

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 15 December 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Regent's Park	
<b>Subject of Report</b>	<b>Flat 4, 12 Northwick Terrace, London, NW8 8JD</b>		
<b>Proposal</b>	Alterations to fenestration and installation of balustrade to form balcony on flat roof at rear of first floor flat roof.		
<b>Agent</b>	Mr Dan Hockey		
<b>On behalf of</b>	12 northwick terrace ltd		
<b>Registered Number</b>	20/05953/FULL	<b>Date amended/ completed</b>	30 September 2020
<b>Date Application Received</b>	23 September 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	St John's Wood		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

Permission is sought for the formation of a roof terrace for Flat 4 on the top of part of the rear first floor level flat roof. Associated alterations are proposed to replace the existing rear windows with glazed doors. It is proposed to enclose the terrace with black metal balustrades.

Permission was previously refused on 20 September 2017 (RN: 17/06849/FULL) for the creation of two larger terraces on the rear first floor flat roofs outside Flats 3 and 4. The previous application was refused on design and amenity grounds (see Section 6.2). Permission was later granted by members on 31 July 2018 for the formation of a roof terrace for Flat 3 and associated works (RN:18/03181/FULL). This current application proposals the same works for the adjacent flat, Flat 4.

Objections have been received from neighbouring residents and the St John's Wood Society on a number of grounds however mainly on amenity grounds.

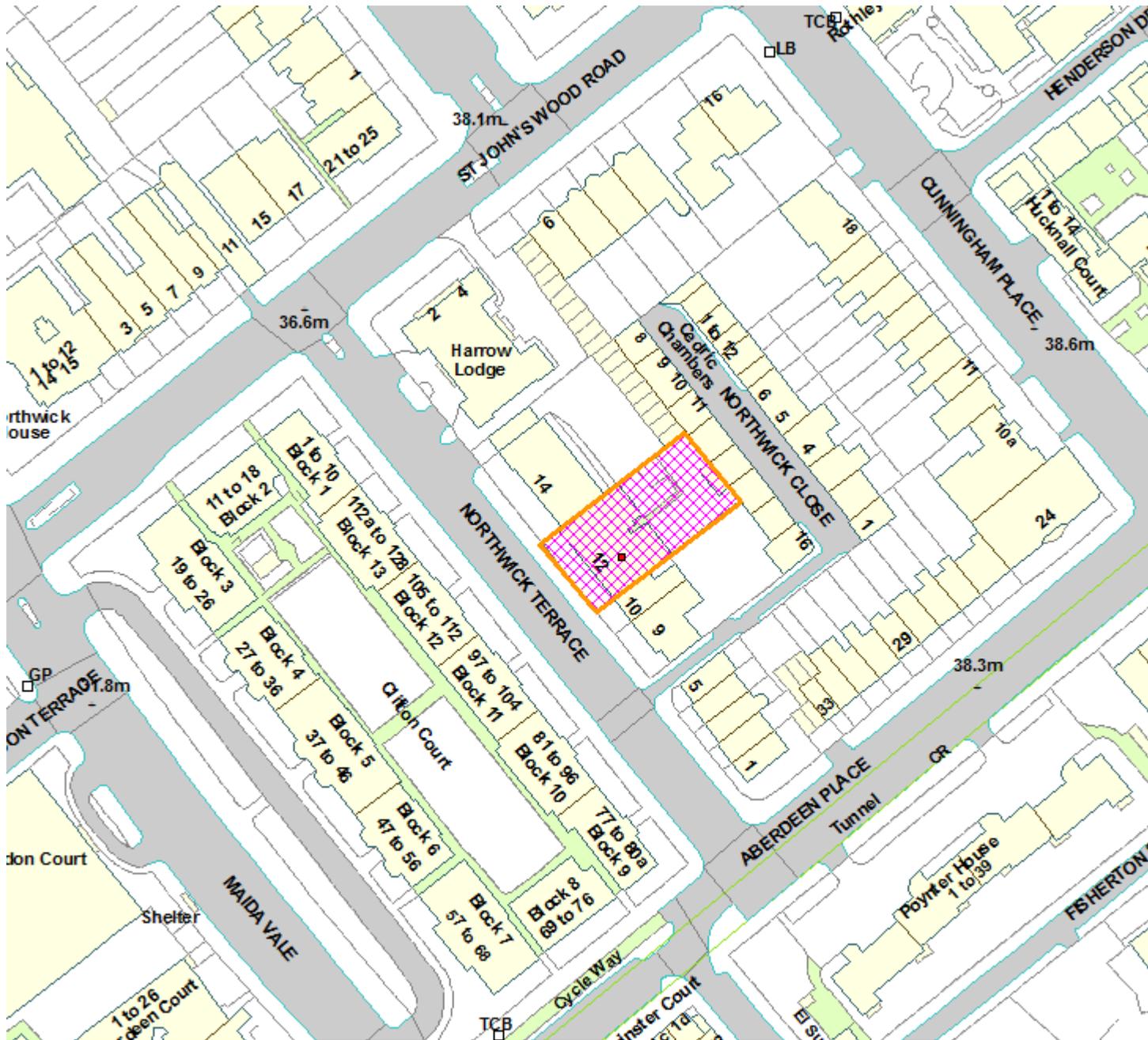
The key issues in this case are:

- The impact on the amenity of neighbouring residents, particularly in terms of overlooking and noise disturbance.
- The impact of the appearance of the building and character and appearance of the St. John's

Wood Conservation Area.

Subject to appropriate conditions as set out in the draft decision letter appended to this report, the proposals are considered to comply with the relevant design, conservation and amenity policies in Westminster's City Plan adopted in November 2016 (the City Plan) and the Unitary Development Plan adopted in January 2007 (UDP). As such, the application is recommended for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS



View looking to the rear elevation (location of proposed terrace)



View looking to the south of the site

## 5. CONSULTATIONS

### ST JOHN'S WOOD SOCIETY:

Note the objections raised by neighbours and request that the case officer makes a site visit to fully assess the impact the proposals will have on the amenity of the occupants of the other flats in the building.

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

No Consulted: 43; Total No. of replies: 13

Thirteen objections raised on all or some of the following grounds:

#### Amenity:

- Loss of privacy to the gardens of the flats below and the bedroom window of adjacent flat
- Increase in noise disturbance
- Loss of light from furniture on the proposed terrace

#### Design:

- Out of character with the area

#### Other:

- Not consulted on the previous application for Flat 3 in 2018 (18/03181/FULL)
- Roof not structurally sound to support the proposal
- Require for any building materials such as for them to be non combustible
- Request for noise insulation to ensure no noise transferred through roof to flat below
- Increased stress to adjacent occupiers.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises a purpose built unlisted block of flats formed of ground and four upper stories, which is located in the St John's Wood Conservation Area. The application specifically relates to Flat 4, which is situated on the first floor of the building. The rear of Flat 4 looks out onto the flat roof of the ground floor flat below.

### 6.2 Recent Relevant History

#### 17/01875/FULL – Flats 3 & 4

Erection of two single storey rear extensions at first floor level to enlarge Flats 3 and 4 and formation of a roof terrace for Flat 4 adjacent to the south eastern side boundary.

Application Refused                      21 June 2017

The above application was refused on the following grounds:

1. Because of the detailed design, bulk and location the proposed extensions, including associated terrace to flat 4 would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the St John's Wood Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 5, DES 9, DES 1 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.
2. The proposed terrace, including the privacy screen along the boundary with 10 Northwick Terrace would make the people living Flats 1 and Flat 2 at 10 Northwick Terrace, feel too shut in. This is because of its bulk and height and how close it is to windows in those properties. This would not meet S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007.
3. The proposed roof terrace would lead to an unacceptable loss of privacy for the occupier of Flat 2, 12 Northwick Terrace, due to overlooking from the terrace into their garden. This would not meet S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

17/06849/FULL – 12 Northwick Terrace

Alterations to fenestration at rear first floor level and installation of balustrades to form roof terraces on rear first floor flat roofs for Flats 3 and 4.

Application Refused                      20 September 2017

The above application was refused on the following grounds:

1. Because of their large scale, the erection of a large amount of balustrading the proposed terraces to flats 3 and 4 would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the St John's Wood Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5, DES 9 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.
2. The proposed roof terraces would lead to an unacceptable loss of privacy for the occupiers of Flat 1 and Flat 2, 12 Northwick Terrace due to overlooking from the terraces into their gardens. This would not meet S29 of Westminster's City Plan (November 2016)

18/03181/FULL – Flat 3, 12 Northwick Terrace

Alterations to fenestration at rear first floor level and installation of balustrade to form roof terrace on rear of first floor flat roof.

Application Permitted at planning committee on 31 July 2018

## 7. THE PROPOSAL

The application seeks permission for the formation of a terrace on part of the first floor flat roof over the existing extension to the ground floor flat below. The proposed terrace would be 1.2m deep and 7.4m wide. The proposed terrace would be enclosed by a metal balustrade and access to the terrace would be created by replacing two windows with glazed doors. The current application is proposing the same works that have been granted for Flat 3.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposed development would provide the application site, Flat 4, with external amenity space. This accords with Policy S29 of the City Plan, which encourages residential development to provide well-designed, high quality living environments, both internally and externally.

### **8.2 Townscape and Design**

#### **Introductory Text**

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 66 of the same Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy DES 9 (F) in the UDP requires that where development will have a visibly adverse effect upon a conservation area’s recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting.

Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as

relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

Alterations and extensions to buildings are permissible under UDP policy DES 5 where they do not visually dominate the existing building and its surroundings where their design and scale is in keeping with the host building and where the materials proposed are in keeping with the host building.

The host building has been consciously designed as a block of flats, with the flats regularly arranged on each floor either side of a central stair core which is clearly articulated on the rear elevation. The building was originally designed with a sheer rear elevation; however the existing ground floor extensions have already eroded this original design intention.

The size of the proposed roof terrace has been significantly reduced so that it would project only 1.2m from the rear elevation. At this limited depth it would only project marginally beyond the projecting central bay containing the stair core and would be set back significantly behind the rear building line of the neighbouring residential block at No.14 Northwick Terrace. Given the significant degree to which the proposed terrace would be set back from the roof edge of the ground floor extension above which it would be located, it is not considered that it would visually dominate the existing building. Rather, the proposed terrace would be a discreet visual addition that would not be visible in public views is the St. John's Wood Conservation Area and would not be harmful in the limited number of private views from neighbouring properties in Northwick Terrace and Northwick Close. It is not considered that it would unbalance the arrangement of the rear elevation of the building to such a degree that permission could reasonably be withheld on that ground and therefore the objection raised on this design ground is not supported.

The use of black metal railings to enclose the terrace is considered to be appropriate and would be consistent with the balustrades found to the terraces on neighbouring blocks, such as at No. 14 Northwick Terrace.

Regarding the new doors, whilst the detailed design of the fenestration departs from the existing regular rhythm of the fenestration on the upper levels, given the width of the original window openings has been retained, and the design of the doors is reflective of those found elsewhere on the building, it is not considered that the fenestration alterations would harm the appearance of the building and the character and appearance of the St John's Wood Conservation Area.

As such, the proposal is considered acceptable, mindful of policies DES 1, DES 5 and DES 9 in the UDP and policies S25 and S28 in the City Plan and therefore a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **8.3 Residential Amenity**

The City Council seeks to protect residential amenity when assessing development proposals and in this regard Policy ENV13 in the UDP and Policy S29 in the City Plan

are relevant. Policy ENV13(E) specifically states that the City Council will normally resist proposals which result in loss of natural light, whilst Policy ENV13(F) states that developments should not result in a significant increase in the sense of enclosure, overlooking or overshadowing.

It is noted that previous applications have been refused for terraces in the proposed location. Application referenced 17/06849/FULL proposed a larger terrace on the flat roof compared to the current proposal and the proposal under application referenced 17/01875/FULL was a different shape, larger and closer to the neighbouring property at No 10 Northwick Close.

The current application proposes a single roof terrace above the southern ground floor rear extension with an area of approximately 10m<sup>2</sup>, which would be set back approximately 2.6m from the edge of the roof. The set back from the edge of the roof would prevent significant overlooking to the gardens of the ground floor flats in No.12 Northwick Terrace (Flats 1 and 2). A condition is recommended to prevent the use of the remaining roof area, outside of the area to be enclosed by railings, as a terrace or for sitting out on.

The proposed terrace would be approximately 18m away from the rear elevation of the properties in Northwick Close. At this distance, and given the small size of the terrace, it is not considered to give rise to a significant increase in overlooking to these neighbouring properties. Furthermore, during summer months when the terrace is most likely to be in regular use, the views towards Northwick Close are partially screened by tree canopies.

The location of the proposed terrace will allow some views into rear and side facing windows in the adjacent property at 10 Northwick Terrace, namely a kitchen and bedrooms. In order to ensure that this overlooking is mitigated, the application has been amended so that the terrace is set back from the roof edge adjacent to this property and for the installation of a privacy screen. Subject to a condition to ensure that the screen is installed and given the narrow nature of the terrace, it is not considered that it will have a significant impact on these adjacent occupiers.

The dropping of sill levels of the existing windows to form full height doors would not materially increase overlooking from within the application flat towards neighbouring properties.

Given the proposed terrace would be enclosed by open railings located a significant distance from neighbouring windows, it would have no adverse impact in terms of loss of light or increased sense of enclosure.

Concerns have been raised on grounds of noise disturbance as a result of the use of the proposed terrace. There are other examples of terraces including immediately adjacent at No.10, and as approved on the other side of the stair core. Given this, and as the terrace would be of a sufficiently limited size so as to prevent its use by larger groups of people, it is not considered that it would give rise to such significant noise disturbance so as to reasonably warrant withholding permission. It would be more likely that issues from noise would be from the considerably larger gardens located below this terrace.

Additionally, it is noted that the scheme refused in September 2017 for two larger terraces to the rear of the building was not refused on noise disturbance grounds.

While the objections from the adjacent residents are understood, for the reasons set out in this section and subject to the recommended condition, and given the benefits of providing private outdoor amenity space for the flat, it is not considered that the objections raised on amenity grounds can be supported and the proposed terrace would accord with Policies ENV6 and ENV13 in the UDP and S29 and S32 in the City Plan.

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

The proposal raises no transportation or parking issues.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

No change is proposed to the access of the flat.

#### **8.7 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. The Examination in Public took place between 28 September and 2 October and 12 October and 16 October. Having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract very limited weight at this present time prior to the publication of the Inspector's report.

#### **8.8 London Plan**

This application raises no strategic issues.

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

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

#### **8.10 Planning Obligations**

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

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

The proposed development is of insufficient scale to require the provision of an

Environmental Impact Assessment.

### 8.12 Other Issues

Objections have been received on the grounds that neighbour consultation letters were not received for the previous application at Flat 3 (RN: 18/03181/FULL) our records show that 42 neighbour letters were sent out to the nearby residents and furthermore a site and press notice were carried out therefore it is considered that a statutory level of consultation was carried out for the application and therefore the comments cannot be supported in this instance.

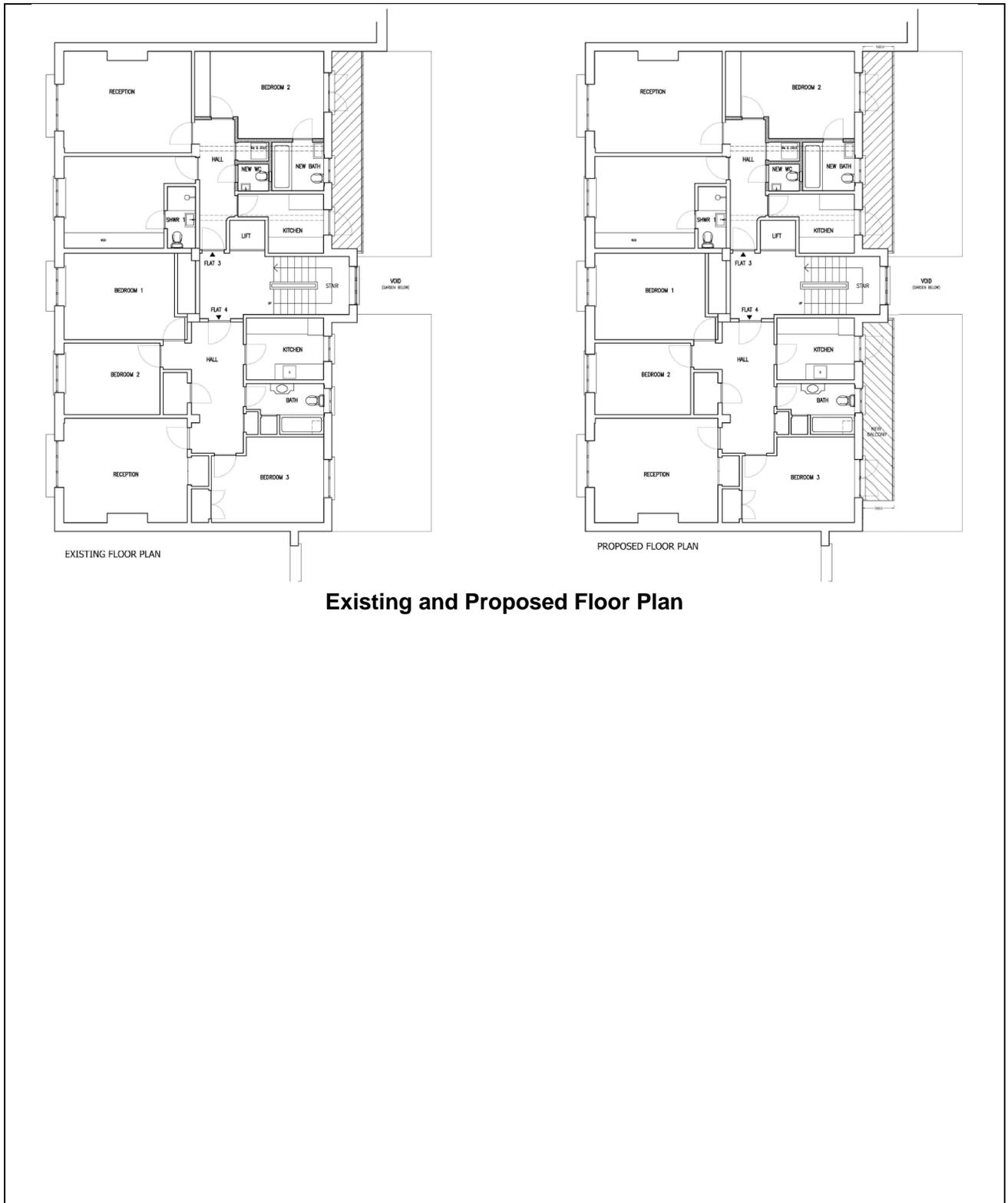
Objectors have also queried the structural stability and sound proofing to ensure the roof is able to support the terrace and noise is not transmitted through the flat roof. Concerns in relation to the structural integrity of the roof are not material planning matters and are dealt with through building regulations. In relation to noise transfer between the terrace and occupiers below, it is assumed that this is solely in relation to the sound of feet, given that noise from occupiers would be no different to sounds from other terraces or open windows in the vicinity. In relation to noise through the structure such as from people walking across the terrace, it is not considered that this would be so substantial as to warrant a condition, given the size of the terrace.

Neighbours have raised objections in terms of the proposed terrace will result in increased stress whilst this is regrettable it is not a ground for which permission could be withheld.

(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: RUPERT HANDLEY BY EMAIL AT [rhandley@westminster.gov.uk](mailto:rhandley@westminster.gov.uk)

9. KEY DRAWINGS



Existing and Proposed Floor Plan



**Existing Rear Elevation**



**Proposed Rear Elevation**

**DRAFT DECISION LETTER**

**Address:** Flat 4 , 12 Northwick Terrace, London, NW8 8JD

**Proposal:** Alterations to fenestration and installation of balustrade to form balcony on flat roof at rear of first floor flat roof.

**Plan Nos:** Site Location Plan, 302-01 RN, 302-02 R2, 302-03, 302-05 and Design and Access Statement.

**Case Officer:** Frederica Cooney

**Direct Tel. No.** 07866037206

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

Reason:

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

- 4 You must not use the roof of the ground floor extension for sitting out or for any other purpose, except for the area hatched and annotated 'New Balcony' on drawing 302-01 R2. You can however use the roof to escape in an emergency. (C21BA)

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)

- 5 Prior to the use of the terrace, the hit and miss trellis shown on drawing 302-02 R2 must be installed. The trellis shall thereafter be retained and maintained in this position.

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)

#### **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, neighbourhood plan (where relevant), 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 **HIGHWAYS LICENSING:**  
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 visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).

#### **CONSIDERATE CONSTRUCTORS:**

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).

**BUILDING REGULATIONS:**

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)