

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 24 November 2020		Classification For General Release
Report of Director of Place Shaping and Town Planning			Ward(s) involved Abbey Road
Subject of Report	52 Acacia Road, London, NW8 6AL		
Proposal	Demolition of existing dwellinghouse, detached garage and boundary wall, excavation to create single storey basement, and erection of new two storey plus mansard roof accommodation dwelling house (Class C3) with integrated garage, new boundary wall/gates and associated hard and soft landscaping works.		
Agent	Mr James Burman		
On behalf of	Salome Papashvili		
Registered Number	20/01665/FULL	Date amended/ completed	11 March 2020
Date Application Received	5 March 2020		
Historic Building Grade	Unlisted		
Conservation Area	St John's Wood		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application site relates to a detached house located on the corner of Acacia Road and Acacia Place. The building is located within the St John's Wood Conservation Area and is identified within the Conservation Area audit as an unlisted building of merit.

Planning permission is sought for the demolition of the existing building and associated garage and boundary wall and the erection of a two-storey house plus basement and habitable roof. An integrated garage is proposed adjacent to the house as well as new boundary treatments and a lightwell is proposed to the rear of the building in association with the basement. There have been some minor amendments and refinement to the detailed design during the application.

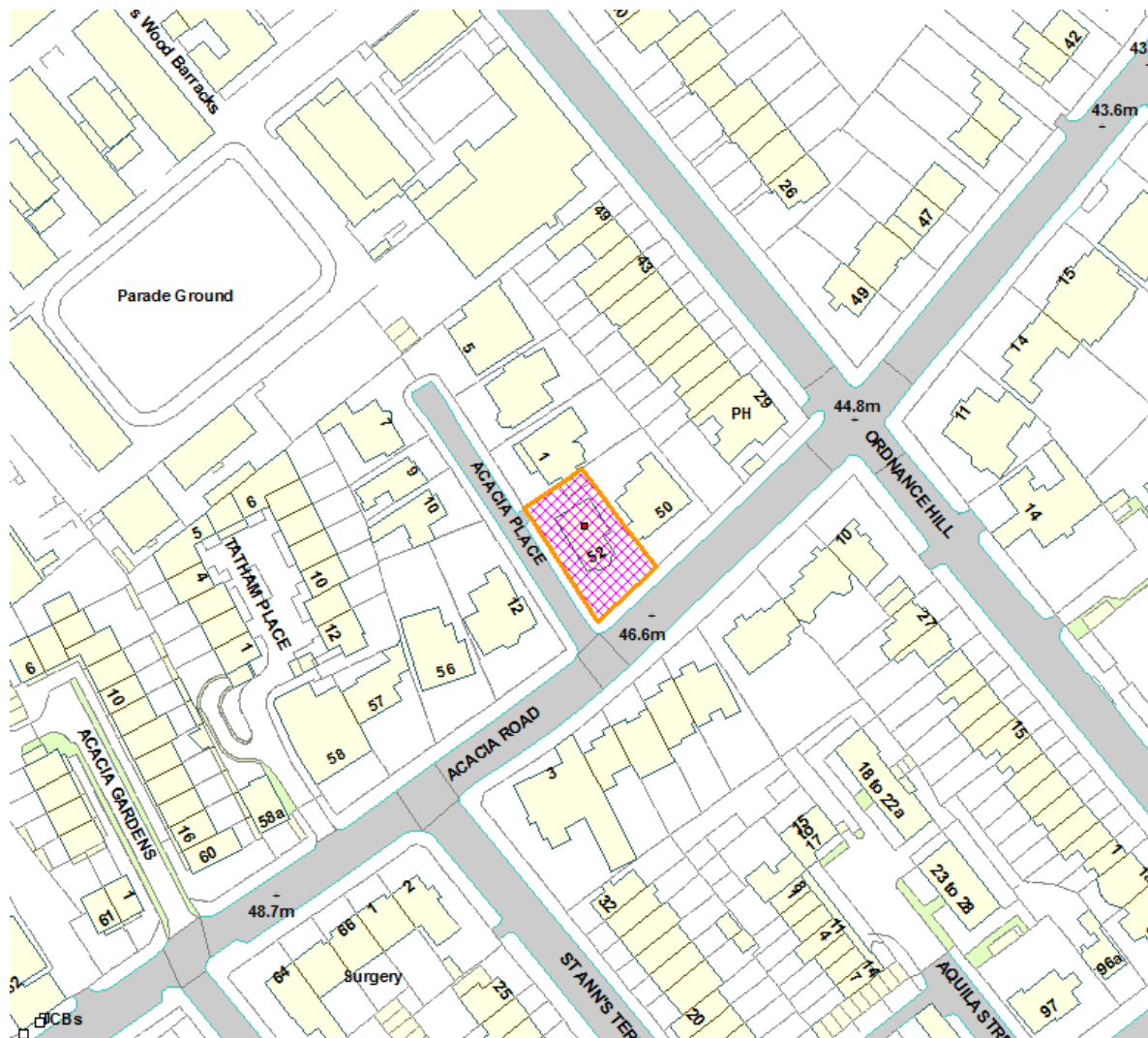
Objections have been received from neighbouring residents on a number of grounds including the design, impact on the conservation area, impact on the amenity of neighbours and the impact of excavation works on neighbouring properties and residents.

The key issues in this case are:

- \* The impact of the proposal on the appearance of the host building and the character and appearance of the St John's Wood Conservation Area;
- \* The impact of the proposal on the amenity of neighbouring residents.

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

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



**Front Elevation from Acacia Place**



**Side Elevation from Acacia Road (with No 50 Acacia Road to the right)**

## 5. CONSULTATIONS

### HISTORIC ENGLAND:

No objection – does not consider proposal necessary for Historic England to be notified

### ST JOHN'S WOOD SOCIETY:

Objections raised on the following grounds:

- Design, bulk and height of the oversized building and would sit uncomfortably next to the other modest houses in this location
- The ground floor is disproportionately high
- The mansard is overly dominant
- The outside terrace is likely result in a loss of privacy and overlooking for neighbours
- The fenestration is over-sized
- Cast iron balustrades are inappropriate in this location
- Request that the arboricultural manager makes a site visit to ensure that no trees with amenity value are lost.
- Request that the case officer ensures that the new boundary gates do not have solid backings

### THAMES WATER:

No objection subject to informatives.

### HIGHWAYS OFFICER:

No objection subject to conditions.

### WASTE PROJECT OFFICER:

Objection – can be addressed by condition requiring revised plans to be submitted.

### ENVIRONMENTAL HEALTH OFFICER:

No objection subject to conditions.

### ARBORICULTURAL OFFICER:

No objection subject to conditions.

### BUILDING CONTROL OFFICER:

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 12; Total No. of replies: 7

Seven objections have been received on all or some of the following grounds:

#### Design:

- The new house is out of keeping in style with the existing property and the nearby area, St John's Wood Conservation Area
- Size and scale of the proposed development
- Incongruous and out of proportion to the size of the site

**Amenity:**

- Increase in overlooking
- Loss of light
- Increase in overshadowing
- Noise disturbance from the air conditioning units

**Other:**

- Overdevelopment of the site
- Disturbance from basement construction
- Size of the basement is too big
- Basement will affect the water table and nearby trees

**PRESS ADVERTISEMENT / SITE NOTICE:**

Yes

**6. BACKGROUND INFORMATION****6.1 The Application Site**

The application site is a detached house located on the corner of Acacia Road and Acacia Place. The building currently comprises ground and first floors with a pitched roof. To the north of the house is a detached garage. The building is located within the St John's Wood Conservation Area and is identified within the Conservation Area audit as an unlisted building of merit.

**6.2 Recent Relevant History**

No recent planning history.

**7. THE PROPOSAL**

Permission is sought for the demolition of the existing building, garage and boundary wall and the erection of a two-storey house with a flat-topped mansard roof plus basement. An integrated garage is proposed adjacent to the house to the north as well as new boundary treatments and a lightwell is proposed to the rear of the building in association with the basement.

The proposal has been subject to pre-application discussions and negotiations during the application, as a result the height and bulk have been reduced and the design has been improved, in order to address urban design and conservation concerns raised by officers and objectors.

A site visit was carried out by the case officer and Design and Conservation Officer throughout the pre-application process, therefore the current government movement restrictions during Covid-19 have not impacted the assessment of the site and proposals.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The principle of providing residential accommodation on this site, in the form of a replacement single family dwellinghouse is acceptable in land use terms and accords with Policies S13 and S14 in the City Plan and Policy H3 in the UDP. The standard of accommodation, including that to be contained within the basement is acceptable.

### 8.2 Townscape and Design

#### Legislation and Policy

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

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

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

The relevant policies for consideration of this case are DES 1, DES 4 and DES 9 of the UDP adopted in 2007 and CM28.1, S25 and S28 of the City Plan (2016). Of particular relevance is UDP Policy DES 4 which seeks to ensure the highest quality of new development in order to preserve or enhance Westminster’s townscape. The policy sets out considerations whereby new infill development must have regard to the prevailing character and quality of the surrounding townscape specifically noting that the development conforms or reflects established boundary lines and local scale, storey heights and massing of adjacent buildings, characteristic frontage plot widths, roof profiles including silhouettes of adjoining buildings, distinctive forms of prevalent architectural detailing and type of characteristic materials.

#### The Existing Building and Proposed Development

The existing building is of two storeys, red brick, with a four-pitched tiled roof. The building is Neo-Georgian in style, which is in keeping with those in the immediate setting.

The primary façade fronts Acacia Place and the side elevation fronts Acacia Road, a high red brick boundary runs continually around both frontages. The building sits centrally in the plot with garden on all four sides, with a garage located in the northern corner and a driveway on the western side. The building is noted within the St John's Wood Conservation Area Audit as being an unlisted building of merit.

The replacement building will be of two storeys with a mansard roof level and a basement. The building will have a comparable footprint with the existing building, with the exception of the garage being relocated and incorporated into the main building. The basement sits beneath the building and has a lightwell to the rear. The overall height of the building is increasing, however this has been amended during the course of the application. The design approach is Neo-Georgian and includes limestone cornices, cast iron railings and bay windows. The orientation of the building within the plot is to remain. The boundary wall is to be rebuilt to match the existing wall, with openings in response to tree growth.

Objections have been received from the local amenity society in respect to the proposed design, bulk and height of the building, raising particular concern with the height of the ground floor level, dominance of the mansard, scale of fenestration and use of cast iron balustrades. Comments from neighbours also raise concerns with the scale and mass of the replacement building and its relationship to the setting.

### Assessment

As noted, the building is identified as an unlisted building of merit and there is a presumption in favor of retaining buildings that contribute to the character and appearance of conservation areas, which is reflected in UDP Policy DES 9(B). The policy states that buildings identified in adopted conservation area audits as being of local architectural, historical or topographical interest will enjoy a general presumption against demolition. Policy DES 9(B)(2) goes on to state that, in such cases, the demolition of such building may be permitted, *"If the design quality of the proposed development is considered to result in an enhancement of the conservation area's overall character or appearance, having regard to issues of economic viability, including the viability of retaining and repairing the existing building"*.

UDP policy DES 4 seeks to ensure the highest quality of new development in order to preserve or enhance the townscape. Particularly the policy states infill development will be permitted if its design has regard to the prevailing character and quality of the surrounding townscape and conforms to established urban design characteristics, such as the massing of buildings, roof profiles and architectural detailing.

The design approach of the replacement building is in keeping with the architectural character of the setting. In considering the elevation design, the building will be brick faced with stone detailing and vertically aligned fenestration, the architectural features proposed more pronounced than those on the existing building. The detailed design, proposed materials and architectural detailing are in keeping with the Neo-Georgian character of the area and therefore the architecture would not detract from the character and appearance of the area. The concerns raised by the local amenity society and neighbours are noted, however the building is considered to be proportionate to its



setting. Details of the materials and architectural features are requested by condition to ensure that they compliment the architecture and character of the area. The roof form, as amended, is read as a subservient level with three curved dormers on the front and rear elevations. The garage has been incorporated into the envelop of the building and as such has been consciously designed to compliment the building. This is considered to be an appropriate design.

Whilst the internal floor heights are increasing and the overall height of the building is increased it is recognised that the overall height of the replacement building is no higher than the neighbouring buildings, owing to the topography of the site, and those within the immediate setting. In response to the comments of the local amenity society, section drawings showing the neighbouring buildings were provided to demonstrate this. The footprint of the existing building is principally maintained, with additional mass resulting from aligning the rear elevation and architectural features such as bay windows. Therefore, the increase in mass and bulk is considered to conform with the established urban design characteristics, including the height and massing of neighbouring buildings, in accordance with DES 4.

Whilst the loss of an unlisted building of merit is highly regrettable, it is recognised that permission has been granted in Acacia Road for comparable developments including, most recently no.14 (RN: 19/03428/FULL). It is also recognised that the existing building does not form part of an immediate group and lacks the rich detail that is found on many buildings in the area. In this context and given the replacement building is considered to be of sufficient design and architectural merit and appropriate to the conservation area context the demolition and replacement of the building is considered to be acceptable, in accordance with DES 9.

To protect the appearance of the conservation area a condition is recommended to prevent the demolition of the existing building, except as part of a continuous programme of development to deliver the replacement building.

The basement will sit beneath the host building and have a lightwell and access stair adjacent to the rear elevation. The length of the lightwell is broken up by a louvred cover and planting. Part B(5) of Policy CM28.1 seeks to protect the character and appearance of the existing building, garden setting and the surrounding area by ensuring the external manifestations of basements are sensitively designed and discreetly located.

Westminster's Basement SPG states that if new lightwells or skylights are introduced they should be located immediately adjacent to the rear elevation. As proposed the basement and lightwell is considered to accord with these aims and guidance. The lightwell is considered to be of an appropriate scale in relation to the building as a whole, with the visual breaking up the opening with a louvre considered acceptable. As such the garden setting is maintained and the appreciation of the basement in public views limited, therefore preserving the character and appearance of the conservation area.

The existing boundary wall is considered to positively contribute to the character and appearance of the conservation area. It is recognised that its rebuilding is required to accommodate the growth in the trees and to ensure its longevity in terms of stability. As the trees are also considered to contribute positively to the conservation area, the works

to the wall are accepted, given that it is going to be rebuilt like for like in terms of materials, scale and design.

As such, the proposal is considered acceptable, preserving the character and appearance of the St John's Wood Conservation Area, mindful of the identified policies with the UDP and City Plan; and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### 8.3 Residential Amenity

Policy S29 of the City Plan relates to health, safety and wellbeing, stating that the Council will resist proposals that would result in an unacceptable material loss of amenity. Policy ENV13 of the UDP relates to protecting amenities, daylight and sunlight, and environmental quality. Policy ENV 13 (D) states that the City Council will resist proposals which result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. Policy ENV 13 (E) goes on to state that developments should not result in a significant increase in sense of enclosure, overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use. Policy ENV 6 seeks to protect noise sensitive properties from noise disturbance.

Objections have been received to the proposals on the ground of loss of light, overshadowing to adjacent garden areas and that the bulk increase will be noticeable.

#### 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' (as revised 2011). The applicant's consultant, Right of Light Consulting, has carried out the necessary tests using the methodology set out in the BRE guidelines on residential properties surrounding the site. The report tests over 500 windows.

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. An objection to which has been received. 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:

- 50 Acacia Road (east of site)
- 1 Acacia Place (north of site)
- 12 Acacia Place (west of site).

It should be noted that the adjacent property, 52 Acacia Road objects to the proposals on the grounds of overshadowing to their outside patio which they use frequently for dining etc.

Both 1 Acacia Place and 12 Acacia Place are shown to have no VSC transgressions to habitable rooms and therefore fully comply with BRE criteria.

At 50 Acacia Road, there are four windows in the western elevation, facing the application site, which are shown to experience some losses to VSC marginally above the recommended BRE guidance. These windows appear (from planning records) to serve a TV/snug room which is attached to a kitchen and a set of doors leading from the garden to a reception room. Both of these rooms are served by multiple windows/doors and in the case of the TV/snug a large rooflight. Officers therefore consider that in this instance that as the remaining windows/doors still retain good levels of light that the proposals are acceptable in this regard and would accord with Policy ENV13 in the UDP and S29 in the City Plan.

In terms of overshadowing and in response to the objection from No, 50 Acacia it is first important to note that there are two areas of garden space in the report identified as AM1 and AM2. AM1 is the area directly to the east of the application, which is the north garden of the application site. AM2 is to the east of the objectors property, adjacent the Ordnance Arms public house. The submitted BRE assessment concludes that We there will be some afternoon overshadowing of 50 Acacia Road on the equinox to the garden area identified AM1. The report shows that this overshadowing is significantly reduced in the summer months. The assessment of the winter solstice shows that none of the spaces we have examined receive 2 hours sun on the ground at this time of year. The consultant argues that whilst the paved rear amenity space AM1 serving the objectors property falls short of the BRE guidance, there is a larger space to the east of this property which appears to be the primary amenity space, is unaffected by the proposals. Due to the relative orientation of this property and the trees on site (which incidentally haven't been included in the assessment but will undoubtedly have an impact on existing levels given the maturity of these trees), it is likely that the paved amenity space does not receive the same base light levels as suggested by the results. The consultant concludes that primary amenity space is both unaffected by the proposals and has no trees to the immediate south and therefore the consultants believe that the results for this property are acceptable.

The objector has confirmed that their primary amenity space is in fact the area directly to the north, labelled AM1, therefore contrary to the consultants opinion and they confirm that the area to the east of their property (AM2) does not belong to them, but held on a short licence (3 years) without security of tenure, is divorced from the main living areas to the house with no direct access. The objector argues that it is dark because of

surrounding trees and noisy as it is adjacent to the pub and beer garden. Officers are unclear as to the access arrangement and what the purpose of the area is if there is not direct access and how access is gained, therefore.

Whilst there is some overshadowing predicted from the increase in bulk and height of the proposed building to the objectors main amenity area, it is recognised that the historic plots, urban form and close knit relationship of these corner properties are unusual leaving little amenity space to the rear and therefore most forms of development are likely to have some form of impact. It is not considered that the increase in overshadowing to the neighbour's garden, in this urban location is significantly harmful so as to warrant refusal.

### **Sense of Enclosure**

The proposed dwellinghouse is predominantly on the footprint of the existing house. To the north of the site though, the garage is to be rebuilt but integral/ attached to the development and a first floor 'half' floor built atop. Whilst this is newly created bulk fronting the property north of the application site, 1 Acacia Place, this is not considered to cause a material increase in sense of enclosure to the windows within the southern elevation of No 1 Acacia Place, which are secondary windows to these rooms at ground and first floor.

Turning to the impact upon No 50 Acacia Road, due to the angle and orientation of the houses, the side elevation of this property is within close proximity to the rear elevation of the proposed new building and as noted above contains several windows, many of which are multiple windows serving one room. The main rear elevation of the proposed building is in a similar position to the existing building, albeit higher than existing. Included in the redeveloped property is a full height projecting bay window which will be some 4.5m away from this property. Given the existing close-knit nature of these properties, it is not considered that the proposals would result in a significant increase in sense of enclosure in comparison to the existing situation, so as to warrant refusal, and the objections on these grounds cannot be sustained.

### **Overlooking**

There are no windows in the north elevation of the redeveloped site so as to cause overlooking to 1 Acacia Place.

The redeveloped property, in terms of window placement is also considered to result in a comfortable relationship to properties opposite the site in Acacia Place and Acacia Road.

The majority of the proposed rear elevation windows are replicating the position of the existing building and therefore this raises no significant overlooking concerns. The applicant has agreed for the bottom half of the windows at first floor level to the rear to be obscure glazed and restricted from opening in order to ensure privacy is maintained. A new element to this scheme is the proposed projecting bay window to the rear and this is to serve the main staircase. Whilst it is fully glazed and could offer views to the existing side elevation windows of 50 Acacia Place and the rear, given that this serves a staircase it is unlikely that these will be continual views or significantly intrusive and therefore the objections on the grounds of loss of privacy are not considered sustainable.

The proposal includes a terrace to the side of the property (facing Acacia Road) at first floor level and two small terraces to the front of the property (facing Acacia Place). Given the size of these terraces and that they are accessed off bedrooms/ studies it is not considered that they will be heavily used, resulting in loss of privacy to neighbours so as to warrant refusal.

Conditions are recommended to control the amenity impact of the development.

#### **Excavation of Basement**

Given the subterranean nature of the proposed basement extension and the limited extent of its external manifestations, the development would not result in a significant impact on the amenity of neighbouring residents.

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

The proposal raises no transportation or parking issues.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The property is to remain as a single family dwellinghouse. The property does not have level access from the front driveway and is accessed by steps.

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

##### **Basement Excavation**

The proposals are considered to be in accordance with policy CM28.1 of the City Plan (July 2016) for the reasons set out as follows:

##### *Part A. 1-4*

The applicant has provided an assessment of ground conditions for this site and this has informed the structural methodology proposed, which has also been submitted with the application within a structural statement prepared by an appropriately qualified structural engineer. These documents have been reviewed by Building Control who advise that the structural methodology proposed is appropriate for the ground conditions found on this site.

In terms of construction impact, the applicant has provided a signed proforma Appendix A confirming that they agree to comply with the City Council's Code of Construction Practice (CoCP). A condition is recommended to ensure that the applicant complies with the CoCP and that the construction works are monitored for compliance by the Environmental Inspectorate at the applicant's expense.

The flooding risk has been investigated within the Basement Impact Assessment and this indicates the property lies within a flood risk Zone 1 and therefore no flood risk

assessment needs to be provided as part of the application.

*Part A. 5-6*

Objections have been received from neighbouring residents regarding the impact of construction work associated with the proposed basement and general disturbance associated with construction activity. The proposed hours of working condition states that no piling, excavation and demolition work is undertaken on Saturdays. This condition is consistent with environmental protection legislation and will help to alleviate disturbance to neighbours outside of the prescribed hours.

The City Council adopted its Code of Construction Practice (CoCP) at the end of July 2016 and if permission is granted, the applicants will be required to comply with the CoCP. This is a fundamental shift in the way the construction impacts of developments are dealt with relative to the position prior to July 2016.

Previously conditions were attached to planning permissions requiring Construction Management Plans to help protect the amenity of neighbours during construction. The new CoCP expressly seeks to move 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 has been resourced in both numbers and expertise to take complete control over the monitoring of construction impacts.

The CoCP strongly encourages early discussions between developers and those neighbouring the development site. It notes that this should be carried out after planning permission is granted and throughout the construction process. By providing neighbours with information about the progress of a project, telling them in good time about when works with the potential to cause disruption will take place and being approachable and responsive to those with comments or complaints will often help soothe the development process.

While the comments from the neighbours are noted, it is considered that the CoCP will adequately ensure that the development is undertaken in such a manner as to ensure that the impact is mitigated as far as possible.

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.

The site is not in an archaeological priority area and therefore part 6 does of the policy does not apply.

*Part B. 1 & 2*

Clarification was provided during the application that there will be no soil build up over the small area of basement set within the lightwell on the east side of the property, it will be covered with a 'green roof' to tie in with the surrounding landscaping. Assurance has also been provided that the boundary wall foundations will be constructed without damage to the tree roots. The aboriginal officer has no objection to the basement subject to tree protection conditions.

*Part B. 3*

The submitted proposed drawings indicate a plant room which will be used to house mechanical ventilation mainly for the pool, sauna and gym facilities which an acoustic report has been submitted in relation to. This has been assessed by Environmental Health Officers and no objection has been raised subject to conditions. Furthermore, the habitable bedroom at this level will have natural ventilation and lighting provided by the lightwell, a second lightwell provides natural ventilation and lighting for the pool. Therefore, this is considered acceptable.

*Part B. 4 & 7*

The only external manifestations of the basement would be the lightwell to the rear of the application site, which is not considered to have a significant impact in terms of sustainable urban drainage. Furthermore, a water permeable hardstanding surface will be provided within the garden to provide drainage.

*Part B. 5 & 6*

The proposal to excavate the basement and the lightwell are considered to be discreet and will not negatively impact on the conservation area (see also Section 8.2 of this report).

*Part C. 1*

The proposal is to excavate largely beneath the proposed dwellinghouse with a lightwell to the rear and measures 155m<sup>2</sup>. With the total garden area measuring 547m<sup>2</sup>, the basement does not extend under more than 50% of this garden area, at 28% and is therefore compliant in this regard. The proposals include a margin of undeveloped garden land around the entire site and therefore accords with this part of the policy as well.

*Part C. 2*

One metre of soil depth and 200mm drainage layer is provided over the proposed basement which is not beneath the property under the driveway to the front of the site and therefore is considered to be compliant with this part of the policy.

*Part C. 3*

Due to part of the basement incorporating a pool this is deeper to accommodate this however only a single basement is proposed which is considered acceptable and in accordance with this part of the policy.

*Part D*

The basement does not extend under the highway, therefore this part of the policy does not apply in this case.

## 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. The Examination in Public took place between 28 September and 2 October and 12 October and 16 October. Having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract very limited weight at this present time prior to the publication of the Inspector's report.

## **8.9 London Plan**

This application raises no strategic issues.

## **8.10 National Policy/Guidance Considerations**

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

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 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 and to provide a method statement ensuring trees are protected throughout construction works. The applicant has agreed to the imposition of the condition.

## **8.11 Planning Obligations**

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

## **8.12 Environmental Impact Assessment**

The proposed development is of insufficient scale to require the provision of an Environmental Impact Assessment.

## **8.13 Other Issues**

### **Plant**

The Environmental Health Officer has reviewed the submitted documents and has raised no objection to the proposal which includes mechanical plant to serve the pool area at basement level, on environmental noise or nuisance grounds subject to the standard Westminster noise conditions and informatives.

### **Waste**

Whilst the Waste Projects officer objects to the proposals as the details of waste storage aren't in line with the council waste storage requirements, it is not considered reasonable to condition further details given the property is a large single family dwelling house, with



a large driveway to the front.

**Noise and Disruption During the Course of Works**

Objections have been received on the grounds of noise and disruption during the course of construction works. Whilst it is acknowledged that building works can be disruptive and application cannot be refused on this basis. Conditions securing hours of working conditions and agreement to the City Council's Code of Construction Practice are recommended which will help mitigate the impact experienced by neighbours.

(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)

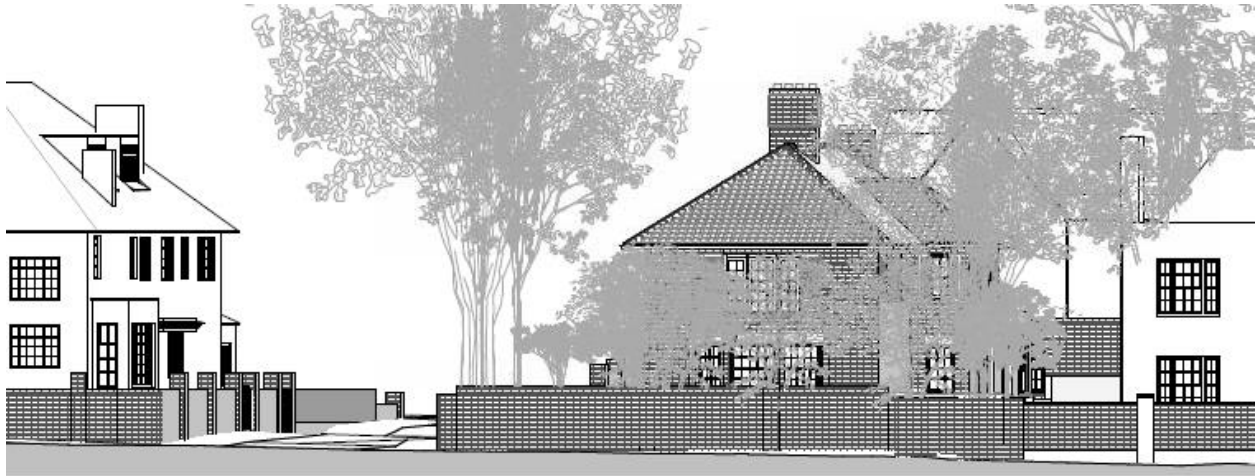
## 9. KEY DRAWINGS



**Existing Street Elevation from Acacia Place**



**Proposed Street Elevation from Acacia Place**



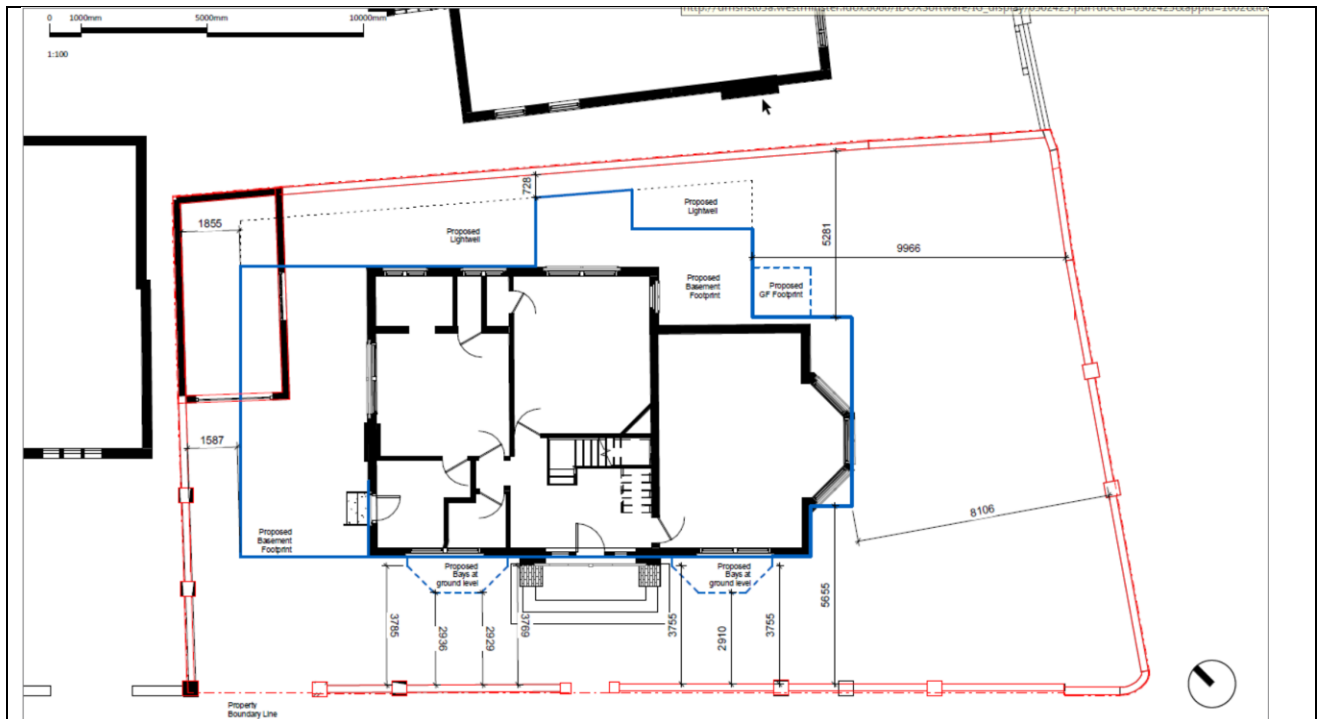
**Existing Elevation from Acacia Road**

**Proposed Elevation from Acacia Road**

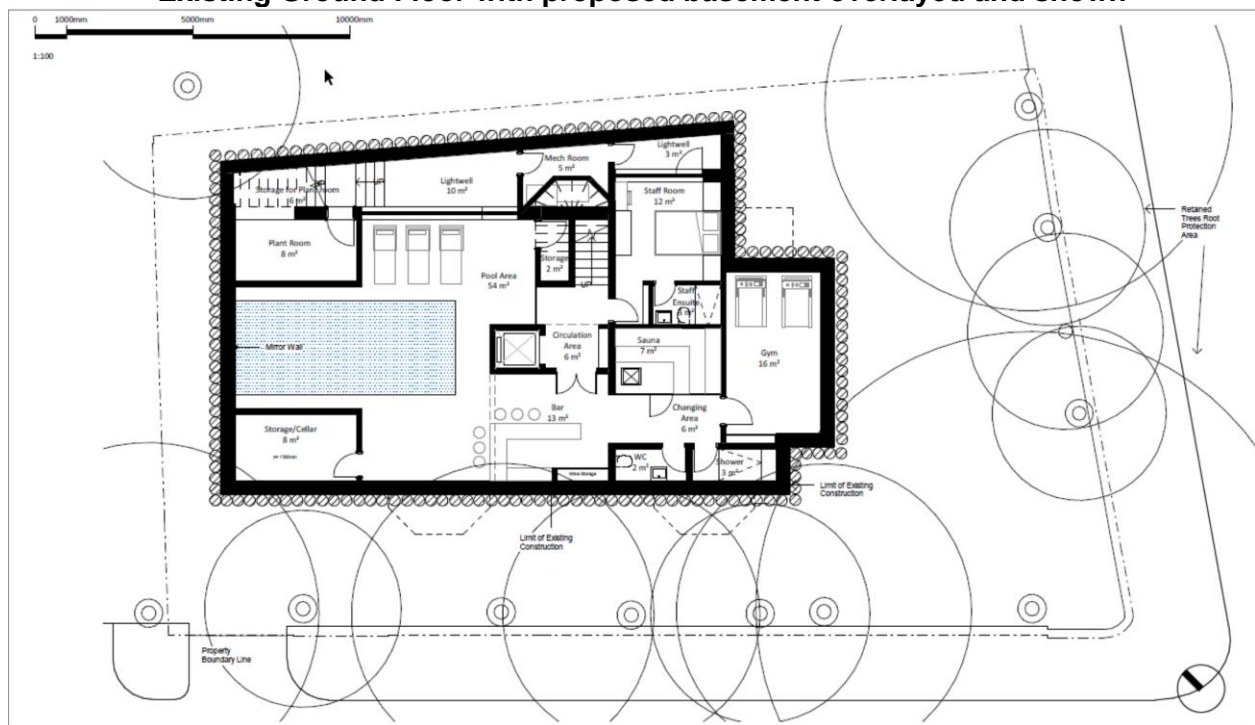


**Existing and Proposed Overlayed Drawings - Acacia Road (above) and Acacia Place (below)**



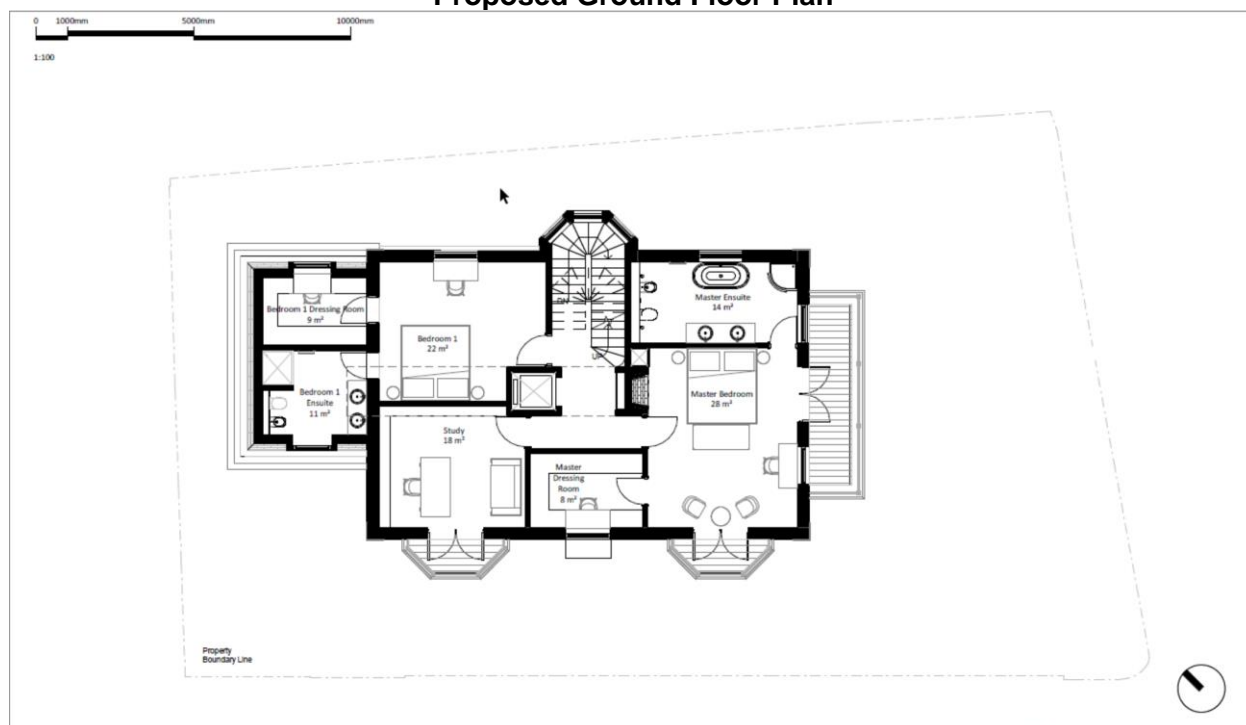
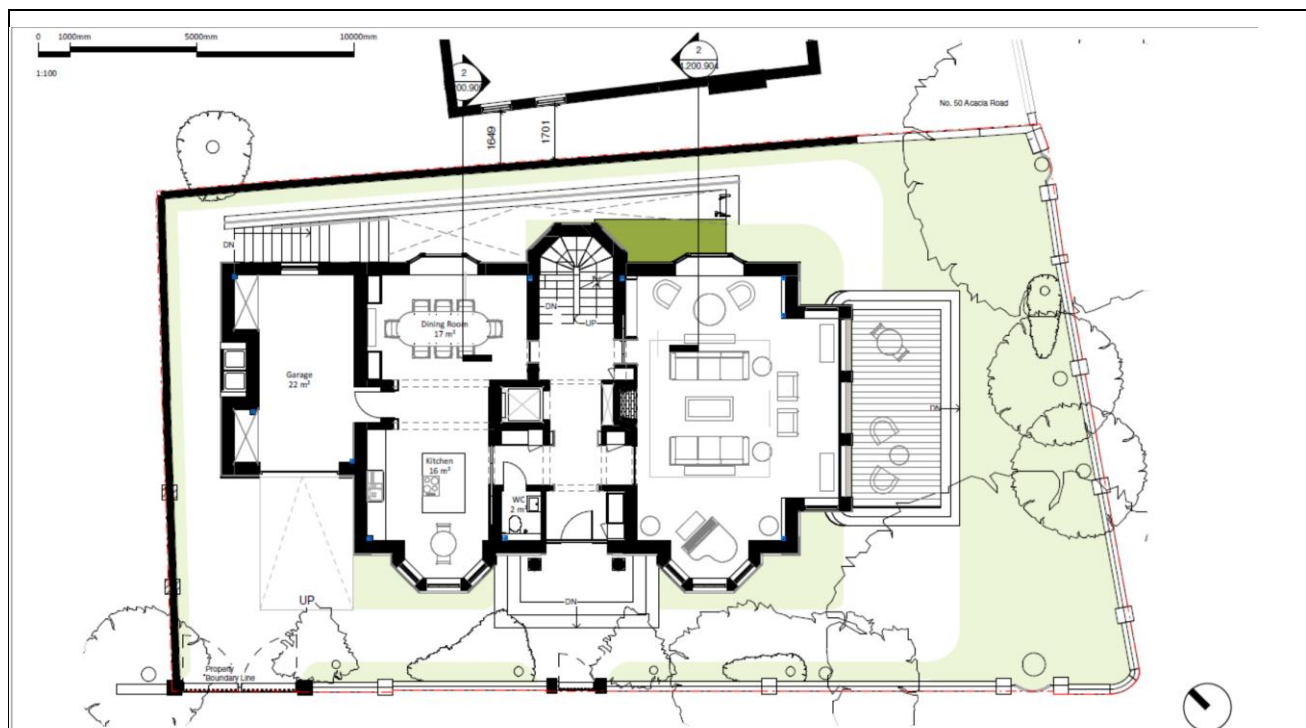


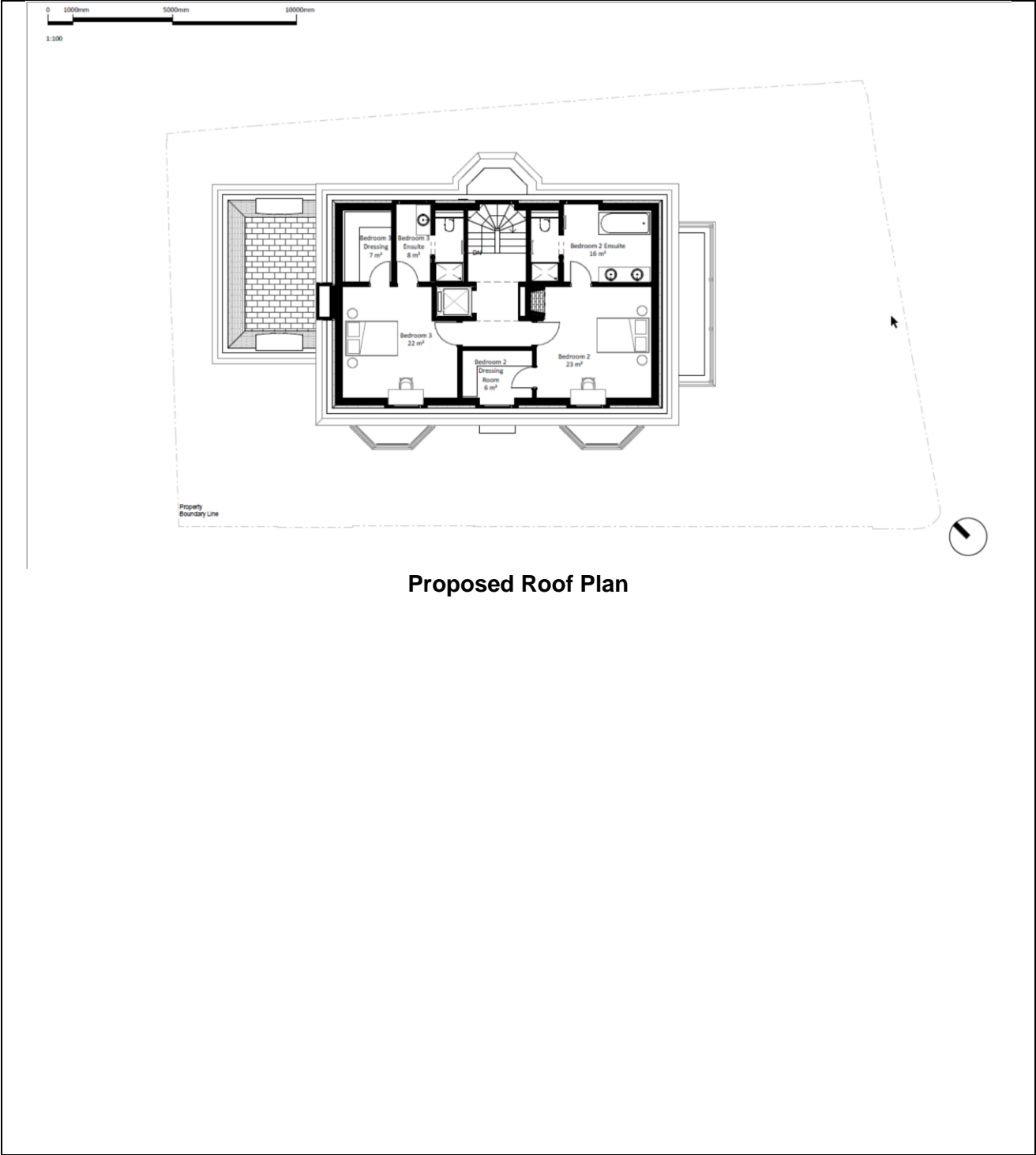
**Existing Ground Floor with proposed basement overlaid and shown**

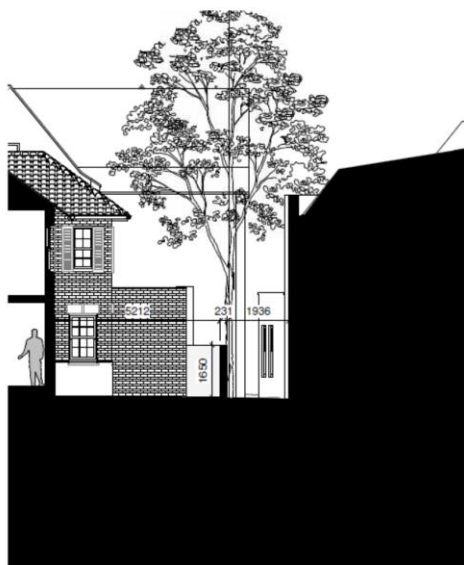


**Proposed Basement Plan**



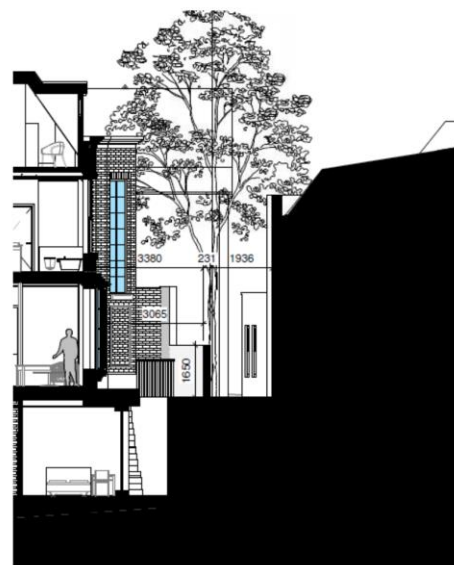






1 Existing\_Section G-G

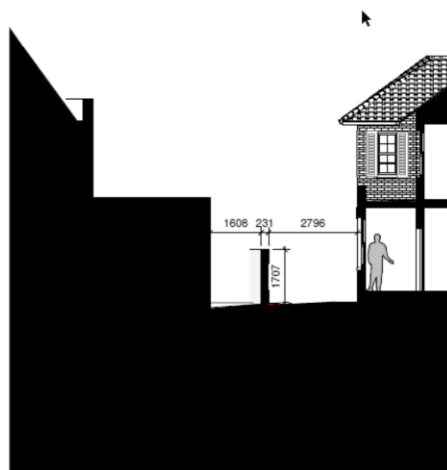
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2 Section G-G

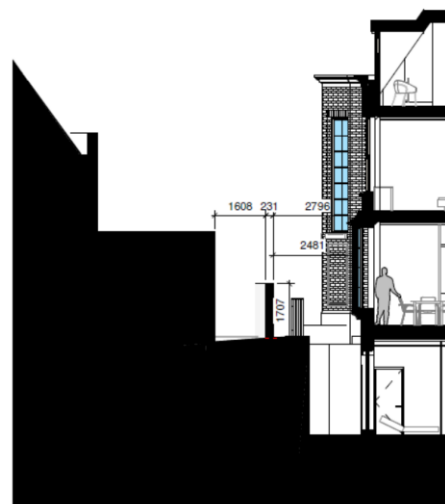
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**Existing and Proposed Sections to show relationship with 50 Acacia Road**



1 Existing\_Section H-H

1:100



2 Section H-H

1:100



**DRAFT DECISION LETTER**

**Address:** 52 Acacia Road, London, NW8 6AL

**Proposal:** Demolition of existing dwellinghouse, detached garage and boundary wall, excavation to create single storey basement, and erection of new two storey plus mansard roof accommodation dwelling house (Class C3) with integrated garage, new boundary wall/gates and associated hard and soft landscaping works.

**Reference:** 20/01665/FULL

**Plan Nos:** Site Location Plan, 1.100.101, 1.200.100, 1.200.101, 1.200.102, 1.200.200, 1.200.201, 1.200.202, 1.200.203, 1.200.204, 1.200.205, 1.200.207, 3.090.110, 3.100.100, 3.200.100, 3.200.101 R3, 3.200.102, 3.200.103, 3.200.104, 3.200.200; 3.200.201, 3.200.202, 3.200.204; 3.200.205, 3.200.300, 3.200.301, 3.200.302, 3.200.305, 3.315.410, 3.200.304, 3.200.403, 3.200.404, 3.200.405, 3.200.206, 4.200.904, 4.200.905, 1.200.220, 4.200.906.D2; 4.200.907.D2; 4.200.908.D2; 4.200.909.D2; 4.200.910.D2; Tree Report dated 03 March 2020, Noise Impact Assessment dated 28 February 2020 and Daylight and Sunlight Report dated February 2020.

For information only: Ground Investigation Report dated January 2020, Structural Method Statement dated 02 March 2020.

**Case Officer:** Frederica Cooney

**Direct Tel. No.** 07866037206

**Recommended Condition(s) and Reason(s)**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

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

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

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

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

- (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 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)

**4** You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the character of the St John's Wood Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

**5** You must apply to us for approval of samples of the facing materials you will use, including glazing and roof tiles, and elevations and roof plans annotated to show where the materials are to be located. 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. (C26BD)

Reason:

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

- 6 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

Reason:

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

- 7 You must apply to us for approval of detailed drawings of the following parts of the development - cast iron railings. 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 details. (C26DB)

Reason:

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

- 8 Notwithstanding details shown on the approved drawings the new windows and external doors shall be formed in glazing and white painted timber framing and the bottom half of the windows in the rear elevation (except the staircase) shall be obscure glazed.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area and to protect the privacy and environment of people in neighbouring properties. This is as set out in S25, S28 and S29 of Westminster's City Plan (November 2016) and DES 1, DES 5 and DES 6 or both and paras 10.108 to 10.128 and ENV13 of our Unitary Development Plan that we adopted in January 2007.

- 9 **Pre Commencement Condition.** 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 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 in writing what

you have sent us. You must then carry out the work according to the approved details. (C31CC)

Reason:

To protect trees and the character and appearance of the site 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. (R31CC)

10 Non-standard arboricultural supervision

- a. You must arrange for an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications or experience (or both) needed to be registered, to supervise the development. You must apply to us for our approval of the supervision schedule. You must apply to us for our approval of the details of such supervision including:
  - o identification of individual responsibilities and key personnel.
  - o induction and personnel awareness of arboricultural matters.
  - o supervision schedule, indicating frequency and methods of site visiting and record keeping
  - o procedures for dealing with variations and incidents.

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 adhere to the approved supervision schedule.

- b. You must produce written site supervision reports as detailed in part (a) after each site monitoring visit, demonstrating that you have carried out the supervision and that the tree protection is being provided in accordance with the approved scheme. If any damage to trees, root protection areas or other breaches of tree protection measures occur then details of the incident and any mitigation/amelioration must be included. You must send copies of each written site supervision record to us within five days of the site visit.

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)

- 11 You must provide details of the soil crating system and permeable hard surfacing to be installed above the basement and beneath the driveway. You must not start work on this part of the development until we have approved what you have sent us. You must then install the crating system and the hard surfacing 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)

- 12 You must provide existing and proposed drawings of the boundary wall and piers including

foundations, demonstrating how these can be constructed in a way that will not cause any harm to trees and in particular tree roots. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the works 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)

- 13 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within 1 planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any trees or find that they are dying, severely damaged or diseased within 5 years of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the St John's Wood Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in S25, S28 and S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17, DES 1 (A) and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R30CD)

- 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 L A90, 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 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and

the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise. (R49AA)

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.

**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 When you apply to us for approval under Condition 13 you must include at least four trees and details of the 'green roof' proposed over the basement on the east side of the garden.
- 3 When you apply for approval under Condition 9 you must include measures to protect the trees during any landscaping operations and during the demolition and construction of the boundary wall. It is likely that phased tree protection will be necessary.
- 4 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You can apply online at the following link: [www.westminster.gov.uk/trees-and-high-hedges](http://www.westminster.gov.uk/trees-and-high-hedges). You may want to discuss this first with our Tree Officers by emailing [privatelyownedtrees@westminster.gov.uk](mailto:privatelyownedtrees@westminster.gov.uk).
- 5 Some of the trees on the site are protected by a Tree Preservation Order. You must get our permission before you do anything to them. You can apply online at the following link: [www.westminster.gov.uk/trees-and-high-hedges](http://www.westminster.gov.uk/trees-and-high-hedges). You may want to discuss this first with our Tree Officers by emailing [privatelyownedtrees@westminster.gov.uk](mailto:privatelyownedtrees@westminster.gov.uk).
- 6 When carrying out building work you must take appropriate steps to reduce noise and prevent

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

When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974).

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

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

- 7 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 8 With reference to condition 3 please refer to the Council's Code of Construction Practice at ([www.westminster.gov.uk/code-construction-practice](http://www.westminster.gov.uk/code-construction-practice)). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work.

Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Sciences team ([environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk)) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition. The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition.

You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement.



Where you change your plans after we have discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Sciences team must be paid on submission of the details relating to the relevant phase.

Appendix A must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition.