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| CITY OF WESTMINSTER | | | |
| PLANNING APPLICATIONS SUB COMMITTEE | Date 12 July 2022 | Classification For General Release | |
| Report of Director of Place Shaping and Town Planning | | Ward(s) involved Lancaster Gate | |
| Subject of Report | 19 UPBROOK MEWS, LONDON, W2 3HG | | |
| Proposal | Excavation of single storey basement beneath footprint of original dwelling, conversion of garage into habitable space and erection of a mansard roof extension with raising the height of the party wall with 18 Upbrook Mews. | | |
| Agent | Nuspace | | |
| On behalf of | Mr Sammy Li | | |
| Registered Number | 21/00155/FULL | Date amended/ completed | May 2022 |
| Date Application Received | 11 January 2021 | | |
| Historic Building Grade | Unlisted | | |
| Conservation Area | Bayswater | | |
| Neighbourhood Plan | Not applicable | | |

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

The application site forms part of an unlisted mews terrace located within the Bayswater Conservation Area. The site backs onto Grade II listed properties in Chilworth Street and Gloucester Terrace.

Permission is sought to construct a basement under the footprint of the existing house, a flat topped hipped mansard roof level, and conversion the garage to living accommodation with associated elevation changes. The application has been revised a number of times since its original submission. The scheme originally proposed a double pitched gable ended mansard roof which required the build of the party wall with 21-23 Chilworth Street. Re-consultation took place as a

result of the changes to the mansard roof.

This application was due to be presented to the Planning Sub-Committee of 28 June 2022, but was withdrawn from the agenda due to a technical issue with notification of the appropriate agent/ neighbour notification emails/ letters advising of the committee..

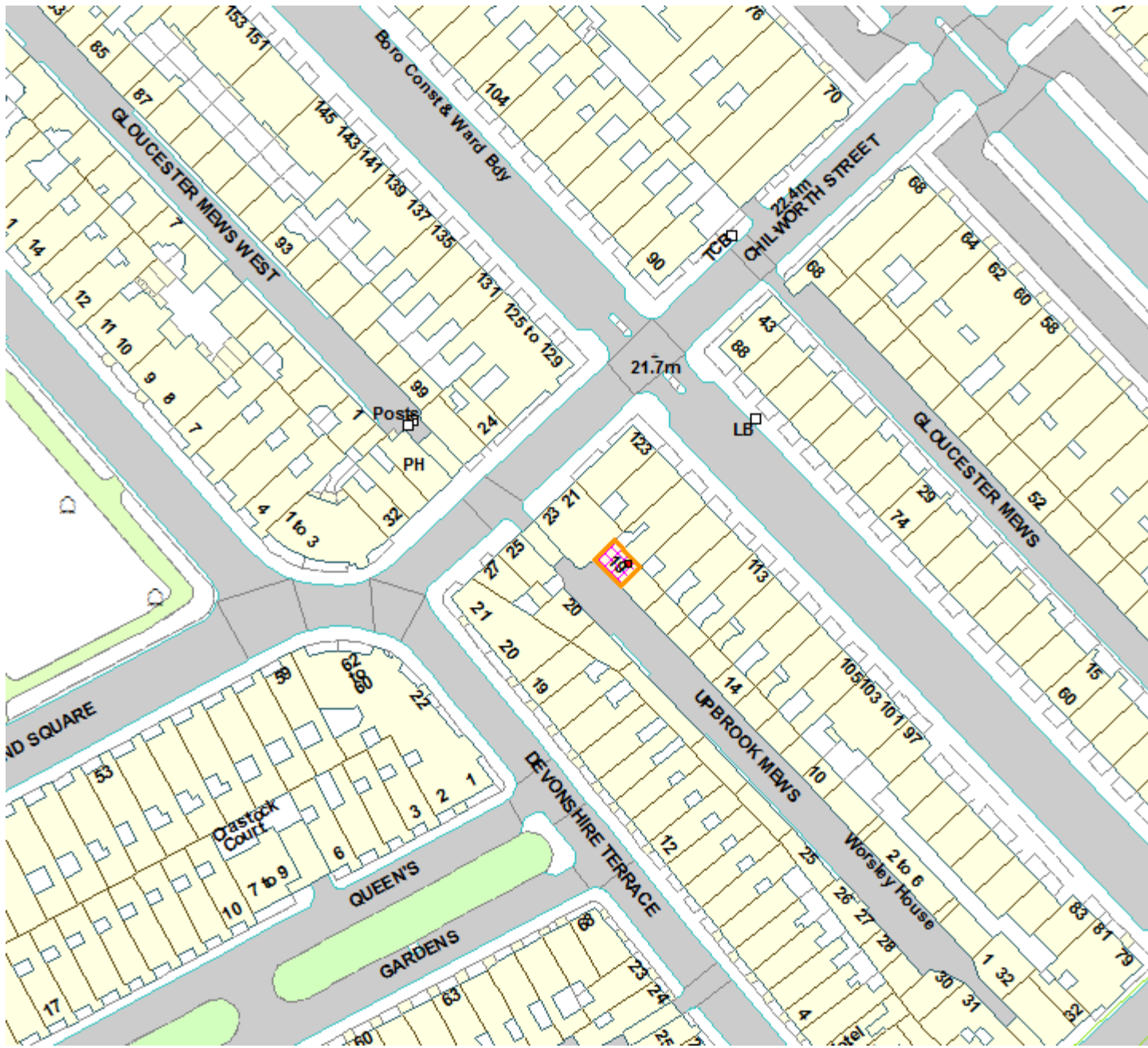
Objections have been received from the South East Bayswater Resident's Association and neighbouring properties on the grounds of design; loss of garage; impact on amenity and impact of construction.

The key issues in the determination of this application are:

- The impact of the works on the character and appearance of the Bayswater Conservation Area;
- The impact of the mansard roof on the amenity of neighbouring properties;
- The impact of the works in highways terms;
- The impact of the basement excavation.

For the reasons as discussed in the report, the proposals are considered in accordance with City Council policies as set out in the City Plan 2019-2040 with respect to land use, design and basement excavation and is recommended for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS

Front elevation



5. CONSULTATIONS

5.1 Application Consultations

ORIGINAL CONSULTATION

WARD COUNCILLORS FOR LANCASTER GATE:

Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Objection raised on the grounds that the drawings show the proposed mansard roof higher than the adjacent houses; the windows on the front elevation of the roof are too large; the mansard roof and raising of the height of the party wall may result in loss of light to neighbouring properties; flooding, loss of garage and that the basement appears to have no ventilation.

Conditions are suggested to if the party wall on the north is raised, this should be finished white; basement should not be occupied separately; no and Saturday workings. An informative is required regarding flooding.

ENVIRONMENTAL HEALTH:

No objection.

BUILDING CONTROL - DEVELOPMENT PLANNING:

No objection.

HIGHWAYS PLANNING MANAGER:

Objection raised to the loss of the garage if protected via condition.

LOCAL FLOOD AUTHORITY:

No response Received.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 51

Total No. of replies: 16

No. of objections: 16, received on behalf of 11 properties.

Sixteen objections received on some or all of the following grounds:

Design & Heritage:

- The proposals is inappropriate for the character of the mews and the conservation area.
- Increase in volume is out of character with mews.

Amenity:

- Loss of light;
- No plant/ ventilation should be allowed as this will be noisy and disrupt sleep.
- Overlooking.

Highways:

- Loss of parking is unacceptable.

Other:

- No reference made to the Upbrook water course;
- No details of monitoring of neighbouring properties during works;
- The owners of 19 Upbrook Mews should indemnify neighbouring properties in case of damage;
- Noise and disruption from proposed excavation of basement and construction of mansard to residential neighbours and adjacent office workers;
- No works should be allowed on Saturdays, Sundays or Bank Holidays;
- A construction management plan should be submitted upfront;
- Permission cannot be given without significant preparatory works and party wall surveyors being instructed;
- Not all neighbours affected by the proposals were notified of the application;
- Loss of rental income whilst works are taking place;

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

RE-CONSULTATION: Amendments made to the mansard roof design

SOUTH EAST BAYSWATER RESIDENT'S ASSOCIATION:

Continued objections made on the grounds of amenity, flooding, loss of garage, basement ventilation given lack of garden. Comment raised that the design of the mansard is now acceptable. A construction management plan is requested. Conditions suggested, similar to those received in initial response, however it was also noted that an attractive hoarding should be installed if works were to go ahead.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 51

Total No. of replies: 4

No. of objections: 4

Four objections received from those that have already made objections, reiterating their original objections. New ground of objection include:

- How was the daylight and sunlight assessment carried out when no one visited neighbouring properties;
- Inaccuracy within the sunlight and daylight report with a kitchen being called a bathroom in one of the neighbouring properties.
- The flood risk assessment still doesn't identify how the basement excavation will affect neighbouring properties and doesn't take into consideration the floods of July 2021

Additional responses received after publication of the report for committee on 28 June 2022.

COUNCILLOR JUDE

Objection on the following grounds:

- Given the residential nature of the road, we would request that all works are restricted on Saturday. We note that currently all piling and excavation works are prevented on Saturdays, but other work on-site will still be permitted during these hours as it stands. Preventing all works will allow the residents some respite during these hours.
- The lack of natural ventilation in the basement has been brought to our attention by local residents. Given this, we request a condition be included that restricts using the basement as bedroom, due to potential health and safety issues.

COUNCILLOR ORMSBY

Objection. Agree with Councillor Jude's comments set out above.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Comment. Condition 2 as proposed is not sufficient enough given the quiet nature of the mews. It is requested that no Saturday working is allowed.

It is requested that there be a condition restricting the use of the basement because of the lack of natural ventilation.

It is requested that a hoarding be installed during construction.

5.2 Applicant's Pre-Application Community Engagement

The Early Community Engagement Guidance encourages householders carrying out development to engage with those living adjacent or very close to the site at an early stage prior to the submission of a formal application. However, householders are not required to submit details of the engagement they have undertaken with their application. Therefore, whilst details of any pre-application engagement with neighbours that may have taken place has not been submitted, this is not contrary to the expectations of the guidance for development of this minor scale.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

This application site is a two storey mews building that lies in the Bayswater Conservation Area. The property is not listed. The properties in Chilworth Street and Gloucester Terrace that are adjacent to the application are Grade II listed.

7.2 Recent Relevant History

98/08398/FULL:
Erection of a 2nd Storey Mansard Roof Extension.
Approved 27 April 1999.

20/05641/FULL:
Excavation of a single storey basement beneath the footprint of the original dwelling, conversion of the garage into habitable space; mansard roof conversion including a roof terrace, modernisation of the fenestration and internal arrangement.
Application Withdrawn November 2020

20/05642/FULL:
Excavation of a single storey basement beneath the footprint of the original dwelling, conversion of the garage into habitable space; mansard roof conversion, alterations to fenestration and internal arrangement.
Application Withdrawn November 2020

8. THE PROPOSAL

Permission is sought for the excavation of a basement under the footprint of the existing dwelling; conversion of the garage to living accommodation with associated elevational alterations and the construction of a mansard roof.

The original proposals sought permission for a mansard roof which had a slight second pitch and a large gable end abutting the rear boundary wall of 21-23 Chilworth Street. This has been amended during the course of the application to a flat roofed hipped mansard extension.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The proposals to extend this single family dwellinghouse are considered acceptable. The construction of a basement to this property is not considered to be an overdevelopment of the site and as addressed below, the basement is in accordance with the City Council's basement policies.

A comment has been made requesting a condition/ informative that the basement should not be used as a separate property. A condition is not required as the use of the basement as a separate flat would in itself require planning permission. The amenity society has also requested that an informative be attached to ensure that the basement is not to be used as a bedroom given the lack of ventilation. As the room is to be used in connection with the main house, the proposed basement accommodation is considered acceptable in terms of natural light and ventilation on grounds of proportionality and would comply with the Housing Health and Safety Rating System - Housing Act 2004. It would not comply if it were a separate unit of accommodation.

9.2 Environment & Sustainability

9.2.1 Sustainable Design & Energy Performance

The proposals are providing high quality additional residential floorspace to the existing property. The mansard roof will have good insulation and the windows will have sound thermal energy performance. The proposals are therefore considered to comply with Policy 36 (Energy Performance) and 38D (Design Principles) of the City Plan and the guidance as set out in the 'Energy' and 'Retrofitting and Sustainable Design' sections of the ESPD.

9.2.2 Circular Economy

As the proposals are for basement excavation, and the applicant is required to adhere to the Council's Code of Construction Practice (CoCP); recycling, re-use, and responsible disposal of Construction, Demolition and Excavation waste will be sought. The proposals will therefore comply with Policy 37(C). Waste management and the guidance as set out in the 'Construction Impacts' section of the ESPD.

9.2.3 Flood Risk & Sustainable Drainage

Objections were originally received to the proposals on the grounds that the flood risk assessment did not refer to the Upbrook river. Concern was also raised as to the measures as set out in the assessment.

The site is within flood zone 1 (Environment Agency), but is within the Bayswater surface water flooding hotspot and above the lost River Westbourne - now known as the Ranelagh Sewer which is piped water cause. The flood risk assessment was updated to refer to this. The flood risk assessment concludes that the proposals to extend this dwelling in the basement and the risk of flooding and surface water flooding is very low. The development will include a sump pump and storage tank. Drainage channels are also proposed to the front.

Comment is also made that the flood risk assessment states no flooding has occurred to properties in Upbrook Mews, but omits the fact that the properties on Gloucester Terrace

were flooded in the flash floods in July 2021 and some are still not yet liveable. Whilst it is acknowledged that there was flooding to Gloucester Terrace properties in the flash floods of July 2021, this was due to an extreme amount of rain water received in a short period of time, rather than the displacement of ground matter from basement excavations.

9.2.4 Light Pollution

There is unlikely to be any detrimental light pollution arising from the windows within the mansard roof. These replicate the window positionings of other mansards in the mews.

9.2.5 Environment & Sustainability Summary

The proposals for a basement and mansard roof are considered to comply with the Council environmental and sustainability policies.

9.3 Biodiversity & Greening

There is no green roof proposed to the mansard. Any upstand to support a green roof would increase the height of the mansard roof.

9.4 Townscape, Design & Heritage Impact

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 39 of the City Plan 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.

The principle of a basement beneath the host building does not raise any design concerns. An objection on the volume created by basements and how this affect the character of the mews has been received. There is no external manifestation of the basement as such the character and appearance of the existing building and the mews is not considered to harm the character and appearance of the Conservation Area. As a point to note there are a number of basements in the mews that have been excavated in recent years.

The alterations to the garage door on the front elevations also raise no design concerns. There is a variety of treatments at ground floor level within the mews, from garage doors, garage doors with windows above (serving rooms behind); windows across the whole elevation and car ports. The detailed design of the garage door within glazing above is acceptable and does not detract from the character and appearance of the mews.

The mansard roof, as amended is a flat topped hipped mansard roof. Three traditional dormer windows are proposed to the front elevation and two windows are proposed in the rear roof slope. Objections to the volume created by the roof alterations and the impact that this has on the character of the mews and on the detailed design of the mansard have been received. The mansard has been designed to match the height and pitch of the neighbouring mansard at No. 18 Upbrook Mews as the front parapet wall to these two properties is set lower than the rest of the eastern side of the mews.

The applicant notes that the most recent mansard roof approved as a new mansard was at No. 16 Upbrook Mews, and that was approved in 2013. It should also be noted that changes to an existing roof extension to a traditional mansard roof was approved at No. 29 Upbrook Mews in 2018.

Mansard roofs are commonplace within this mews with almost half the properties on the eastern side and almost all of the properties on the western side having one. It is therefore considered that the principle of a mansard roof extension would be difficult to resist and that an appropriately designed mansard would help unify the character of the mews.

The proposed mansard is appropriately designed, including 75 degree primary pitches, three lead clad dormers, traditionally detailed timber windows and slate tiles and relates well to the terrace as a whole, noting the variety of mansard and roof extensions. The mansard roof is now hipped, so as not to raise the party wall with 21-23 Chilworth Street (and to improve the amenity to neighbours addressed below). Whilst No. 20 Upbrook Mews (opposite) has a tall gable ended mansard with the listed neighbours on Chilworth Street, it is not considered that a hipped mansard roof would look out of place within long views in the mews.

Given the above, it is not considered that the objections received from neighbouring

occupiers on the grounds of the impact on the character of the mews and surrounding conservation area can be sustained.

The proposals are considered to accord with the aims of the identified policies and will preserve the character and appearance of the Bayswater Conservation Area.

As such, the proposal is considered acceptable, mindful of policies 38, 39, 40 and 45 of the City Plan 2019-2040 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.

9.5 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. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers.

Mansard Roof Sunlight and Daylight

The City Council generally has regard to the standards for daylight and sunlight as set out in the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight'. The applicant's consultant, has carried out the necessary tests using the methodology set out in the BRE guidelines on residential properties surrounding the site. As a point to note the assessment has not been revised, since the mansard was revised to a hipped mansard. As the hipped mansard reduces the bulk and volume, the results provided would be of the worst case scenario.

A number of objections have been received firstly questioning how the assessment was done and that some of the rooms listed within the assessment are factually incorrect. A sunlight and daylight assessment is generally carried out using computer modelled software, plotting the bulk and massing of neighbouring properties and the findings are extremely accurate. In one property, Flat 2 119-121 a kitchen is labelled inaccurately as a bathroom, which therefore has been effectively discounted from the applicants assessment. Officers shall consider this window as a kitchen as per the neighbours comments.

The assessment considers the impact of the development on the vertical sky component (VSC) and daylight distribution available to windows in these properties. Where room layouts are not known the daylight distribution test has not been undertaken by plotting the No Sky Line (NSL). VSC is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the BRE guidelines state that the window will have the potential to provide good levels of daylight. The BRE guidelines state that reductions of over 20% of existing daylight levels are likely to be noticeable.

In respect of sunlight, the BRE guide suggests that a dwelling will appear reasonably well sunlit provided that at least one main window wall faces within 90% of due south

and it receives at least a quarter of annual probable sunlight hours (APSH), including 5% of APSH during the winter months. As with the tests for daylighting, the guidelines recommend that any reduction below this level should be kept to a minimum; if a window will not receive the amount of sunlight suggested, and the available sunlight hours is less than 0.8 times their former value, either over the whole year or just in winter months, then the occupants of the existing building will notice the loss of sunlight; if the overall annual loss is greater than 4% of APSH, the room may appear colder and less cheerful and pleasant.

The properties tested for daylight and sunlight levels comprise:

- 20 Upbrook Mews – opposite the application site
- 21 Upbrook Mews – opposite the application site
- 119 Gloucester Terrace – to the rear of the application site
- 121 Gloucester Terrace – to the rear of the application site
- 21-23 Chilworth Street – located to the north of the application site.

There are no losses in terms of VSC and daylight distribution to properties 20 and 21 Upbrook Mews.

Where there are losses to windows in properties 119 and 121 Gloucester Terrace and 21-23 Chilworth Street, they are very minor and all windows assessed passed the Vertical Sky Component tests and all rooms (where known from estate agents particulars, planning history records etc), except one pass the daylight distribution test. The window that fails the daylight distribution test is a ground floor kitchen window to 121 Gloucester Terrace and this fails only marginally over and above the BRE guidance. Whilst regrettable that there is a loss over the BRE tolerances, it is not considered that a refusal could be upheld in this instance.

In terms of sunlight, all windows that face within 90 degrees of due south have been tested for direct sunlight and all windows with a requirement for sunlight pass both the total annual sunlight hours test and the winter sunlight hours test, except for one. Again, the window that fails the sunlight test is a ground floor kitchen window to 121 Gloucester Terrace and again this fails only marginally over and above the BRE guidance.

Sense of Enclosure

The proposed mansard roof is some 6m away from the main rear elevation of 119-121 Gloucester Terrace. To the rear of the 119 building there is a half width extension at lower ground and ground floor which abuts the rear elevation of the application site, beside this is an open courtyard. This contains side elevation windows at lower ground floor level serving a living area (to flat 2, 119 Gloucester Terrace) and at ground floor, windows serving a bedroom (to flat 5, 119 Gloucester Terrace). The outlook from the living room of Flat 2 is onto the enclosed courtyard at lower ground floor level with the two storey rear wall of the application as the main outlook. If looking only upwards from the living room window and courtyard, the construction of a mansard will be highly noticeable and replace 'the sky' however given the already enclosed nature of the existing courtyard it is not considered that a reason for refusal could be sustained on this basis. At ground level, the bedroom window of Flat 5 has a view over the courtyard below to the side elevation of an extension to the rear of 119 & 121 Gloucester Terrace and to the rear of the application site. Again, whilst the proposed mansard, built onto the rear boundary would be visible from this bedroom window, the outlook from this window

is so heavily compromised that the mansard would not, in officers opinion result in an unacceptable creation of sense of enclosure such a significant increase in enclosure as to warrant a reason for refusal.

Straddling 119-121 Gloucester Street is an additional extension over lower ground, ground and first floor level and this has a chamfered corner on the side return to within that property. This is some 3m away from the proposed mansard roof. This extension has high level, narrow windows at ground floor level serving a living room and first floor level serving a bedroom. Both these windows are secondary windows with the main windows to these room, in the north elevation of that extension facing the courtyard of 121 Gloucester Terrace and over to 123 Gloucester Terrace. It is not considered that these flats, given the window arrangement would experience any harmful sense of enclosure.

Given the distance of the proposed mansard from the original rear elevation windows of 119-121 Gloucester Terrace it is not considered that a mansard roof would result in an unacceptable levels of enclosure to the rooms in this location and is very much reflective of the relationship of mansard roofs within the rest of Upbrook Mews to the properties behind on Gloucester Terrace.

The mansard roof will be between approximately 4.2m & 5.4m away from the rear elevation of 21-23 Chilworth Street, given its hipped design. This property is in commercial use at lower ground and ground floor with 4 flats at upper levels. Given the lower street level of Upbrook Mews to Chilworth Street, the mansard roof will be at the same level as Flat 1, 21-23 Chilworth Street at first floor level. This property has three windows overlooking the roof of the commercial premises below and then over to the current roof of the application site. Directly to the north of the mansard roof is a window serving a bathroom. The kitchen window to this property partly straddles the front mews elevation and has an outlook down the mews cobbles. The bedroom window also straddles the rear elevation of the application site with the courtyard of 119 & 121 Chilworth Street. The main effect of the proposed mansard will therefore be experienced from the bathroom window with the bedroom and kitchen window experiencing an oblique impact. It is for this reason that whilst this occupier of this first floor flat will feel some increased sense of enclosure, given the tight knit urban nature of these properties, that the main impact is to a bathroom window, that the proposals are on balance acceptable and would not result in such a harmful sense of enclosure so as to warrant refusal.

The proposed mansard does not create a sense of enclosure to the properties opposite the site in the mews and would be representative of the built form of the mews.

Privacy

The windows to the front elevation of the mansard roof are not considered to give rise to any significant overlooking to mews properties opposite over what already exists from ground and first floor levels.

The windows to the rear of the mansard are sloped rooflights. Given their height and proximity to neighbouring windows within Chilworth Street it is recommended that these are non-openable and obscure glazed so as to prevent any harmful overlooking.

Basement

The excavation of a basement, with no external manifestations is not considered to harm the amenity of neighbouring properties.

The proposals are therefore considered acceptable in amenity terms.

9.6 Transportation, Accessibility & Servicing

An objection has been received from the Highways Planning Manager who has objected to the loss of the garage and parking space on the grounds that this would add to parking street in the area, if controlled via condition. Objections have also been received from the local amenity society and a neighbour to the loss of off-street parking.

There is no evidence, from an historic search on this property of a condition restricting the garage to the parking of a car. Whilst it is acknowledged that the loss of the garage may result in a marginal increase in local parking demand, the loss of the existing garage is in accordance with policy 27 of the City Plan 2019 - 2040. As the proposal is supported in policy terms the minor increase in parking demand is not sufficient grounds to refuse permission.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending.

9.8 Other Considerations**9.8.1 Basement Development**

An objector contends that the proposed development does not meet the City Council's policy on basement development, nor does it have any ventilation given there is no external manifestation or garden for it to vent towards. Objections to construction impacts related to the basement, such as noise, vibration, dust and obstruction of highways and its impact on residential amenity and local businesses have also been received. Concerns regarding the impact of the development on the structural stability of neighbouring properties have also been raised. The amenity society have raised a number of comments regarding the basement: the request for a construction management plan; that there should be no working on Saturday's; that there should be a hoarding around the site and specific excavation methods should be employed in order to protect the amenity of neighbours.

Policy 45 of the City Plan contains the City Council's considerations when it comes to basement development. The proposed development is considered against the relevant sections of this policy below.

Part A. 1-4

These parts of the policy relate to structural stability; surface water and sewerage flooding; minimising the impact at construction and occupation stages; protecting

heritage assets and conserving the appearance of the existing building, garden setting and the surrounding area.

The applicant has provided a Structural Methodology Statement prepared by an appropriately qualified structural engineer. This document has been reviewed by Building Control who advise that the structural methodology proposed is appropriate for the ground conditions that are likely to be on this site and the likelihood of local flooding or adverse effects on the water table has been found negligible. As noted above the proposals are acceptable in terms of flooding. The proposals to safeguard adjacent properties during construction are also considered to be acceptable. Accordingly, it is considered that as far is reasonable and practicable at this stage, the applicant has satisfactorily investigated the site and surmised the likely existing ground conditions and provided a suitable structural methodology report in light of it.

The purpose of the structural methodology report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the 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. Therefore, 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. This report will be attached for information purposes to the draft decision letter.

With regards to minimising the construction impact of the development, permission cannot be refused on the basis of construction impact given its temporary nature and ability to control it by condition. The amenity society has asked for a construction management plan. The applicant has agreed to comply with the City Council's Code of Construction Practice (CoCP). The CoCP expressly moves away from enforcement via the planning system. It recognises that there is a range of regulatory measures available to deal with construction impacts, and that planning is the least effective and most cumbersome of these. The Environmental Inspectorate, who would monitor compliance with the CoCP, have been resourced in both numbers and expertise to take complete control over the monitoring of construction impacts.

A condition is recommended requiring evidence to be submitted of compliance with the CoCP. This must be submitted before work starts on site, subject to which the proposals are considered acceptable. This condition is consistent with environmental protection legislation and will help to alleviate disturbance to neighbours. A condition is also recommended that limits noisy construction to the City Council's standard construction hours. It is not considered reasonable to restrict all Saturday working. An informative is also recommended to encourage the applicant to join the considerate constructors scheme. If the Environmental Inspectorate deem it necessary, a hoarding may be requested of the developers, however it is not something that can be imposed via the planning regime.

As noted above, the proposed basement would not be visible given its location below the

existing building and proposed extension and would have no impact on the character and appearance of the Bayswater Conservation Area or the adjacent buildings. The application site does not contain a listed building and is not located within an Archaeological Priority Area.

Part B 1-5

These parts of the policy relate to the extent and depth of basements.

The proposed basement would not extend beyond the mews boundaries. The proposed basement would also be single storey, with a floor to ceiling height of 2.7 m and therefore complies with part B(3) of the policy.

The proposed basement does not project beyond undeveloped garden land of highway. Accordingly, Parts B(2), (3) and (4) of the policy are not relevant.

Overall, the proposed basement is considered to comply with City Plan Policy 45.

9.8.2 Plant

Objections have been received on the grounds that basements generally require plant for ventilation and that none is shown, and if it were proposed would be noisy for neighbours. The basement has no ventilation in terms of windows, however the Council's Environmental Health officers has raised no objection to this given that it is to serve a TV room/ gym.

9.8.3 Non-planning related objections

One objection states not all neighbours affected by the proposals were notified of the application. It is unclear as to who may not have been consulted. City Council records show that all neighbouring properties who may be affected by the proposals were notified. This same area of consultation was carried out when the amendments were made to the mansard roof.

One objector has asked what the procedure for party wall agreement is and can they use their own surveyors. Party wall agreements are a private matter, that are generally dealt with after the granting of a planning permission.

Matters of indemnifying neighbouring properties in case of damage is also a private matter which the City Council cannot become involved in.

Finally, objections have been received on the loss of rental income whilst works are taking place. Again, this is not considered a material consideration in the determination of the application and a refusal could not be sustained on this basis.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

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

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development. The applicant has agreed to the imposition of the condition.

10. Conclusion

The proposals for additional residential accommodation are acceptable and the works to facilitate this are acceptable in conservation and design terms and are not considered to harm surrounding residential amenity. As such, the proposal is considered acceptable, mindful of policies 7, 8, 33, 34, 38, 39, 40, and 45 of the City Plan 2019-2040 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.

(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: SARAH WHITNALL BY EMAIL AT swhitnall@westminster.gov.uk

11. KEY DRAWINGS

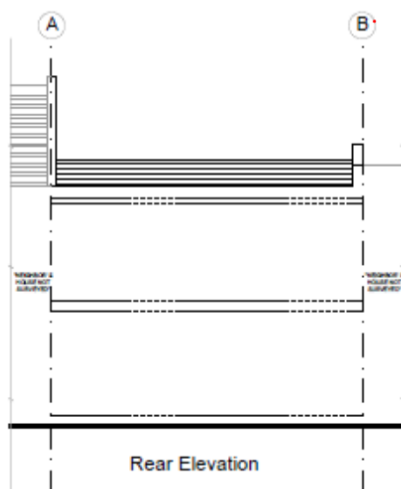
Existing Front Elevation



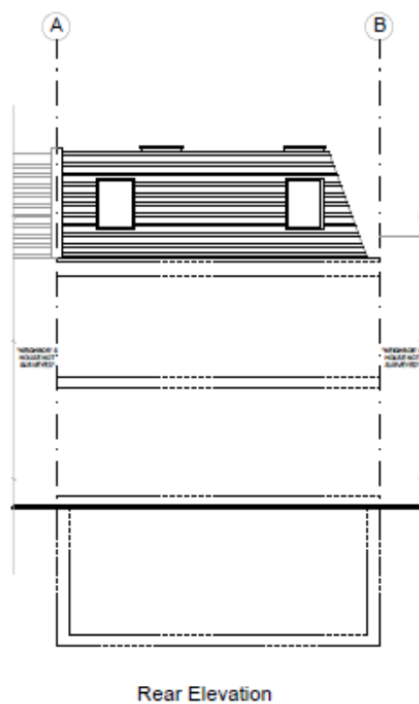
Proposed Front Elevation



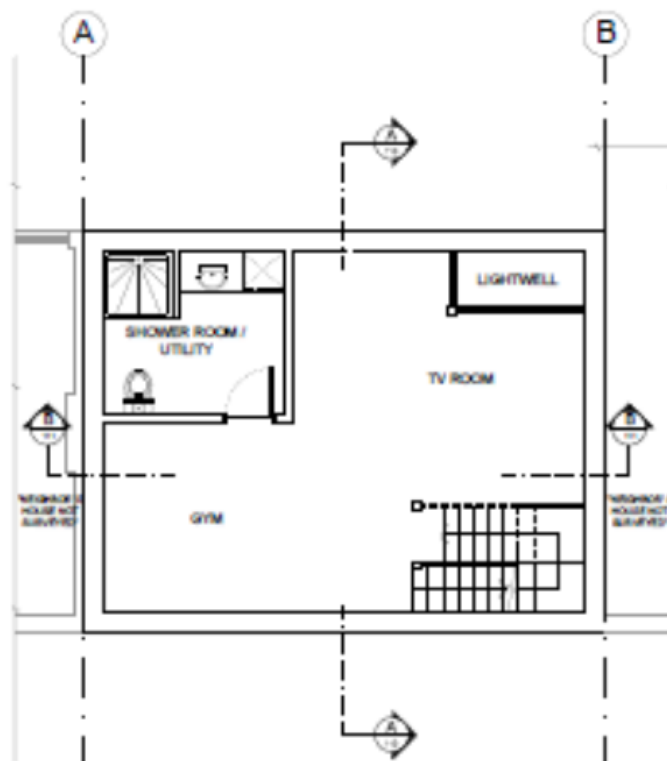
Existing Rear Elevation



Proposed Rear Elevation

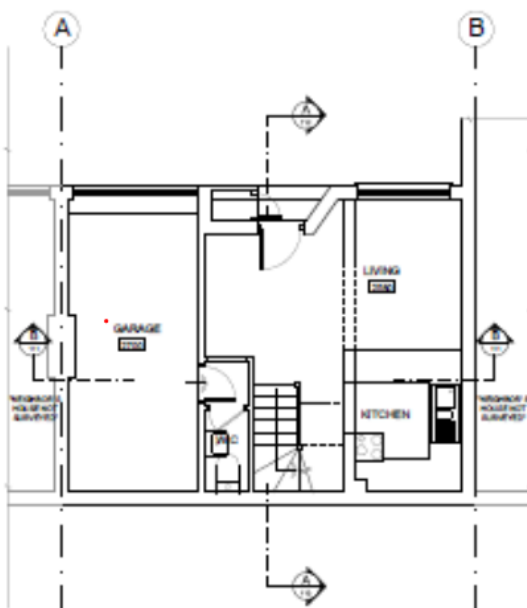


Proposed Basement Plan



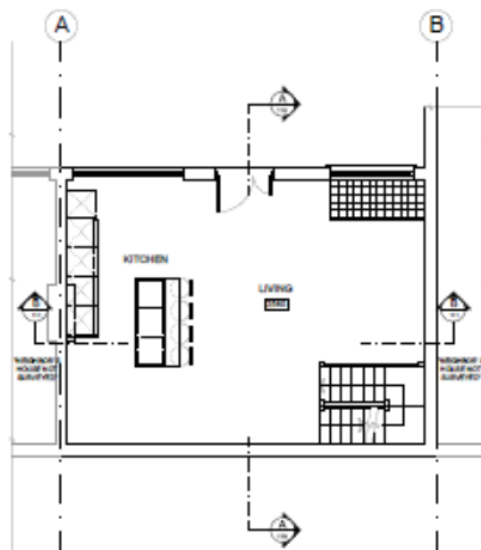
BASEMENT PLAN

Existing Ground Floor Plan



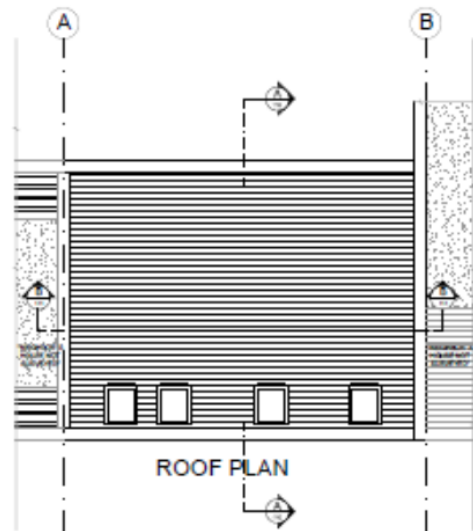
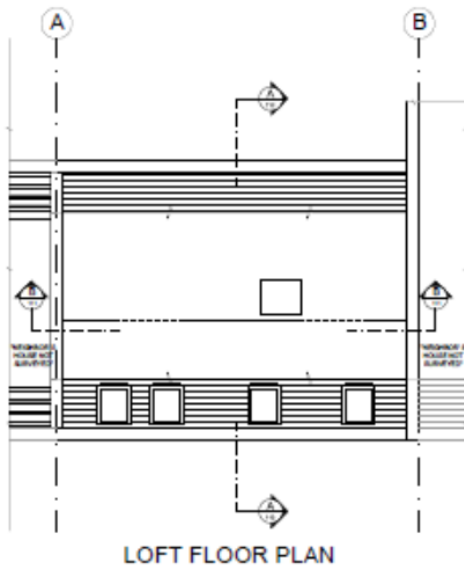
GROUND FLOOR PLAN

Proposed Ground Floor Plan

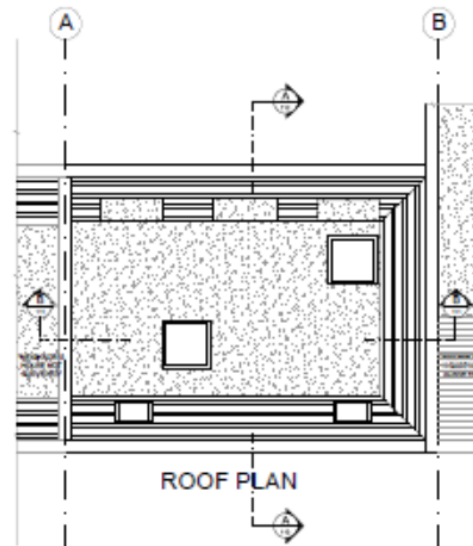
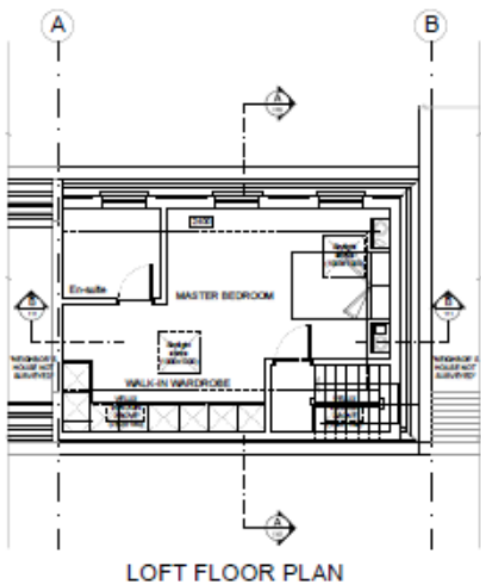


GROUND FLOOR PLAN

Existing Roof Plan



Proposed Mansard & Roof Level Plan

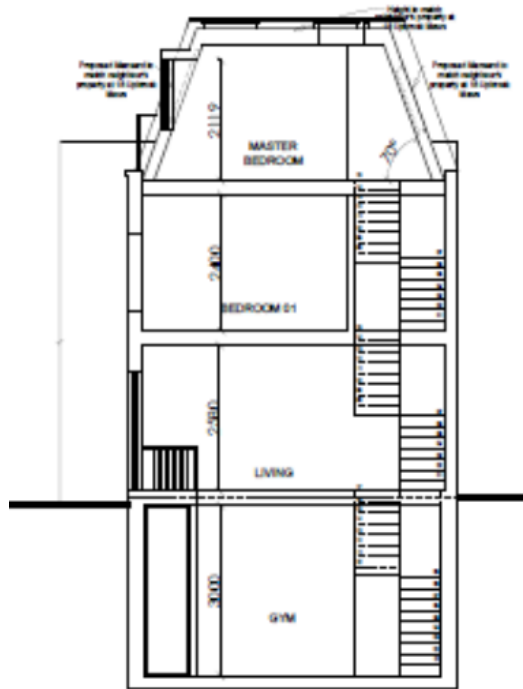


Existing Section A-A



Existing Section A-A

Proposed Section A-A



Proposed Section A-A

Existing Section B-B



Proposed Section B-B



DRAFT DECISION LETTER

Address: 19 Upbrook Mews, London, W2 3HG

Proposal: Excavation of single storey basement beneath footprint of original dwelling, conversion of garage into habitable space and erection of a mansard roof extension with raising the height of the party wall with 18 Upbrook Mews.

Reference: 21/00155/FULL

Plan Nos: 101P B; 102P B; 103P B; 104P B; 105P B; 106P L; 107P L; 108P L; 109P L; 110P L; 111P L; 112P L Flood Risk Assessment dated 4 September 2020, received 22 February 2022. For Information only: Daylight and Sunlight Assessment; Engineer's Report and Construction Method Statement

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641
07866036948

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 , onot 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 **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)

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

- 5 All new windows to the mansard roof and the new 'garage door' shall be constructed in timber and painted to match the existing and be retained in that condition thereafter.

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

- 6 You must install the flood protection measures as detailed in the Flood Risk Assessment dated 4 September 2020, received 22 February 2022 and these must be retained thereafter.

Reason:

To ensure that the development complies with policy 35 of the City Plan 2019-2040, adopted April 2021.

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

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 8 The glass that you put in the windows in the rear elevation of the mansard roof must not be clear glass, and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have given our written approval for the sample. You must then install the type of glass we have approved and must not change it without our permission. (C21DB)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

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 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)

- 5 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.

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.