

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 21 <sup>st</sup> July 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Hyde Park	
<b>Subject of Report</b>	<b>The Water Gardens , Burwood Place, London, W2 2DA</b>		
<b>Proposal</b>	Erection of a new building at ground and first floor level around a retained concrete pergola to create a new health and fitness studio (Class D2) at basement, ground and first floor, installation of a green roof, plant equipment and associated works.		
<b>Agent</b>	Mr Liam Lawson Jones		
<b>On behalf of</b>	Church Commissioners for England		
<b>Registered Number</b>	20/00170/FULL	<b>Date amended/ completed</b>	10 January 2020
<b>Date Application Received</b>	10 January 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside of a conservation area, although the Bayswater Conservation Area lies immediately to the west.		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application site is an area of hard landscaping with planters located to the South of the Water Gardens between the estates South tower and Burwood Road. It includes a basement and a concrete canopy supported by piers. The application site is unlisted and lies outside a conservation area, although the Bayswater Conservation Area lies immediately to the west. It is also located within the Edgware Road Stress Area.

The landscaped area is closed off by railings and is only accessible by residents of the Water Gardens. The basement is currently vacant but has previously been used as porter's storage and back of house uses associated with the Water Gardens.

Permission is sought for the erection of a new building at ground and first floor level around the retained concrete pergola to create a new health and fitness studio (Class D2) at basement, ground and first floor level and the installation of a green roof, plant equipment and other associated works.

Forty-one neighbours have submitted objections on a number of grounds including land use, impact on amenity, design and security. Five representations of support have also been received.

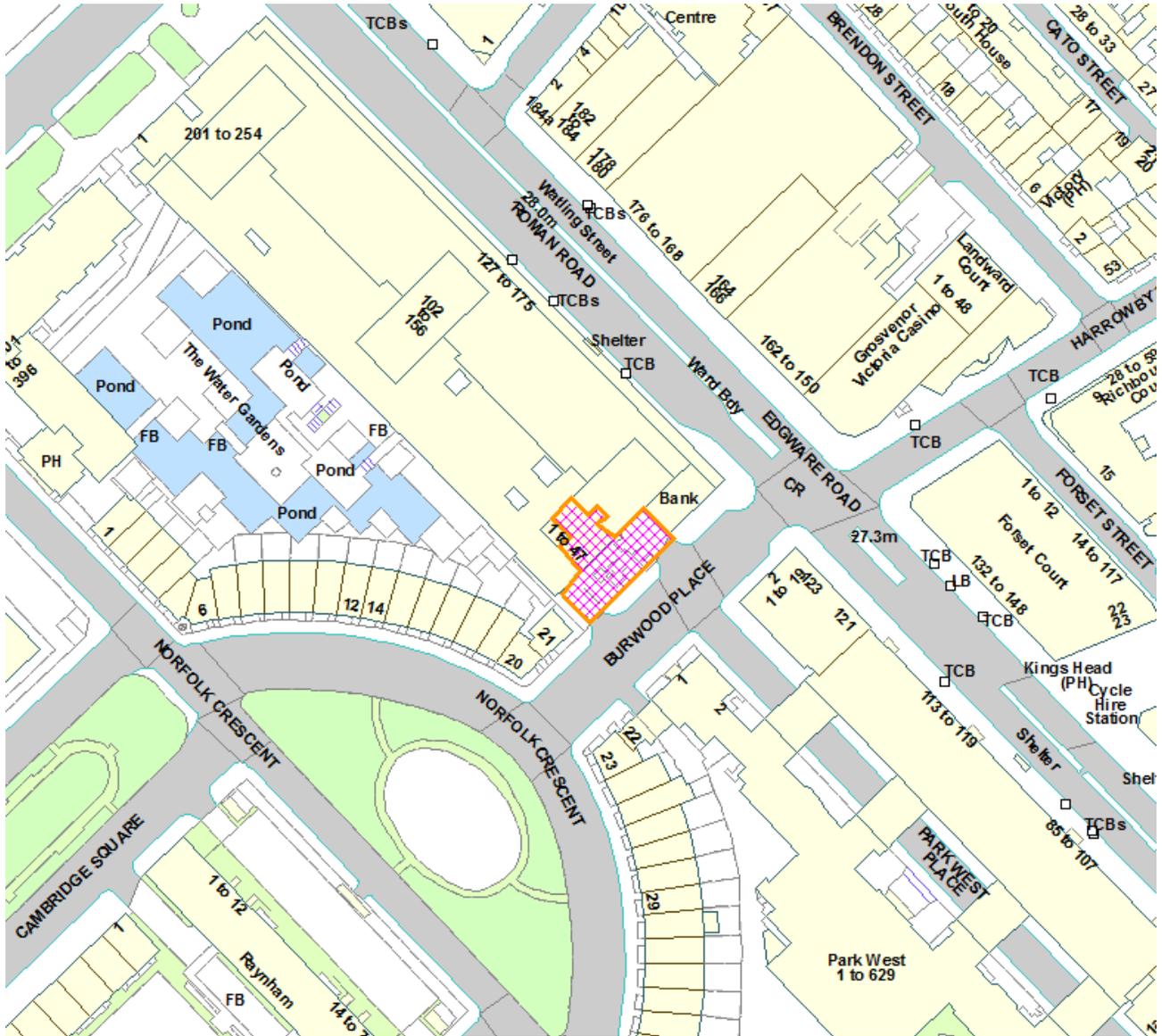
The key issues are:

- The acceptability of the proposals in land use terms.
- The acceptability of the proposed buildings in design terms.
- The impact of the proposals upon the amenity of neighbouring residents.

For the reasons set out in this report, the proposals are considered acceptable in land use, design and amenity grounds and the application is recommended for conditional approval.

The application was due to be considered by Committee on 7 July 2020, however it was withdrawn from the agenda by officers due to a number of complaints being received that notifications of the committee date had not been received in good time giving little opportunity for respondents to register to speak.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



View from Burwood Place looking towards Edgware Road



View from junction of Edgware Road and Burwood Place



View from Burwood Place

## 5. CONSULTATIONS

### WARD COUNCILLORS FOR HYDE PARK

Any response to be reported verbally

### THAMES WATER

No. objection. Advice on water run-off, wastewater and water supply.

### HYDE PARK ESTATE ASSOCIATION

Any response to be reported verbally

### DESIGNING OUT CRIME

No objection. The proposed plans would enhance natural surveillance and improve the current appearance of The Water Gardens, Burwood Place, however, would recommend the angled top remains to retained planter to stop unwanted loitering and avoid the planter being used as a seating platform. Planting within this feature also needs careful consideration so it does not become an area of concealment for weapons and drugs.

### ENVIRONMENTAL HEALTH

No objection subject to standard noise conditions.

### HIGHWAYS PLANNING MANAGER

No objection subject to condition securing details and provision of cycle parking storage.

### WASTE PROJECT OFFICER

Objection can be overcome by submission of revised details of waste storage provision.

### ARBORICULTURAL MANAGER

No objection subject to tree protection conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 282

Total No. of replies: 46

No. of objections: 41 (4 of these received after the date of the original publication of the report)

No. in support: 5

#### Objections on all or some of the following grounds:

##### Land use

- No requirement for gym in area, as many exist nearby

##### Design

- Detrimental visual impact including for residents of Water Gardens.
- Covering of driveway entrance will create dark tunnel
- Loss of visual amenity of Burwood Place.
- Blocks signage to residential entrance.
- Green roof unlikely to be maintained well.

### Amenity

- Overshadowing outside South block entrance.
- Impact on views from flats.
- Loss of private gardens for residents.
- Noise and disturbance from customers of the health and fitness studio and juice bar, entering and leaving the facility especially early in the morning and late at night.
- Increased footfall in location resulting to disturbance.
- Disturbance by internal amplified music.
- Noise from proposed plant.
- Loss of light including to Water Gardens, 21 Burwood Place and 19 Norfolk Crescent.
- Loss of privacy
- Entrance to South Entrance will become very dark as result of development.
- Light pollution
- Antisocial hours of operation

### Highways

- Increased traffic and associated pollution.
- Impact on parking.

### Other issues

- Concerns about security, antisocial behaviour and littering.
- Increased flow of people will provide cover for people to enter the building.
- Rough sleepers drawn to covered entrance area
- Contrary to statement of consultation residents not provided with feedback form at consultation events.
- Sunlight/daylight report misleading and does not involve accurate internal dimensions of surrounding residential units instead uses assumptions and information gathered from estate agent websites. No consideration given to loss of light and light pollution to residents of South Tower.
- Over-commercialisation of residential area.
- Disruption during construction.
- Potential lack of management of green roof.
- Concerns related to COVID 19 and the increased risk of the enclosed space and people congregating.

### Concerns raised after publication of report (not already summarised above)

- Notifications of the committee date had not been received in good time giving little opportunity for respondents to register to speak.
- The case officers report, available to view on the website, pre-determines the outcome of the proposals and does not effectively weight up the pro's and con's of the application.

### Support

Five letters of support from Portman Estate, Victory Services Club Pilate operator, Knight Frank (office occupier of 1<sup>st</sup> floor water gardens, Marble Arch BID and 1 local resident on the following grounds

- Will bring underused land into a use to benefit local people and diversify offer in area
- Will increase natural surveillance
- Will encourage health and wellbeing
- Design will blend into townscape
- Introduces green space
- Demand for health and fitness facilities locally

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is located at the southern end of The Water Gardens development, on the Burwood Place frontage. It is largely hard landscaped and contains concrete planters and a plant area with a single storey concrete pergola over its entire area. Metal railings surround the area and a vehicular entrance ramp to a basement parking area abuts the application site to the east. The site also includes part of the existing basement area.

### 6.2 Recent Relevant History

Planning permission granted on 03 October 2008 for the installation of railings to all three entrances to the Water Gardens, including Burwood Place. (ref. 08/05065/FULL).

Planning permission granted on 25 July 2017 to use the former NCP Car Park as a self-storage facility (Class B8). (ref. 17/03780/FULL).

In late 2017 planning permission was granted to undertake landscape works and a lighting scheme as part of the rejuvenation of the private gardens, ponds and hard landscaping within the Water Gardens. (refs. 17/08764/FULL and 18/01065/FULL).

## 7. THE PROPOSAL

Planning permission is sought for the erection of a new building with green roof at ground and first floor level beneath and above a retained concrete pergola together with the use of part of the existing basement area of the building, to create a new health and fitness studio use (Class D2) with associated plant equipment and associated works.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
D2 Assembly and Leisure	0	376	+376
Total	0	376	+376

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **Loss of ancillary storage and back of house use**

Part of the existing basement to the building, currently in use for ancillary storage and back of house purposes, is proposed to form part of the health and fitness unit. The loss of this ancillary space is not considered to be contentious.

#### **Proposed health and fitness use**

Health and Fitness Uses are classified as a private Social and Community Facility in Westminster's City Plan (November 2016) ("the City Plan"). Paragraph 5.48 of the City Plan sets out that private leisure, social and community facilities play an important role in providing a range of services for visitors, residents and works within the City.

Policy S34 of the City Plan states that new social and community facilities will be encouraged throughout Westminster.

Policy S01 of the UDP states that community facilities must be

- Located as near as possible to the residential areas they will serve;
- Not harm the amenity of the surrounding area, including in terms of the impacts on traffic generation;
- Be safe and easy to reach on foot, by bicycle and public transport.

The site is located close to a large residential population and is in a highly accessible area for public transport. The impact on amenity will be fully assessed in the relevant section of this report.

An objection has been received on the grounds that there is no requirement for a gym in the area as many exist nearby. Whilst this is not a planning consideration, although there are other health and fitness uses in the surrounding area including the Seymour Leisure Centre, the provision is not excessive considering the high density mixed residential/commercial use of the area. The applicant has also stated that there are currently no health and fitness uses, public or private within the Hyde Park Estate.

The proposed health and fitness studio is therefore considered to be an appropriate use in this location and is therefore acceptable in principle in land use terms.

### **8.2 Townscape and Design**

#### **Site and significance**

The application relates to an area of private hard landscaping and associated concrete open canopy structure situated to the southern end of the Water Gardens Estate, fronting onto Burwood Place. The hard landscaping and the canopy are original design

components of the estate and are situated between the vehicular ramp down to the car park (now a storage business) and the vehicular gate into the rear gardens area of the estate.

The Water Gardens Estate is a late 1960s private development of flats comprised of three 17 storey towers spaced regularly on top of a two-storey podium fronting Edgware Road and bounded to the north and south by Sussex Gardens and Burwood Place respectively. It was part of the Church Commissioners' plans to redevelop much of the Hyde Park Estate which later reverted to a more conservation-led exercise leaving a handful of modernist developments such as the Water Gardens amongst the wider early to mid 19<sup>th</sup> century townscape which characterises the Bayswater Conservation Area to the west.

The estate is named in recognition of its landscaped gardens and lakes which are widely recognised for their quality of design. The estate falls outside of, but is bounded immediately to the south-west by the Bayswater Conservation Area. The buildings are not listed, nor expected to be considered to be of listable quality despite their striking architectural design and integration with the gardens behind.

The gardens are also not currently designated but are currently being considered for Registration by Historic England, as part of a national thematic review of post-war landscapes. It is considered reasonable to consider them to be of potentially registrable quality. The part of the estate which is the subject of this application however is not within the area being considered for Registration.

The site does not fall within the setting of any nearby listed buildings.

### **Legislation and Policy**

As set out above, the application site falls within the setting of the Bayswater Conservation Area, and the setting of the gardens of the Water Gardens Estate as a currently non-designated area of landscape significance.

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 should not be permitted. In relation to open landscaped spaces, Policy DES 12 of the UDP is also of relevance.

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 consider the relative significance of the affected asset and the severity of the harm caused.

## **The proposals and their impacts**

The application proposes to build within and on top of the existing concrete pergola structure which acts as a gateway feature to this southern end of the estate. This area currently contains an area of hard landscaping which has in the past few years been fenced in by the applicants. The proposal would incorporate an entrance foyer to the ground floor, with studio spaces to the first floor. Additional accommodation would be contained within the basement, although this would have no outwardly visible manifestation.

The proposed new building would be constructed of decorative concrete panels to the first floor and rear parts of the ground floor, with the frontage to street level enclosed by curtain-wall glazing. The proposal would incorporate the retained concrete pergola structure.

The proposal would represent a considerable change to this southern end of the estate, and likely the most significant addition to it since it was built. Views into the and out of the estate would be affected, with the upper part of the building in particular extending over the vehicular and pedestrian gateway to the estate from Burwood Place. The key impact however would be the replacement of an area of open hard landscaping with a building, which is regrettable and a loss of some original integrity to the estate.

The quality of the proposed new design is however considered to be significant, with the patterned concrete panels in particular working well with the original architectural design of the estate's buildings and landscape. The manner in which the upper storey is designed as a 'floating box' above the pergola allows this original feature to remain the prominent component of this southern entrance to the estate, particular in the way it would be coupled with the substantially glazed form of the ground floor foyer level.

Whilst the proposals would cause some degree of harm to the setting of the gardens within the estate, this is mitigated for and compensated by the quality of the new design which would complement the architectural design of the estate, and add a new feature of interest to the wider townscape, including the adjacent conservation area. As such it complies with the relevant local and national policies set out above, and with the council's statutory duties and planning permission may therefore be granted, subject to conditions and other issues.

### **8.3 Residential Amenity**

Policy ENV13 of the UDP also seeks to protect surrounding residences from unacceptable loss of daylight/ sunlight, sense of enclosure, loss of privacy and noise. Policy S29 of the City Plan states that proposals resulting in an unacceptable material loss of residential amenity will be resisted. Policy ENV7 of the UDP describes how noise from plant, machinery and internal activity should be controlled.

Objections have been received on amenity grounds, as detailed earlier within this report.

#### **Sunlight and Daylight**

A Daylight and Sunlight Assessment has been submitted with the application and

concludes that there are no properties within the vicinity of the proposed development which would be materially impacted in terms of loss of sunlight and daylight.

The first floor of the proposed building would be erected within a meter of the first floor south facing windows in the Water Gardens. These windows do not serve habitable residential rooms within the Water Gardens. The windows serve the landing area of a communal staircase and a void above the communal entrance foyer to the residential south block of the Water Gardens. The first floor windows on the southern elevation of the Water Gardens not obscured by but adjacent to the new building serve offices. The remaining windows in this elevation do serve residential units but are above the roof level of the proposed building. There is also a window facing onto the site adjacent to the ramped vehicular access to the basement of the water gardens. This also serves the bank but is blacked out. The closest residential buildings to the site on Norfolk Crescent have been assessed would not suffer any material loss of daylight and sunlight.

Objections have also been received that the Sunlight/daylight report is misleading and does not involve accurate internal dimensions of surrounding residential units instead using assumptions and information gathered from estate agent websites. It is considered that the assumptions made in the Sunlight and Daylight Report are reasonable for a report of this nature.

Objections have been received to loss of light to the communal entrance areas, however the windows serving these areas cannot be afforded the protection given to habitable private residential areas and therefore these objections cannot be sustained.

### **Sense of Enclosure**

As discussed above the nearest windows to the proposal within the Water Gardens building are above the roof level of the proposed extension. The flank elevation of 21 Norfolk Crescent facing onto the site only has one window which is part of a larger wrap around window at ground floor level the outlook of which is mainly into Burwood Road. It is not considered that the proposal would result in any significant sense of enclosure to surrounding residential windows or any unacceptable loss of views.

### **Privacy**

The first floor studios will be served by a number of obscure glazed rooflights and a low level window which would mean no direct views to surrounding residential properties. The ground floor windows will look out onto Burwood Place to the South, the basement service ramp and blank flank wall to Barclays bank to the east and the vehicle southern entrance to the Water Gardens and flank wall of 21 Norfolk Crescent to the West. The only window in that flank elevation is part of the ground floor wrap around window which would be 10 meters away. The view would also be obscured by the canopy column and would not be directly into the room the window would be serving because of its orientation and angle of view. For this reason, the objections on privacy grounds are considered unsustainable.

### **Light Pollution**

Objections have been received on the grounds of light pollution. The roof lights of the

new building would be in close proximity to some windows in the Water Gardens, however the glazing would be obscured and set in a deep roof profile meaning their impact in terms of direct lighting would be minimal. The first floor and ground floor windows would not be directly visible from the nearest residential windows within the Water Gardens and would be at least 10 meters from the nearest residential windows that they would be directly visible from. The combination of these factors and the proposed opening times of the building (07.00-21.00 Monday to Friday and 07.00-19.00 Saturday, Sunday and Bank Holidays) would ensure that there would be no significant amenity impact in terms of light pollution of the proposal.

### **Mechanical Plant/ noise disturbance**

It is proposed to install three air conditioning condensers, an extract fan and an intake fan. The condensers will be located within the entrance to the underground carpark of the Water Gardens. Objections have been received on the grounds of the potential noise disturbance from the proposed plant however the City Council's Environmental Sciences Team have assessed the Acoustic Report submitted with the application and have no objection to the proposal subject to standard noise and vibration conditions related to plant.

### **Impact of proposed use on amenity**

Objections have been received on the grounds of the noise and disturbance from customers of the health and fitness studio and juice bar, entering and leaving the facility especially early in the morning and late at night, the alleged antisocial hours of operation and potential disturbance from amplified music.

An Operational Management Statement (OMS) has been submitted with the application. The proposed opening hours of the unit are 07.00-21.00 hours Monday to Friday and 07.00-19.00 on weekends and Bank Holidays. These hours are reduced from the original submission which proposed 06.00 to 22.00 Monday to Friday and 07.00 to 19.00 at weekends and bank holidays. The OMS estimate that the unit would be able to hold classes for a maximum of 60 people with classes managed by an online booking system and states that staff would be trained to ensure that customers leaving the building would do so in a quiet controlled, swift manner. Access to the new building will be only via a single entrance on Burwood Place. Although inevitably the operation of the new use would result in increased activity on Burwood Place especially just before scheduled classes start and after they finish, it is not considered that this would result in a significant loss of amenity to local residents, especially due to the nature of the use as a health and fitness studio, the restricted hours of opening and the proposed management of the facility. The amended proposed hours of use would mean that the unit would not operate during the most sensitive hours of the day and would be significantly less than the opening hours of café and restaurant premises within the nearby Edgware Road.

In terms of uses and potential for operational internal noise, the OMS states that the design of the building ensures that noise will not be audible externally. Environmental Sciences have not objected to the proposal on noise breakout grounds and subject to a condition requiring that noise from internal activity does not breach the City Council's standard noise restrictions it is considered that operational noise of the proposal would not have an unacceptable impact on residential amenity.

### **Loss of amenity Space**

The proposal would result in the loss of a predominantly hard landscaped area, with planters which is surrounded by railings meaning it can only be used as a private amenity space by residents of the Water Gardens. Objections have been received on the grounds of the loss of this amenity space. The amenity value of this area is limited by its largely hard landscaped nature, its position immediately adjacent to Burwood Place and the fact residents have access to the much more extensive and private main Water Gardens landscaped area. This means that the area is not intensively used for recreation. Although not accessible for active recreation the proposed green roof would provide some visual amenity and some ecological benefit. For the reasons set out above it is considered that the loss of this space is acceptable.

### **8.4 Transportation/Parking**

Objections have been received on the grounds of increased traffic and associated pollution and the potential impact on parking in the area. The proposal has been assessed by the City Council's Highways Planning Manager who has concluded that although the proposal will increase the number of trips associated with the site, this is unlikely to be to the extent that would have a detrimental impact on the highway network due to the nature of the use and good public transport accessibility. The site is also within a Controlled Parking Zone 24 hours, 7 days a week, which means that anyone driving to the site would need a valid residents permit. The impact on parking levels will therefore be minimal. However, it is recommended that conditions restricting the number of people allowed on the site at any one time and only allowing gym and fitness use and no other uses within D2 use class is attached to any permission. The latter is necessary because other uses within D2 may have much higher levels of trip generation than the proposed use, and which consequently may have an adverse impact on the highway network.

The proposal includes off street servicing provision including for waste collection which is welcomed. The Waste Project Manager has no objection to the proposed waste storage provision.

The proposal includes 4 short term cycle parking spaces and 2 long stay spaces for staff. This provision is in accordance with the London Plan.

### **8.5 Economic Considerations**

The applicant has stated that the proposed use would create a range of employment opportunities with a total employment for 20 people. These would be advertised to local residents in an effort to promote employment, training and skills.

### **8.6 Access**

All visitors and staff would enter and leave the unit via an entrance on Burwood Place. Internal access between floors will be provided via a lift and staircase to all floors.

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

### Trees

There is a field maple street tree located outside the existing pergola, the branches of which would need to be pruned back to facilitate access for construction. The City Council's Arboricultural Officer has no objection to the proposal subject to pre-commencement tree protection conditions

### Biodiversity and Sustainability

The proposal includes a green roof which will provide welcome ecological benefits. Since publication of the report, the applicant has provided details to show that nearly half of the roof is proposed to be greened. Under the condition to secure this green roof, it is recommended to secure adherence to this extent of green roof.

## **8.8 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. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

## **8.9 Neighbourhood Plans**

There is currently no neighbourhood plan in place for this location.

## **8.10 London Plan**

This application raises no strategic issues.

## **8.11 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.

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.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement conditions in relation to tree protection measures. The applicant has agreed to the imposition of the condition.

## 8.12 Planning Obligations

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

## 8.13 Environmental Impact Assessment

Environmental Impact issues have been covered in section 8.7 above.

## 8.14 Other Issues

Crime and security

A number of objections raise concerns regarding security, antisocial behaviour and littering including fears that the increased flow of people will provide cover for people to enter the building and rough sleepers being drawn to the covered entrance area.

The Metropolitan Police Designing Out Crime officer has been consulted on the proposals and has stated that the proposed plans would enhance the natural surveillance of the area and improve the current appearance of The Water Gardens, Burwood Place.

It is considered that the proposal is likely to have more of a beneficial effect on security and in preventing antisocial behaviour because of the additional natural surveillance of this currently relatively secluded area just off the busy area of Edgware Road. The proposal introduces a glazed frontage at ground floor level looking onto Burwood Place and part of the entrance road and footway to the southern entrance of the Water Gardens and the service road ramp to the basement.

The Metropolitan Police Designing Out Crime officer, recommended that the angled top remains to the retained planter to stop unwanted loitering and avoid the planter being used as a seating platform and that the planting within this feature also needs careful consideration, so it does not become an area of concealment for weapons and drugs. An informative is recommended to be added drawing the applicant's attention to this recommendation.

Noise and Disruption during works:

Objections have also been received regarding the likely disruption caused during construction. Our standard hours for noisy works condition is recommended.

Concerns have also been raised related to current COVID 19 emergency and the increased risk of people within the enclosed space and congregating around the new use. The proposed use would be similar to other health and fitness uses in terms of its challenges related to COVID 19 or other potential future such emergencies and would similarly be subject to whatever Government restrictions were considered necessary at the time. It is not a valid reason for the proposal to be refused planning permission.

Comments on case officer's originally published report for 7 July committee:

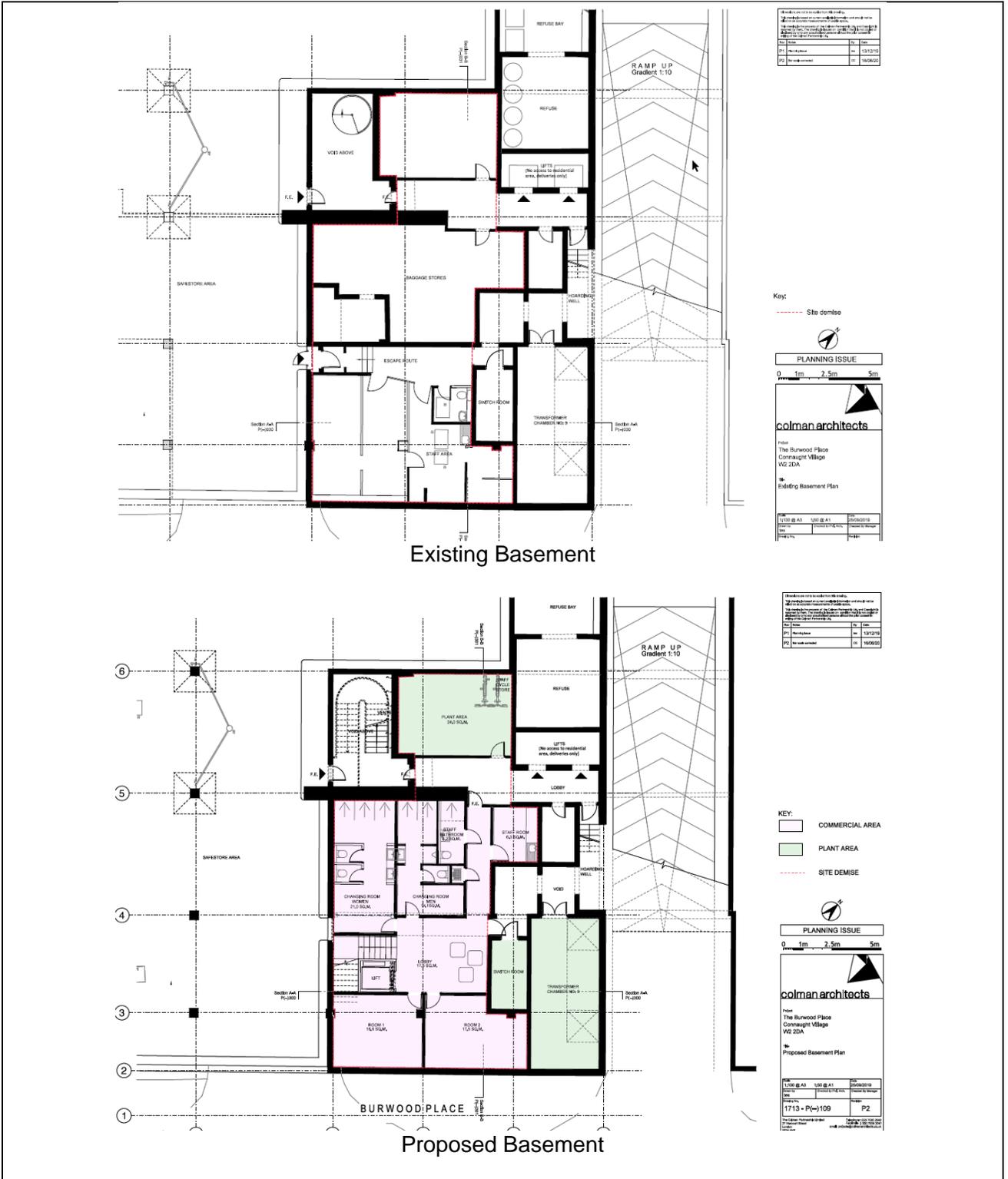
Letters of objections received after the initial report to committee was published has

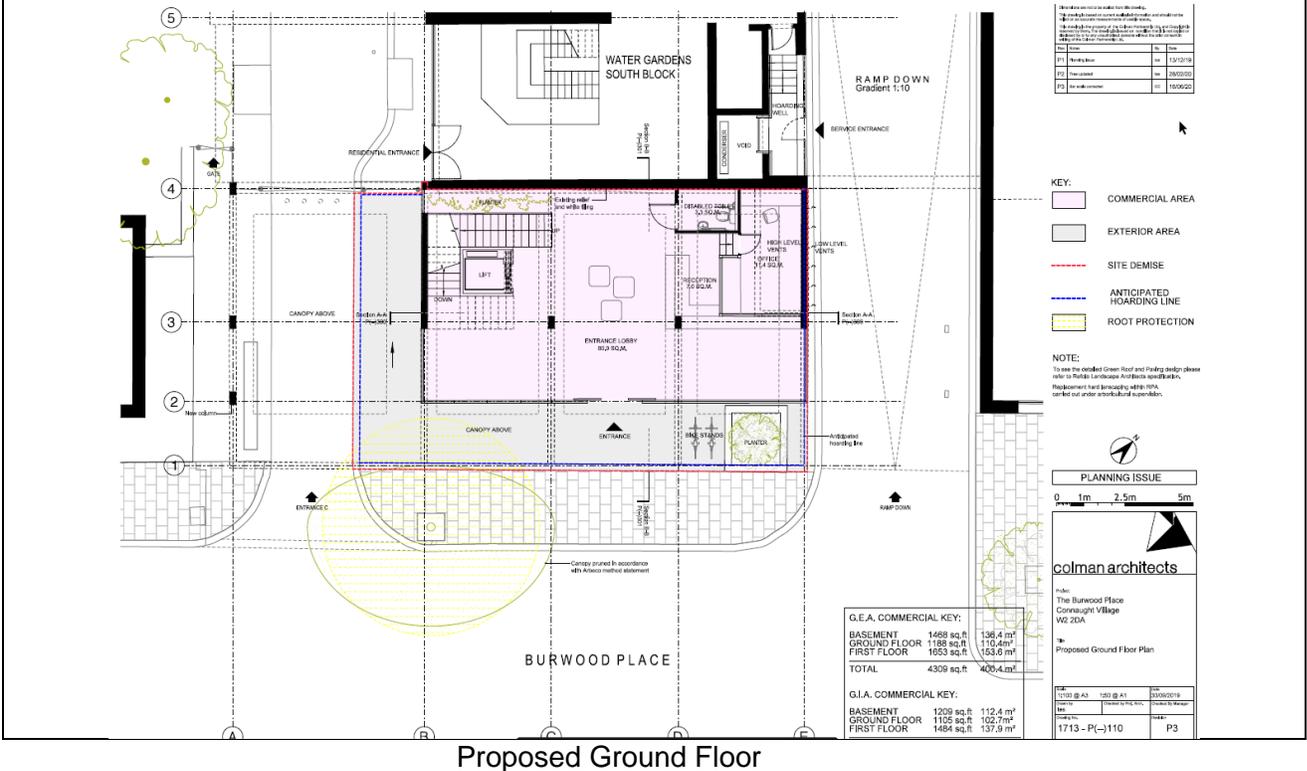
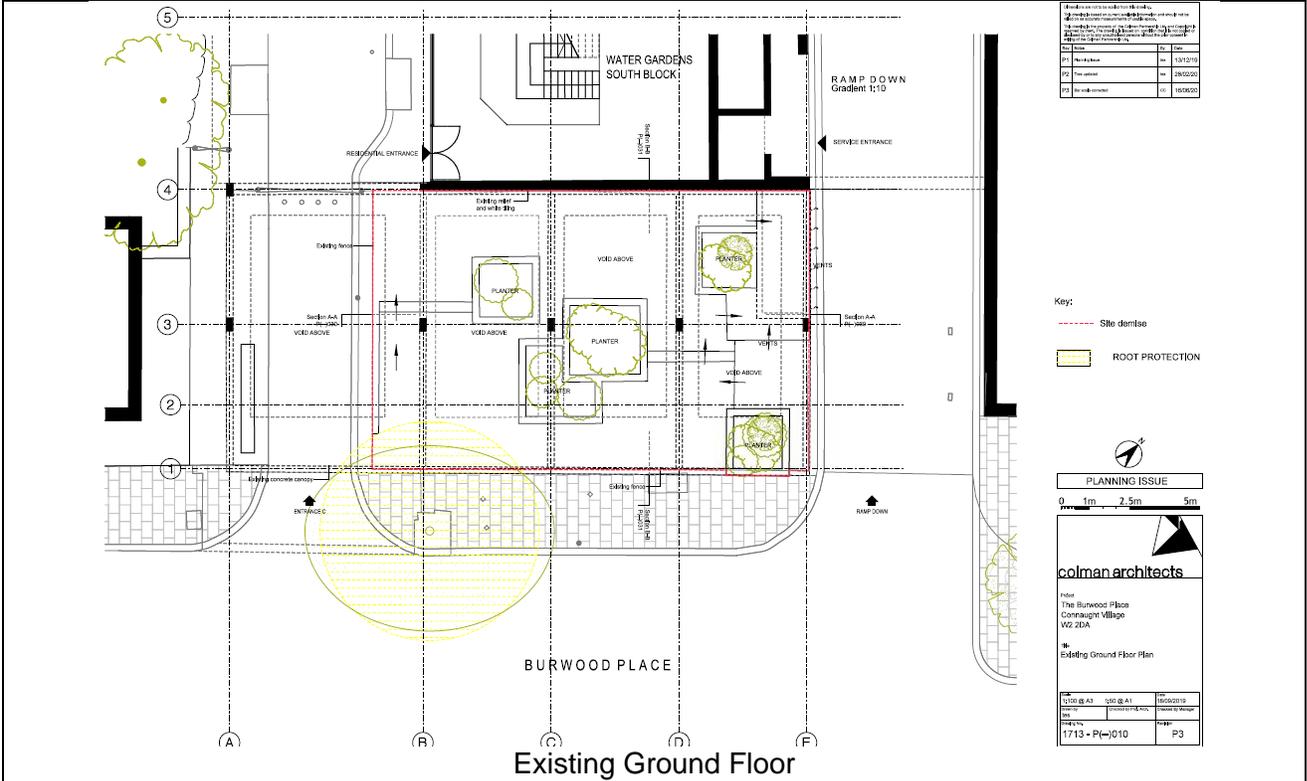
been received (to be originally be presented as a late representation) argues the officer has already made a pre-determined assessment of the application and that the case officers report does not properly weigh up the 'pro's and con's' of the scheme proposals. The application has been recommended for approval, following full assessment of the proposals, as set out within each section of the report. As set out in the report, officers consider the scheme acceptable in all regards.

(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: KIMBERLEY DAVIES BY EMAIL AT [kdavies1@westminster.gov.uk](mailto:kdavies1@westminster.gov.uk)

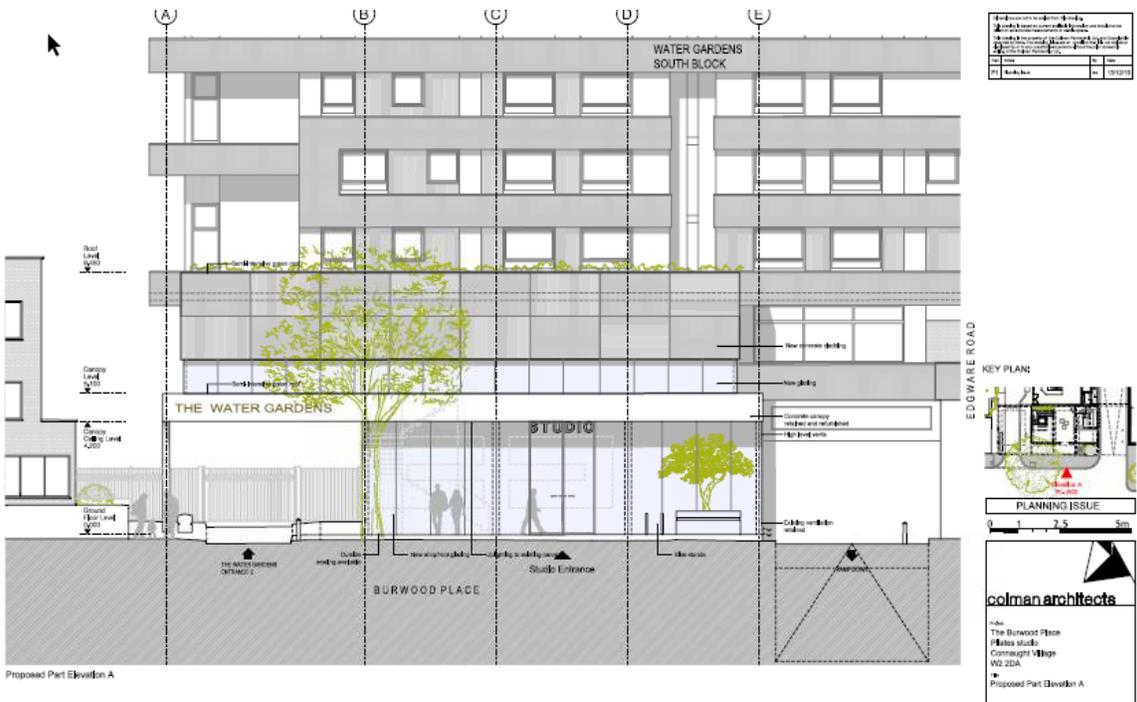
9. KEY DRAWINGS



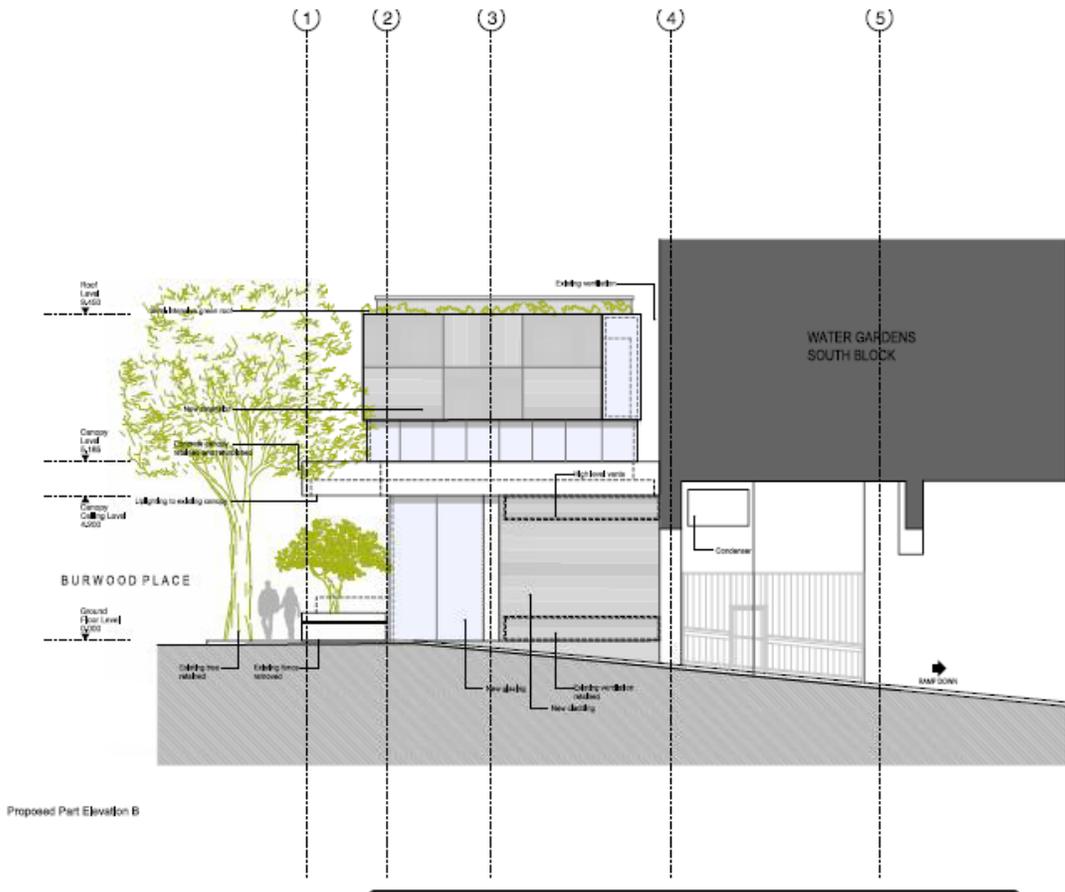


Proposed Ground Floor

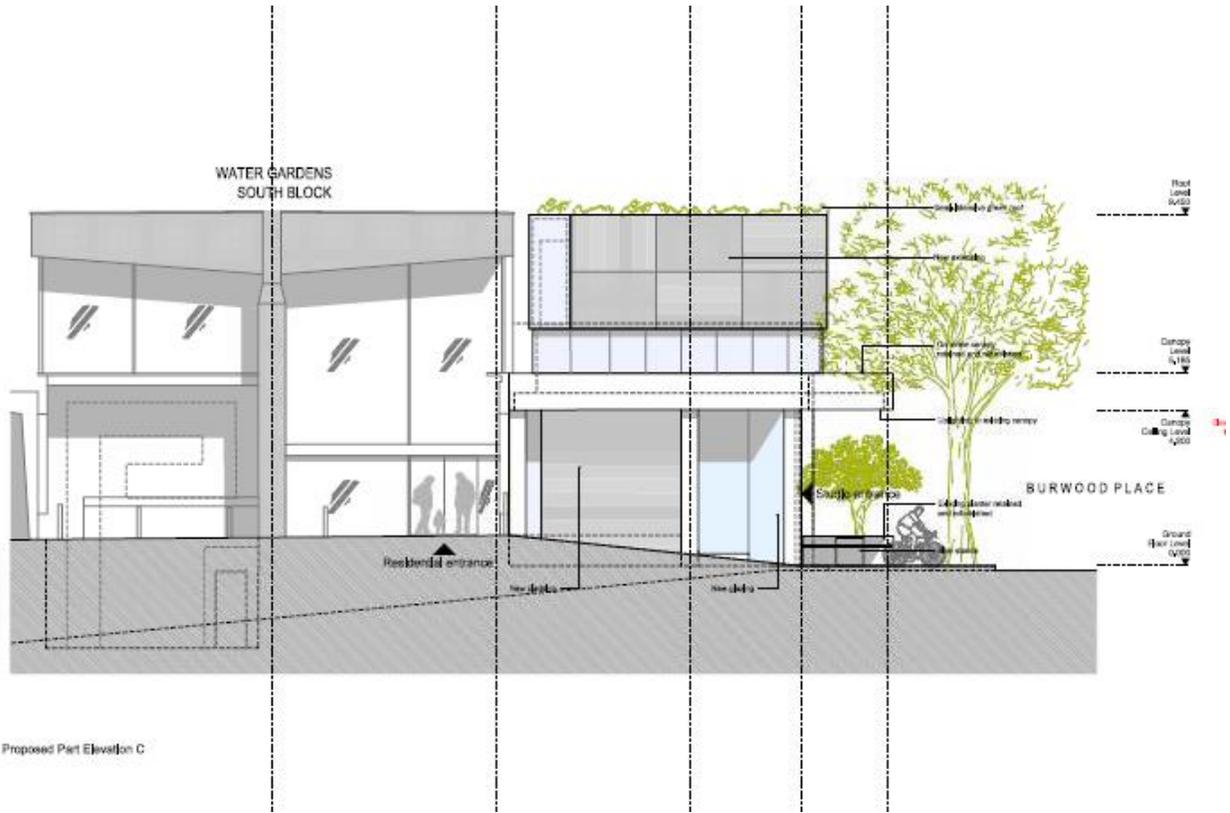




Proposed Burwood Place elevation



Proposed East elevation



Proposed Part Elevation C

Proposed West elevation



Visualisation

**DRAFT DECISION LETTER**

- Address:** The Water Gardens , Burwood Place, London, W2 2DA
- Proposal:** Erection of a new building at ground and first floor level around a retained concrete pergola to create a new health and fitness studio (Class D2) at basement, ground and first floor , installation of a green roof, plant equipment and associated works.
- Reference:** 20/00170/FULL
- Plan Nos:** Site location Plan; P(--001P1; P(--002P2; P(--009P2; P(--010P3; P(--011P3; P(--030P1; P(--050P1; P(--051P1; P(--052P1; P(--053P1; , P(--102P1; P(--100P2; P(--107P2; P(--108P2; P(--109P2; P(--110P3; P(--111P3; P(--112P3; P(--300P1; P(--301P1; P(--500P1; P(--502P1; P(--503P1;, Planning Statement, prepared by Gerald Eve; Design and Access Statement, prepared by Colman Architects; Statement of Community Involvement, prepared by Kanda Consulting; Arboricultural Assessment, prepared by Ecology; Heritage Appraisal, prepared by KM Heritage; Acoustic Report, prepared by Cole Jarman; Daylight/Sunlight Assessment, prepared by Colliers International; Operational Management Statement, prepared by the Applicant; Green Roof Specification, prepared by Refolo Landscape Architecture. Cycle Parking Detailed Drawing (ref. 1713-SK(-)107), prepared by Coleman Architects; Waste Storage Drawing (ref. 1713-SK(-)108), prepared by Coleman Architects,

**Case Officer:** Richard Langston

**Direct Tel. No.** 020 7641  
07866036470

**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:
  - between 08.00 and 18.00 Monday to Friday;
  - between 08.00 and 13.00 on Saturday; and
  - not at all on Sundays, bank holidays and public holidays.

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

- between 08.00 and 18.00 Monday to Friday;
- and 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 You must apply to us for approval of a detailed written and photographic schedule and specification of the facing materials you will use, including glazing. This should include key elevations and roof plans annotated to show where the materials proposed would be located on the new building, and you must also refer to any sample panels prepared on-site for our inspection. 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 work using the approved materials.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 4 You must apply to us for approval of further information (as set out below) about the following parts of the development:
- Cladding and other exposed wall and roof junctions, including the relationship with the retained pergola (detailed elevations and sections at 1:20).
  - Concrete patternation design (3D axonometrics and 1sqm. site trial panel(s)).
  - Glazing, windows and doors (detailed elevations and sections at 1:10, plus product specifications as applicable),
- You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved details.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 5 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. 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)

- 6 You must use the new building as a health and fitness studio and not use it for any other purpose, including any within Class D2 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it)
- Reason:  
We cannot grant planning permission for unrestricted use in this case because it would not meet ENV6, ENV13, TRANS22 and SOC1 of our Unitary Development Plan that we adopted in January 2007 and S29 and S34 in Westminster's City Plan that we adopted in November 2016.
- 7 The glass that you put in the rooflights of the building 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 approved the sample. You must then fit the type of glass we have approved and must not change it without our permission.
- Reason:  
To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)
- 8 Customers shall not be permitted within the health and fitness premises before 07.00hrs or after 21.00hrs on Monday to Friday (not including bank holidays and public holidays) and before 07.00hrs or after 19.00hrs on Saturday, Sundays, bank holidays and public holidays.
- 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. (R22CC)
- 9 The total number of customers allowed within the premises at any one time is not to exceed 60.
- 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, TRANS22, TRANS 23, ENV 5, ENV 6 ENV13 and SOC1 of our Unitary Development Plan that we adopted in January 2007.
- 10 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.
- Reason:  
To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)
- 11 You must provide the waste store shown on drawing P(--)-108P2 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the

health and fitness studio. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 12 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 S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 13 No goods, including fuel, delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway. You may accept or despatch such goods only if they are unloaded or loaded within the curtilage of the building. (C23BA)

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

- 14 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data

of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:; (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing LA90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AB)

- 15 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

**Reason:**

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

- 16 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the health and fitness studio use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest., (2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the health and fitness studio use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below

the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest., (3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: (a) The location of most affected noise sensitive receptor location and the most affected window of it; (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (d) The lowest existing LA90, 15 mins measurement recorded under (c) above; (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition; (f) The proposed maximum noise level to be emitted by the activity.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R47AB)

- 17 The plant/machinery hereby permitted shall not be operated except between 0700 hours and 2100 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R46CB)

- 18 You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must include an auditable schedule of arboricultural supervision and this must include the provision to send a written report to us within 5 days of each visit by the arboricultural consultant. , You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then carry out the work according to the approved details

**Reason:**

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 19 You must apply to us for our approval of any planned digging to make a hard surface underneath any trees that you are going to keep, and the materials you plan to use to make the hard surface and base including a typical cross section showing existing ground level, depth of sub-base and hard surface,. You must not start any work until we have approved what you have sent to us. The surfacing must be carried out according to the approved details.

**Reason:**

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 20 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roof to include construction method, layout, species and maintenance regime (in adherence with the size of the roof shown in the Urban Greening Factor document June 2020). You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

**Reason:**

To reduce the effect the development has on the biodiversity of the environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43AB)

**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 For advice on how you can design for the inclusion of disabled people please see the guidance provided by the Equality and Human Rights Commission, the Centre for Accessible Environments and Habinteg. The Equality and Human Rights Commission has a range of

publications to assist you ([www.equalityhumanrights.com](http://www.equalityhumanrights.com)). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide ([www.cae.org.uk](http://www.cae.org.uk)). If you are building new homes, you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk), , It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering) (I54AB)
- 4 The term 'clearly mark' in condition means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 5 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk). However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority).
- 6 You are advised that the Metropolitan Police Designing Out Crime officer has recommended that the angled top to the retained planter should remain to stop unwanted loitering and avoid the planter being used as a seating platform and that the planting within this feature also needs careful consideration so it does not become an area of concealment for weapons and drugs.
- 7 With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>

There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting

our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.

As required by Building regulations part H paragraph 2.36, Thames Water requests that the Applicant should incorporate within their proposal, protection to the property to prevent sewage flooding, by installing a positive pumped device (or equivalent reflecting technological advances), on the assumption that the sewerage network may surcharge to ground level during storm conditions. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk](http://www.thameswater.co.uk). Please refer to the Wholesale; Business customers; Groundwater discharges section.

Thames Water would advise that with regard to WASTE WATER NETWORK and SEWAGE TREATMENT WORKS infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

#### Water Comments:

If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at [thameswater.co.uk/buildingwater](http://thameswater.co.uk/buildingwater).

There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>

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.