

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 6 November 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	34 Cato Street, London, W1H 5HS		
<b>Proposal</b>	Excavation of a single storey basement level in order to enlarge existing residential maisonette over ground and first floor levels (Class C3).		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	Mr Chris Attey		
<b>Registered Number</b>	18/04721/FULL	<b>Date amended/ completed</b>	11 June 2018
<b>Date Application Received</b>	6 June 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Molyneux Street		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

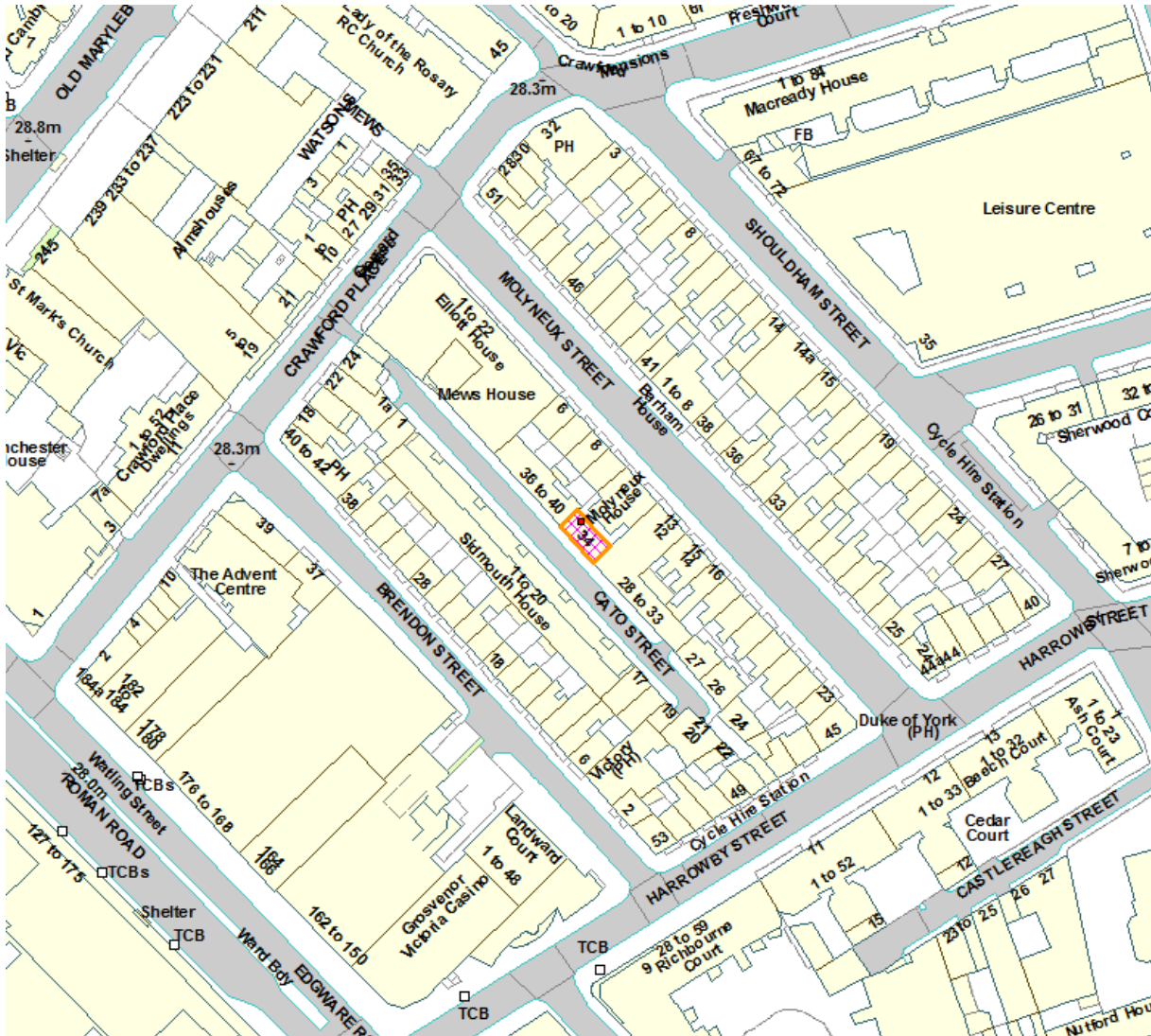
The application site comprises an unlisted building in use as three flats. The site is located within the Molyneux Street Conservation Area and is surrounded by residential properties. Permission is sought to excavate a new basement floor beneath the footprint of the building in order to enlarge the existing residential maisonette over part ground and first floor levels. Once complete, there will be no visible manifestation of the proposed basement.

The key issues for consideration are:

- Whether the quality of the enlarged residential unit is acceptable.
- Whether the proposed subterranean development complies with the basement policy.
- Whether the applicant has committed to complying with the Code of Construction Practice (CoCP) in order to ensure that the disruption during the course of construction for neighbouring residents is minimised.

The proposed works are considered acceptable in land use, design and heritage terms and in terms of policy as set out in the Westminster City Plan (November 2016) and Unitary Development Plan (2007) policies, as well as national policy in the National Planning Policy Framework (2018).

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### MARYLEBONE ASSOCIATION:

Any response to be reported verbally.

### HARROWBY AND DISTRICT RESIDENTS' ASSOCIATION:

This type of development causes significant disturbance to the residents within this densely populated area and is out of character with the conservation area.

### BUILDING CONTROL:

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 49

Total No. of replies: Five letters of objections from the occupiers of four properties.

No. of objections: 5

No. in support: 0

Objecting on the following grounds:

- Cumulative noise and disruption caused by building works in the area.
- Impact of construction works on vulnerable residents adjacent to the site.
- Does not support any work that involves underpinning party walls.
- Structural concerns.
- Lack of policy justification for extending the existing maisonette through the creation of a basement. The basement rooms will not have adequate daylight to be habitable rooms and therefore appear to be superfluous ancillary rooms.
- The proposed new basement windows to the rear rely on a neighbouring site for daylight.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises an unlisted building located within the Molyneux Street Conservation Area and the Central Activities Zone (CAZ).

The Grade II listed Nos. 6-9 Molyneux Street are located to the north of the application site but do not have a contiguous boundary with the application site.

The building is in use as an integral garage at ground floor level, a two-bed flat over part ground and first floor levels, a one-bedroom flat at second floor level, and a two-bedroom flat at third floor level.

The buildings surrounding the site are all in residential use. The site at the corner of Molyneux Street and Crawford Place (the former Elliott House) is currently being redeveloped to provide 32 x flats and is nearing completion.

Cato Street has vehicular access from the north-west from Crawford Place. Access to Cato Street from the south-eastern end from Harrowby Street is limited to pedestrians.

The site is not within a flood risk zone, either from fluvial or surface water flooding. The site not located within an Archaeological Priority Area. Finally, the site is not located above any subterranean infrastructure or within a safeguarding zone for potential future subterranean infrastructure.

## **6.2 Recent Relevant History**

Permission was granted on 22 December 1972 for the redevelopment of the site of Nos. 34 and 35 Cato Street by the erection of a four-storey building for use as two self-contained flats and one self-contained maisonette.

It is understood that the building was at some point converted into a single family dwellinghouse. On 3 November 2006, permission was granted to convert the building into a two bed maisonette and 2 x one-bed flats (Ref: 06/07697/FULL).

## **7. THE PROPOSAL**

The application proposes excavating beneath the footprint of the building to provide a new basement storey in order to enlarge the existing maisonette over part ground and first floor levels. An addition 46 sq.m of additional residential floorspace is proposed. No alterations to the front or rear facade of the building are proposed.

The applicant has declared that notice of the application has been served upon all owners of adjoining properties that have an ownership interest in parties walls that are proposed to be underpinned. The applicant has also confirmed that none of the flats within the building are owned by parties other than the applicant. This meets the applicant's statutory requirements in terms of notifying owners of the land to which the application relates.

It was originally proposed to insert three slot windows within the rear elevation to provide some limited natural light to this new basement. This part of the proposal has now been omitted following concern from officers that: (i) The windows wholly relied on light from the courtyard of Molyneux House which is outside the applicant's ownership and therefore these windows could potentially prejudice future development opportunities in this neighbouring site; and (ii) Even if fixed shut and fitted with obscure glass, lightspill from these windows would have caused an unacceptable loss of amenity for the residents living within Molyneux House. One of the grounds for objection by local residents is therefore no longer relevant.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

Proposals for extensions to existing housing and the provision of additional residential floorspace are acceptable in principle, in accordance with UDP Policy H3(E) and City Plan Policy S14.

The existing residential unit comprises 68 sq.m (GIA) and is made up of double bedroom (14.0 sq.m) and WC at ground floor level and a living room, dining room, sub-standard single bedroom (6.0 sq.m) and kitchen at first floor level. The floorspace of the unit falls slightly short of the minimum space standard of 70 sq.m (GIA) for a new two-bed, three-person maisonettes, as set out within Policy 3.5 of the London Plan (2016).

This proposal would increase the size of the residential unit by 46 sq.m (GIA) so that it would be 114 sq.m (GIA) in size. Although the eventual internal layout of the enlarged unit is indicative, the applicant envisages that the residential unit will be retained as a two-bedroom flat. The kitchen is envisaged to be relocated from first floor level to the proposed new basement. A larger bedroom that meets minimum size standards and additional bathroom are envisaged to replace the first floor kitchen. The sub-standard bedroom is shown to be replaced by a study.

The new basement will have no natural light or ventilation. The majority of the floorspace of the flat, however, will be above ground. This, combined with its enlargement so that it now meets minimum size standards for new dwellings, means that the enlarged dwelling when taken as a whole is considered to provide an acceptable standard of residential accommodation, in accordance with City Plan Policy S29.

Issues such as ensuring that there is an adequate means of escape from the new basement will be dealt with under the Building Regulations and are outside the scope of planning control.

## **8.2 Townscape and Design**

There will be no external manifestation of the new basement and therefore the proposal will preserve the character and appearance of the Molyneux Street Conservation Area.

## **8.3 Residential Amenity**

Once constructed, the new basement will have no impact upon residential amenity and is therefore acceptable in this respect. The potential disruption during the course of construction is discussed within Section 8.13 of this report.

## **8.4 Transportation/Parking**

No additional residential units are proposed and therefore the proposed development raises no material transportation issues.

## **8.5 Economic Considerations**

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

## **8.6 Access**

Access to the site will remain unchanged.

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

None.

### **8.8 Neighbourhood Plans**

A Neighbourhood Plan has not yet been submitted for the area in which this site is located.

### **8.9 London Plan**

This application raises no strategic issues.

### **8.10 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.

### **8.11 Planning Obligations**

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

### **8.12 Environmental Impact Assessment**

The proposal is of insufficient scale to require an Environmental Impact Assessment.

### **8.13 Other Issues**

#### **Basement**

City Plan Policy CM28.1 requires the submission of a structural methodology statement in relation to the proposed excavation works, together with a signed proforma Appendix A which demonstrates that the applicant will comply with the relevant parts of the council's CoCP. The applicant has complied with both of these requirements.

The method of excavation has been considered by Building Control officers who advise that an investigation of existing structures and geology has been undertaken and found to be of sufficient detail. The existence of groundwater, including underground rivers, has been researched and the likelihood of local flooding or adverse effects on the water table has been found to be negligible.

The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

We are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course. It is considered that this is far as we can reasonably take this matter under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations. To go further would be to act beyond the bounds of planning control.

In terms of the size and depth of the proposed basement, this is fully compliant with City Plan Policy CM28.1. It will not involve the excavation of more than one storey below the lowest original floor level and the floor-to-ceiling height meets the usual expectation set out within the supporting text to the basement policy.

The fact that the proposed basement will be located entirely beneath the existing building means that there is no requirement to incorporate landscaping and / or permeable surfacing. Finally, there are no trees in the vicinity of the site that will be affected by the proposed excavation.

### **Code of Construction Practice**

A condition is recommended to ensure that the development complies with the CoCP, which will require the developer to provide a Construction Management Plan (CMP) and funding for the Environmental Inspectorate to monitor the construction phase of the development. The applicant has agreed to the imposition of this pre-commencement condition.

The CoCP sets out the minimum standards and procedures for managing and minimising the environmental impacts of construction projects within Westminster. The key issues to address as part of the CoCP and production of a CMP are liaison with the public, general requirements relating to the site environment, traffic and highways matters, noise and vibration, dust and air quality, waste management and flood control. Subject to conditions limiting the hours of work in relation to the proposed excavation works and requiring the applicant to adhere to the council's CoCP, the proposed basement extension complies with the requirements of Policy CM28.1 through ensuring that the disruption to local residents is minimised. Whilst the concerns from local residents in terms of the disruption during the course of construction are noted, this does not represent a sustainable ground for refusing the application in light of the mitigation secured through the CoCP.

### **Archaeology**

The site is located outside of an Archaeological Priority Area. This, together with the modest scale of development, means that there is a negligible risk to heritage assets of archaeological interest. It is therefore not considered to be necessary to impose conditions securing a written scheme of investigation for a programme of archaeological work and recording of any findings.

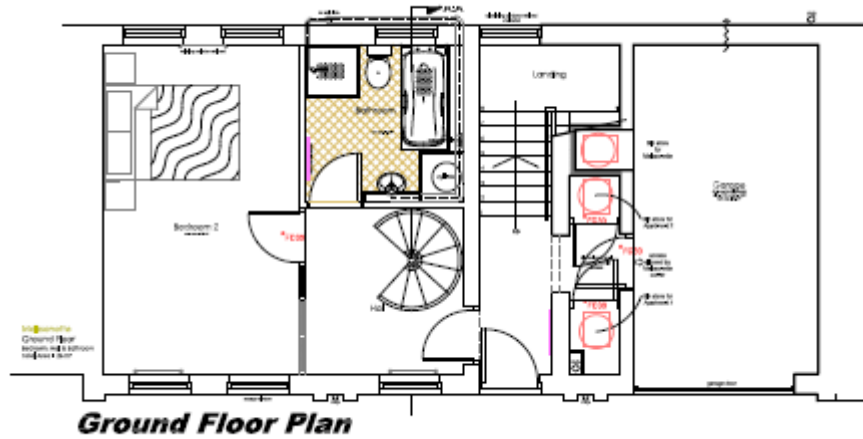


(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

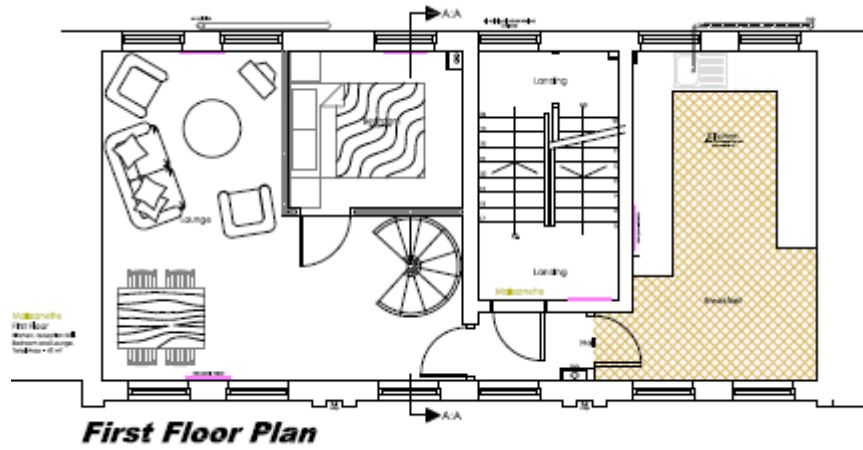
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT <a href="mailto:mhollington2@westminster.gov.uk">mhollington2@westminster.gov.uk</a>
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9. KEY DRAWINGS

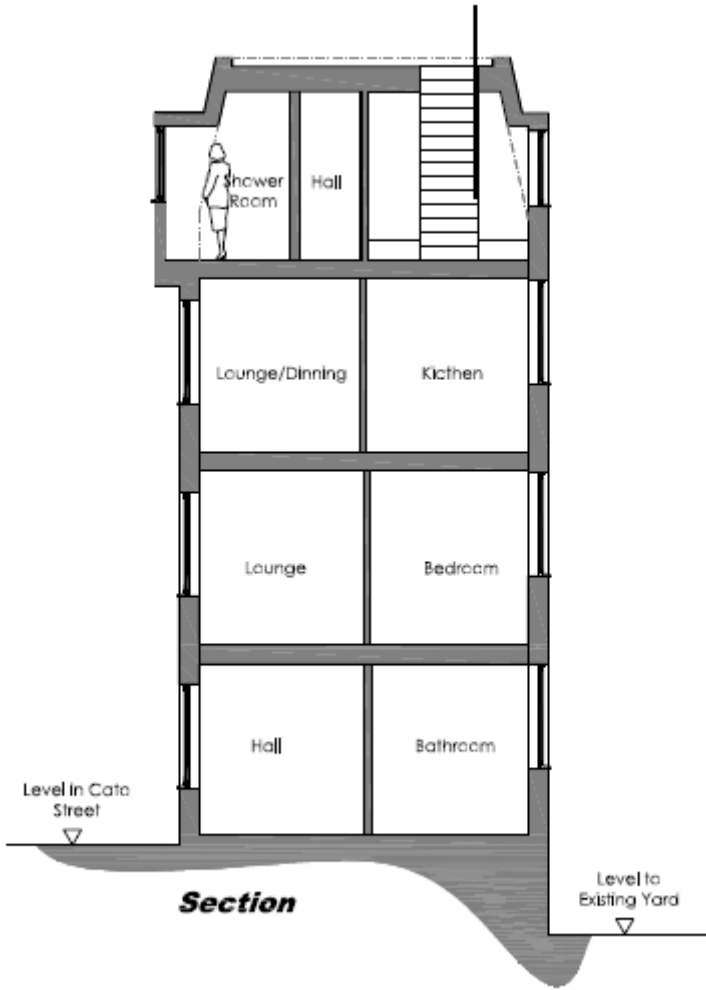
Existing ground floorplan:



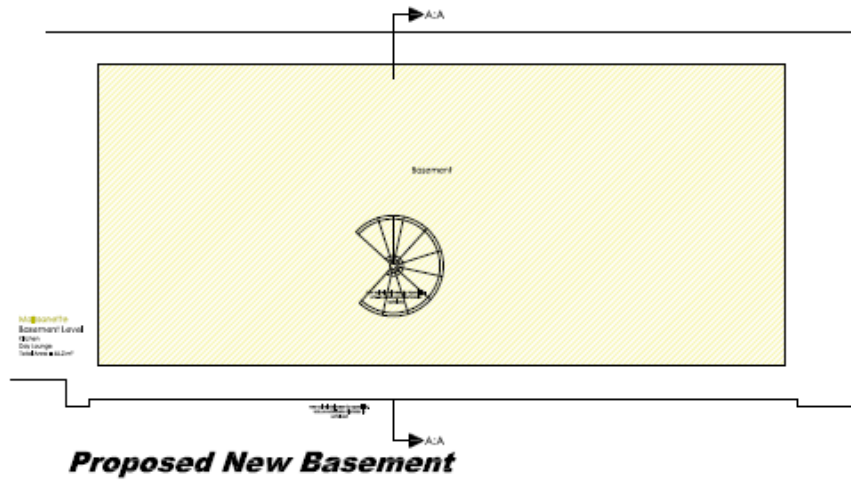
Existing first floorplan:



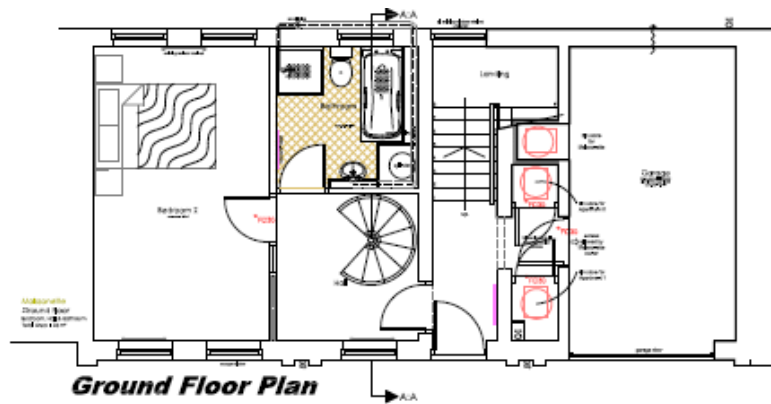
Existing section:



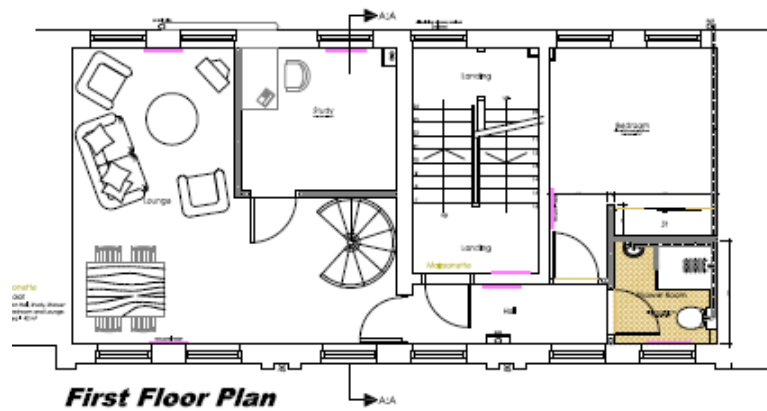
Proposed new basement floorplan:

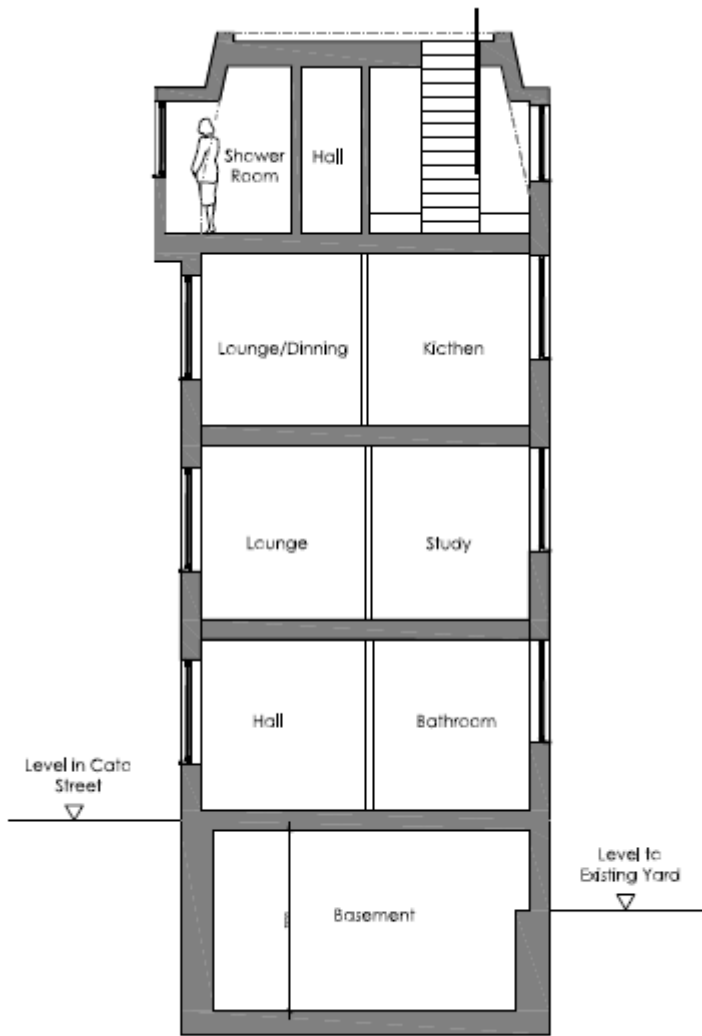


Proposed ground floor plan:



Proposed first floorplan:





**Section**

**DRAFT DECISION LETTER**

**Address:** 34 Cato Street, London, W1H 5HS

**Proposal:** Excavation of a single storey basement level in order to enlarge existing residential maisonette over ground and first floor levels (Class C3).

**Reference:** 18/04721/FULL

**Plan Nos:** 914-03 Rev. A.

**Case Officer:** Mark Hollington

**Direct Tel. No.** 020 7641 2523

**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 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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 **Pre Commencement Condition.** 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 of Construction Practice and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its written approval of such an application (C11CC)

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 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 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

- 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. 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.

Item No.
<b>2</b>

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.