

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 5 December 2017	<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>	1A Pindock Mews, London, W9 2PY		
<b>Proposal</b>	Excavation of new basement floor beneath the footprint of existing dwellinghouse.		
<b>Agent</b>	The Basement Design Studio		
<b>On behalf of</b>	Ms Annabel Karmel		
<b>Registered Number</b>	17/03229/FULL	<b>Date amended/ completed</b>	30 August 2017
<b>Date Application Received</b>	12 April 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Maida Vale		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application site is a three storey mews property located on the north side of the mews close to its junction with Warwick Avenue. The building is in use as a single family dwellinghouse. The building is located within the Maida Vale Conservation Area.

Permission is sought for the excavation of a basement below the existing footprint of the building in connection with the existing dwellinghouse. The extent of the basement to the rear has been reduced during the course of the application to set the basement in from the rear wall of the existing property by one metre to address the initial concerns raised by neighbours and the Arboricultural Manager regarding the impact of the development on the roots of adjacent trees in the communal garden to the rear of properties in Sutherland Avenue.

The key issues in this case are:

- The impact on the appearance of the building and the character and appearance of the Maida Vale Conservation Area.
- The impact on the amenity of neighbouring residents.

- The impact on the health and longevity of neighbouring trees.

Eight emails/ letters have been received principally raising objection on grounds of noise and disruption during construction works and on the potential risk to trees in the adjacent communal garden.

Following amendment to the extent of the proposed basement and subject to the recommended conditions set out in the draft decision letter, the proposed development is considered to accord with the relevant policies Unitary Development Plan adopted in January 2007 (UDP) and Westminster's City Plan adopted in November 2016 (the City Plan). Therefore, it is recommended that planning permission is granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Front elevation.

## 5. CONSULTATIONS

### PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

No objection.

### ENVIRONMENTAL HEALTH

Any response to be reported verbally.

### BUILDING CONTROL

No objection.

### ARBORICULTURAL OFFICER

No objection to revised proposal involving a reduced sized basement with the wall nearest the tree to the rear moved further back from the tree. Conditions recommended.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 48.

Total No. of replies: 10.

No. of objections: 8.

No. in support: 0.

10 emails received from 8 respondents raising objections on all or some of the following grounds:

#### Tree Impact

- Risk of harm to TPO trees in adjacent communal garden because of excavation close to root system.
- The works should not involve encroachment or disruption to the communal Garden adjacent.
- Ask that the Council's arboriculturalist visits the communal garden to rear of properties in Sutherland Avenue to assess impact on trees in this garden.

#### Construction Impact

- Disruption during construction including noise from heavy machinery.
- Blocking of narrow street by vehicles and hoarding.
- Blocking emergency vehicles.
- Danger to pedestrians.
- This is the third application in a small street in the last 18 months.

#### Other

- Documents not available to be assessed.
- Notice of application not sent to management company for communal garden.

### ADVERTISEMENT/ SITE NOTICE

Yes.

## 6. BACKGROUND INFORMATION

## 6.1 The Application Site

The application site comprises a three storey mews property located on the north side of the mews adjacent the entrance from Warwick Avenue. The property is in use as a single family dwellinghouse. The building is located within the Maida Vale Conservation Area. The property has no garden and the building occupies the entire site.

The rear wall of the property backs directly onto the communal gardens serving the mansion block of flats at Nos.115-137 Sutherland Avenue. Within the communal garden there are a number of mature trees, a number of which are subject to Tree Preservation Orders (TPOs) and all of which are located within the Maida Vale Conservation Area.

## 6.2 Recent Relevant History

### 03/05636/FULL

Erection of a mansard roof extension and change of use of the ground floor from light industrial to create a single family dwelling house.

Application Refused                      24 September 2003

An appeal against the above decision was allowed on 25 May 2004.

### 05/06772/FULL

Alterations during the course of construction to the planning permission granted on appeal dated 25 May 2004 (RN: 03/05636/FULL) for a mansard roof extension and change of use of the ground floor to create a single family dwelling ; namely to increase the height of the permitted mansard by 325mm.

Application Permitted                      5 October 2005

## 7. THE PROPOSAL

Permission is sought for the excavation of a new basement floor below the existing footprint of the building to enlarge the existing dwellinghouse. The proposal has been amended during the course of the application to reduce the extent of the proposed basement to the rear so that it is set in from the rear wall of the existing property by one metre. This is to address the initial concerns raised by neighbours and the Arboricultural Manager regarding the impact of the development on the roots of adjacent trees in the communal garden to the rear of the application site, which serves the occupiers of Nos.115-137 Sutherland Avenue.

The City Council made an Article 4 Direction in 2016 to remove permitted development rights for basement development throughout the City. The Article 4 Direction was confirmed on 4 July 2016, and the direction came into force on 31 July 2016. Therefore, despite being confined to below the existing building only, the proposed basement does require planning permission and is not permitted development.

## 8. DETAILED CONSIDERATIONS

## **8.1 Land Use**

Policy H3 in the UDP and Policy S14 in the City Plan support the delivery of additional residential floorspace throughout the City. As such, the proposed development, which would enlarge the existing dwellinghouse, is in accordance with these policies.

## **8.2 Townscape and Design**

The development is contained entirely below the existing building with no external manifestations. As such, the exterior of the building will not be altered from its existing appearance and therefore it is not considered the works would cause harm to the appearance of the building or the character and appearance of the Maida Vale Conservation area. Therefore in design terms the proposed development is considered to be acceptable and in accordance with Policies DES1, DES 5 and DES 9 in the UDP and Policies S25, S28 and CM28.1 in the City Plan.

## **8.3 Residential Amenity**

The development is contained entirely below ground with no external manifestations. The additional floorspace would provide a cinema, utility room, bedroom and bathroom with an extension to the existing internal atrium to basement level in connection with the single family dwelling house. As such, it is not considered that the development, once completed, would have an adverse impact on the amenity of neighbours and the proposals are in accordance with Policy ENV13 in the UDP and Policy S29 in the City Plan.

## **8.4 Transportation/ Parking**

When completed the proposed development would not raise any significant transportation or parking issues. The existing garage at ground level is to be retained.

## **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size.

## **8.6 Access**

The proposal would not result in any changes to the existing access arrangements to this private dwellinghouse.

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

### **8.7.1 Basement Development Overview**

Policy CM28.1 of the City Plan places controls on basement development within the City so that the impact of basement development is suitably controlled in all regards. This section of the report considers the acceptability of the proposed basement relative to the requirements of this policy.

The applicant has submitted detailed evidence demonstrating that site specific ground conditions, drainage and water environments in the area have been investigated and taken into account when compiling the structural method statement.

### **8.7.2 Structural Impact**

The structural methodology submitted in relation to the basement excavation proposed has been assessed by Building Control who have advised that they see no cause for concern and have raised no objection to the method of excavation given the ground conditions that have been identified in this location. Accordingly, the requirements of CM28.1 in respect of the structural impact of the basement development have been met.

### **8.7.3 Construction Management**

In terms of construction management, Proforma Appendix A has been submitted, demonstrating the applicant will comply with all relevant parts of the Code of Construction Practice (CoCP). This is a compulsory requirement for all basement applications in Westminster following the adoption of the CoCP at the end of July 2016. The objections received on the grounds of congestion, noise, emergency vehicle access and safety throughout the period of the construction works will be adequately mitigated by compliance with the CoCP, which will include monitoring of the construction site by the City Council's Environmental Inspectorate. The impact on the highway outside the site can be adequately controlled by the licensing of any structures or other items, such as skips, that may need to be placed on public highway land. In this context and given the agreement to comply with the CoCP, permission could not reasonably be withheld on construction impact grounds, despite the objections that have been raised.

### **8.7.4 Arboricultural Impact**

There are a number of trees which are protected by Tree Preservation Orders (TPO's) located in the communal garden to the rear of Nos.115-137 Sutherland Avenue, which is directly behind the application site. A large Plane tree which is subject to a TPO is of particular concern and is located less than 1.5 metres from the rear of the application property.

A number of objections to the originally submitted proposal were received from neighbours in relation to the risk that the excavation of the basement would damage the roots of protected trees in the communal garden. Objectors also noted that an arboricultural report was not initially submitted with the application. Subsequently a report has been submitted and the Arboricultural Manager has visited the garden to inspect the trees adjacent to the application site. On-site inspection indicated that some roots of a London Plane tree are growing beneath the foundations of the application premises. As a result, the Arboricultural Manager recommended that the proposed basement should be set back from the rear elevation of the existing building so that the outer extent of the excavation would be set back one metre from the outer edge of the foundations existing foundations. This would create a 'buffer zone' between the basement excavation and the significant roots observed in the trial excavation, and limit the risk of their loss or harm to them. In response to this request the applicant has amended the scheme accordingly and in light of this amendment and a condition to secure further details of tree protection measures to be implemented during the course



of construction, the Arboricultural Manager is content that the scheme is now acceptable in terms of its impact on adjacent trees within the communal garden.

#### **8.7.5 Basement Extent and Design**

The proposed excavation is solely beneath the existing building, which has no garden space, and as such no details of landscaping are required.

The basement is limited to a single storey with a floor to ceiling height of less than 2.7 metres and as the proposed basement is limited to below the existing building only, it is compliant with Part C of Policy CM28.1 in the City Plan.

In terms of Part D, the proposed basement does not extend under the highway and therefore this part of the policy is not applicable.

In conclusion, subject to a condition to secure compliance with the CoCP, the proposed basement is considered to be compliant with Policy CM28.1 in the City Plan and the Supplementary Planning Guidance document 'Basement Development in Westminster' (2014).

#### **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**

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

#### **8.11 Environmental Impact Assessment**

The application is of insufficient scale to require an Environmental Impact Assessment. Where relevant environmental impact considerations have been considered in Section 8.7 of the report.

#### **8.12 Other Issues**

Objections have been received on the grounds of disruption being caused to neighbours during excavation, including noise from heavy machinery, blocking of narrow street by vehicles and hoardings and danger to pedestrians. A condition is recommended to limit the hours of construction works and, as set out in Section 8.7.3, to require compliance with the City Council's Code of Construction Practice. Subject to these conditions it is not considered that permission could be withheld on these grounds.

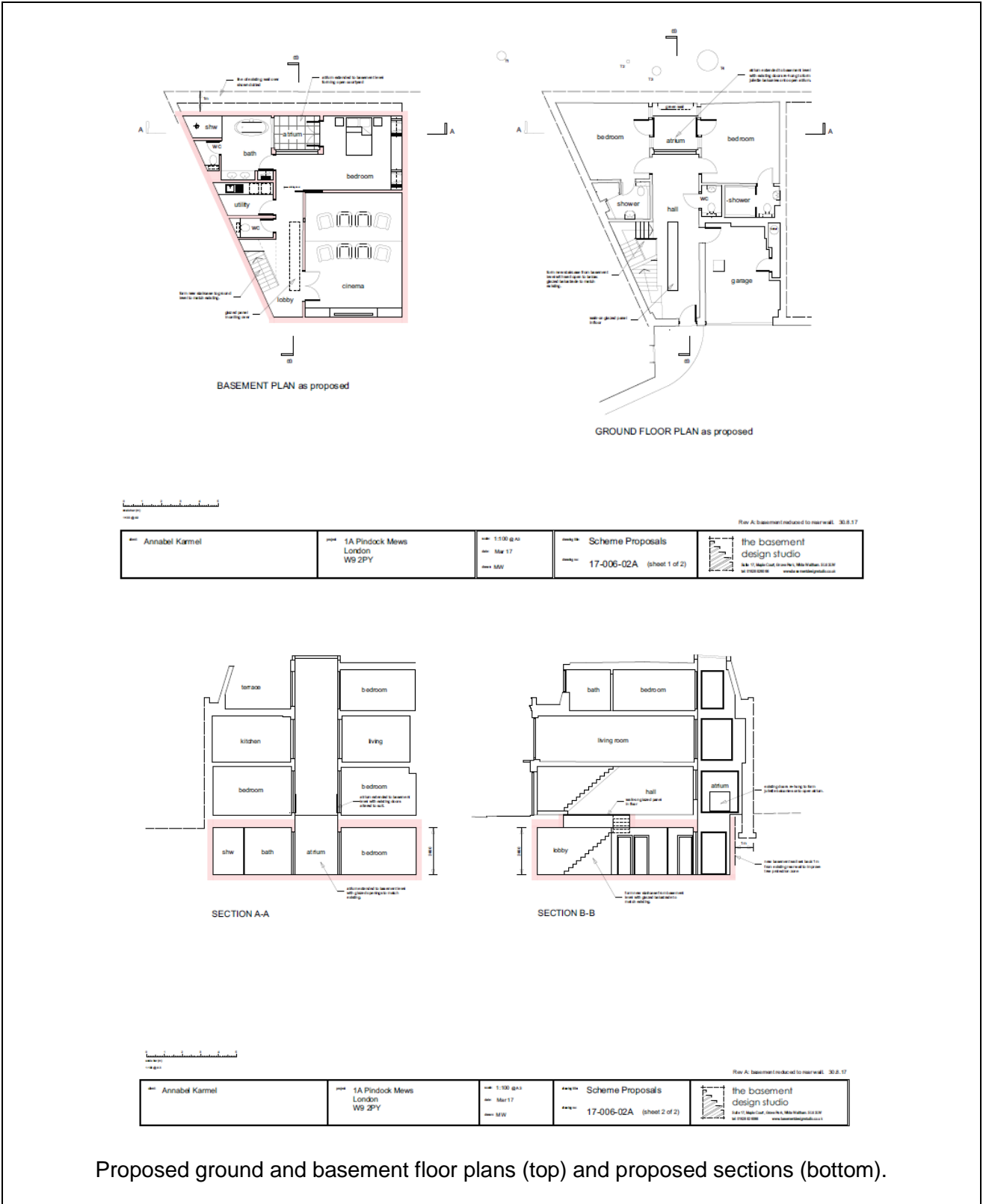
## 9. BACKGROUND PAPERS

1. Application form.
2. Email from Paddington Waterways and Maida Vale Society dated 4 May 2017.
3. Email from Building Control dated 17 May 2017.
4. Memos from the Arboricultural Manager dated 18 July 2017, 14 August 2017, 18 August 2017 and 17 November 2017.
5. Email from the occupier of 1 Pindock Mews dated 28 May 2017
6. Letters from the occupier of Flat 1, 133 Sutherland Avenue dated 29 May 2017, 31 May 2017 and 9 July 2017.
7. Email from occupier of Flat 2, 121 Sutherland Avenue dated 30 May 2017.
8. Letter from occupier of 123A Sutherland Avenue dated 31 May 2017.
9. Letter from occupier of 135, Sutherland Avenue dated 31 May 2017.
10. Letter from occupier of Flat 3, 125 Sutherland Avenue dated 31 May 2017.
11. Letter from occupier of Flat 3, 123 Sutherland Avenue dated 1 June 2017.
12. Letter from occupier of The Cottage, 19 Pindock Mews dated 24 June 2017.

(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: OLIVER GIBSON BY EMAIL AT [ogibson@westminster.gov.uk](mailto:ogibson@westminster.gov.uk).

10. KEY DRAWINGS



Proposed ground and basement floor plans (top) and proposed sections (bottom).

**DRAFT DECISION LETTER**

**Address:** 1A Pindock Mews, London, W9 2PY,

**Proposal:** Excavation of new basement floor beneath the footprint of existing dwellinghouse.

**Plan Nos:** 17-006-01 (sheet 1); 17-006-01 (sheet 2); 17-006-01 (sheet 3); 17-006-02A(Sheet 1); 17-006-02A(Sheet 2); Design and Access Statement; Flood Risk Assessment; Subterranean Structural Statement (for information only); Structural Statement dated 6th September 2017 (for information only); Email from Mike Wiseman dated 14th September 2017; Photo Sheet; SUDs Statement; Environmental Performance Statement; Tree Statement.

**Case Officer:** Richard Langston

**Direct Tel. No.** 020 7641 7923

**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 piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

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 Prior to the commencement of any demolition or construction on site 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.

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)

- 4 **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 the trees and the character and appearance of this part of the Maida Vale Conservation Area. This is as set out in S25, S28 and S38 of Westminster's City Plan (November 2016) 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. (R31DC)

- 5 The basement excavation at the rear must be carried out from within the building footprint and must not extend beyond the rear building line marked in pink on drawing 17-006-02A(sheet 1).

Reason:

To protect the trees and the character and appearance of this part of the Maida Vale Conservation Area. This is as set out in S25, S28 and S38 of Westminster's City Plan (November 2016) 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. (R31DC)

#### **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 When you apply to us for approval under Condition 4 you must include a methodology to carry out initial excavations of the basement footprint where it is closest to the trees to the rear, a) by

hand and b) under arboricultural supervision. You must include details of precautions which will be taken to prevent soil slippage along this part of the excavation. You must also include a schedule of arboricultural supervision, with provision to report back to the LPA within 5 days following each visit.

- 3 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.
- 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 With reference to condition 3 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). These documents must be sent to [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk).

Appendix A or B must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition.

You are urged to give this your early attention

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.