

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 5 April 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Bayswater	
Subject of Report	23A Westbourne Park Road, London W2 5PX		
Proposal	Excavation of rear basement incorporating rear lightwell with glazing above and new rooflight in connection with existing Flat A at basement and ground floor.		
Agent	Plan Project Management		
On behalf of	Mr and Mrs Charles		
Registered Number	21/06502/FULL	Date amended/ completed	02 March 2022
Date Application Received	21 September 2021		
Historic Building Grade	Unlisted		
Conservation Area	Westbourne		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application relates to a flat located at basement and ground floor level within a three storey terrace building that has been subdivided into two flats. The building is not listed but is located within the Westbourne Conservation Area.

Planning permission is sought for the excavation of a rear basement incorporating a rear lightwell with glazing above and new rooflight in connection with the basement and ground floor flat.

During the course of the application, the proposed basement was amended through relocation of the rooflight from the middle of the garden to the rear of the closet wing and a reduction in the basements projection into the garden to four metres.

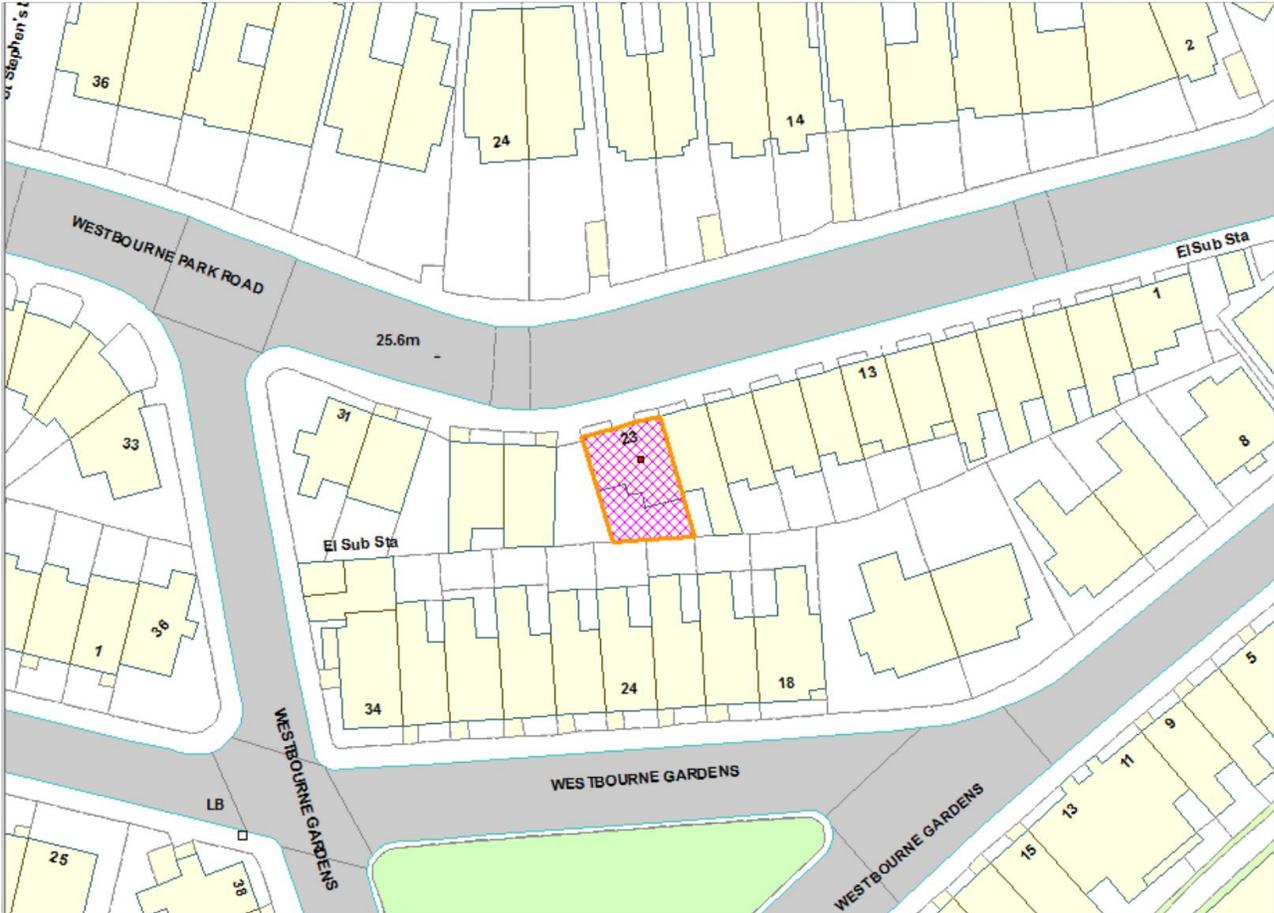
Objections have been received from local residents to potential loss of light, excessive noise, vibration, local air pollution, general disturbance to quiet enjoyment, risks and impacts to neighbouring buildings and structures, including ground conditions and land instability.

The key considerations are:

- Impact of the development on the character and appearance of the Bayswater Conservation Area; and
- Impact of the development on the amenity of adjacent occupiers.

Despite the objections raised and subject to conditions, the proposed development is considered to comply with the development plan.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front of Application Site



Existing lightwell in Rear Garden of the Application Site



Rear Garden Looking North East



5. CONSULTATIONS

SOUTHEAST BAYSWATER RESIDENTS ASSOCIATION:

Any response to be reported verbally

BUILDING CONTROL:

No objection

ARBORICULTURAL OFFICER:

No objection, subject to conditions.

ENVIRONMENTAL HEALTH:

No objection, subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. consulted: 25

No. of responses: 4, comprising of 3 objections, and 1 general comment

In summary the objectors raise the following issues:

Design:

- Out of character and doesn't not fit the design of the buildings

Amenity:

- Reduced natural light

Other:

- Movement and subsidence to existing building
- Risks and impacts to neighbouring buildings and structures, including ground conditions and land instability
- Construction Management Statement makes no mention of neighbouring properties adjoining no. 23B immediately to the south of the development (no. 24, 22 and 26 Westbourne Gardens)
- Planning notice not served to no.26 Westbourne Gardens as in close proximity of the basement proposals
- Significant disturbance by virtue of excessive noise, vibration, local air pollution and general disturbance to quiet enjoyment and associated outdoor space

In summary, the general comment raises the following issue:

- Concerned the building noise becomes intolerable, costs to relocate elsewhere to be covered by the applicant

SITE NOTICE:

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application relates to a two-storey property on Westbourne Park Road which backs onto Westbourne Gardens. The building is not listed but is located within the Bayswater Conservation Area. The building is split into two flats, with this application relating to the flat at basement and ground floor levels.

6.2 Recent Relevant History

13/02935/FULL

Installation of timber doors to rear elevation and side return and replacement of existing door with window on rear elevation.

Application permitted 24 May 2013

03/07305/FULL

New front basement staircase, construction of rear basement lightwell, new windows and doors in connection with conversion of basement and ground floors into a maisonette.

Application permitted 27 November 2003

7. THE PROPOSAL

Planning permission is sought for excavation of rear basement incorporating rear lightwell with glazing above and new rooflight in connection with existing Flat A at basement and ground floor.

The initial proposal included a rooflight in the middle of the rear garden which was considered to be unacceptable in design terms. The applicant agreed to amend the proposals to relocate the rooflight to the rear building line of the closet wing.

A further amendment was sought to include the piling structure within the 4m rearward projection of the basement.

8. DETAILED CONSIDERATIONS

8.1. Land Use

The provision of additional floor space to the existing house is in line with Policy 8 of the City Plan.

8.2. Townscape and Design

The application site is not listed but is located within the Westbourne Conservation Area and backs onto neighbouring properties along Westbourne Gardens.

The key legislative requirements in respect to designated heritage assets are as follows: Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.*

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.

The relevant policies for consideration are 38, 39, 40 and 45A(3) of the City Plan 2019-2040.

The only external manifestation of the basement extension would be two ground level rooflights located immediately adjacent to the rear elevation of the above ground building. Both rooflights are of a modest size and would be discreetly located in this position. Accordingly, the proposed rooflights would preserve the character and appearance of the Westbourne Conservation Area.

In making this recommendation consideration has been had to the statutory duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990, notably Section 72 and the requirements set out in Chapters 12 and 16 of the NPPF.

8.3. Residential Amenity

Development that could result in a change to the amenity of neighbouring residents such as that of the proposals here must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing.

By virtue of the basements subterranean location, it would not result in any loss of light, sense of enclosure or loss of privacy concerns. Overall, the proposed development is consistent with policy 7 of the City Plan 2019-2040.

8.4. Transportation/Parking

There are no transportation or parking issues raised by this development.

8.5. Economic Considerations

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

8.6. Access

There would be no change to access arrangements

8.7. Other Westminster Policy Considerations

8.7.1 Basement Development

Objections have been received to the proposed developments potential impact on the structural stability of the existing building on-site and neighbouring buildings. In accordance with policy 45 A (1), of the City Plan the applicant has submitted a Structural Methodology Statement (SMS) by a suitably qualified engineer. The SMS demonstrates that the basement can be constructed without harming the structural stability of nearby buildings or increasing flood risk. The SMS has also been reviewed by the Building Control Officer who has raised no objection to the construction methodology proposed. It should be noted that the SMS is not being approved but does demonstrate that there are no impediments foreseeable at the planning application stage that would prevent the creation of a basement in principle. Accordingly, the requirements of policy 45 A (1) have been met.

With regards to flood risk from the basement, the application site is located within Flood Zone 1 (low risk) and is not located within a Surface Water Flood Risk Hotspot. With regards to policy 45A (2), the applicant has submitted a signed Appendix A to Westminster's Code of Construction Practice, which demonstrates that the applicant intends to build the basement in a manner that minimises the impact of its construction on local residents and the road network as much as possible under planning law. Accordingly, the requirements of policy 45 A (2) have been met.

With regards to the proposed developments impact on heritage assets and the garden setting of the application site, these was considered under section 8.2 and found acceptable. Accordingly, the requirements of policy 45 A (3) and (4) have been met. With regards to the extent and depth of the basement, policy 45 B (1) states that basement developments will be supported on small sites like the application site where they extend up to 4m from the original building in that direction. The application site is considered to be a 'small site' with the garden measuring approximately 5.1m (longest side). The proposed basement extends up to 4m from the original building and the piling structure is included within the 4m depth for the proposed basement. The basement is also no more than one storey deep, is set in from the boundary and provides a minimum soil depth of 1m plus 200mm for drainage layer. It does not encroach beneath highway. Accordingly, the extent and depth of the proposed basement meets policy 45 B of the City Plan.

8.7.2 Trees

As noted above, the basement is compliant with the Council's basements policy with respect to the required soil depth. The Arboricultural Manager initially raised concern with the location of the rooflight within the centre of the garden and its impact on the

gardens ability to maximise space for future tree roots and drainage. The amended location of the rooflight addresses this concern.

The rear garden includes a Judas tree (*Cercis siliquastrum*) that would be removed to accommodate the proposed basement. The Arboricultural manager raises no objection to the removal of this tree given its poor condition, subject to a suitable replacement being secured. A condition is recommended to secure this. Subject to this, and conditions to secure appropriate landscaping and soil depth, the proposed development would be consistent with policy 35 of the City Plan.

8.8. Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9. Neighbourhood Plans

There are no neighbourhood plans relevant to this site.

8.10. London Plan

This application raises no strategic issues.

8.11. National Policy/Guidance Considerations

The City Plan 2019 – 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 unless stated otherwise. Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

A pre-commencement condition has been recommended and agreed to submit Appendix A Code of Construction to be approved by the City Council and Environmental Sciences prior to commencing any works on site.

8.12. Planning Obligations

Planning obligations are not relevant in the determination of this application. In addition, the development is not liable for CIL given the small scale of the extension.

8.13. Environmental Impact Assessment

Not applicable to a development of this scale.

8.14. Other Issues

The issues raised in representations have largely been addressed above. However, the following is also noted:

8.14.1 Notice of Application to Neighbouring Properties

One objector at 26 Westbourne Gardens notes that they did not receive notice of the application. However, the City Council's records indicate that notice was served on the occupiers of that property.

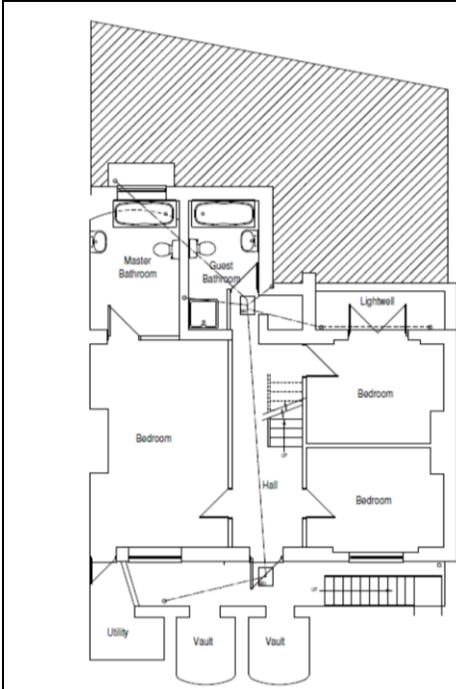
8.14.2 Compensation for Residents Affected by the Proposed Development

One comment has been received querying whether local residents can be compensated for having to find new accommodation, should the construction effects of the development make their properties difficult to inhabit. This is not a material planning consideration and no compensation would be payable from the City Council. The construction impacts of the development would be mitigated as far as possible under planning law by the recommended conditions.

(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

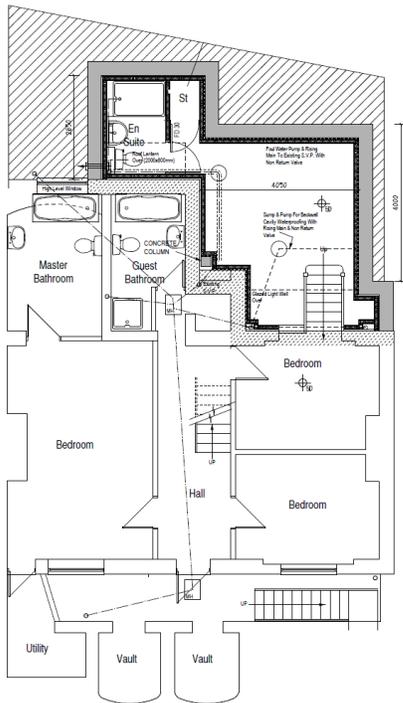
9. KEY DRAWINGS



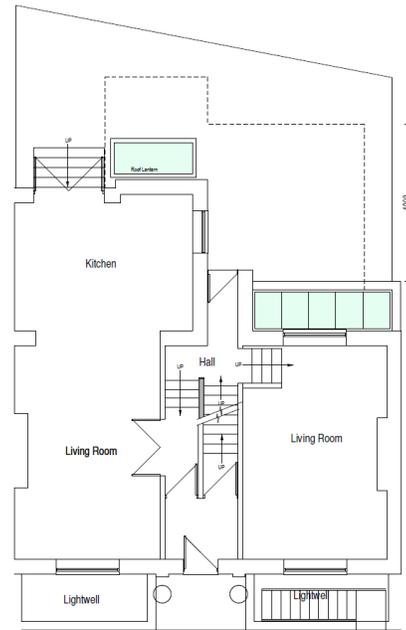
Existing Basement Plan



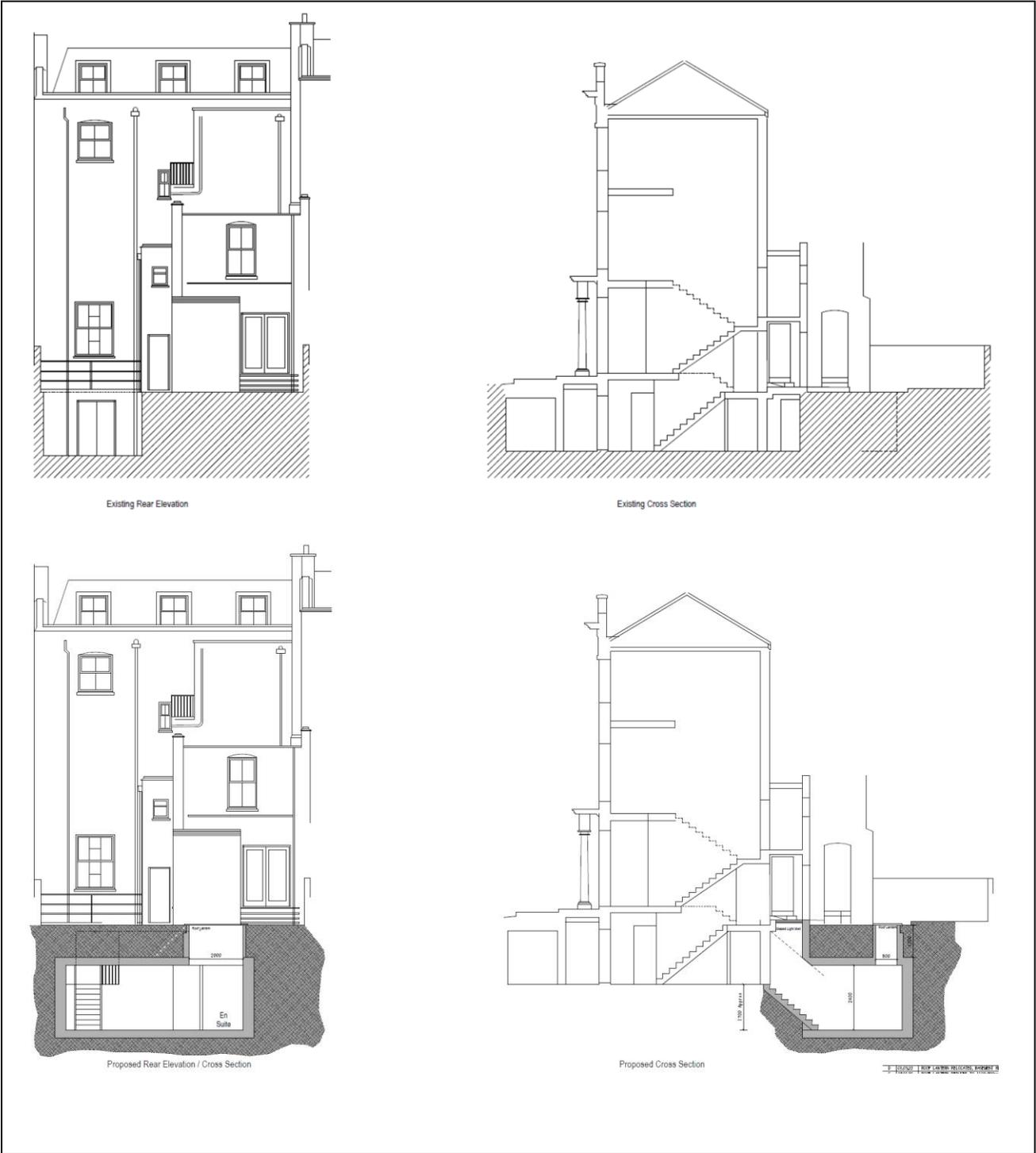
Existing Ground Floor Plan



Proposed Basement Plan



Proposed Ground Floor Plan



DRAFT DECISION LETTER

Address: 23A Westbourne Park Road, W2 2AT

Proposal: Excavation of rear basement incorporating rear lightwell with glazing above and new rooflight in connection with existing Flat A at basement and ground floor.

Reference: 21/06502/FULL

Plan Nos: GD2297/05; GD2297/06; GD2297/01 REV A; GD2297/02; GD2297/03 REV B; GD2297/04 REV C; 01; 10; 11; 20; 100; 101 (SHEET 2 AND SHEET 3); 110; 111; For information only: Design & Access Statement August 2021; Appendix A Checklist; Preliminary Construction Management Plan/Method Statement 26 October 2021; Supplementary Planning Document January 2022; Flood Risk Assessment 26 October 2021; Structural Calculations.

Case Officer: Christina Sriramula **Direct Tel. No.** 07866033879

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 neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 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 Westbourne Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 The design and structure of the building shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. (C49AA)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

- 5 **Pre-Commencement Condition.** Prior to the commencement of any:

- (a) demolition, and/or
- (b) earthworks/piling and/or
- (c) construction

on site you must apply to us for our written approval of evidence to demonstrate 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 the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 6 You must apply to us for approval of detailed drawings of a planting scheme which includes the number, size, species and position of trees and shrubs. You must include details of a single stemmed standard tree to replace the Judas tree in the rear garden. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the 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 that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within five years of planting them, you must replace them with trees of the same size and species, (or alternative sizes and species which we agree to in writing)

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 Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R30BD)

- 7 You must apply to us for details of the specification and profile of the soil which you propose above all basements, including details of the drainage layer and other components, and the way that the proposed areas of soil will be connected. You must not start any work on this part of the development until we have approved what you have sent to us. You must then carry out the work according to the approved details

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Westbourne Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 8 You must provide a minimum of 1m soil depth (plus minimum 200mm drainage layer) and adequate overall soil volume above the top cover of the basement as shown on the drawings hereby approved. The soil depth and soil volume above the basement must thereafter be retained as approved. (C30GA)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Westbourne Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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.

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 or visit 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

- 3 When you apply to us for approval of the landscaping details you must demonstrate that the new tree will be planted at ground level and in soil which is contiguous with the soil above the basement and in the undeveloped garden area.

- 4 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: environmentalsciences2@westminster.gov.uk) to make sure that you meet all the requirements before you draw up contracts for demolition and building work.

When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority

may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974).

British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work.

An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

- 5 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 or visit www.ccscheme.org.uk.
- 6 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.
- 7 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice on 020 7641 6500 or email districtsurveyors@westminster.gov.uk.
- 8 Under the Construction (Design and Management) Regulations 2015, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:

* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at www.hse.gov.uk/risk/index.htm.

It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.

- 9 When you apply to us for approval of the landscaping details you must demonstrate that the new tree will be planted at ground level and in soil which is contiguous with the soil above the basement and in the undeveloped garden area.

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.