.00 and 05.00 Monday to Friday, and may only be undertaken following the implementation of the relevant mitigation measures, as set out in the Ramboll Night Time Noise Assessment dated 3 February 2017, to ensure the noise levels experienced during the Engineering Hours construction period do not exceed the levels as set out in the same report. If alternative mitigation measures are proposed these shall be submitted in writing to us in the form of a Construction Design and Noise Mitigation Assessment and you must not implement the alternative mitigation measures until we approve what you send us.

(C) Any other works must not take place outside the hours set out in (A) and (B) unless we have agreed that there are very special circumstances (for example to meet police traffic restrictions, in an emergency or in the interests of public safety).

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must provide the waste store shown on drawing FIN P102B before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is to be collected. (C14DA)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 4 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 5 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 6 You must apply to us for approval of samples of the facing materials you will use, including

glazing, before you begin any work, unless you carry out the development in accordance with the facing materials that were previously approved on 13 August 2007 (RN: 07/03915/ADFULL). You must then carry out the work according to the details we previously approved or the details we approve pursuant to this condition subsequent to the date of this permission. (C26BA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in DES 5 or DES 6 or both, of our Unitary Development Plan, DES 5 or DES 6 or both, of our Replacement Unitary Development Plan (Second Deposit version), and DES 5 or DES 6 or both, of our Pre-Inquiry Unitary Development Plan. (R26AA)

- 7 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 8 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 9 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 10 Unless you apply to us and we approve an alternative hard and soft landscaping scheme, you must carry out the hard and soft landscaping in accordance with the details we approved on 10 October 2006 (RN: 06/07473/ADFULL). 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 one year of planting them, you must replace them with trees of a similar size and species. (C30CA)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of the area, and to improve its contribution to biodiversity and the local environment. This is as set out in S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30BC)

- 11 Unless you apply to us and we approve alternative tree protection measures, you protect the trees to remain on site as shown on drawing FIN P102B in accordance with the tree protection measures we previously approved on 12 October 2007 (RN: 07/07332/ADFULL). You must implement the approved tree protection measures before any work begins and you must protect the trees throughout all building work, including demolition and site clearance, by using fences or other suitable enclosures. No building activities must take place within the enclosures. (C31AA)

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 12 Unless you carry out the development in accordance with the typical elevations of the development we approved on 13 August 2007 (RN: 07/03915/ADFULL) you must apply to us for approval of detailed drawings of typical elevations of the development at a scale of 1:50 prior to any work on these parts of the development. You must then carry out the work according to the approved detailed drawings

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 13 Unless you carry out the development in accordance with the details of boundary treatments including gates and doors that we approved on 13 August 2007 (RN: 07/03915/ADFULL), you must apply to us for approval of detail drawings of boundary treatments including gates and doors at a scale of 1:50 prior to any work being carried out on these parts of the development. You must then carry out the work according to the approved detailed drawings. (C26DA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 14 Unless you carry out the development in accordance with the amended east elevation approved on 13 August 2007 (RN: 07/03915/ADFULL), you must apply to us for approval of alternative

detailed drawings showing the terracotta rainscreen shown on the east elevation on drawing FIN P201A replaced by cast masonry to match the remaining elevations. If you apply to us for approval of alternative detailed drawings, you must apply to us and we must approve the alternative detailed drawings prior to any works commencing on site above ground floor slab level. You must then complete this part of the development in accordance with the amended east elevation that we approve.

Reason:

In order to ensure a satisfactory development that will not result in any loss of privacy or damage to the environment of neighbouring residential properties. This is in accordance with H10 and ENV13 of the Unitary Development Plan that we adopted in January 2007 and S29 of Westminster's City Plan that we adopted in November 2017.

- 15 Unless you carry out the development in accordance with the details of screening to and between balconies we approved on 13 August 2007 (RN: 07/03915/ADFULL), you must apply to us for approval of alternative detailed drawings showing screening to and between balconies prior to any work being carried out on these parts of the development. You must then carry out the work according to the approved drawings. (C26DA)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in H 10, SC 13, and SC 19 of our Unitary Development Plan, ENV 6 and ENV 12 of our Replacement Unitary Development Plan (Second Deposit version) and ENV 6a and ENV 12 of our Pre-Inquiry Unitary Development Plan. (R21BA)

- 16 (a) Unless and until the 'maximum noise level' and 'measurement location' are fixed under (b), the plant/machinery hereby permitted shall be operated so as to ensure that any noise generated does not exceed the external background noise level (without the plant/machinery hereby permitted operating) at any time outside any residential property (to be referred to as the 'receptor location/s ').

(b) If the 'maximum noise level' and 'measurement location' have been fixed under this condition, the plant hereby permitted shall be operated so as to ensure that any noise generated does not exceed the 'maximum noise level' when measured at the 'measurement location'.

For the purposes of fixing the 'maximum noise level' and the 'measurement location' details of the following noise scheme shall be submitted to and approved in writing by the City Council, namely a scheme including:

- i. A suitable location accessible to the applicant and City Council, close to the plant/machinery hereby permitted, for measuring noise emitted by it (to be referred to as the 'measurement location'); and
- ii. Results of monitoring at the 'measurement location' and 'receptor location/s ' when external background noise levels are at their quietest. The results of the monitoring shall determine the highest noise level (to be referred to as the 'maximum noise level') emitted by the plant/machinery hereby permitted when measured at the 'measurement location' which does not exceed the

external background noise level at any time (without the plant/machinery hereby permitted operating) at the 'receptor location/s '. The results shall be provided as the maximum sound levels over a 5-minute period expressed as L<sub>Amax</sub> L<sub>Aeq</sub> and un-weighted octave band frequency spectra. (C39A)

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 (November 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.

- 17 The development hereby permitted shall be fully implemented in accordance with the approved drawings and shall maintain a minimum distance of 19.6 metres between the new building line to the eastern boundary and the rear building line of 1-24 Bartonway, Queens Terrace, when scaled from the ground floor plan numbered FIN P102 B.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 18 The development hereby approved shall be fully implemented in accordance with the approved plans, including the threshold levels shown on the scaled elevations and sections on approved drawings numbered FIN P300 A, FIN P200A, FIN P201A, FINP 301A.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 19 Prior to further work in addition to those identified in RN: 13/09910/CLOPUD being carried out on site, including any demolition or construction works, the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we

adopted in January 2007. (R11AC)

**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 (November 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 The development shall be of such a standard that internal structural borne noise levels above 35 dB LASmax (day and night) from the Metropolitan Line shall be avoided where practicable. In this context a desirable design shall be 35 dB LASmax and below. A noise level up to 40 dB LASmax is acceptable in this development given the location and land use, but the applicant must demonstrate appropriate steps have been taken to ensure the desirable standard is met until all possible mitigation has been employed and no further reduction is possible. If the design and mitigation of any residential dwellings cannot meet the minimum standard of 40 dB LASmax from underground train noise then such dwellings would be unsuitable for the intended residential use.
- 3 No vibration from the Underground Trains shall be transmitted to adjoining dwellings 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 nighttime as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.
- 4 With reference to condition 19 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). You are urged therefore to give this your early attention.
- 5 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 6 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

- 7 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 8 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 9 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)
- 10 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
  2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).
- This applies to both new and existing residential accommodation. Please see our website for more information: <https://www.westminster.gov.uk/short-term-letting-0>.
- Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).
- 11 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for



demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (150AA)

- 12 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 13 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (154AA)
- 14 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (169AA)

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.

Item No.
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