



City of Westminster

# Committee Agenda

Title: **Planning Applications Committee (1)**

Meeting Date: **Tuesday 26th January, 2016**

Time: **6.30 pm**

Venue: **Rooms 5, 6 & 7 - 17th Floor, City Hall**

Members: **Councillors:**

Robert Davis (Chairman)  
Susie Burbridge  
Tim Mitchell  
David Boothroyd

**Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda**

**Admission to the public gallery is by ticket, issued from the ground floor reception at City Hall from 6.00pm. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**



**An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Tristan Fieldsend, Committee and Governance Officer.**

**Tel: 020 7641 2341; Email: [tfieldsend@westminster.gov.uk](mailto:tfieldsend@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

**Note for Members:** Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Head of Legal & Democratic Services in advance of the meeting please.

## **AGENDA**

### **PART 1 (IN PUBLIC)**

#### **1. MEMBERSHIP**

To note any changes to the membership.

#### **2. DECLARATIONS OF INTEREST**

To receive declarations by members and officers of the existence and nature of any personal or prejudicial interests in matters on this agenda.

#### **3. MINUTES**

To sign the minutes of the last meeting as a correct record of proceedings.

#### **4. PLANNING APPLICATIONS**

Applications for decision

##### **Schedule of Applications**

- |   |                          |
|---|--------------------------|
| <b>1. DEVELOPMENT SITE AT 77-79 JERMYN STREET AND 34 - 36 DUKE STREET, ST JAMES'S, LONDON</b>                                   | <b>(Pages 7 - 52)</b>    |
| <b>2. 32-34 GREAT PETER STREET, LONDON, SW1P 2DB</b>  | <b>(Pages 53 - 94)</b>   |
| <b>3. MACDONALD HOUSE, 1 - 3 GROSVENOR SQUARE, LONDON, W1K 4BN</b>  | <b>(Pages 95 - 138)</b>  |
| <b>4. HARCOURT HOUSE, 19 CAVENDISH SQUARE, LONDON, W1G 0PL</b>  | <b>(Pages 139 - 166)</b> |
| <b>5. NIGHTINGALE HOUSE, 65 CURZON STREET, LONDON, W1J 8PE</b>  | <b>(Pages 167 - 202)</b> |
| <b>6. SITE 1: 57 BROADWICK STREET, LONDON, W1F 9QS AND SITE 2: SHAFTESBURY MANSIONS, 52 SHAFTESBURY AVENUE, LONDON, W1D 6LP</b> | <b>(Pages 203 - 254)</b> |
| <b>7. SITE 1: 2 STANHOPE ROW; 16 STANHOPE ROW, 36 AND 37 HERTFORD STREET, 16A, 16B AND 17</b>                                   | <b>(Pages 255 - 298)</b> |

**MARKET MEWS, LONDON, W1J 7BT AND SITE 2: 46  
HERTFORD STREET, LONDON, W1J 7DP**

**8. ST JOHNS WOOD DELIVERY OFFICE, 30 LODGE  
ROAD, LONDON, NW8 8LA**

**(Pages 299 -  
330)**

**9. COUNTY CROWN COURT, 179 - 181 MARYLEBONE  
ROAD, LONDON, W1H 4PT**

**(Pages 331 -  
340)**

**Charlie Parker  
Chief Executive  
18 January 2016**

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# Agenda Item

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 26 JANUARY 2016  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
1	RN 15/07661/FULL St James's	Development Site at 77-79 Jermyn Street And 34 - 36 Duke Street St James's, London	Complete demolition of 77-79 Jermyn Street and 34-36 Duke Street and erection of new 7 storey retail (A1 & A3) and office (B1) building with additional basement levels and roof top plant.	
<p>Recommendation</p> <ol style="list-style-type: none"> <li>1. Do members consider that the design quality of the proposed new buildings is such that they preserve or enhance the character and appearance of the St James's Conservation Area?</li> <li>2. Subject to 1. above grant conditional permission subject to the views of the Mayor and a S106 legal agreement to secure the following:             <ol style="list-style-type: none"> <li>a. The provision of 980m2 of residential floorspace to be provided at 33 Bury Street before the occupation of any part of the development.</li> <li>b. A payment of £1.46m towards the Council's affordable housing fund.</li> <li>c. A payment towards Crossrail of £230,580.</li> <li>d. The applicant to comply with the Council's Code of Construction Practice, provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £30,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers.</li> <li>e. Employment and Training Strategy for the construction phase and the operational phase of the development.</li> </ol> </li> <li>3. If the S106 legal agreement has not been completed within three months of the date of the Committee resolution, then:             <ol style="list-style-type: none"> <li>a. The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not</li> <li>b. The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</li> </ol> </li> </ol>				
2	RN 15/07778/FULL St James's	32-34 Great Peter Street, London SW1P 2DB	Demolition of the existing building and redevelopment of the site to provide 21 residential units (15 x private residential units and 6 x affordable residential units) (Class C3) in a new eight storey building (basement with sub basement, ground plus seven upper floors) with the provision of car parking, plant and associated works.	
<p>Recommendation</p> <ol style="list-style-type: none"> <li>1. Grant conditional permission subject to a S106 legal agreement to secure the following:             <ol style="list-style-type: none"> <li>a. provision of affordable housing on-site;</li> <li>b. a financial contribution to the Council's Environmental Inspectorate to monitor compliance with the Construction Environmental Management Plan;</li> <li>c. to secure unallocated parking;</li> <li>d. costs of monitoring the S106 agreement.</li> </ol> </li> <li>2. If the S106 legal agreement has not been completed within two months of the date of this resolution then:             <ol style="list-style-type: none"> <li>a. The Director of Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</li> <li>b. The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</li> </ol> </li> </ol>				

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 26 JANUARY 2016  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
3	RN 15/07800/FULL West End	Macdonald House, 1 - 3 Grosvenor Square, London W1K 4BN	Demolition and redevelopment to provide three basement levels, lower ground, ground and first to seventh floor levels to provide between 42-46 residential units (Class C3) with associated ancillary leisure facilities, car parking, cycle parking, mechanical plant and associated works within the basement levels. Creation of terraces and balconies at various levels and installation of photovoltaic panels and plant with associated screening at main roof level. Use of part of the lower ground and ground floor levels as a restaurant unit fronting Grosvenor Street (Class A3).	
<p>Recommendation            Grant conditional permission.</p>				
4	RN 14/09419/FULL RN 15/07700/LBC  Marylebone High Street	Harcourt House, 19 Cavendish Square, London W1G 0PL	Refurbishment of existing building, including demolition works and alterations to the rear, installation of new services at basement level, removal of roof plant and erection of roof extension at main roof level in connection with the use of part lower ground and part ground floor levels for Class D1 use and 25 residential apartments (Class C3) at part lower ground to seventh floor levels. Balconies from third to sixth floor level to the rear with terraces and plant located within an acoustic enclosure at seventh floor level and other minor external alterations to the front façade. (AMENDED DESCRIPTION)	
<p>Recommendation            Refuse permission and listed building consent - detailed design.</p>				
5	RN 15/07627/FULL West End	Nightingale House, 65 Curzon Street, London W1J 8PE	Demolition of existing building and redevelopment, including excavation, to create up to three basement storeys, ground and eight storeys to be used for up to 32 residential flats, creation of a ground floor arcade link between Stratton Street and Curzon Street for use as retail and/or restaurant uses (Classes A1 and A3). provision of up to 21 car parking spaces over the basement level, basement and rooftop plant areas. Creation of terrace/balcony areas on both elevations	
<p>Recommendation</p> <ol style="list-style-type: none"> <li>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:               <ol style="list-style-type: none"> <li>a. Provision of £32,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate;</li> <li>b. Unallocated car parking;</li> <li>c. Car Club Membership for 25 years for all the flats;</li> <li>d. Walkway Agreement;</li> <li>e. Car Lift Maintenance;</li> <li>f. Highways alterations required for the development to occur (at no cost to the City Council); and</li> <li>g. The costs of monitoring the S106 agreement.</li> </ol> </li> </ol>				

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 26 JANUARY 2016  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
6	RN 15/07957/FULL West End  RN 15/07956/FULL St James's	SITE 1: 57 Broadwick Street, London W1F 9QS  SITE 2: Shaftesbury Mansions, 52 Shaftesbury Avenue, London W1D 6LP	Site 1: Alterations and extensions to the existing building including erection of single storey extension at roof level to enlarge fourth floor level and extensions at ground, first, second and third floor levels on north (Broadwick Street), south and west (Marshall Street) elevations to provide ancillary car / cycle parking, ancillary plant and retail (Class A1) at basement level; part retail (Class A1), part dual / alternative retail (Class A1) and / or cafe / restaurant (Class A3), part office entrance (Class B1) and part residential entrance (Class C3) at ground floor level; dual / alternative office (Class B1) and / or retail (Class A1) use at first floor level and installation of plant at rear first floor level; office (Class B1) with rear terraces at second and third floor level; part office (Class B1) with front terraces and two flats (Class C3) with terraces at fourth floor level and installation of kitchen extract plant to fourth floor roof. (Land use swap with Shaftesbury Mansions, 52 Shaftesbury Avenue).  Site 2: Use of part ground and first to fourth floors as seven residential flats (Class C3). (Land use swap with 57 Broadwick Street).	
	Recommendation Site 1 1. Does Committee agree that the application is only considered acceptable subject to an amending condition requiring the submission of revised drawings to provide two family sized units of residential accommodation at 57 Broadwick Street.  2. Subject to 1 above grant conditional planning consent subject to the completion of a S106 legal agreement to secure: a. The residential use at 52 Shaftesbury Avenue to be provided prior to the occupation of the office/retail/restaurant accommodation on site; b. works to the highway including the removal of street trees, phone box and other street furniture items prior to the commencement of development; c. replacement of street trees in vicinity of the site; d. all relevant costs for the stopping up of parts of Marshall Street and Broadwick Street e. The costs of monitoring the S106 legal agreement;			

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 26 JANUARY 2016  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
			<p>3. If the S106 legal agreement has not been completed within 6 weeks, then:</p> <p>a. The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not</p> <p>b. The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p> <p>4. a. That Sub-Committee authorises the making of a draft order pursuant to S247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway to enable this development to take place.</p> <p>b. That the City Commissioner of Transportation be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order. (The applicant will be required to cover all costs of the Council in progressing the stopping up order).</p> <p>Site 2                      Recommendation</p> <p>1. Grant conditional permission, subject to the completion of a S106 legal agreement to secure:</p> <p>a. car club membership for each flat for 25 years;</p> <p>b. The costs of monitoring the S106 legal agreement;</p> <p>2. If the S106 legal agreement has not been completed within 6 weeks, then:</p> <p>a. The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not</p> <p>b. The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>	
7	RN 15/07611/FULL 15/07613/LBC West End  RN 15/07614/FULL 15/07615/LBC West End	Site 1: 2 Stanhope Row; 16 Stanhope Row, 36 and 37 Hertford Street, 16a, 16b and 17 Market Mews, London W1J 7BT  Site 2: 46 Hertford Street, London W1J 7DP	Site 1: Demolition of 2-6 Stanhope Row and 16-17a Market Mews, excavation of sub-basement beneath 2-6 Stanhope Row and excavation of basement beneath 17a Market Mews and erection of replacement building over sub-basement, basement, ground - fifth floors (with plant above) (2-6 Stanhope Row) and three-storey building to Market Mews to provided a 29 bedroom hotel (Class C1) with ancillary casino. Demolition of 37 Hertford Street and rear third floor mansard roof of 36 Hertford Street and erection of replacement building over basement, ground to third plus mansard roof to provide 13 x flats (Class C3) provision for cycle parking, refuse storage and rooftop plant, together with other associated works. [Land use swap with 46 Hertford Street].  Site 2: Use of first to fourth floors as four flats (Class C3)	



CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 26 JANUARY 2016  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
Recommendation Site 1 1. Grant conditional permission 2. Grant conditional listed building consent 3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.  Site 2 1. Grant conditional permission 2. Grant conditional listed building consent 3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.				
8	RN 15/08211/FULL Regent's Park	St Johns Wood Delivery Office, 30 Lodge Road, London NW8 8LA	Development of existing vacant sorting office and associated hardstanding on site. Erection of 10 storey building comprising 49 residential units and ancillary floorspace (Class C3), provision of 54 car parking spaces, waste management areas, cycle parking and chp facility within basement, public realm works and access to car lifts from Lodge Road.	
Recommendation 1. Subject to the concurrence of the Mayor of London, grant conditional permission subject to a S106 legal agreement to secure: <ol style="list-style-type: none"> <li>a. A financial contribution of £5,439,000 towards the City Councils affordable housing fund (index linked and payable upon commencement of development).</li> <li>b. Payment for the cost of highways works necessary to facilitate the development including the reinstatement of pedestrian highway.</li> <li>c. Provision of basement car parking on an un-allocated basis.</li> <li>d. To carry out the development in accordance with a car stacker maintenance and management plan to be submitted.</li> <li>e. Replacement street tree in the event that it is not retained.</li> <li>f. Monitoring costs</li> </ol> 2. If within six weeks of the resolution to grant conditional permission the S106 planning obligation has not been completed or there is no immediate prospect of the planning obligation being completed, then <ol style="list-style-type: none"> <li>a. The Strategic Director shall consider whether it would be possible and appropriate to issue permission with additional conditions attached to secure the benefits listed above. If so, the Strategic Director is authorised to determine and issue such a decision under Delegated Powers; however, if not</li> <li>b. The Strategic Director shall consider whether permission should be refused on the grounds that it has not proved possible to complete a S106 planning obligation within an appropriate timescale, and that the proposal is unacceptable in the absence of the benefits which would have been secured; if so, the Strategic Director is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</li> </ol>				
9	RN 14/11164/ADFULL Bryanston And Dorset Square	County Crown Court, 179 - 181 Marylebone Road, London W1H 4PT	Details of public art, pursuant to Condition 7 of appeal decision dated 13 March 2008 (RN: APP/X5990/E/07/2052937).	
Recommendation Approve details.				

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# Agenda Item 1

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 26 January 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Development Site At 77-79 Jermyn Street and 34-36 Duke Street, St James's, SW1</b>		
<b>Proposal</b>	Complete demolition of 77-79 Jermyn Street and 34-36 Duke Street and erection of new 7 storey retail (A1 & A3) and office (B1) building with additional basement levels and roof top plant.		
<b>Agent</b>	CBRE		
<b>On behalf of</b>	Crown Estate		
<b>Registered Number</b>	15/07661/FULL	<b>Date amended/ completed</b>	18 August 2015
<b>Date Application Received</b>	18 August 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	St James's		

## 1. RECOMMENDATION

<p>1. Do members consider that the design quality of the proposed new buildings is such that they preserve or enhance the character and appearance of the St James's Conservation Area?</p> <p>2. Subject to 1. above grant conditional permission subject to the views of the Mayor and a S106 legal agreement to secure the following:</p> <ul style="list-style-type: none"> <li>i. The provision of 980m<sup>2</sup> of residential floorspace to be made ready for occupation at 33 Bury Street prior to the occupation of any part of the development.</li> <li>ii. A payment of £1.46m towards the Council's affordable housing fund (payable on commencement of development and index linked).</li> <li>iii. A payment towards Crossrail of £230,580.</li> <li>iv. The applicant to comply with the Council's Code of Construction Practice, provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £30,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers.</li> <li>v. Employment and Training Strategy for the construction and operational phase of the development.</li> </ul> <p>3. If the S106 legal agreement has not been completed within three months of the date of the Committee resolution, then:</p> <ul style="list-style-type: none"> <li>a) The Director of Planning shall consider whether the permission can be issued with additional</li> </ul>
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conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not

b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

The application site comprises two unlisted buildings of different ages and architectural styles which are internally linked from first floor level and above, known as Duke's Court. The building on Jermyn Street building dates from the 1920s and the Duke Street building is Victorian but was bomb damaged in WW2. The buildings are in use as offices with retail uses at ground and basement levels.

The site is within the St James's Conservation Area, the Core Central Activities Zone (CAZ) and the St James's Special Policy Area. There are a number of listed buildings within close proximity of the site, which include the Fortnum and Mason building and the Royal Academy.

The scheme proposes the demolition of all buildings on the Duke's Court site and to replace it with a modern office building with retail uses at ground and basement levels. The proposals seek to introduce a modern building with Portland stone and brick facades. The applicant is the Crown Estate.

The key issues with this application are:

- The impact of the development on the character and appearance of the St James's Conservation Area.
- The impact of the proposal on the amenity of neighbouring occupiers.
- The provision of residential floorspace off-site and a payment in lieu to address the Council's mixed use policies.
- The servicing of the development.

There are objections from neighbouring occupiers to a number of aspects of the scheme but particularly relating to design and amenity. Concerns have also been raised about the servicing of the development and the management of Ryder Yard which is used for servicing neighbouring businesses and residential properties.

As the buildings make a positive contribution to the character and appearance of the conservation area, there is a policy presumption in favour of their retention (DES 9(B) 1) of the UDP). Officers consider that the retention of the façade of the Duke Street buildings within an overall redevelopment is possible, although for the reasons set out in the report this is not supported by the applicant. Given the modest public benefits within the scheme, the current proposal can only be supported if it is considered that the quality of the replacement building is of equal or greater quality than the Duke Street façade. For the reasons set out in the report members are asked to consider whether the design quality of the proposed new buildings is such that they preserve or enhance the character and appearance of the St James's Conservation Area?

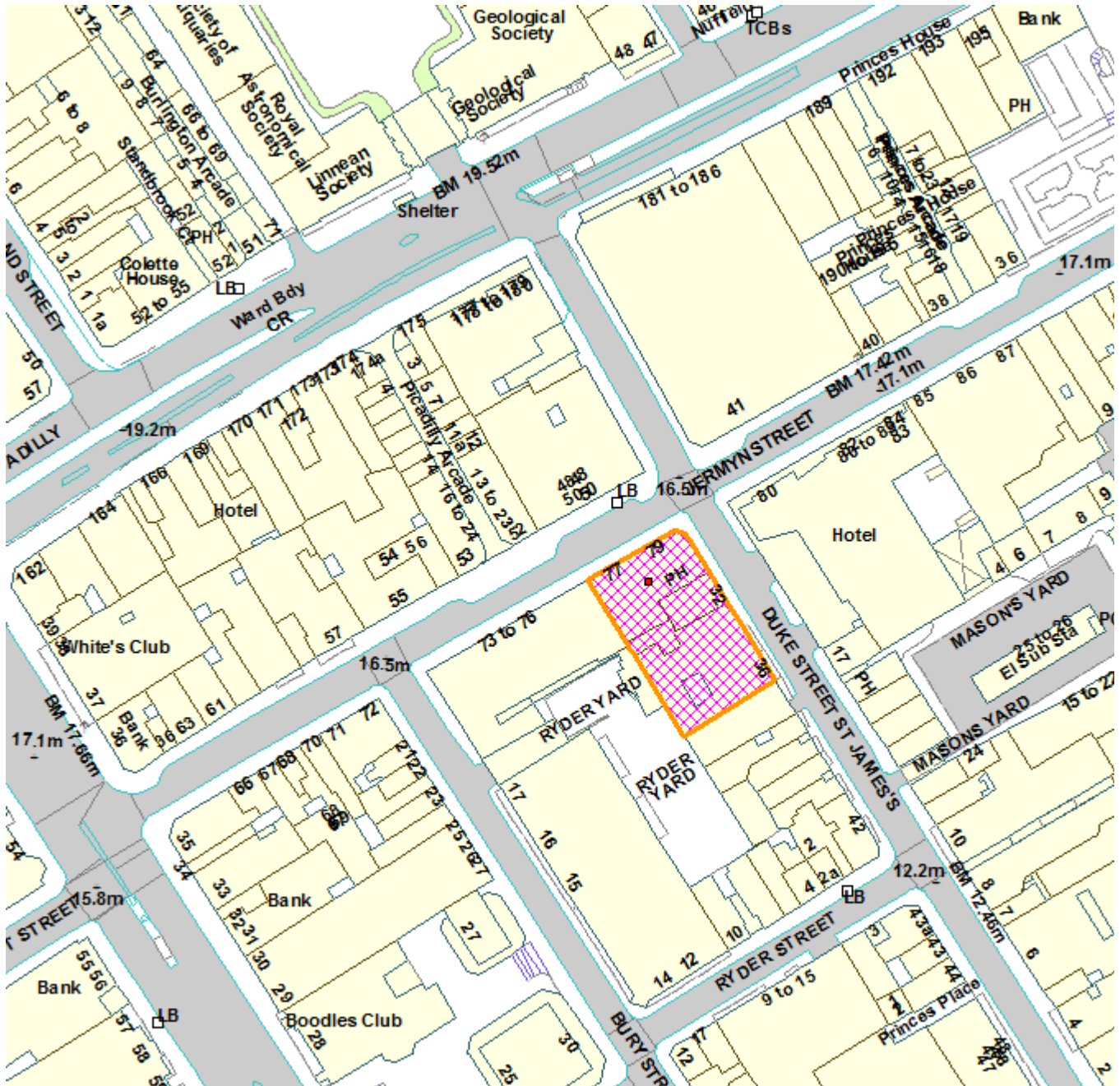
The proposed new building is taller and has greater bulk than the existing buildings, particularly at the

rear facing onto Ryder Yard. There will be some loss of light, loss of sunlight and increased sense of enclosure arising from the development. However for the reasons set out in the report this is considered to be within acceptable tolerances and a refusal on amenity grounds is not warranted.

In terms of servicing, the continued use of Ryder Yard for servicing and waste collections is considered acceptable in principle. Ryder Yard is not public highway and the number of servicing vehicles using Ryder Yard compared to existing will not increase significantly. The applicant is aware of the concerns of the objectors on this issue and has provided a copy of an Interim Report regarding the management of Ryder Yard (provided as a background paper). Officers consider that the matters that have been raised by neighbours that are pertinent to the current scheme should be addressed as part of the Servicing Management Plan

In all other respects the scheme is considered acceptable for the reasons set out in the report subject to necessary conditions and the completion of a S106 legal agreement.

### 3. LOCATION PLAN



4. PHOTOGRAPHS



34-36 Duke Street elevation



77-79 Jermyn Street elevation



## CONSULTATIONS

St. James's Conservation Trust  
Do not wish to comment.

Westminster Society  
No objection, this is potentially a good scheme.

Highways Planning - Development Planning  
No objections subject to cycle parking being provided to FALP standards.

Environmental Health  
An objection is raised to the proposed cooling towers within the plant room on noise and nuisance grounds.

Designing Out Crime Officer  
Recommend the applicant follows the guidance and principles of Secured by Design.

Thames Water Utilities Ltd  
No objection.

Transport for London - Borough Planning  
The Council should determine whether there is sufficient blue badge parking. A Travel Plan and Delivery and Service Plan should be secured for the site. A section 106 contribution should be sought for Crossrail.

Historic England (Listed Builds/Con Areas)  
Do not raise any particular concerns with the treatment of the new Jermyn Street elevations but objects to demolition of nos. 34-36 Duke Street as these buildings make a positive contribution to the special character of the conservation area. Their loss is considered harmful to the significance of the St James's Conservation Area and whilst this harm is considered to be less than substantial there are no clear heritage benefits arising from the scheme that could be considered to outweigh the harm identified. Historic England urge the applicant to reconsider their approach to the Duke Street buildings and to seek to revise the scheme to sympathetically accommodate the historic elevations of these properties within the development. .

Historic England (Archaeology)  
No objection subject to a condition to secure a programme of archaeological investigation.

Greater London Authority  
Whilst the application is supported in principle, there are outstanding strategic planning issues. Further discussion is therefore required on climate change adaptation, climate change mitigation, blue badge parking and cycle parking.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 152  
Total No. of replies: 23

No. of objections: 23  
No. in support: 0

23 letters of objection have been received on all of some of the following grounds:

### **Amenity**

- Loss of light, overshadowing, increased sense of enclosure and loss of privacy to flats within 76 Jermyn Street.
- Blank windows should be used on the Ryder Yard elevation to protect privacy.
- The height of the new building should be reduced to lessen the impact on Ryder Yard and the residential flats.
- All mechanical plant should be attenuated including noise from the lifts.
- There should be no loss of light to 36 Duke Street.
- Loss of light to art gallery on Duke Street.

### **Conservation and design**

- Demolition of Duke Street buildings will be detrimental to the street and the area.
- The new building is significantly higher than the current building and will be visually overbearing and dominant particularly in views from the south in Duke Street.
- The scheme sets a new height precedent for this part of St James's.
- Overdevelopment of the site.
- Impact of increased mass and bulk within Ryder Yard and St James's Conservation Area.
- The dark colour brick chosen for the Ryder Court elevation is oppressive. A light coloured material should be used.

### **Land use**

- There is a need for smaller units in this area for the art industry and not for more offices.
- The existing restaurant and pub are long established uses.

### **Highways**

- Bury Street should not be used for servicing the development.
- The development will intensify the use of Ryder Yard. A full study should be carried out to establish the impact and assess the viability of its increased usage.
- Attention needs to be paid to the disposal of refuse from the commercial units.

### **Other**

- Noise, dust and disturbance from demolition and construction works.
- Impact on safety and security of Ryder Yard during construction and from operation of new building. .
- Rights to light will be compromised.
- Loss of view.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **5. BACKGROUND INFORMATION**

### **5.1 The Application Site**

The application site comprises two unlisted buildings of different ages and architectural styles which are internally linked from first floor level and above, known as Duke's Court.

The building on Jermyn Street building dates from the 1920s, consists of six storeys plus a basement level and comprises A1 shops at ground level, a pub (A4) at basement level and B1 offices on the upper levels.

The Duke Street building is Victorian but was bomb damaged in WW2 and has been almost entirely rebuilt although officers consider that the façade of the building and potentially a room's depth is original. The Duke Street building comprises five storeys plus a basement level with an A1 art gallery (The Fine Art Commission) and an A3 restaurant (Greens) at ground floor level and B1 offices on the upper floors.

There is a significant drop in height between the two buildings. The site is within the St James's Conservation Area, the Core Central Activities Zone (CAZ) and the St James's Special Policy Area. There are a number of listed buildings within close proximity of the site, which include the Fortnum and Mason building and the Royal Academy.

St James's has a predominantly commercial focus, renowned for its concentration of members clubs, art and antique dealers and auctioneers and specialist shops. Many of the former residential properties have been converted to commercial uses, for example on St James's Square. There are residential properties in close proximity including 24 flats at 76 Jermyn Street immediately next door to the site. The application site backs onto Ryder Yard which is a private courtyard that provides servicing access for neighbouring commercial and residential uses.

The applicant is the Crown Estate.

## 5.2 Recent Relevant History

None for the application site.

### Other relevant history

33 Bury Street

Use of second, third and fourth floors as six residential units (Class C3). Associated internal and external alterations including rear extensions, creation of balconies and alterations at roof level. (Site includes 19-21 Ryder Street and 31, 33 and 34 Bury Street) Application Permitted 13 October 2015.(RN 15/07659/FULL)

## 6. THE PROPOSAL

The scheme proposes the demolition of all buildings on the site and to replace it with a more modern building comprising three basement levels, ground floor, six upper floors and enclosed roof top plant. The building will comprise offices at first floor level and above with a shop unit (Class A1) and a shop or restaurant unit (Classes A1 or A3) at ground and basement levels with access from Duke Street. The offices will comprise a single large floorplate across the site with an entrance on Dukes Street. The proposals seek to introduce a modern building with Portland stone and brick facades.

The applicant has submitted a planning application at 33 Bury Street to convert the upper floors from offices to residential use. This is to partly address the Council's mixed use policies and is discussed in section 7.1 of this report. The planning application at 33 Bury

Street was submitted at the same time as the current scheme. It was approved on 13 October 2015 but has not been implemented.

## 7. DETAILED CONSIDERATIONS

### 7.1 Land Use

The existing and proposed land uses (GEA) can be summarised as follows:

Use	Existing (m2)	Proposed (m2)	Change (+ or -m2)
<b>Shop (A1)</b>	294	529	+244
<b>Shop/Restaurant (A1/A3)</b>	458	574	+120
<b>Public House (A4)</b>	380	0	-380
<b>Office (B1)</b>	3505	5152	+1647
<b>Total</b>	4637	6255	+1631

Table 1: Land Use: 77-79 Jermyn Street and 34-36 Duke Street (Applicant's calculations)

#### Office use

The provision of additional office accommodation within the Core CAZ is supported by Policy S20 of Westminster's City Plan: Strategic Policies and by London Plan Policy 4.2. Subject to compliance with the Council's mixed use policy, the office floorspace increase is considered acceptable in land use terms.

#### Retail use

The scheme proposes a Class A1 shop use (529m<sup>2</sup>) and a Class A1 shop or Class A3 restaurant use (574m<sup>2</sup>) at ground and lower ground floor levels. New retail floorspace in the Core CAZ is supported by policies S6 and S21 of Westminster's City Plan: Strategic Policies. The overall increase in A1 retail floorspace is therefore welcome in policy terms.

The loss of the existing basement public house is regretted. However the existing public house is modern and given the overall benefits of the scheme, including the provision of enhanced retail floorspace, there are no objections to its loss.

The concerns about the loss of gallery floorspace at 34 Duke Street are noted. The gallery space is currently occupied by The Fine Art Commission. Policy S2 of Westminster's City Plan: Strategic Policies seeks to protect and promote specialist uses and functions which in St James's are considered to be private members' clubs, art galleries and niche retail. The scheme proposes an overall increase in A1 retail across the site of 244m<sup>2</sup> and up to 809m<sup>2</sup> if the dual alternative A1/A3 space is used for A1 shop purposes. It is possible that some or all of this A1 floorspace could be occupied by a gallery.

As the largest land owner in the area, the Crown Estate has developed a specific strategy for visual arts and antiques in St James's. The aim of the strategy is to promote the area to enhance St James's status as a global leader of the trade in fine art and antiques and

recognise this contribution to cultural heritage. As for The Fine Art Commission, the Crown Estate advise that they have secured alternative premises for the business at 31-32 St James's Street which is welcome.

The scheme could provide up to 574m<sup>2</sup> of Class A3 restaurant floorspace. UDP Policy TACE 10 applies to proposals for large entertainment uses over 500m<sup>2</sup> and states that permission will be for such uses only in exceptional circumstances. However given the existing restaurant and pub uses, there will be a net reduction in entertainment floorspace across the site of 260m<sup>2</sup>. The proposed large entertainment use is therefore considered acceptable in these circumstances subject to recommended conditions to control opening hours, to deal with cooking fumes and to secure an appropriate operation management plan.

#### Mixed use policy

The scheme generates a total commercial uplift of 1647m<sup>2</sup>. Policy S1 of Westminster's City Plan: Strategic Policies states that "where proposals increase the amount of commercial floorspace by more than 200m<sup>2</sup> or more, or in the case of A1 retail by 400m<sup>2</sup> or more, the provision of an equivalent amount of residential floorspace will be required on site where the Council considers this to be appropriate and practical". The supporting text states that where on site provision of residential floorspace is not considered acceptable or practical, a cascade of other options, including the use of land use swaps or residential credits will be considered as detailed in the City Management Plan.

As the City Management Plan is yet to be adopted, UDP Policy COM 2 is a material consideration. This policy seeks to promote mixed use development incorporating housing where appropriate and practical and sets out the following hierarchy for securing mixed use commercial schemes in Central Westminster:

Under Part (A) of COM 2 the provision of self-contained residential accommodation equivalent to the increase in commercial floorspace is required, where appropriate and practical.

Part (B) of the policy states that where it is clearly not practical to provide the residential accommodation on site, the City Council will seek the provision of residential accommodation off-site.

Part (C) states that where it is not practical to provide residential accommodation on or off the site in accordance with Parts (A) or (B), then other uses that contribute to the character and function of that part of the CAZ should be provided as part of the same development.

Where housing has not been achieved under Parts (A) or (B), or an appropriate alternative use provided under Part (C), an appropriate financial contribution, known as a commuted sum, will be sought to the City Council's affordable housing fund under Part (D).

The applicant's case on mixed use.

The applicant considers that on site residential is not appropriate or practical for the following reasons:

1. The size and footprint of the building is such that it would neither be appropriate nor practical to provide residential on site particularly at a time when losing existing

office stock to residential is one of the most significant concerns within Westminster today.

2. A mixed office and residential scheme would necessitate a separate residential entrance at ground floor level at the expense of valuable retail space.
3. The provision of a separate residential core would impact detrimentally upon the layout and provision of the office floor plates.

Given the above, the applicant proposes to provide 980m<sup>2</sup> of new residential floorspace at 33 Bury Street under Part B of Policy COM 2. The residential accommodation will be at second, third and fourth floor levels and will provide 6 units arranged as 1 x 1 bed, 3 x 2 bed and 2 x 3 bed. As the provision of off-site residential at 33 Bury Street only partly meets Policy COM 2, the applicant proposes to make up the shortfall of 666m<sup>2</sup> through a financial contribution under Part D of the policy. The payment in lieu required by policy is £1.46m.

Assessment of the applicant's case.

The case made by the applicant that it is not practical to provide the required residential floorspace on site is not fully accepted. This is a large new building with two street frontages that could accommodate on-site residential use. However the provision of on-site residential could undermine the delivery of modern office floorspace at a time when a large amount of office floorspace within Westminster has been lost. The residential accommodation at 33 Bury Street is within the vicinity of the application site and will therefore maintain the mixed use characteristics of the area. The accommodation at 33 Bury Street is of a good standard that is generally comparable with the standard of residential accommodation that could be provided on site. Subject to securing the land use swap through a S106 legal agreement, the proposed relocation of uses is considered to comply with COM 3. The provision of off-site residential floorspace at 33 Bury Street together with a payment in lieu towards the Council's affordable housing fund, also secured through the S106 legal agreement, is therefore considered acceptable to address policy COM 2.

## 7.2 Townscape and Design

The St James Conservation Area is one of the most important historic areas of the City. Development commenced in the area circa late C17 and continued through several phases of development to the present day. It contains considerable numbers of statutory listed buildings, many of the highest grade I and II star categories.

The application site was developed with buildings by the late C17 (Blome's Map 1689) though there is no record of their appearance. The site appears to have been redeveloped in the mid C19, with the Jermyn Street part of the site being subsequently redeveloped again in 1934. Both buildings were badly damaged by bomb blast during the Second World War. The St James Conservation Area Audit (the Audit) does not identify either building as being an unlisted building of merit (ie making a positive contribution to the character or appearance of the conservation area). However, it is necessary to assess the contribution these buildings make to the conservation area as part of the planning process in light of the current proposal and the additional information available at this time.

### The Jermyn Street Building

This dates from 1934 and was designed by the architectural firm of Yates, Cook and Derbyshire. This firm had a good reputation and produced some fine buildings including a number of buildings in Regent Street. The building is a relatively plain composition in Portland stone, five storeys and a double height mansard over a rather low retail ground floor. The building exhibits restrained art deco detailing but is otherwise a rather plain composition. The building was damaged by bomb blast during the Second World War and some rebuilding and renovation work carried out. The street facades seem to retain their original form and composition with the exception of the replacement aluminium windows which detract from the overall composition. The building is identified in the Audit as making a neutral contribution to the conservation area and it is considered that this attribute is correct. The building sits quite happily within its context but has little intrinsic quality or historic character. As such, there is no in principle objection to its demolition subject to a satisfactory replacement building.

### The Duke Street Buildings

Nos. 34-36 Duke Street were erected in 1859-60 by Henry Faulkner, a local builder. They were originally built as three separate houses, but have since been linked internally. The buildings were badly damaged by bomb blast, presumably the same that damaged the adjacent Jermyn Street building. The rear façade and much of the interior date from the post war rebuilding. There has been much debate with the applicant's historic building consultants over the provenance of the Duke Street façade. They originally maintained that the façade was a post-war rebuilding, perhaps influenced by the Survey of London which states "All three houses were considerably damaged by enemy action during the war of 1939-45. They were reinstated in 1949-52."

However, a visual inspection of the façade indicates little evidence of rebuilding and it would be a most convincing, almost-perfect reproduction of a mid-Victorian façade if so. Given the shortage of money, time and materials during the immediate post-war period, it seems most unlikely that this dates from this period. Indeed, the rebuilding of the rear façade in a utilitarian style with low quality materials is entirely typical of this period of reconstruction. During the application process, officers were able to gain access to the interior of the building and the survival of masonry party walls, fenestration details and fireplaces to the front portion of the building show that these and the façade escaped both the bomb blast and subsequent rebuilding. It is clear that the façade is a largely intact, mid-Victorian façade. Its proportions, architectural detail and materiality are typical of other developments in St James of around this time and they reflect the historic plot widths of the area. While the ground floor shopfronts are a later replacement, they are nevertheless of interest in themselves and it is entirely normal for commercial shopfronts to have changed over the years, while the host building above retains its integrity.

As such, it is considered that the Duke Street buildings do make a positive contribution to the character and appearance of the conservation area. While the Audit identifies them as making a neutral contribution, it is considered this is an error within the document. The Audits are guidance documents and produced in a relatively broad brush manner. The St James Audit was produced in 2002 and it is possible that the authors were misled by the bomb blast attribution into thinking the façade was a modern replacement. As this confused the applicant's historic building consultants, this is perhaps not surprising. However, further research and inspection of the interior have shown that the façade is substantially intact and dating from the mid C19.

As the buildings make a positive contribution to the character and appearance of the conservation area, there is a policy presumption in favour of their retention (DES 9(B) 1) of the UDP). Historic England supports this analysis of the buildings and advise that the façade should be retained and incorporated into any new development. Given the contribution of the buildings to the conservation area and the size and nature of the conservation area as a whole, it is considered that the loss of this façade would constitute less than substantial harm to the conservation area. This view is shared by Historic England.

The statutory requirement in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is for any new development to preserve or enhance the character or appearance of the conservation area. Guidance in the National Planning Policy Framework (para 134) says that where a development is considered to cause less than substantial harm to a designated heritage asset, in this case the conservation area, then the harm should be weighed against the public benefits of the proposal. The public benefits would have to be of a magnitude that they outweigh the substantial weight that has to be given to the protection of the significance of the heritage asset.

The public benefits that emanate from the proposal are modest to say the least. The applicants list them as providing better office accommodation (including level access throughout), better servicing, more sustainable development and so on. However, these are considered to be no more than attributes of the development itself, not true public benefits and not benefits that require the demolition of the façade. Most, if not all, of these could be achieved by a façade retention proposal. Given these modest public benefits, the current proposal can only be supported if it is considered that the quality of the replacement building is of equal or greater quality than the Duke Street façade, that is the new building preserves or enhances the character or appearance of the conservation area. In terms of the NPPF, the public benefit of the new design outweighs the harm or, to put it another way, the new building makes a positive contribution and therefore there is no harm to the heritage asset.

#### The design of the new building

The new development is a single floorplate commercial office development over ground floor retail and restaurant uses. The original proposal was for a single architectural form which lost the distinction between the Jermyn Street and Duke Street locations, their difference in scale and proportion and their different materiality. Officers have engaged in extensive discussions with the applicant's architects to try and formulate a design that is more respectful to the conservation area character and, in particular, recognizes the differences between the two street frontages.

In terms of height, the new building is considerably higher than the existing buildings on site. The Jermyn Street building is approx. 5m higher to parapet and 7m higher to the top of the roof. The Duke Street part of the building is slightly higher than the existing façade (0.6m) and then steps back to reduce the impact on street views. The roof top storeys are then set back again. In street views, the impact of the increased height is limited. There is some impact on Jermyn Street where the higher parapet level takes it above the height of the adjacent building to the west, though there is a much larger building immediately to the east. Given the corner location, it is not considered that this extra prominence in the streetscene is harmful. Views up Duke Street do show a greater and more prominent bulk



to the blank south elevation, though the present blank return wall to the Jermyn Street building is also a dominating feature at present. There is undoubtedly greater visual impact upon Duke Street views though the impact of the greater mass is ameliorated somewhat by the setback at higher level to the Duke Street building. This element of the scheme is considered to be slightly negative in terms of its impact on the conservation area. There are no other street views upon which there is any significant impact.

Design development has led to the development of two distinct buildings, though in fact one continuous floorplate behind at upper levels. The Jermyn Street corner building is expressed in Portland stone with two bays to either street façade. Windows are expressed as vertical, traditionally proportioned openings with modern glazed units with no glazing bars. The ground floor is differentiated by a subtle textural difference to the stone cladding and new shopfronts in bronze set within the Portland stone base. The corner is chamfered to help the building “turn” the corner and reflect detailing elsewhere in St James. A double height entrance lobby to the offices is located on the Duke Street façade and its height disguised by the use of stone mullions above a thick stone transom, suggesting a traditional fanlight detail. This helps the scale of entrance to sit more comfortably within the smaller scale of Duke Street buildings. The roof is set back and formed of sloping glass and perforated metallic panels providing an elegant top to the building. The roof top plant is further set back and enclosed by the same anodised aluminium, bronze-coloured panels.

The design of the part of the building which replaces 34-36 Duke Street has a different materiality and different detailing and proportions. This is an attempt to break down the scale of the development, to make it sit more comfortably within the smaller scale architecture of Duke Street and to provide a richer, more textual architecture than the stone building. The facades are clad in a dark brick with a traditional bond and pointing, the details of which are yet to be decided. Windows are set back in reveals and are bronze coloured aluminium with a central mullion. The shopfronts step down with the slope of the ground, but have a rather confused detail that is not historically correct and sit awkwardly with the brick facades above. There is insufficient variation from the Jermyn Street building shopfronts and the attempt to maintain some sort of “house style” to two architecturally different facades is unsuccessful. St James is rich in historic shopfronts and modern equivalents and it is one of the defining characteristics of the St James Conservation Area. There is also documentary evidence of historic shopfronts that used to be on this site. The introduction of historically accurate timber shopfronts to the brick building would significantly help provide a distinctive design to this part of the scheme. A condition is proposed requiring an amended design to the shopfronts on this part of the scheme.

An alternative option that the applicant was asked to explore was whether the existing façade could be retained within the overall development. The response confirmed that it could be retained, but there would be significant implications for the quality of internal office floorspace created. In short, the options explored were:

i) façade retention with a step in the floorplate to upper office levels – this would be relatively easy to achieve but would result in a split floorplate and the need for steps and ramp/lift between the office levels at floors 1-3.

ii) façade retention with a void between standardised office floor plates behind – this overcomes the need for a step in the floorplate, but results in a misalignment between the floorplates and retained windows with awkward juxtapositions. There would also be a slight loss in office floorspace.

iii) façade retention with two separate office developments. This would require two cores and given the relatively small footprint of the building would lead to a considerable loss of usable office floorspace.

The applicant has indicated that they are not willing to implement any of these schemes, though it is apparent that they are all technically possible and option i) would lead to a relatively minor adjustment to the overall scheme. Options ii) and iii) have more significant implications for the proposed development. Historic England have stated that they feel the development should be adapted to retain the Duke Street façade.

The questions that remain are “does the quality of the replacement building, with an improved shopfront detail, preserve or enhance the character or appearance of the area? Is it a sufficient replacement for the mid C19 Duke Street buildings, given the significant weight that has to be given to their retention as unlisted buildings of merit?”

The considered view of officers is that the retention of the façade within an overall redevelopment is possible. However, the replacement scheme, with an improved shopfront design to Duke Street, would be a building of some quality and could be considered sufficient to preserve or enhance the character or appearance of the conservation area. The judgement is a fine one and Member's views are sought as to the precise balance of public benefit (i.e. the new design) against the harm of the loss of the mid C19 facades.

Members need to decide whether they are convinced that the replacement design of buildings, with amended shopfronts, would be a positive enhancement to the St James Conservation Area – i.e. better than the existing building façade on the site. If they are of this opinion, then they can support the scheme as this would be sufficient public benefit in itself to outweigh the harm.

### **7.3 Residential 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.

The new building will be higher and bulkier than the existing buildings. In overall height terms it is proposed to raise the maximum height from approximately 44m (aod) as existing to approximately 48m (aod) as proposed. However the most significant increase in height and bulk is at the rear facing Ryder Court where it is proposed to bring the rear building line forward by approximately 9.5m to sit on the boundary of the site and increase

the height from approximately 32m (aod) to 48m (aod). Objections to the scheme have been received from flats within 76 Jermyn Street and 37 Duke Street on grounds of loss of light, loss of privacy/overlooking and increased sense of enclosure.

#### 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 Anstey Horne has carried out the necessary tests using the methodology set out in the BRE guidelines on the nearest, most affected residential properties, namely 16 Duke Street, 17 Duke Street, 2-10 Ryder Street and 76 Jermyn Street. The assessment considers the impact of the development on the vertical sky component (VSC) and daylight distribution available to windows in these properties. 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.

The daylight assessment shows that 17 out of 55 windows in the rear elevation of 76 Jermyn Street will experience transgressions outside the BRE guidelines. These are set out in the table below.

Window	Room use	Floor level	Existing VSC	Proposed VSC	Loss VSC	% Loss VSC
W1/401	Living Room	1st	10.70	8.50	2.20	20.56
W4/401	Bedroom	1st	17.73	14.05	3.68	20.76
W5/401	Bedroom	1st	18.85	14.67	4.18	22.18
W6/401	Bathroom	1st	20.11	15.22	4.89	24.32
W7/401	Bedroom	1st	21.03	15.24	5.79	27.53
W8/401	Bedroom	1st	21.39	14.90	6.49	30.34
W5/402	Bedroom	2nd	22.26	17.69	4.57	20.53
W6/402	Bathroom	2nd	23.75	18.27	5.48	23.07
W7/402	Bedroom	2nd	24.68	18.10	6.58	26.66
W8/402	Bedroom	2nd	25.10	17.58	7.52	29.96
W6/403	Bathroom	3rd	28.01	22.08	5.03	21.17
W7/403	Bedroom	3rd	28.89	21.60	7.29	25.23
W8/403	Bedroom	3rd	29.21	20.73	8.48	29.03
W7/404	Bedroom	4th	32.39	24.70	7.69	23.74
W8/404	Bedroom	4th	32.60	23.53	9.07	27.82
W8/405	Bedroom	5th	35.28	26.23	9.05	25.65

Table 2: VSC calculations for 76 Jermyn Street (Applicant's calculations)

With the exception of window W1/401 it is considered that the affected habitable windows will still retain good levels of daylight for central London with the development in place. The reduction to window W1/401 is also considered acceptable as it is marginally above the 20% permitted under the BRE guidelines. The daylight distribution within the rooms is largely unaffected by the scheme as the impact is 100% BRE compliant. Given the

orientation of the windows at 37 Duke Street, it is not considered that the occupiers of flats within this building will be significantly affected in terms of reductions in daylight. For these reasons a refusal on loss of daylight grounds would not be warranted.

A concern has been raised about loss of light to the gallery at the corner of Jermyn Street and Duke Street (on the opposite side of the road). Whilst there may be some impact to this property, the reductions in light will not be so severe as to prejudice the future use of the premises.

#### Sunlight

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 applicant's assessment shows that 6 windows within the rear of 76 Jermyn Street do not meet the BRE guidelines serving living rooms, kitchens and a bedroom. The reduction in the amount of APSH varies from 22.2% to 31.3% however the level of APSH retained for each affected window is considered reasonable for this central London location. For this reason the impact on sunlight is considered acceptable.

#### Sense of enclosure

The proposed increase in bulk and height onto Ryder Yard will impact on some windows within the rear elevation of 76 Jermyn Street and 37 Duke Street in terms of sense of enclosure and objections have been received on these grounds. The closest habitable windows within 76 Jermyn Street serve bedrooms and they are set off the boundary with the application site by approximately 7.5m. Given this distance the impact on sense of enclosure will not be so severe to justify a refusal. The impact on the flats within 37 Duke Street is not considered so severe in terms of sense of enclosure to justify a refusal.

#### Loss of privacy

There are windows proposed in the west elevation that overlook Ryder Yard. There are unlikely to have an impact on the privacy of the occupants of 76 Jermyn Street as they are at the southern end of the rear elevation and any views will be oblique. A condition requiring the windows to be obscure glazed is not considered necessary.

#### Noise and Disturbance

A number of roof terraces are proposed on the Duke Street elevation. These do not raise any significant overlooking concerns and given their small size it is not considered necessary to restrict the hours of use by condition.

### 7.4 Parking/Serviceing

The scheme does not propose any car parking but will provide provision for 48 cycle parking spaces. The Further Alterations to the London Plan (FALP) require the provision of 67 cycle spaces for the office use and 33 for the retail use (97 in total). The applicant

advises that it is not possible to provide cycle parking for the retail units for security reasons (as it will compromise office security). This argument is not accepted as there are many examples of mixed use developments that incorporate cycle parking for multi tenanted buildings. It is therefore recommended that a condition is used to secure revised cycle parking provision to ensure compliance with the FALP.

Deliveries to the existing building are made from Ryder Yard. The applicant advises that vehicle access to the yard, which is not public highway, is controlled by a barrier and a dedicated lane allows pedestrian access. Deliveries are limited to one at a time due to the small size of the space and access route. It is proposed that servicing will continue to take place from Ryder Yard providing access to the rear of Duke's Court for smaller vehicles. As access to Ryder Yard is restricted to one vehicle at a time, coordination of servicing will need to be developed through a Servicing Management Plan. Larger service vehicles are proposed to access the building from Jermyn Street and Duke Street. The Highways Planning Manager has no objections subject to securing a Servicing Management Plan by condition.

Office and retail waste stores are provided within the building at basement level 02 and basement level 01 respectively. The waste management strategy states that the entrance to Ryder's Yard may be a suitable area for the bin presentation area. Waste collection is anticipated to be undertaken by a private contractor with collection from Bury Street. The highways planning manager has raised no objections to this waste strategy.

Objections have been raised regarding the continued use of Ryder Yard for servicing and waste collection. The 76 Jermyn Street Management Company has provided a copy of a letter sent to Quaglino's Restaurant located at 16 Bury Street (provided as a background paper) which summarises the problems experienced by residents. A local resident has also provided a copy of a letter sent to the Health and Safety Executive about activities in the yard. The concerns of the objectors on this issue are noted, however in terms of servicing, the continued use of Ryder Yard is considered acceptable in principle. Ryder Yard is not public highway and is used by the offices and retail units on the site for servicing purposes. The number of servicing vehicles predicted to use Ryder Yard in the proposed scheme is not expected to increase significantly compared to the existing situation. The Crown Estate is fully aware of the concerns of the objectors on this issue and has provided a copy of an Interim Report regarding the management of Ryder Yard (also provided as a background paper). However it is recommended that a Servicing Management Plan is secured by condition to ensure that the proposed servicing arrangements for this scheme take the wider management issues at Ryder Yard into account.

The GLA has requested a travel plan and monitoring costs to be secured through the S106 legal agreement. Given the relatively small scale of the development it is not considered necessary to secure a travel plan in this instance. It is considered that matters relating to Blue Badge parking fall outside the scope of this scheme.

The GLA has also raised the issue of public realm improvements. Under the CIL regulations the Council is unable to secure funding for public realm improvements around the site. However the applicant does have a scheme for public realm improvements along Jermyn Street and it is understood that discussions with relevant officers in Transportation are underway.

## 7.5 Economic Considerations

The economic benefits generated by the provision of modern office and retail accommodation are welcomed.

## 7.6 Access

The main entrance and reception on Duke Street will provide step free access to the offices above. Retail unit access and entrances are located to provide step free access from the street.

## 7.7 Other UDP/Westminster Policy Considerations

### Plant

Mechanical plant is to be provided behind a plant screen at roof level. Environmental Health has assessed the noise impact report submitted by the applicant and advises that whilst the majority of plant meets the Council's noise policies, two cooling tower units do not. As the requirements of policy ENV 7 of the UDP will not be fully met, Environmental Health officers recommend that a condition is used to ensure the cooling towers do not operate between the hours of 23:00 to 07:00. This is to protect the residents of the Cavendish Hotel opposite the site at 81 Jermyn Street. Other conditions that are considered necessary by Environmental Health relate to details of the kitchen extract system for the potential A3 restaurant use and a supplementary noise report for the mechanical plant associated with the kitchen extract. It is recommended that these conditions are attached to the draft decision notice.

### Sustainability

Policy 5.2 of the London Plan refers to Minimising Carbon Dioxide Emissions and states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be lean: use less energy
2. Be clean: supply energy efficiently
3. Be green: use renewable energy

City Plan Policy S40 considers renewable energy and states that all major development throughout Westminster should maximise on-site renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considers that it is not appropriate or practicable due to the local historic environment, air quality and/or site constraints.

The application is accompanied by an Energy Strategy which sets out the sustainability credentials of the building. Through enhanced energy efficiency standards the development is set to achieve a reduction of 30 tonnes per annum (18%) in regulated CO2 emissions compared to a 2013 Building Regulations compliant scheme.

The applicant has provided a commitment to ensuring that the development is designed to allow future connection to a district heating network. A site heat network is proposed which

will be supplied from a single energy centre. Details of these measures can be secured by condition.

The applicant proposes 52m<sup>2</sup> of roof mounted Photovoltaic (PV) panels and 10m<sup>2</sup> solar hot water panels. Full details can be secured by condition. This is set to achieve a further reduction of 6 tonnes per annum (3%) in regulated CO<sub>2</sub> emissions compared to a 2013 Building Regulations compliant scheme.

Overall it has been calculated that a reduction of 36 tonnes in regulated CO<sub>2</sub> emissions compared to a 2013 Building Regulations compliant scheme can be achieved equivalent to an overall saving of 21%. This falls short of the London Plan target of 40%. The GLA has requested that the shortfall of 23.2 tonnes of CO<sub>2</sub> per annum should be mitigated off site. The applicant has not agreed to this and given that the Council does not have a policy on carbon off setting it is not considered appropriate to refuse the scheme for this reason.

The BREEAM Offices 2014 pre-assessment has identified the potential to achieve an excellent rating of 75.22%. It is recommended that a post completion certificate is secured by condition.

The BREEAM Retail 2014 pre-assessment has identified the potential to achieve a very good rating of 64.66. It is recommended that a post completion certificate is secured by condition.

## 7.8 London Plan

Whilst the application is supported in principle, there are outstanding strategic planning concerns relating to urban design and climate change mitigation. In addition to the climate change measures set out above, the following should be secured by condition or S106; a drawing of the ground floor showing how the proposals relate to the emerging public realm network, blue badge parking, an increase in cycle parking, a travel plan and improvements to the public realm.

## 7.9 National Policy/Guidance Considerations

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

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

## 7.10 Planning Obligations

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of development; ensure the development complies with policy requirements within the development plan; and, if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures the overall delivery of appropriate development is not compromised.

From 6 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 6 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under Section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced in Spring 2016. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the Council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

For reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure the following:

- i. The provision of 980m<sup>2</sup> of residential floorspace to be made ready for occupation at 33 Bury Street prior to the occupation of any part of the development.
- ii. A payment of £1.46m towards the Council's affordable housing fund (payable on commencement of development and index linked)



- iii. A payment towards Crossrail of £230,580.
- iv. The applicant to comply with the Council's Code of Construction Practice, provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £30,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers.
- v. Employment and Training Strategy for the construction phase and the operational phase of the development.

It is considered that the 'Heads of Terms' listed above satisfactorily address City Council policies. The planning obligations to be secured, as outlined in this report, are in accordance with the Community Infrastructure Levy Regulations (2010 as amended).

The proposal would attract a payment to the Mayor's Community Infrastructure Levy which could be dealt with by way of an Informative.

### **7.11 Environmental Impact Assessment**

Environmental impact issues have been covered elsewhere in this report.

### **7.12 Other Issues**

#### **Construction impact**

A condition is recommended to protect the amenity of the surrounding area by ensuring that core working hours are kept to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturday. The condition states that noisy work must not take place outside these hours except as may be exceptionally agreed by other regulatory regimes such as the police, by the highways authority or by the local authority under the Control of Pollution Act 1974.

The City Council's Code of Construction Practice and associated Environmental Inspectorate have been developed to mitigate against construction and development impacts on large and complex development sites. It is recommended that the necessary contributions to ensure compliance with the Council's Code of Construction Practice, and to secure the monitoring expertise of the Council's Environmental Sciences Team, the latter of which controls noise, dust and vibration emanating from the site through a site specific SEMP, should be secured through a S106 legal agreement. It is recommended that a construction logistics plan is secured by condition.

#### **Crime and security**

The scheme does not raise any significant issues with regard to crime and security. An informative is recommended to advise the applicant to follow the guidance and principles of the Secured by Design document and to introduce them where relevant.

## 8. BACKGROUND PAPERS

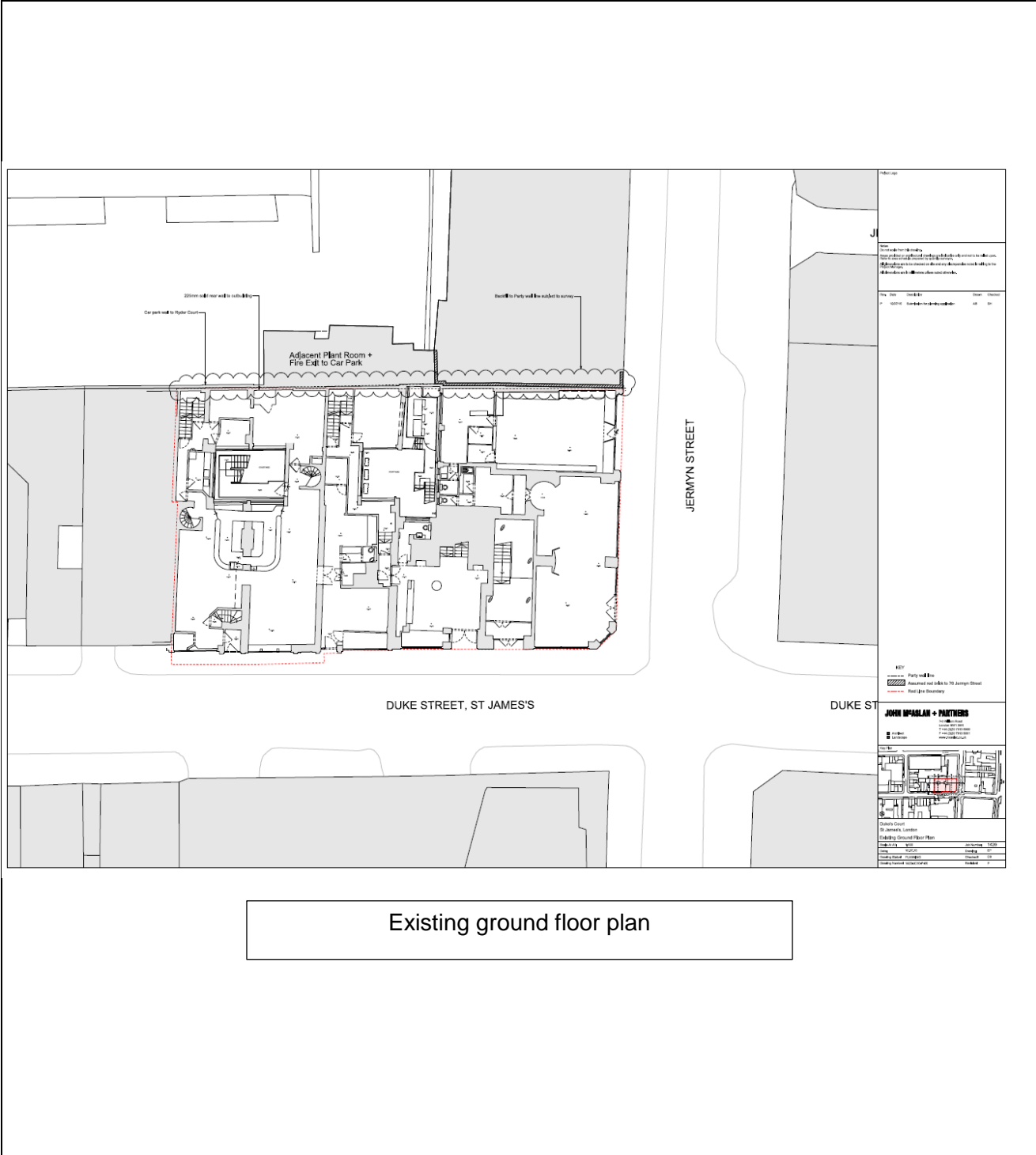
1. Application form
2. Response from Highways planning Manager dated 9 October 2015.
3. Responses from Environmental Health dated 23 November 2015.
4. Response from Premises Management and Environmental Sciences dated 4 November 2015.
5. Response from Designing Out Crime Officer dated 7 September 2015.
6. Response from Greater London Authority dated 9 October 2015.
7. Response from Historic England dated 14 October 2015.
8. Response form Historic England (Archaeology) dated 14 September 2015.
9. Response from TfL dated 3 September 2015.
10. Response from Thames Water dated 28 August 2015.
11. Response from Westminster Society dated 8 September 2015.
12. Response from St James's Conservation Trust dated 2 October 2015.
13. Letter from occupier of Flat 3, 76 Jermyn Street dated 11 September 2015.
14. Letters from occupier of Flat 4, 76 Jermyn Street dated 10, 14, 15 and 22 September 2015.
15. Letter from occupier of Flat 5, 76 Jermyn Street dated 15 September 2015.
16. Letter on behalf of occupier of Flat 14, 76 Jermyn Street dated 18 September 2015.
17. Letter and enclosures from occupier of Flat 16, 76 Jermyn Street dated 17 September 2015.
18. Letter from occupier of Flat 17, 76 Jermyn Street dated 13 September 2015.
19. Letter from occupier of Flat 21, 76 Jermyn Street dated 15 September 2015.
20. Letters from occupier of Flat 22, 76 Jermyn Street dated 13 and 15 September 2015.
21. Letter from occupier of [address not given] dated 10 September 2015.
22. Letter from occupier of [address not given] dated 8 September 2015.
23. Letter from Harvie and Hudson Ltd, 96/97 Jermyn Street dated 24 September 2015.
24. Letter from Flat 3, 37 Duke Street dated 2 September 2015.
25. Letter from Macconnal-Mason, 14 & 17 Duke Street dated 4 September 2015
26. Letter from occupier of 52 Jermyn Street dated 21 September 2015.
27. Letters from S Frances, Jermyn Street at Duke Street dated 10 November and 21 September 2015
28. Letter from Edward Green & Co Ltd, 75 Jermyn Street, dated 1 October 2015
29. Letter from occupier of 1B, 37 Duke Street St James's, dated 2 October 2015
30. Letter from Spectrum Property Consultants dated 13 November 2015.
31. Letter from Chairman, 76 Jermyn Street Management Company Limited dated 10 November 2015.

### Selected relevant drawings

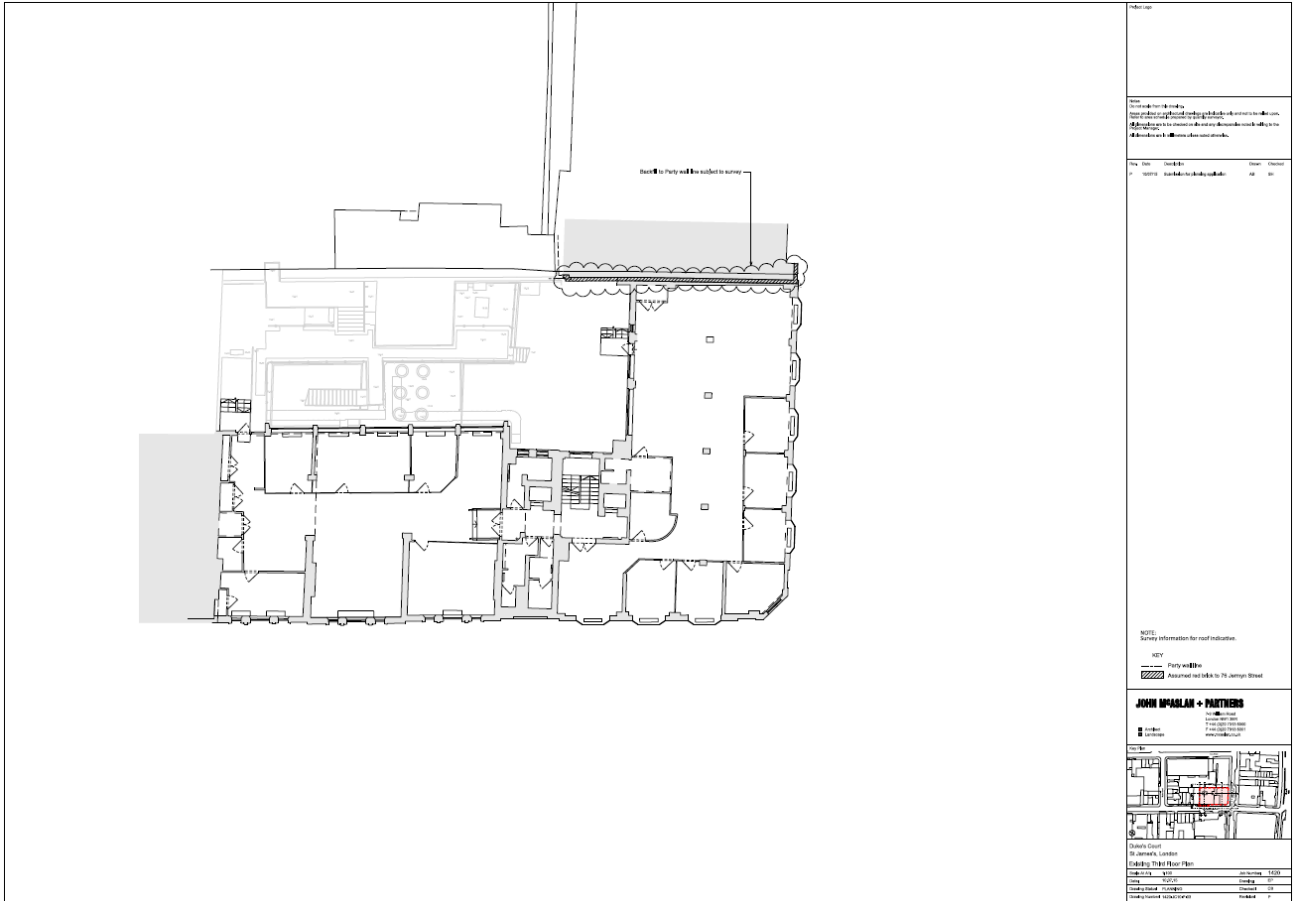
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT AMANDA JACKSON ON 020 7641 2934 OR BY EMAIL AT [ajackson@westminster.gov.uk](mailto:ajackson@westminster.gov.uk)

KEY DRAWINGS



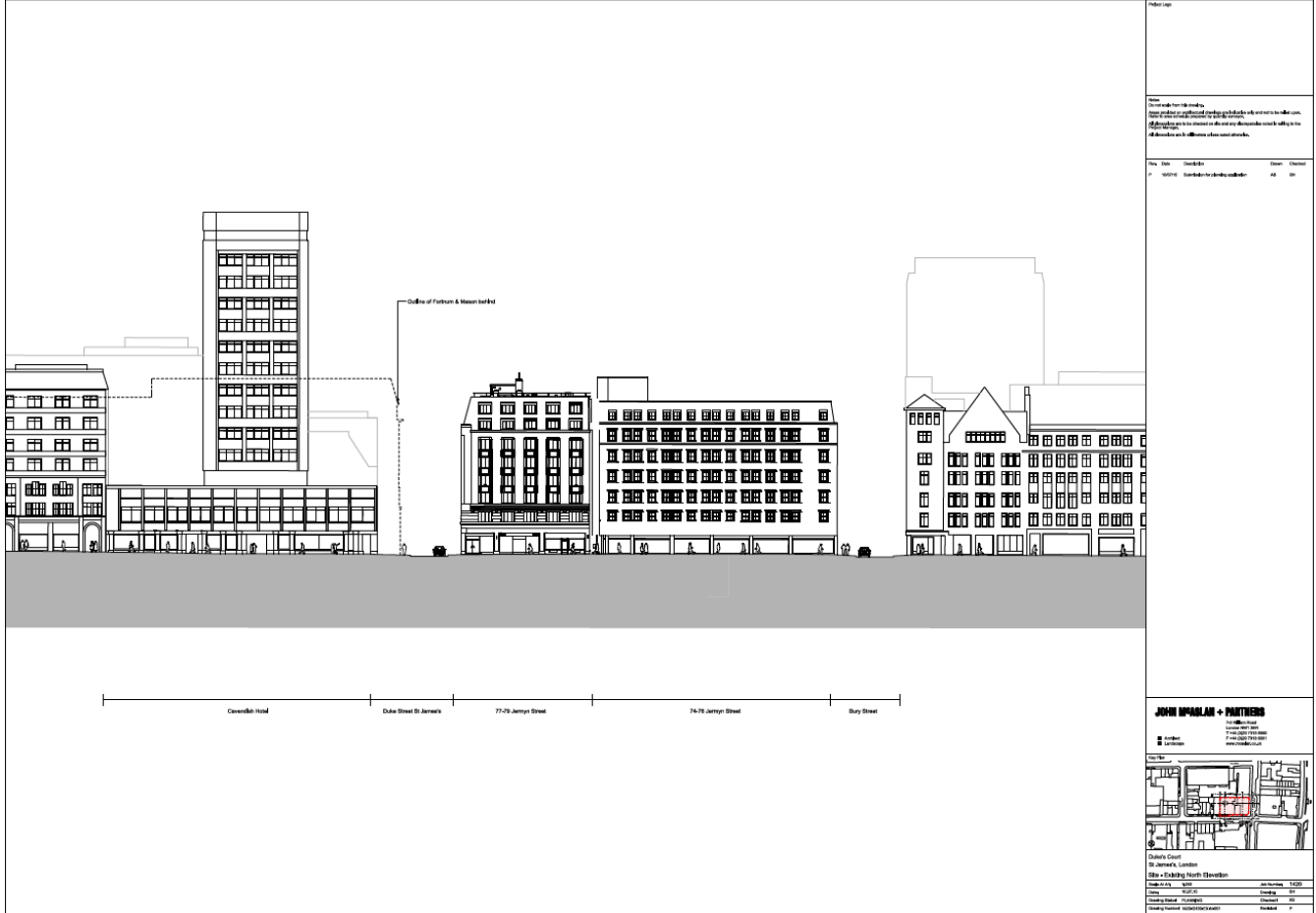
Existing ground floor plan



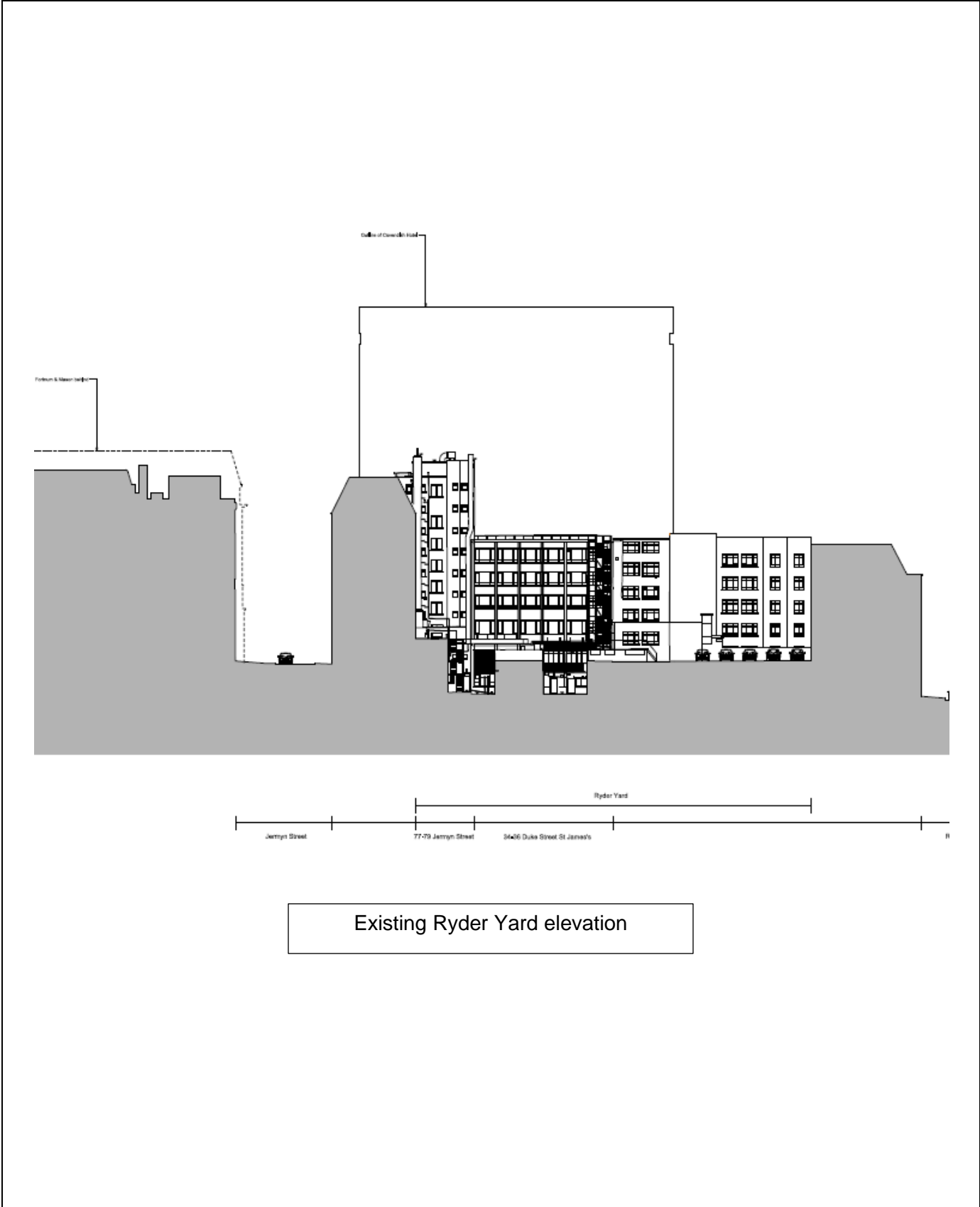
Third floor level – A typical upper floor plan

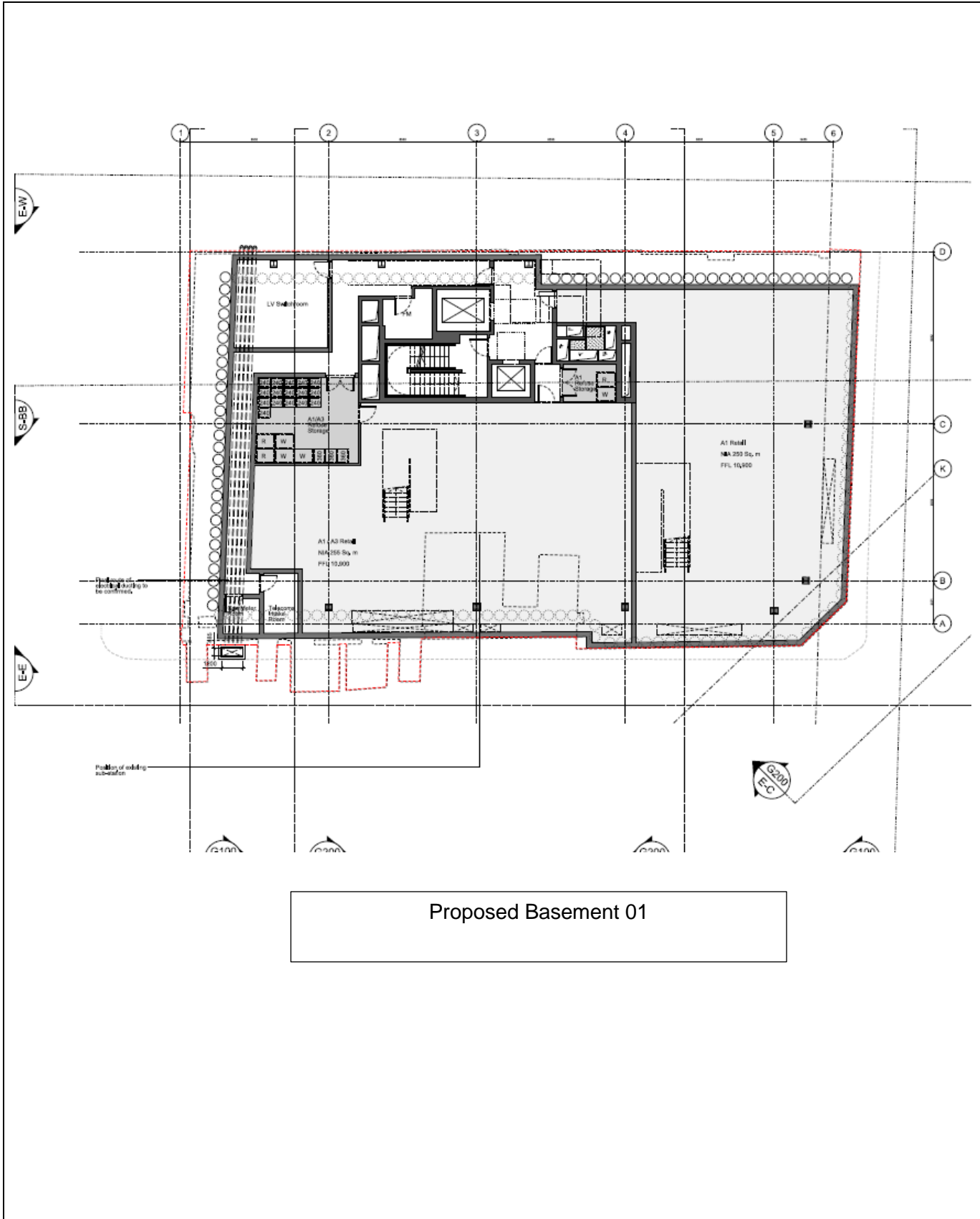


Existing Duke Street elevation

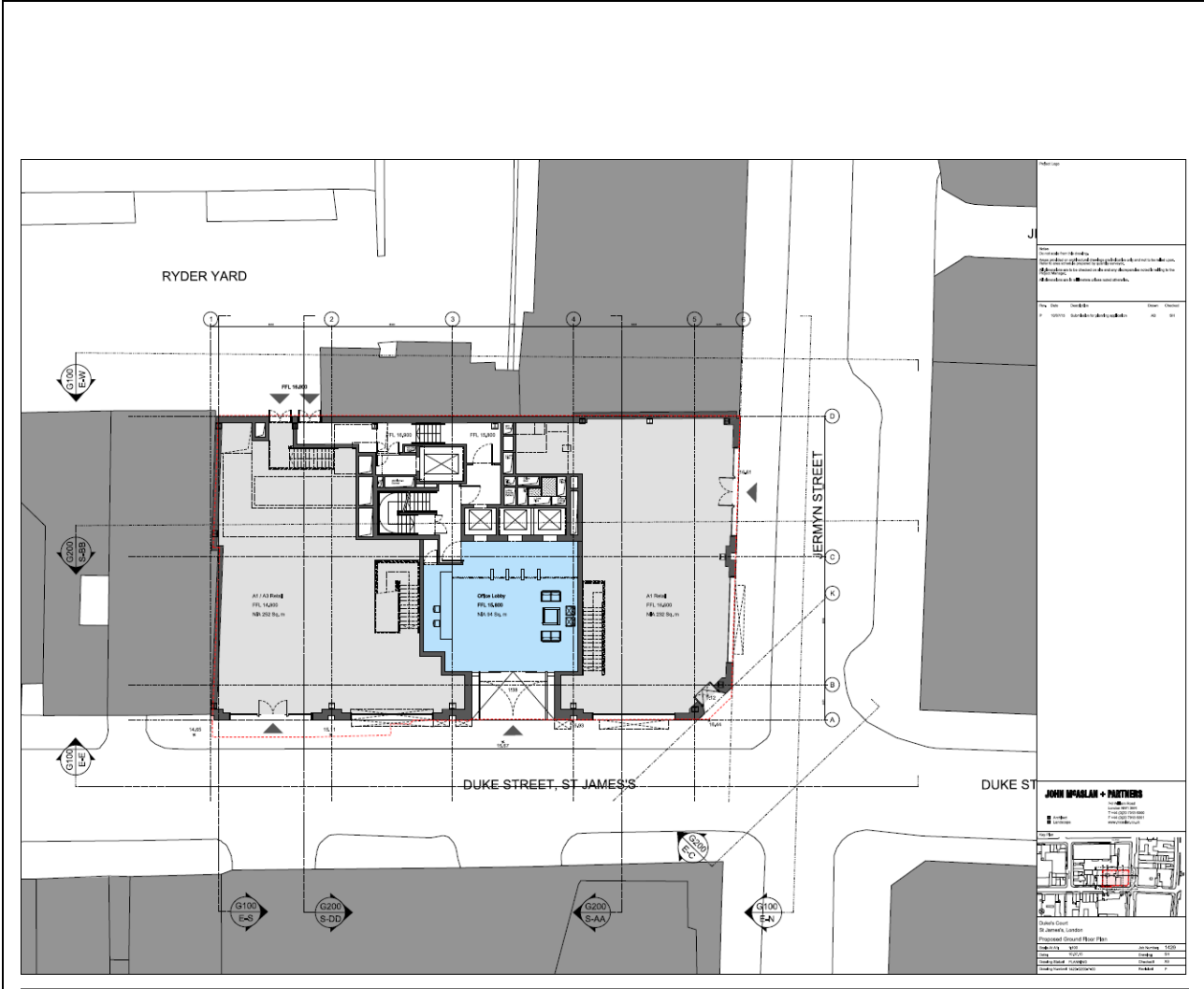


Existing Jermyn Street elevation

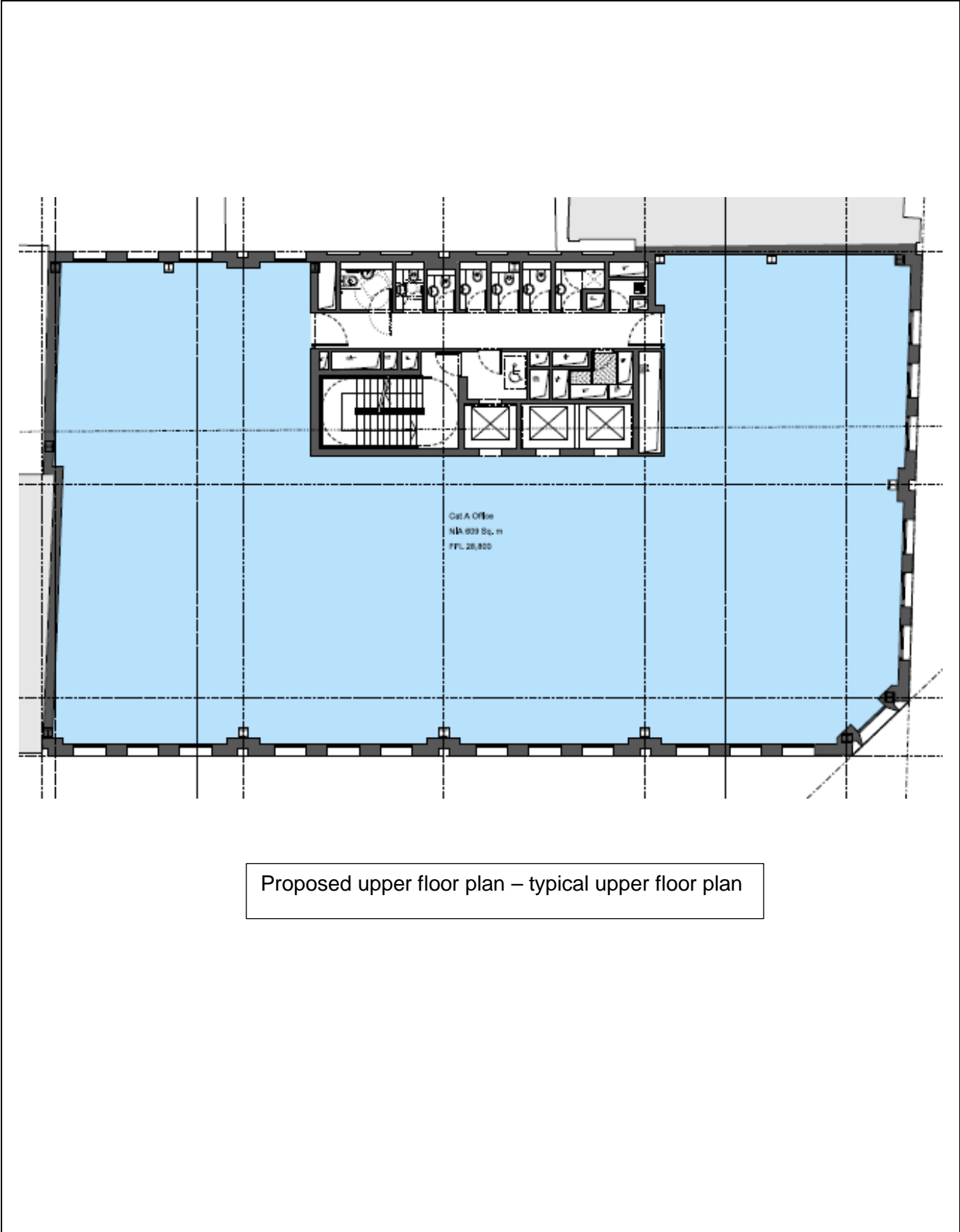








Proposed ground floor plan



Proposed upper floor plan – typical upper floor plan



Proposed Duke Street elevation



Proposed Jermyn Street elevation



Proposed Ryder Yard elevation



Visual – corner of Jermyn Street and Duke Street



Visual - looking north along Duke Street

**DRAFT DECISION LETTER**

- Address:** Development Site At 77-79 Jermyn Street And, 34 - 36 Duke Street St James's, London, ,
- Proposal:** Complete demolition of 77-79 Jermyn Street and 34-36 Duke Street and erection of new 7 storey retail (A1 & A3) and office (B1) building with additional basement levels and roof top plant.
- Plan Nos:** Site location plan - 1420-G100-LP-001 P., Demolition drawings - 1420-JC20-EX-E P, 1420-JC20-EX-N P, 1420-JC20-EX-S P, 1420-JC20-EX-W P, 1420-JC20-P-B1 P1, 1420-JC20-P-00 P, 1420-JC20-P-01 P, 1420-JC20-P-02 P, 1420-JC20-P-03 P, 1420-JC20-P-04 P, 1420-JC20-P-05 P, 1420-JC20-P-06 P, 1420-JC20-P-07 P, 1420-JC20-P-R P., Proposed plans - 1420-G200-P-B3 P1, 1420-G200-P-B2 P1, 1420-G200-P-B1 P1, 1420-G200-P-00 P, 1420-G200-P-01 P, 1420-G200-P-02 P, 1420-G200-P-03 P, 1420-G200-P-04 P, 1420-G200-P-05 P, 1420-G200-P-06 P, 1420-G200-P-RF1 P, 1420-G200-P-RF2 P, 1420-G200-S-BB P, 1420-G200-S-DD P, 1420-G200-E-E-001 P, 1420-G200-E-N-001 P, 1420-G200-E-S-001 P, 1420-G200-E-W-001 P, 1420-G200-E-C P, 1420-G200-E-E-002 P, 1420-G200-E-N-002 P, 1420-G200-E-W-002 P, 1420-G200-E-S-002 P.

**Case Officer:** Matthew Mason

**Direct Tel. No.** 020 7641 2926

**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 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., , Noisy work must not take place outside these hours unless except as may be exceptionally agreed by other regulatory regimes such as the police, by the highways authority or by the local authority under the Control of Pollution Act 1974.

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of

Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 Pre-Commencement Condition: No development shall take place until a Construction Logistics Plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority (see informative 2).

Reason:

To ensure that the construction logistics for the development minimise nuisance and disturbance in the interests of the amenities of neighbouring occupiers and of the area generally, and to avoid hazard and obstruction to the public highway. This is as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and ENV 5 of our Unitary Development Plan that we adopted in January 2007.

- 4 (a) No development shall take place until you have secured the implementation of a programme of archaeological investigation in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the local planning authority in writing. , , (b) No development shall take place other than in accordance with the Written Scheme of Investigation approved under Part (A). , , (c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part (A), and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

- 5 (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: Strategic Policies adopted November 2013, 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.

- 6 The two cooling towers (Type VFL 223-0) hereby permitted shall not be operated between the hours of 23:00 and 07:00 daily.

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: Strategic Policies adopted November 2013, 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.

- 7 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.

- 8 In the event that the Class A1/A3 unit is occupied for A3 purposes, you must apply to us for approval of details of the kitchen extract system. You must not use the unit for Class A3 purposes until we have approved what you have sent us. Thereafter you must carry out the development in accordance with the approved drawings.

Reason:

To ensure that adequate kitchen extraction facilities are provided for the Class A3 use. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05DC)

- 9 You must apply to us for approval of details of a supplementary acoustic report for any kitchen extract system approved under Condition 8 of this permission demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 5 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

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: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 10 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises., (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power., (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

- 11 In the event that the Class A1/A3 unit is occupied for Class A3 purposes you must apply to us for approval details of an Operational Management Plan. You must not use the Class A1/A3 for Class A3 use until we have approved what you have sent us. You must then operate the Class A3 use in accordance with the approved details.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 12 In the event that the Class A1/A3 unit is occupied for Class A3 use, customers shall not be permitted within the Class A3 restaurant premises before 08:00 or after 00:00 on Monday to Thursday (not including bank holidays and public holidays), before 08:00 or after 00:30 on Fridays and Saturdays and before 08:00 or after 00:00 on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 13 Notwithstanding the details shown on the approved drawings, you must apply to us for approval of detailed drawings of secure cycle parking facilities for the office and retail uses. You must not start work on this part of the development until we have approved what you have sent us. Thereafter the cycle spaces must be retained and the space used for no other purpose.

Reason:

To provide cycle parking spaces for people using the development as set out in TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 14 You must apply to us for approval of detail of a servicing management plan for the office and retail units within the development. You must not occupy any part of the development until we have approved what you have sent us. Thereafter you must carry out the development in accordance with the approved details.

Reason:

To avoid blocking the surrounding streets and Ryder Yard and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 15 You must provide the waste stores for the office and retail uses as shown on the approved drawings before anyone moves into the property. You must clearly mark it and make it available at all times to the occupiers of the building. 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 and materials for recycling as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 16 You must apply to us for approval of detail of the photovoltaic panels. You must not start work on this part of the development until we have approved what you have sent us. Thereafter you must carry out the development in accordance with the approved plans. The photovoltaic panels must thereafter be retained.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44AC)

- 17 Within 6 months of practical completion, you must provide the following:
- a copy of a Building Research Establishment (or equivalent independent assessment) issued Final Post Construction Stage Assessment and Certification, confirming that the development has achieved a BREEAM Offices 2014 rating of excellent
  - a copy of a Building Research Establishment (or equivalent independent assessment) issued Final Post Construction Stage Assessment and Certification, confirming that the development has achieved a BREEAM Retail 2014 rating of very good.

## Reason:

To make sure that the development affects the environment as little as possible, as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44BC)

- 18 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 James Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 19 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. 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 using the approved materials. (C26BC)

## 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 James Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 20 Notwithstanding that shown on the approved plans, you must apply to us for approval of plans at a scale of 1:50 with details at 1:10 of a revised design of shopfronts for the Duke Street frontage (brick) building

## 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 James Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 21 Notwithstanding that shown on the approved plans, you must submit revised plans at a scale of 1:50 showing a further subdivision of the large glazed opening above the main office entrance on Duke Street.

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 James Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 22 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 James Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 23 You must apply to us for approval of detailed plans of the following parts of the development:, i) windows at a scale of 1:10, ii) external doors at a scale of 1:10, iii) details of the office entrance including gates at a scale of 1:50 with details at 1:10, iv) details of any public art, 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.

23 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 James Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

**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: Strategic Policies adopted November 2013, Unitary Development Plan, 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 You are advised that the construction logistics plan must include details of the cycle safety measures that will be implemented during demolition and construction such construction vehicles being fitted with side-bars, blind spot mirrors and cycle detection equipment.
  - 3 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
    - i.. The provision of 980m<sup>2</sup> of residential floorspace to be made ready for occupation at 33 Bury Street prior to the occupation of any part of the development.,
    - ii. A payment of £1.46m towards the Council's affordable housing fund (payable on commencement of development and index linked).
    - iii. A payment towards Crossrail of £230,580,
    - iv. The applicant to comply with the Council's Code of Construction Practice, provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £30,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers,
    - v. Employment and Training Strategy for the construction and operational phase of the development.
  - 4 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge., If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/> . **You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**
  - 5 The revised design of shopfront required by condition 20 of this permission should more closely reflect the traditional detailing and materials of period timber shopfronts, which are a typical feature of the St James Conservation Area.
  - 6 You are advised that secure cycle parking within the development for the office and retail uses should be provided to the standards set out in the Further Alterations to the London Plan.

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 26 January 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>32-34 Great Peter Street, London, SW1P 2DB,</b>		
<b>Proposal</b>	Demolition of the existing building and redevelopment of the site to provide 21 residential units (15 x private residential units and 6 x affordable residential units) (Class C3) in a new eight storey building (basement with sub basement, ground plus seven upper floors) with the provision of car parking, plant and associated works.		
<b>Agent</b>			
<b>On behalf of</b>	Gerald Eve LLP		
<b>Registered Number</b>	15/07778/FULL	<b>Date amended/ completed</b>	19 August 2015
<b>Date Application Received</b>	19 August 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Peabody Estates: South Westminster		

## 1. RECOMMENDATION

<p>1. Grant conditional permission subject to a S106 legal agreement to secure the following:</p> <ul style="list-style-type: none"> <li>i. provision of affordable housing on-site;</li> <li>ii. the applicant to comply with the Council's Code of Construction Practice, provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £26,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers</li> <li>iii. unallocated parking;</li> <li>iv. free lifetime (25 years) car club membership for residents of the development</li> <li>iv. costs of monitoring the S106 agreement.</li> </ul> <p>2. If the S106 legal agreement has not been completed within three months of the date of this resolution then:</p> <ul style="list-style-type: none"> <li>a) The Director of Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</li> <li>b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of benefits which would have been secured; if so,</li> </ul>
--

the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

32 - 34 Great Peter Street is a part 5, part 3 storey building located on the corner of Great Peter Street and St. Ann's Lane. The building is not listed and is identified in the Peabody Estates: South Westminster Conservation Area Audit (2009) as being a 'negative building'. The building is located within the Pimlico Central Activities Zone and is currently in use as offices.

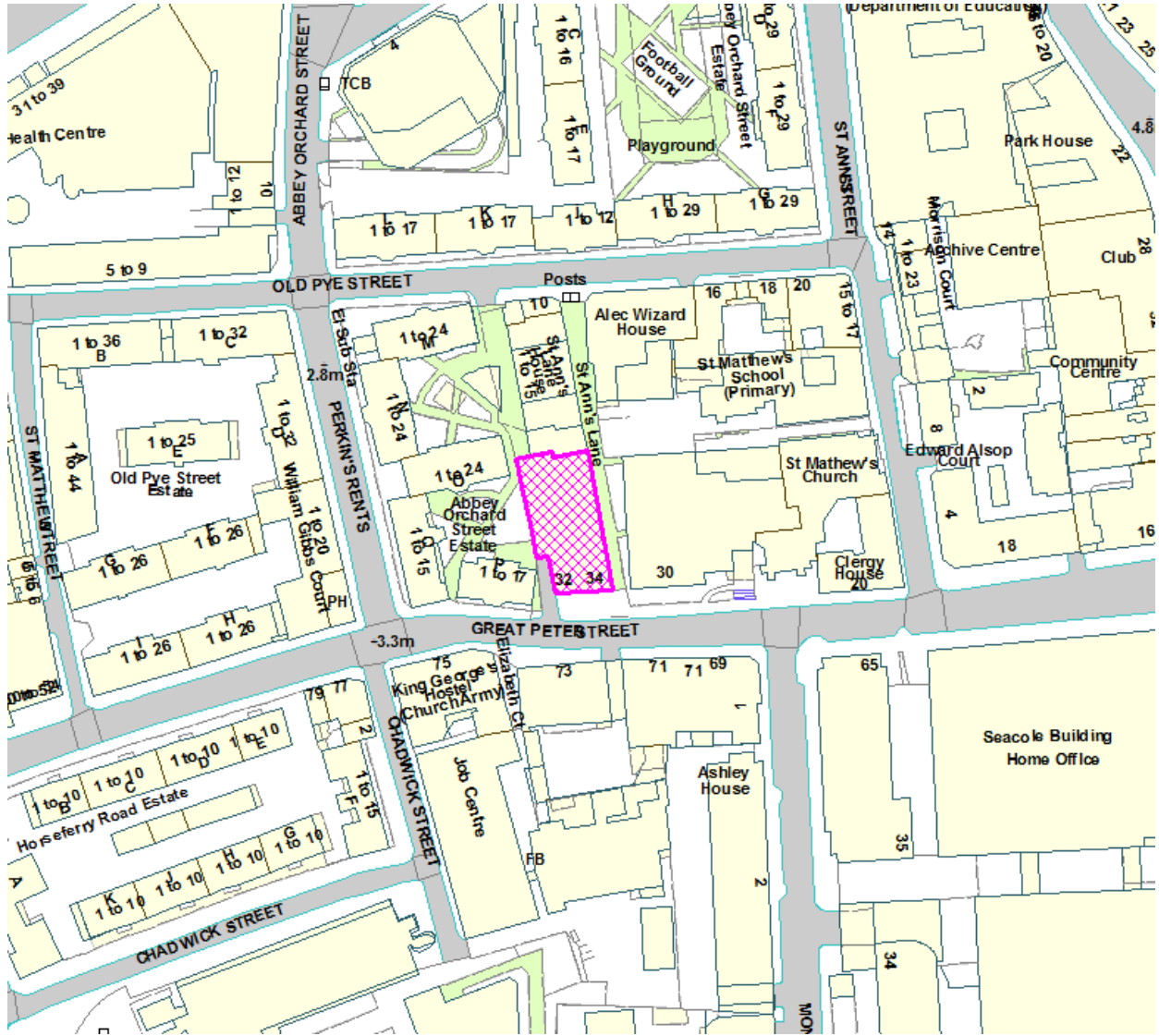
Planning permission is sought for the demolition of 32 - 34 Great Peter Street and its replacement with a new eight storey building (with basement and sub-basement levels) including roof terraces, off-street parking, and mechanical plant, in connection with the use of the building as 21 residential units (15 x private residential units and 6 x affordable residential units) (Class C3).

The key issues in this case are:

- \* The change of use to residential and the provision of new on site affordable housing
- \* The impact on the character and appearance of the Peabody Estates: South Westminster Conservation Area;
- \* The impact on residential amenity - daylight, overlooking and sense of enclosure
- \* The impact of the shortfall in on-site car parking

The proposal to provide a new building and new housing within this part of the City complies with the City Council's land use, design, highways and amenity policies and the application is accordingly recommended for approval subject to a S106 legal agreement to secure the provision of the affordable housing on-site, a financial contribution to the Council's Environmental Inspectorate to monitor compliance with the Construction Environmental Management Plan, to secure unallocated parking, free life time (25 years) car club membership for residents of the development and S106 monitoring costs.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### WESTMINSTER SOCIETY

No objection. This is regarded as a worthy scheme. The existing building is of little value and its removal will be no loss. The replacement building is well designed and will improve the streetscape. On-site provision of affordable housing and broad range of unit sizes welcomed. The Society supports comments raised by St Matthew's Primary School and would welcome any streetscape improvements that perhaps could be secured by condition.

### THORNEY ISLAND SOCIETY

The replacement building is an improvement. Its height may cause some loss of light to neighbouring properties however the design addresses this problem with set back upper floors. Development should not obstruct pedestrian access to St. Ann's Lane particularly to St. Matthew's Primary School and St Andrew's youth club. Trees should be protected during construction.

### HEAD OF AFFORDABLE AND PRIVATE SECTOR HOUSING

Of the 6 affordable homes proposed, 2 are intended for social rented housing and 4 for intermediate housing use. The overall level of affordable housing proposed is 713sqm which meets the 640sqm policy requirement level. The mix of social to intermediate housing is 33:67 which does not equate to the London Plan guidance of 60:40. In light of recent proposed changes to the Government's housing policy it is recommended that all of the affordable units are provided at sub-market rents. Where rents are set at sufficiently affordable levels they can be made available for either social housing or intermediate housing. This will provide flexibility as to whether the eventual tenants come from Westminster's social waiting list or intermediate waiting list. Affordable rent levels should be secured by S106.

### BUILDING CONTROL

The structural method statement is considered to be acceptable. An investigation of existing structures and geology has been undertaken and found to be of sufficient detail. The existence of groundwater, including underground rivers, has been researched and likelihood of local flooding or adverse effects on the water table has been found to be negligible. The method of construction and piling is considered to be appropriate for this site. The proposals to safeguard adjacent properties during construction are considered to be acceptable.

### HIGHWAYS PLANNING MANAGER

The level of car parking (9 spaces) and cycle parking (57 spaces) is acceptable. The unallocated car parking (i.e. a space would not be allocated to a specific unit) and car club membership offers are welcomed. No off-street servicing is proposed however an objection is not raised to the lack of servicing provision.

### ENVIRONMENTAL HEALTH

No objection subject to conditions. Due to size of the development and the close proximity to numerous sensitive receptors a financial contribution to the Environmental Inspectorate team for the development of a Site Environmental Management Plan (SEMP) to address noise, air quality and dust is required having regard to Westminster City Councils Code of Construction Practice.

**ARBORICULTURAL MANAGER**

No objection subject to conditions.

**ENVIRONMENT AGENCY**

Although the risk of flooding from the River Thames is considered low, suggest that finished floor levels are raised to the 2100 breach level of 4.91m AOD.

**THAMES WATER**

No objection with regard to sewerage infrastructure or water infrastructure capacity.

**CRIME PREVENTION DESIGN ADVICE**

Any response to be reported verbally.

**ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS**

No. Consulted: 203; Total No. of Replies: 2.

One neighbour objection raising the following issue:

Design:

\* Taller building will have a detrimental effect on the street scene and conservation area.

One letter from St. Matthew's CE Primary School raising the following issues:

\* Development should not restrict pedestrian access to St. Ann's Lane;

\* Consideration should be given to the possibilities raised by the development to enhance the streetscape of St. Ann's Lane, the children's entrance to the playground, and the possibility of removing bollards and providing controlled vehicle access to St. Ann's Lane from Old Pye Street.

ADVERTISEMENT/SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

32 - 34 Great Peter Street is a part 5, part 3 storey building located on the corner of Great Peter Street and St. Ann's Lane. The building is not listed and is identified in the Peabody Estates: South Westminster Conservation Area Audit (2009) as being a 'negative building'. The building is located within the Pimlico Central Activities Zone and is currently in use as offices.

To the west and rear of the site is row Abbey Orchard Peabody Estate comprising of residential housing blocks varying from 5 - 6 storeys in height. To the east is 28 – 30 Great Peter Street (Trevelyan House) which is in office use. To the rear on St. Ann's Lane are St. Matthew's Primary School and St. Andrew's Youth Club. Opposite the site is 73 Great Peter Street, an 8 storey building with is in commercial use on the ground floor and residential use on the upper floors.

### **6.2 Recent Relevant History**

Planning permission was granted in 1971 for the erection of a part 5, part 3 storey building plus basement at 32/34 Gt Peter Street for use as basement showroom and storage, ground floor showroom, 1<sup>st</sup> and 2<sup>nd</sup> floor offices and 3<sup>rd</sup> and 4<sup>th</sup> floors 3 x residential flats.

Between 1979 and 1988 there were a number of planning permissions granted for the change of use of individual floors.

A lawful development certificate was issued in 1993 (93/02992/CLEUD) for the use of the 3<sup>rd</sup> and 4<sup>th</sup> floors as offices.

## 7. THE PROPOSAL

Planning permission is sought for the demolition and redevelopment of 32 – 34 Great Peter Street to provide a new eight storey building (with basement and sub-basement levels) for use as 21 residential units (15 x private residential units and 6 x affordable residential units) (Class C3) plus 9 car parking spaces and mechanical plant.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The existing and proposed land uses are summarised below:

Table 1. Existing and Proposed Land Uses

Use	Existing (sqm GEA)	Proposed (sqm GEA)	Uplift (sqm GEA)
Office (Class B1)	2101	0	-2101
Residential (Class C3)	0	2681	+2681
Total	2101	2681	+580

### Loss of office use

The proposals would result in the loss of office floorspace amounting to 2,101 sqm.

Policy S47 of the City Plan advises that ‘when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework... to secure development that improves the economic, social and environmental conditions in the area.’

Paragraph 51 of the NPPF advises that local planning authorities should normally approve planning applications for change of use to residential and any associated development from commercial buildings (currently in the B use class) where there is an identified need

for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.

Whilst there would be a net reduction in office floorspace and employment as a result of the development, there is no evidence to suggest that the economic impact of the proposals on this part of the City as a whole would be sufficiently harmful in this instance to withhold permission. The change of use to residential use would provide social benefits with the provision of a net increase of 21 residential units including 6 on-site affordable units.

There are no policies within the UDP or City Plan which safeguard the existing office use. However, the City Council recognises that adopted development plan policies relating to office and mixed use policies are out of date and that, given recent pressures to convert office buildings to residential use, there is now an under-supply of office accommodation within the borough, eroding the character of commercial areas and resulting in a need to protect existing office floorspace. However, this objective still needs to be balanced against the requirement to provide new homes. Consequently, interim measures, (set out in an initial statement dated 1 March 2015), have been drawn up in relation to the consideration of applications involving the replacement of offices with new residential floorspace, (and applications for the provision of new office floorspace). From 1 September 2015, any such applications will be determined under a 'presumption in favour of sustainable development' in line with national policy. This means that within the Core CAZ (and in other specified locations) housing is no longer acceptable in principle where it results in the loss of office floorspace. A further statement (dated 22 July 2015) confirmed that the loss of offices will be acceptable where they are to other commercial uses, or outside of the Core CAZ or other specified locations.

As the current application was submitted in April 2015, it is not subject to consideration under the interim measures or emerging policies, but should be considered in the light of adopted development policies which do not protect existing office uses.

### **Residential use**

The use of the proposed building for residential purposes is supported by Policies H3 of the UDP and S14 of Westminster's City Plan.

The proposal would create 2681 sqm of residential floorspace (GEA) in the form of 21 flats with associated car parking and services. This would make an important contribution to new housing provision and is welcomed in policy terms.

The residential mix and tenure is set out in the table below:

**Table 1. Residential mix and tenure**

<b>Unit type</b>	<b>Affordable (Social Rented)</b>	<b>Affordable (Intermediate)</b>	<b>Market</b>	<b>Total No. of Units</b>	<b>% Unit Mix</b>
1 bed	1	1	3	5	24
2 bed	0	3	9	12	57
3 bed	0	0	3	3	14



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4 bed	1	0	0	1	5
<b>Total</b>	<b>2</b>	<b>4</b>	<b>15</b>	<b>21</b>	<b>100</b>

The residential mix which is heavily weighted towards 2 bed units fails to meet the Council’s Policy H5 in the UDP which normally requires that a third of units be family sized (3 beds). In this case 4 (19%) of the 21 units are family sized. The supporting text to this policy does state that this requirement may be applied flexibly and that the City Council may accept a lower level of family sized accommodation having regard to the nature of the development and the character of the environment. It is considered that there is a case for a slightly lower amount of family housing given that this is a central inner city location.

All units (ranging between 52 sqm and 130 sqm) have been designed to meet or exceed the Mayor’s dwelling space standards set out in London Plan Policy 3.5. All units have been designed to meet Lifetime Homes and 10% are adaptable to wheelchair housing. The proposed flats are relatively modest in size and it is considered that the application is in accordance with Policy S14 City Plan which seeks to optimise the number of residential units on development sites.

It is accepted that the background noise levels in this area of the City are high. Policy ENV6 of the UDP states that residential developments are required to provide adequate protection from existing background noise as well as noise from within the development itself. The submitted Environmental Noise Survey addresses the issue of internal noise levels to the new flats and assesses the building envelope’s acoustic performance. This is a redevelopment which would incorporate double glazed windows and the high specification building fabric necessary to meet modern performance standards. A system of mechanical ventilation for the new flats is proposed should residents choose to keep their windows shut. Conditions are recommended to ensure that sufficient measures are put in place to mitigate against internal and external noise.

Overall, the new flats would generally provide a good standard of accommodation in terms of unit size and layout and all would benefit from private amenity space in the form of balconies or terraces. The majority of the flats (90%) are also dual aspect.

**Affordable housing**

UDP policy H4 and City Plan Policy S16 seek to secure the provision of affordable housing. Policy S16 requires that housing developments of more than 10 additional dwellings or 1000m2 or more in floorspace should normally include a proportion of the floorspace on site as affordable housing. The proportion of affordable housing sought on individual sites will be set out in the City Management Plan when it is adopted but until then is set out in an interim guidance note. For sites outside Core CAZ with a residential floorspace increase of between 2,500sqm and 2,899sqm the guidance specifies a floorspace requirement of 640sqm.

The proposed scheme provides an increase in residential floorspace of 2,681sqm. It is proposed that 713sqm of the floorspace will be affordable housing comprising of 6 units (2 x social rent and 4 x intermediate rent). The overall level of proposed on site affordable housing, 713sqm, exceeds the policy requirement of 640sqm.

The 6 affordable units would be provided in the following mix.

Unit type	Affordable (Social Rented)	Affordable (Intermediate)	Total
1 bed	1	1	2
2 bed	0	3	3
4 bed	1	0	1

The affordable units would have their own separate entrance on St. Ann's Lane, immediately adjacent the main market residential entrance. The units would meet the Council's requirement for dual aspect affordable housing. The 4 bed unit will be suitable for families and all the flats will have their own outdoor amenity space. The proposed units are considered to provide a good standard of accommodation in terms of unit size and layout.

The Council's Head of Affordable Housing welcomes the provision of affordable housing in this location. The mix of social housing to intermediate housing proposed is 33:67, which does not meet the London Plan guidance of 60:40. However in light of recent proposed changes to the Government's housing policy it is recommended that all of the affordable units are provided at affordable rent levels based on the Council's housing advice. These homes will be allocated to Westminster's preference groups in line with the Council's allocation scheme. Where affordable rents rather than target rents are charged, then the gross weekly rent (inclusive of service charge) charged by dwelling size should reflect the rent ranges set out in the Council's Affordable Rent Statement.

These rent levels are set out in the table below:

Unit type	No. of units	Gross Weekly Affordable Rent Range WCC AR Statement	Average Gross Rent by Dwelling size to be charged (midpoint of the range) see note*
1 bed	2	£135-£172	£153.50
2 bed	3	£148-£194	£171
4 bed	1	£156-£210	£ 183

\*note gross rent to be set out in the legal agreement but where rents can increase annually by CPI +1%

It is recommended that these rent levels which have been agreed with the applicant are secured under the terms of the S106 agreement.

## 8.2 Townscape and Design

32 - 34 Great Peter street is an unlisted post war office block located within the Peabody Estates: South Westminster Conservation Area.

The existing building comprises of four storeys above ground level at the front, and two storeys above ground floor at the rear, the property is typical of its age being constructed of concrete and brick. The building is identified in the Peabody Estates: South

Westminster Conservation Area Audit (2009) as being a 'negative building'. Demolition of the building is not opposed in conservation terms subject to the height, form and design quality of the replacement building.

Taking into account the height of both neighbouring buildings, the replacement building comprises eight storeys, with the two upper floors set back from the main façade. This mediates between the height of the Peabody Estate to the west and Trevelyan House to the east. The additional floors are acceptable subject to an amending condition requiring an over sailing capping detail to ease the vertical proportions of the upper two floors.

The replacement building is constructed in brick with stone dressed windows. The building makes reference to the areas traditional palette of materials whilst presenting a wholly contemporary addition to the townscape.

In summary, it is considered that the loss of the existing buildings is justified by the quality of the replacement building. It is considered to be a good example of contemporary design while still being respectful of its context. It is not considered that the proposal will adversely affect the character and appearance of the Peabody Estates: South Westminster Conservation Area or this part of the City.

### **8.3 Residential Amenity**

Policies S29 of the City Plan and ENV13 of the UDP seek to protect residential amenity in terms of light, privacy, sense of enclosure, overlooking and encourage development which enhances the residential environment of surrounding properties.

There have been no objections received from adjoining occupiers on residential amenity grounds.

#### **Daylight**

The applicant has carried out a detailed assessment using the BRE guidelines: Site Layout Planning for Daylight and Sunlight 2011. The BRE guidelines suggest that a 27% Vertical Sky Component (VSC) is indicative of a 'good level' of daylight. The BRE guidelines state that daylight levels may be adversely affected if the VSC measured at the centre of an existing main window is less than 27% and less than 0.8 times its former value. Should windows achieve sufficient levels of VSC they are seen as compliant in terms of daylight and no further tests are required.

The applicant's daylight assessment results show that the vast majority of the surrounding residential windows will continue to receive good levels of daylight in accordance with the BRE Guidelines criteria and that those windows which will experience a technical breach of the recommended standards will still retain a good level of daylight given the built up nature of this central London location.

#### **Sense of Enclosure**

The setbacks incorporated into the design of the upper floors between fourth and seventh floor levels will help minimise the effects of the development upon neighbouring residential amenity.

The new building is considered to be significantly setback from neighbouring properties, particular those forming part of the Abbey Orchard Peabody Estate. As such it is not considered that any perceived increase in sense of enclosure would be so significant to justify refusal.

### **Privacy**

The new building includes roof terraces and balconies on all floor levels. It is unlikely that the terraces and balconies will result in any material loss of privacy or noise nuisance to neighbouring occupiers given their location and distance from neighbouring residential properties.

### **Noise impact from mechanical plant**

Mechanical plant is proposed at sub-basement level and sixth floor levels. An acoustic report has been submitted as part of the application which includes background noise surveys around the site and, from this are set targets for the operation of the new plant which must be below existing background noise levels.

The proposals are acceptable subject to conditions relating to plant noise and vibration. On this basis, it is not considered that the plant operation would adversely affect the amenities of existing, or future, residents.

## **8.4 Transportation/Parking**

### **Car Parking**

UDP Policy TRANS 23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased to 'stress levels'.

The development proposes basement car parking for 9 cars including 1 disabled car parking space. The car park would be accessed directly via a ramp and existing vehicle crossover on Great Peter Street. Given the number of car parking spaces, the use of a single width driveway should not result in significant impact on the safety or operation of the highway. There is adequate pedestrian visibility splays provided for vehicles exiting the car park and onto the highway. The car park includes electric charging points for 20% of the bays which is welcomed. The Highways Planning Manager has no objection to the layout or access to the car park.

The applicant has confirmed that the car parking spaces are to be provided on an unallocated basis and that there will be free lifetime car club membership (25 years) for occupants of the flats. These measures will be secured by S106.

### **Cycle Parking**

The plans show provision for 57 cycle spaces (12 cycle spaces for the affordable units and 45 spaces for the market residential units). This level of provision complies with TRANS 10 of the UDP and the standards set out in the London Plan.

## **Servicing**

Policy S42 of the City Plan and TRANS 20 of the UDP require adequate off-street servicing provision. A refuse collection vehicle is the largest regular service vehicle expected to be associated with the residential development. This will service the building in a similar fashion to nearby residential properties. Waste will be collected from the highway on Great Peter Street.

## **8.5 Economic Considerations**

The proposal is in accordance with the UDP and the economic benefits generated by the proposed residential units are welcomed.

## **8.6 Access**

The replacement building provides step free access. All residential units are served by a wheelchair accessible lift. The entrances to individual dwellings are accessed from corridors designed in accordance with Building Regulations. There is full level access within the building and in all other respects the residential units will meet Lifetime Homes Standards.

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

### **Waste**

Waste and recycling storage areas are located at ground floor level and would be accessed via St Anne's Lane. These arrangements are considered to be acceptable and in line with UDP Policy ENV11.

### **Trees**

A London Plane tree is located on street to the front of the site on Great Peter Street which is subject to a Tree Preservation Order (TPO). A nearby Pear tree is also protected by virtue of its location within a conservation area. Revisions were necessary in order to reduce the impact of the development on trees. Balconies on the front elevation have been revised to set them further back from the London plane tree, and a proposed attenuation tank has been relocated to the basement.

The applicant has submitted an Arboricultural Report which indicates the proposed method of tree protection during construction works. Following revision the Arboricultural Manager considers it should be possible, with care, to protect the London Plane tree during construction and thereafter, subject to a number of matters being reserved.

The tree report advises that some measures can be introduced with respect to building design to help to limit the perceived nuisance to future occupiers of the properties as a result of the tree. Details of such measures are reserved by condition.

Excavation for drainage is explained in the tree report and drainage report. This is proposed within the root protection area of the London plane, but it is unlikely to be of

significant harm to the tree. The depth and details of excavation and including details of the methodology are reserved by condition. Conditions are also recommended requiring details of ground protection and tree protection, hard and soft landscaping and arboricultural supervision and monitoring, as the submitted information does not contain sufficient level of detail.

The small pear tree is now proposed to be removed. It is of low amenity value and the Arboricultural Manager would not raise objections subject to replacement. However its removal cannot be agreed as part of this proposal as it is off-site. An informative is suggested, advising that a separate section 211 notice would be required.

### **Sustainability**

A Sustainability Statement and Energy Strategy has been submitted in support of the proposal. The Sustainability Statement sets out in detail the sustainable measures that will be adopted during the construction and operations of the building. The Energy Strategy has been prepared in accordance with the 'Be Lean, Be Clean, Be Green' hierarchy set out in the London Plan and sets out the anticipated carbon reduction methodology. Overall, the development is predicted to result in a 36% reduction in carbon emissions over the benchmark performance (Part L 2013 Building Regulations) which equates to a saving of approximately 12.8 tonnes of CO<sub>2</sub>. The measures set out in the Strategy would meet the target of a 35% reduction as set out in the London Plan.

To encourage biodiversity green roofs are proposed at fourth, fifth, sixth and seventh floor levels.

### **8.8 London Plan**

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

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

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

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

## 8.10 Planning Obligations

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 6 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 6 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under Section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced later in 2015. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the Council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

For reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure the following:

- On site affordable housing;
- A financial contribution to the Council's Environmental Inspectorate to monitor compliance with the Construction Environmental Management Plan;
- Unallocated car-parking;

- Free lifetime (25 years) car club membership for residents of the development;
- S106 monitoring payment.

It is considered that the 'Heads of Terms' listed above satisfactorily address City Council policies. The planning obligations to be secured, as outlined in this report, are in accordance with the City Council's adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations (2010 as amended).

### **8.11 Environmental Impact Assessment**

Environmental impact issues have been covered elsewhere in this report.

### **8.12 Other Issues**

#### **Basement Excavation**

The applicant has provided a structural engineer's report explaining the likely methodology of excavation works. This report has been considered by our Building Control officers who advised that the structural approach appears satisfactory. The proposals to safeguard adjacent properties during construction are considered to be acceptable.

#### **Construction Management**

A draft Construction Management Plan (CMP) has been submitted which sets out the proposed measures to minimise the impact of construction vehicle activity in the immediate vicinity of the development site and on the surrounding public highway during the strip out, demolition and construction phases of the proposed redevelopment. A detailed Site Environmental Management Plan will be secured and monitored by the Council's Environmental Sciences team under the terms of the S106.

A condition is recommended to restrict the hours of building works in order to mitigate the impact on nearby residential occupiers. In terms of disturbance from construction works, it is considered that works can be adequately controlled by use of the City Council's standard hours of work condition, which includes additional controls to prevent excavation works at weekends and on bank holidays. It is not reasonable, however, to restrict all construction works to Monday to Friday only.

A highways licence would be required before any construction equipment such as scaffolding or skips can be placed on the road or pavement.

An Informative is recommended to encourage the applicant to join the nationally recognized Considerate Constructors Scheme as well as keeping residents informed concerning the works.

#### **Flood Risk**

The application is accompanied by a Flood Risk Assessment report. The Environment Agency have confirmed that the site is at low risk of flooding from the River Thames however they have recommended that the applicant raise finished ground floor levels to



take into account the new 1 in 1000 year flood risk levels. An informative on the decision letter is accordingly recommended.

## 9. BACKGROUND PAPERS

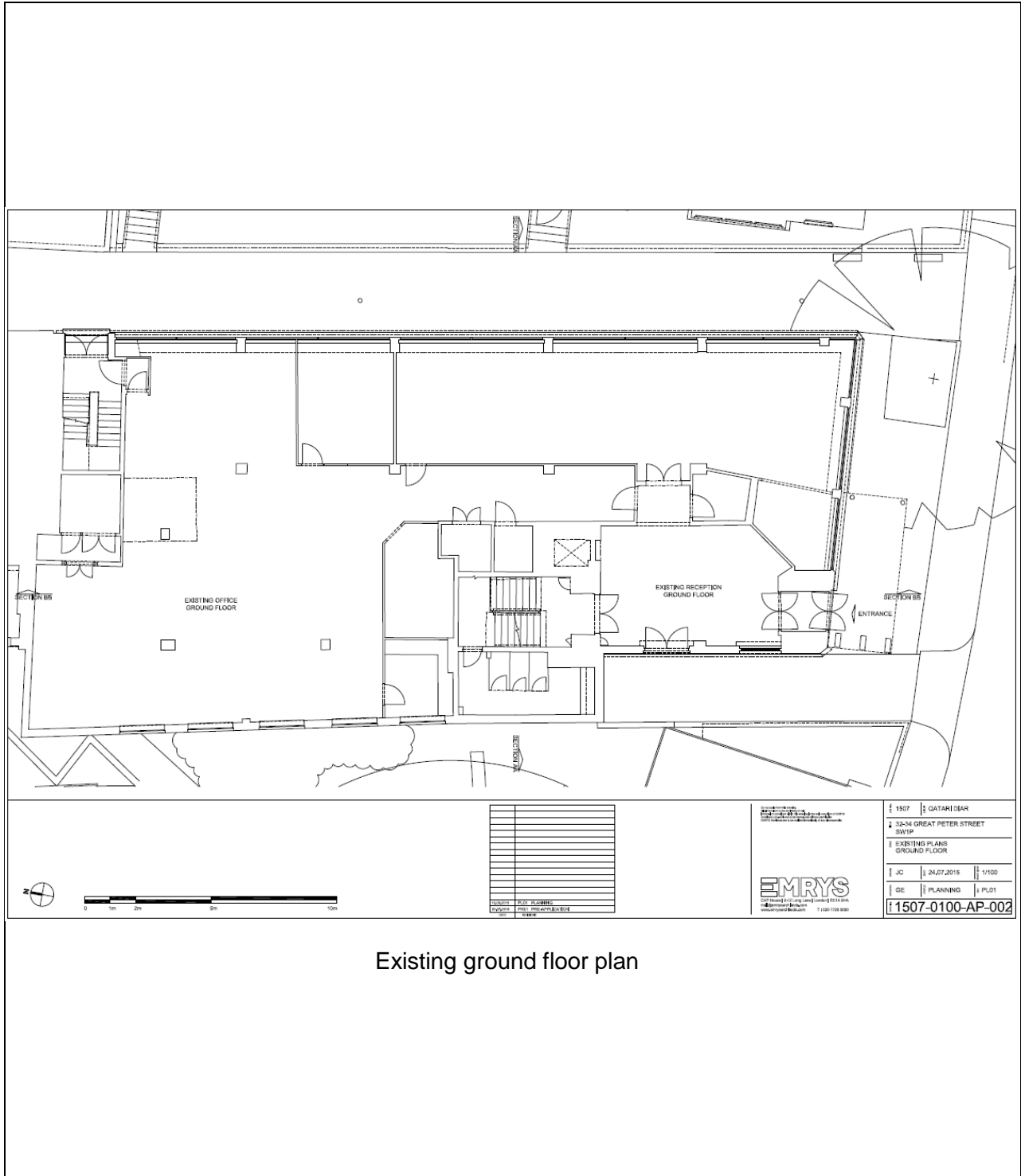
1. Application form.
2. Letter from the Westminster Society dated 22.09.2015.
3. Memo from The Thorney Island Society received 11.09.2015
4. Email from Head of Affordable and Private Sector Housing dated 08.09.2015.
5. Memo from Highways Planning Manager dated 01.10.2015.
6. Memo from Building Control dated 09.11.2015.
7. Memos from Environmental Health dated 25.11.2015 and 03.12.2015.
8. Memo from Arboricultural Manager dated 04.01.2016.
9. Letter from Environment Agency dated 16.09.2015.
10. Email from Thames Water dated 28.08.2015.
11. Letter from School Business Manager at St. Matthew's School dated 08.09.2015.
12. Email from the owner/ occupier of Apt. 23, 73 Great Peter Street dated 10.09.2015.

### Selected relevant drawings

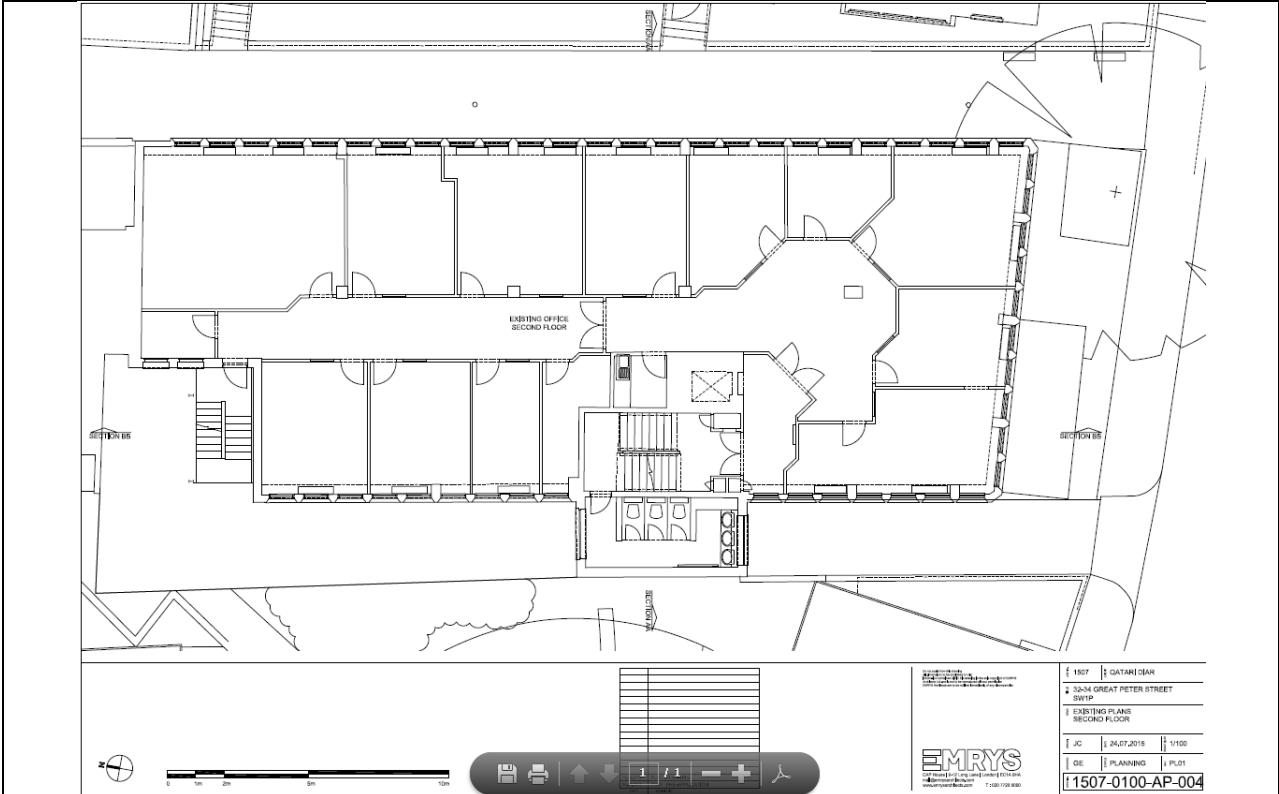
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT DAVID DORWARD ON 020 7641 2408 OR BY EMAIL AT [ddorward@westminster.gov.uk](mailto:ddorward@westminster.gov.uk)

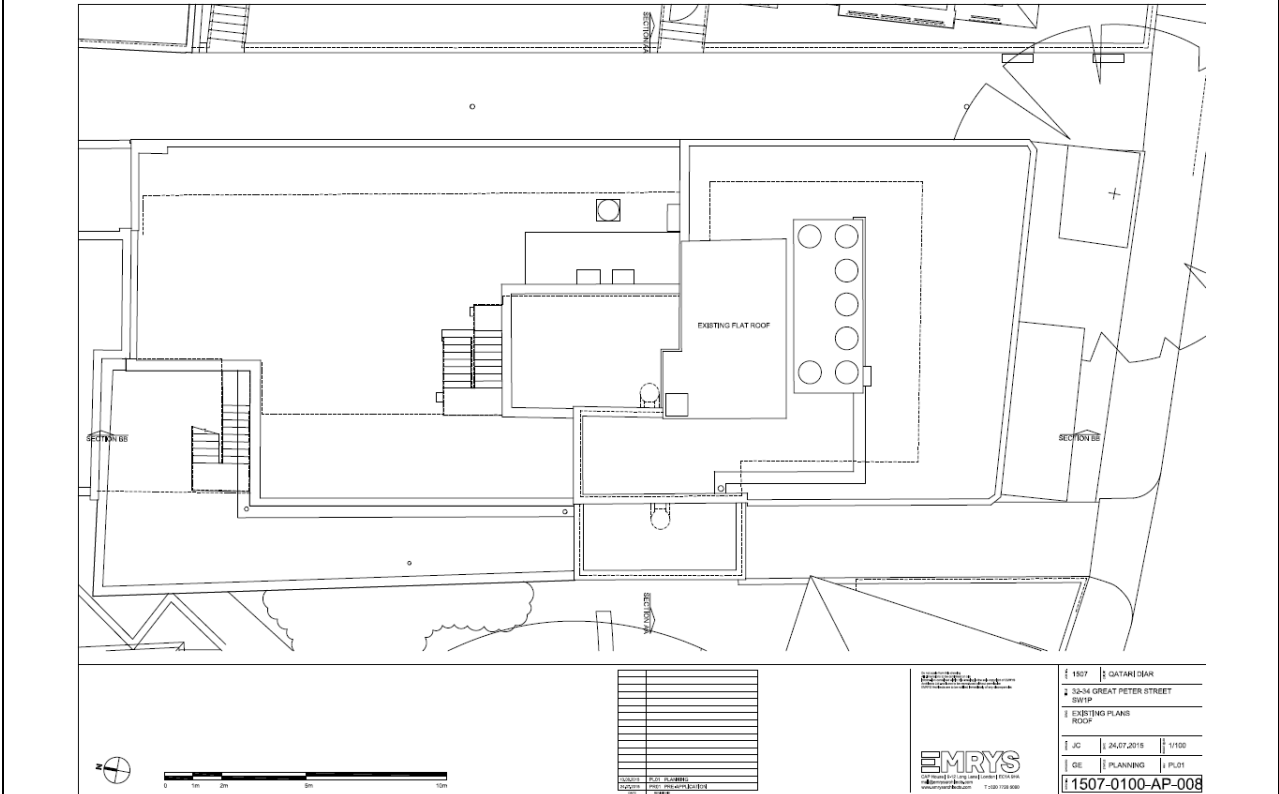
10. KEY DRAWINGS



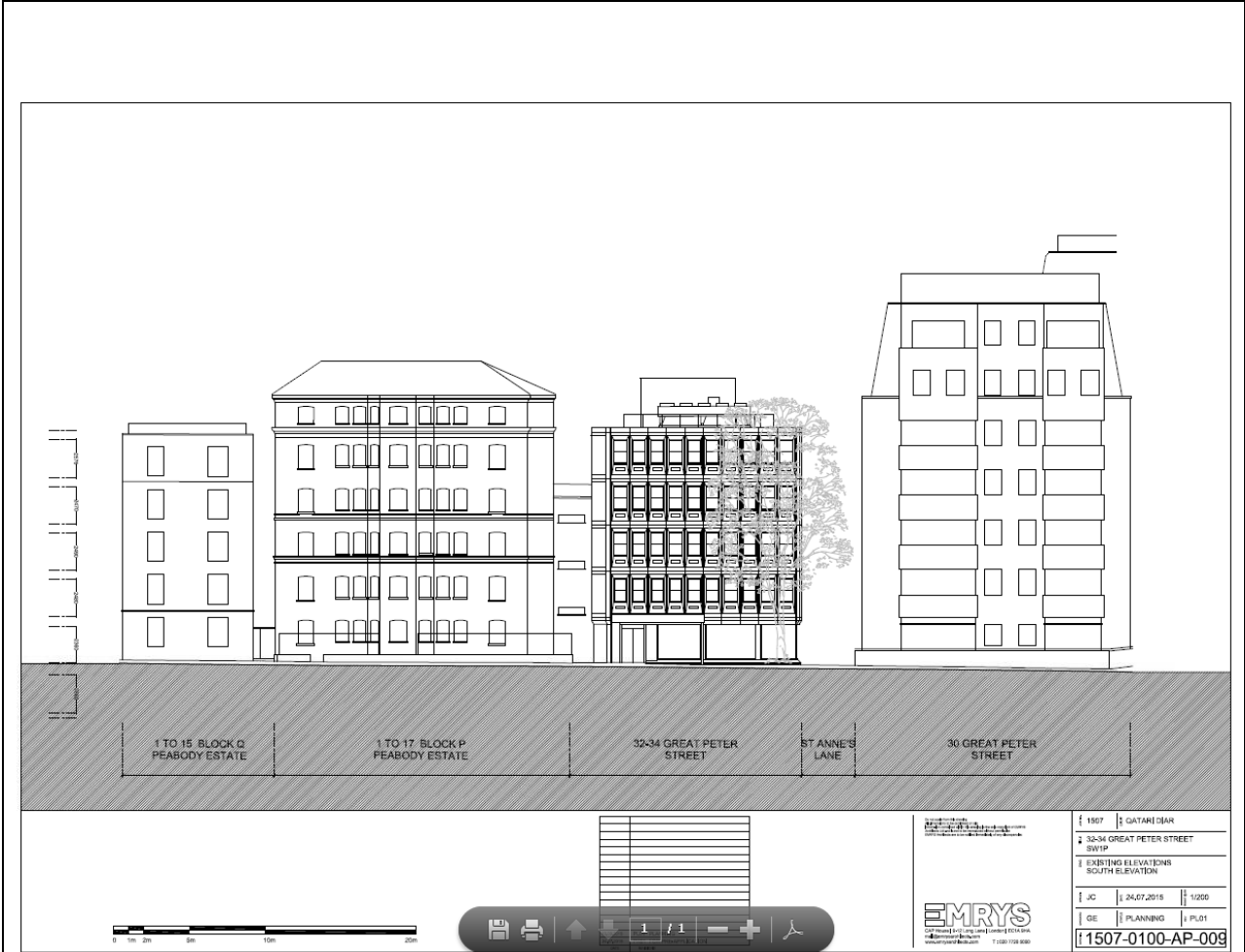
Existing ground floor plan



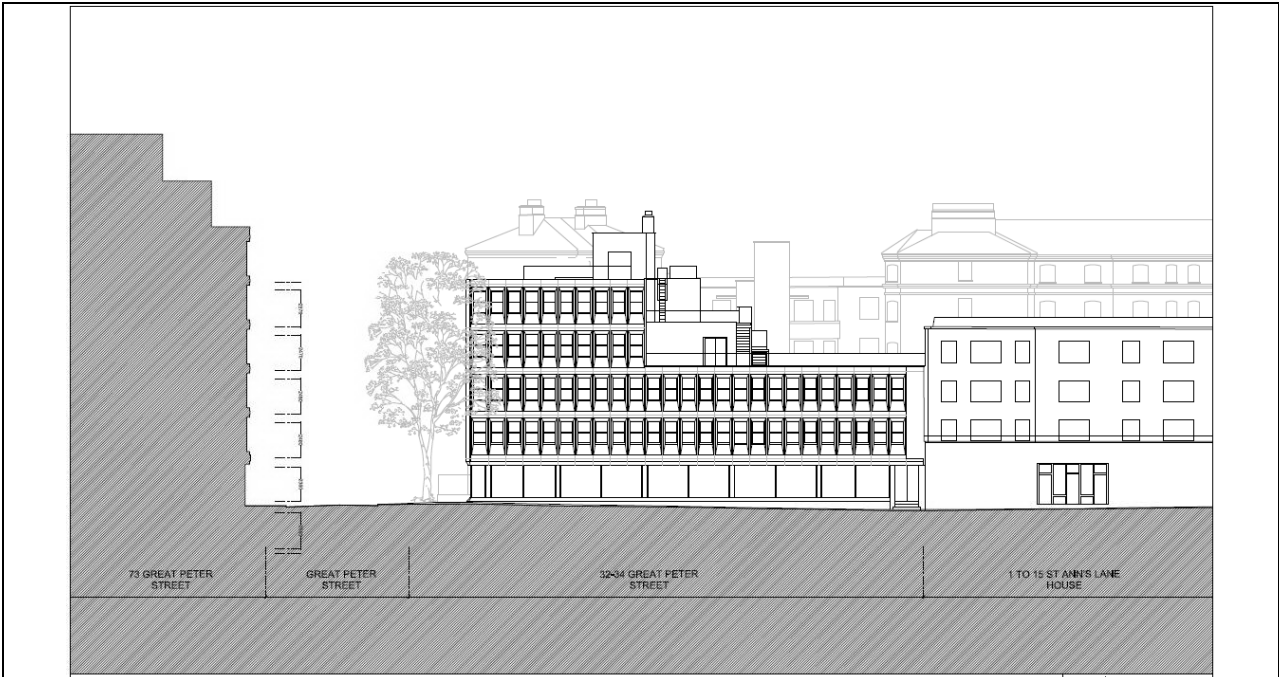
Existing second floor plan (a typical upper floor plan)



Existing roof plan

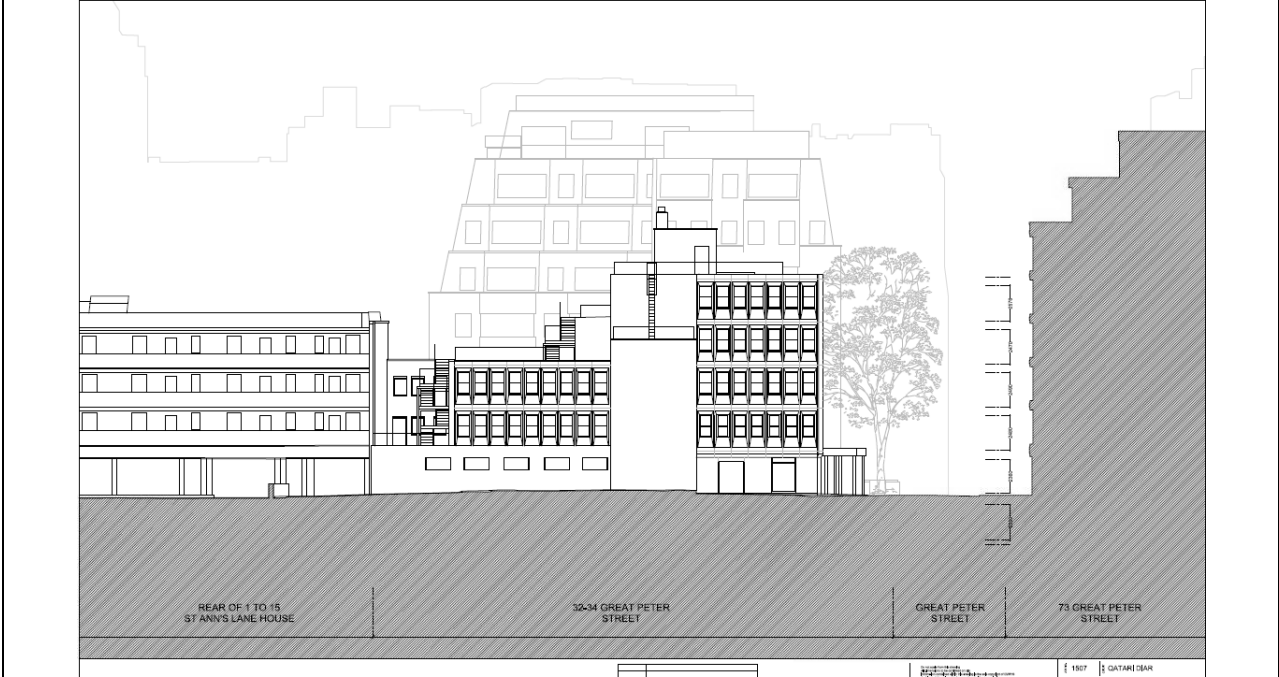


Existing front elevation



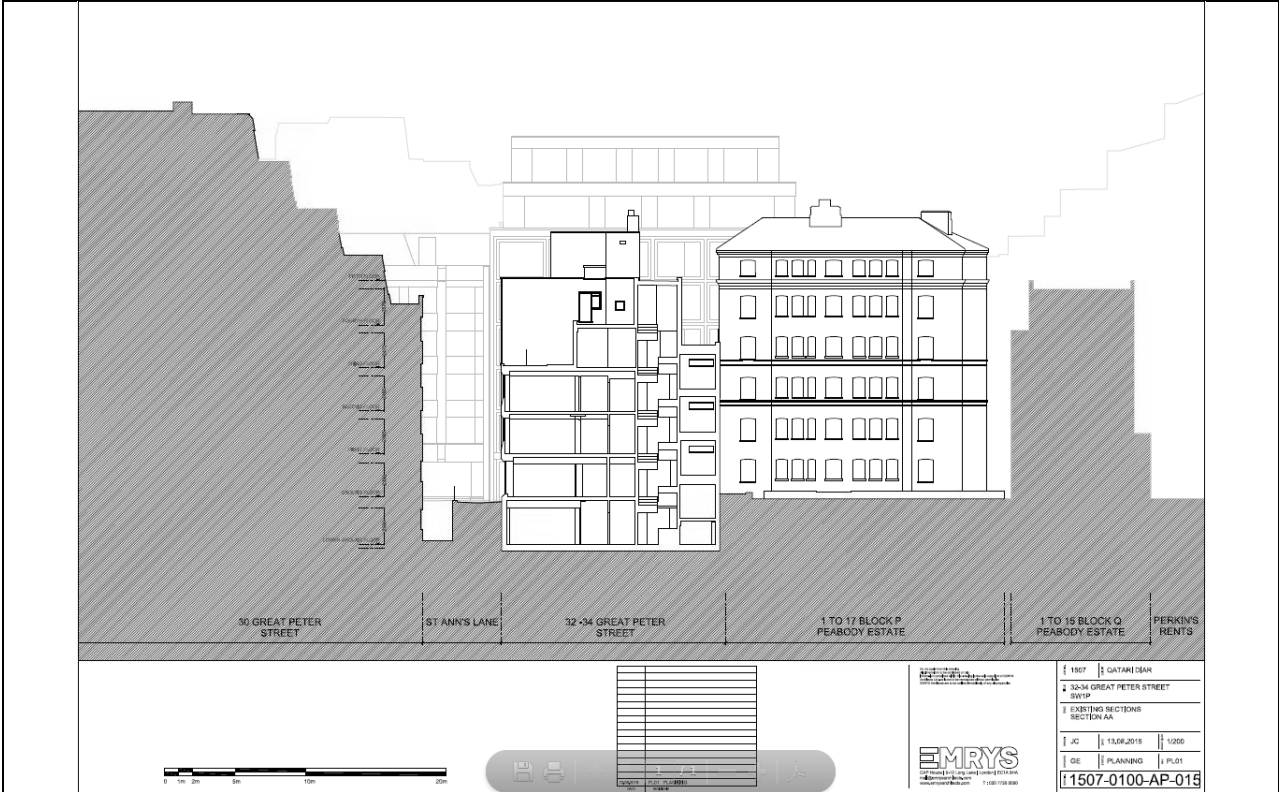
			<table border="0"> <tr> <td>1907</td> <td>QATAR DEAR</td> </tr> <tr> <td>32-34 GREAT PETER STREET</td> <td>Doha</td> </tr> <tr> <td colspan="2">EXISTING ELEVATIONS EAST ELEVATION</td> </tr> <tr> <td>JC</td> <td>24.07.2015 1/1000</td> </tr> <tr> <td>GE</td> <td>PLANNING PL01</td> </tr> <tr> <td colspan="2">1507-0100-AP-010</td> </tr> </table>	1907	QATAR DEAR	32-34 GREAT PETER STREET	Doha	EXISTING ELEVATIONS EAST ELEVATION		JC	24.07.2015 1/1000	GE	PLANNING PL01	1507-0100-AP-010	
1907	QATAR DEAR														
32-34 GREAT PETER STREET	Doha														
EXISTING ELEVATIONS EAST ELEVATION															
JC	24.07.2015 1/1000														
GE	PLANNING PL01														
1507-0100-AP-010															

Existing side (east) elevation

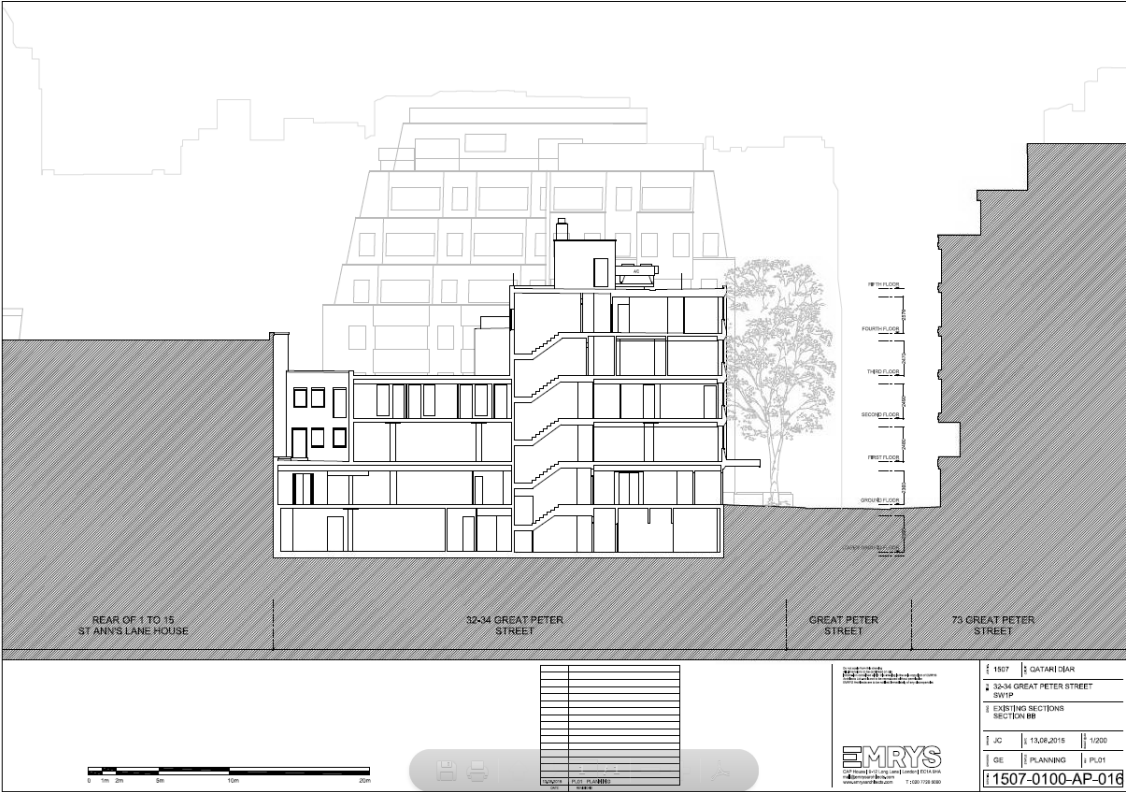


			<table border="0"> <tr> <td>1907</td> <td>QATAR DEAR</td> </tr> <tr> <td>32-34 GREAT PETER STREET</td> <td>Doha</td> </tr> <tr> <td colspan="2">EXISTING ELEVATIONS WEST ELEVATION</td> </tr> <tr> <td>JC</td> <td>24.07.2015 1/1000</td> </tr> <tr> <td>GE</td> <td>PLANNING PL01</td> </tr> <tr> <td colspan="2">1507-0100-AP-011</td> </tr> </table>	1907	QATAR DEAR	32-34 GREAT PETER STREET	Doha	EXISTING ELEVATIONS WEST ELEVATION		JC	24.07.2015 1/1000	GE	PLANNING PL01	1507-0100-AP-011	
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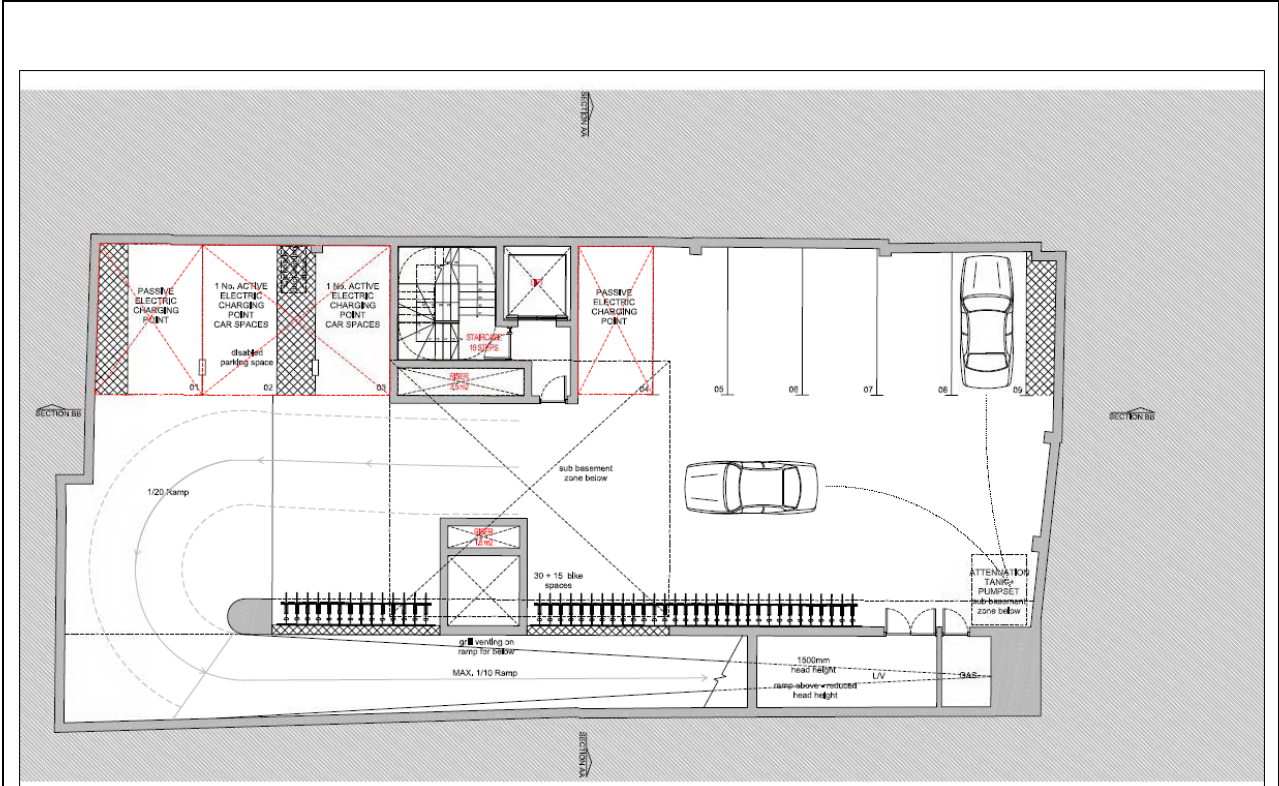
Existing side (west) elevation



Existing section AA



Existing section BB

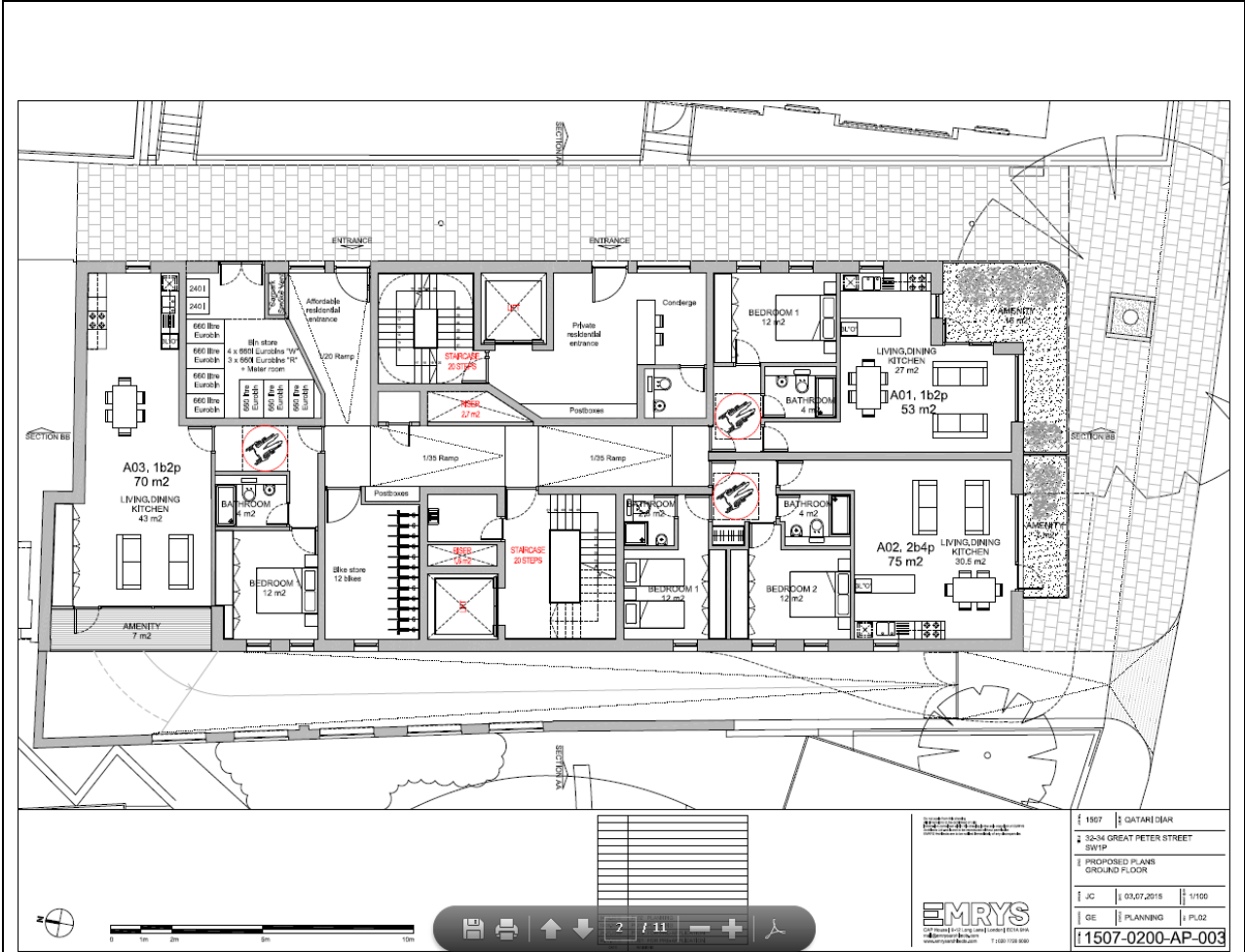


**EMRYS**  
Engineering & Construction Services

1907 QATAR QATAR  
 32-34 GREAT PETER STREET  
 Doha  
 PROPOSED PLANS  
 LOWER GROUND FLOOR

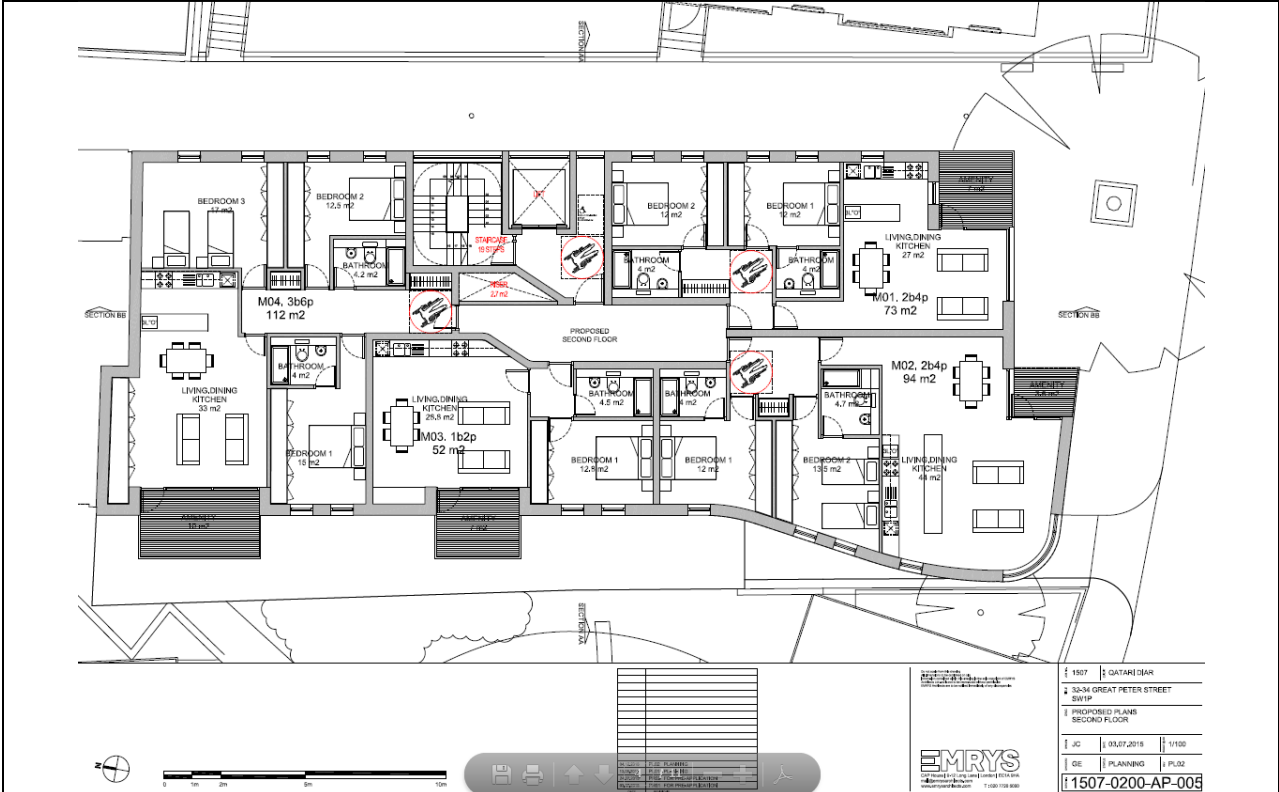
JC	03.07.2015	1/100
GE	PLANNING	PL02
<b>1507-0200-AP-002</b>		

Proposed lower ground floor plan

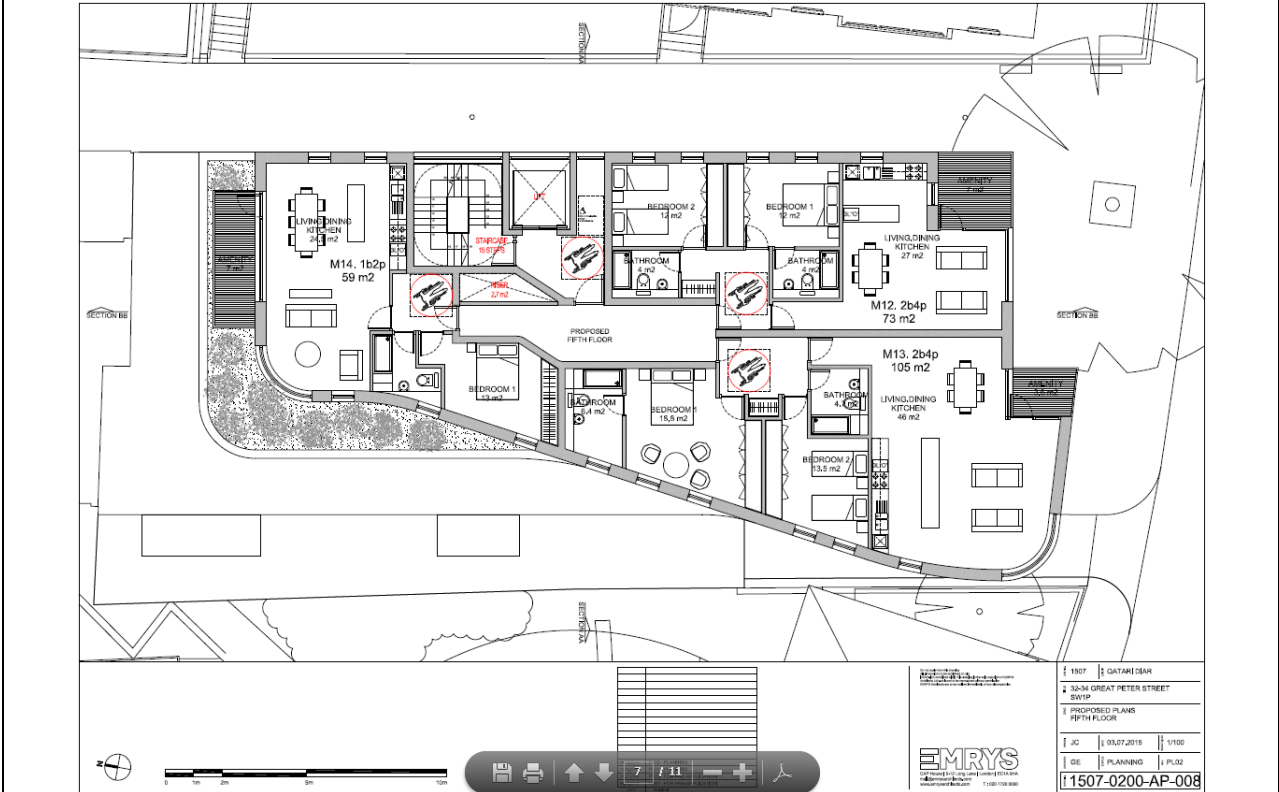


Proposed ground floor plan

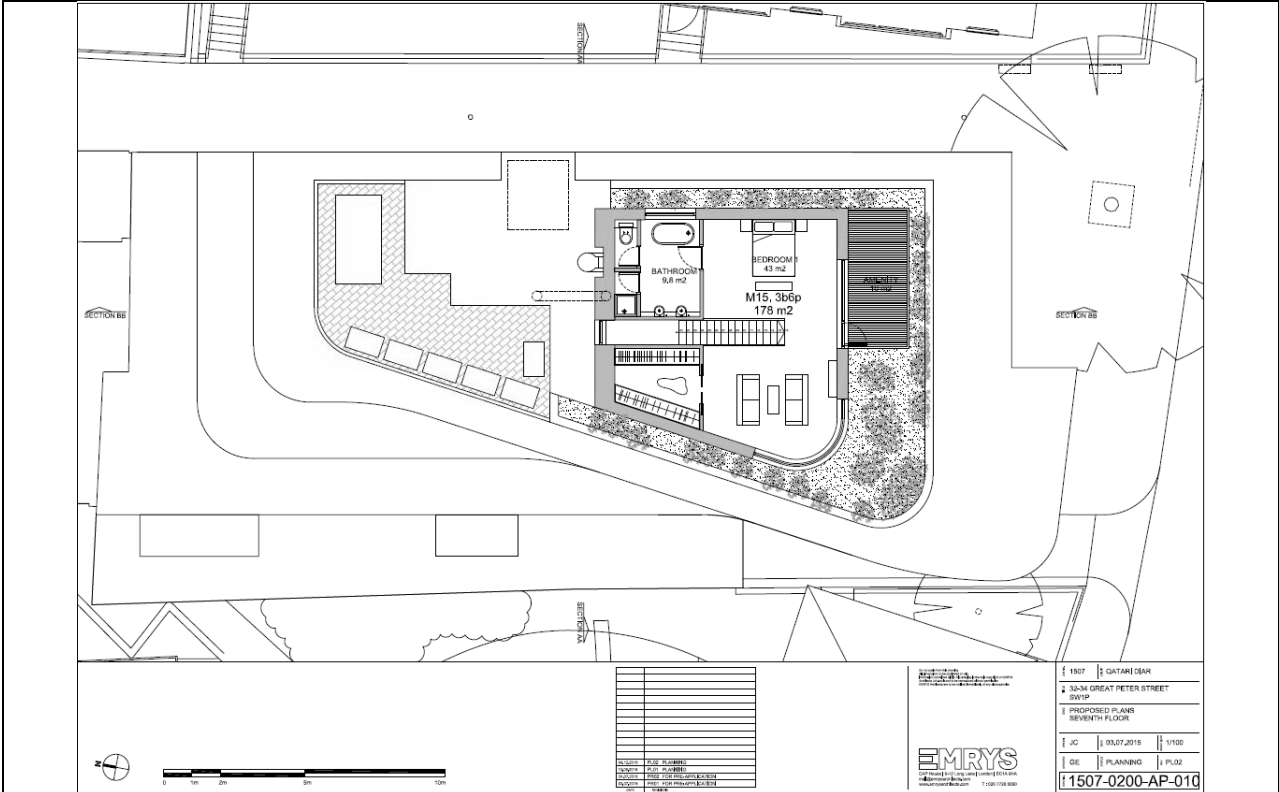




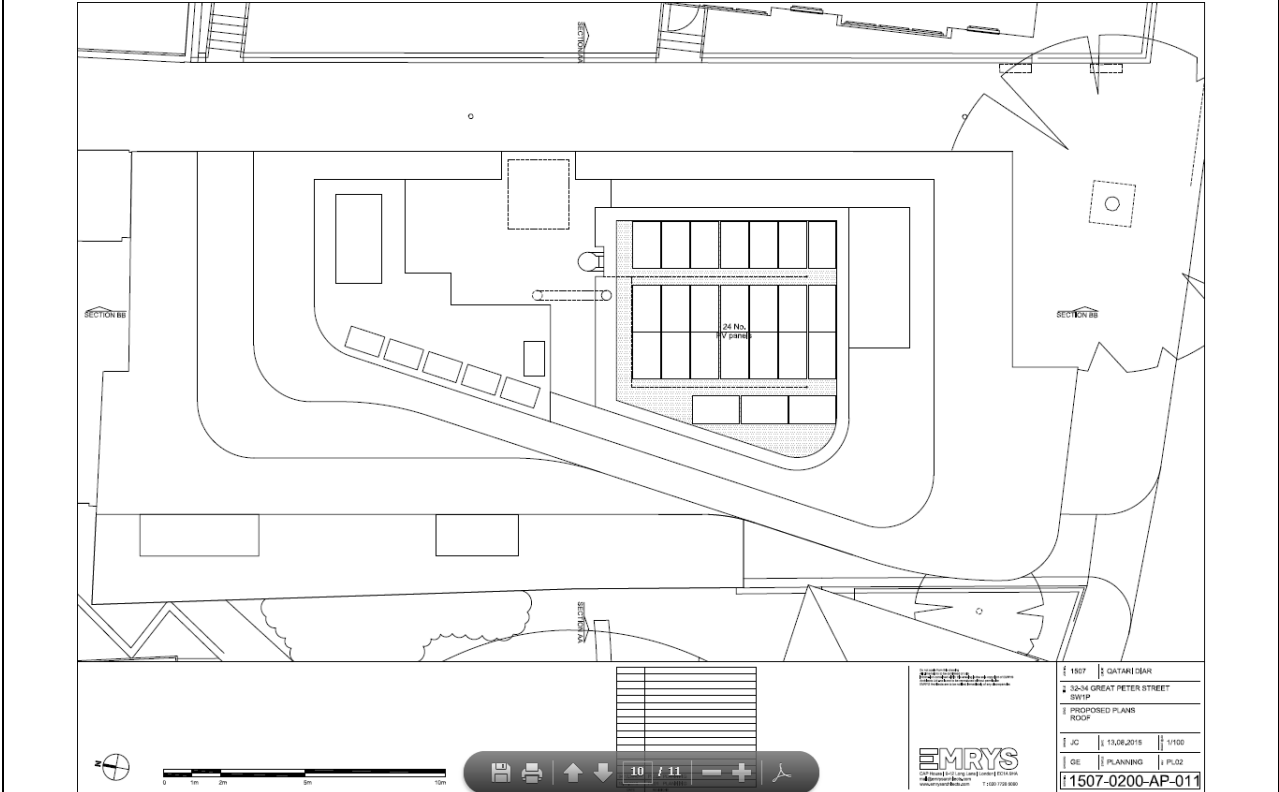
Proposed second floor plan (a typical upper floor plan)



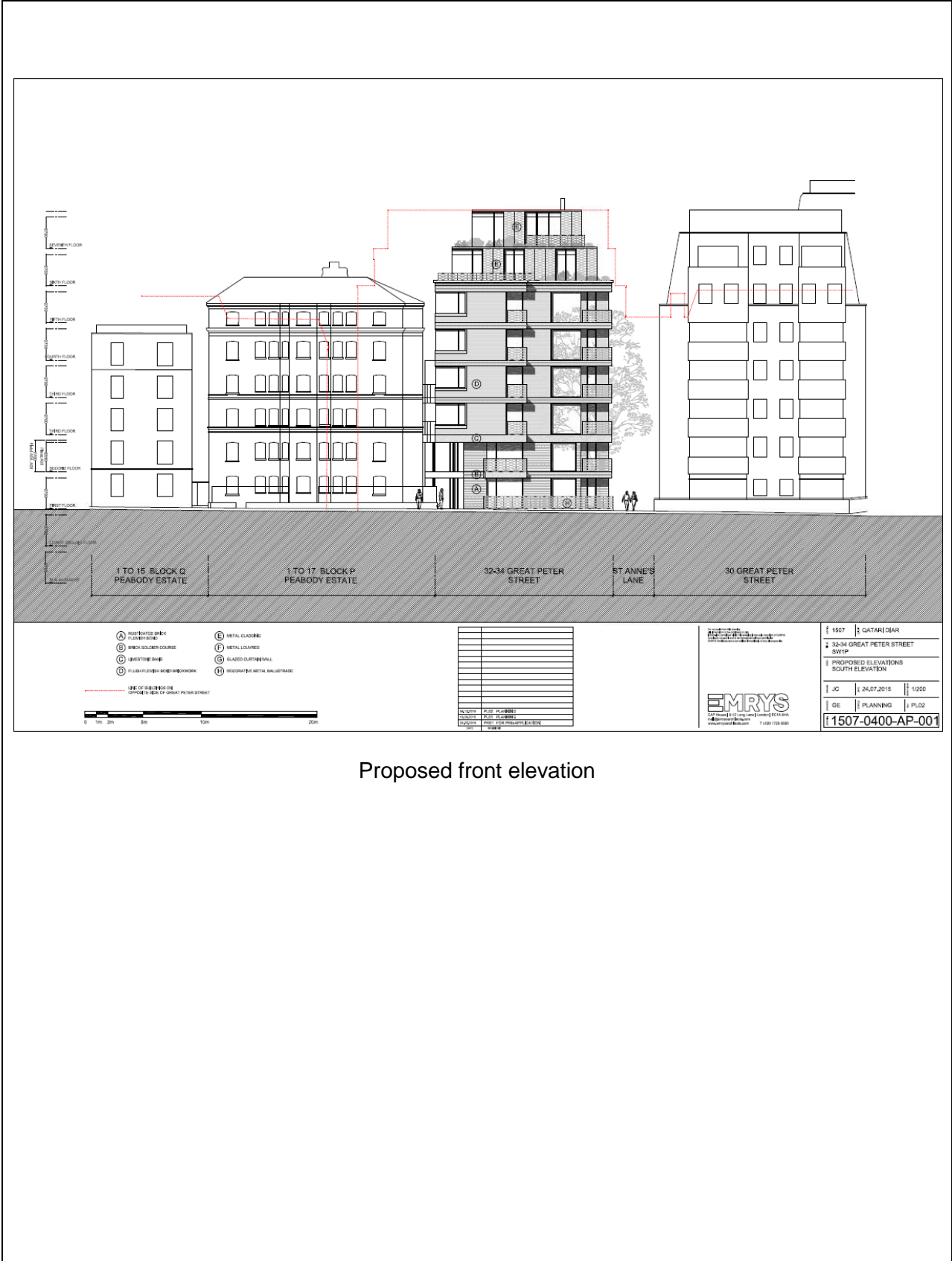
Proposed fifth floor plan

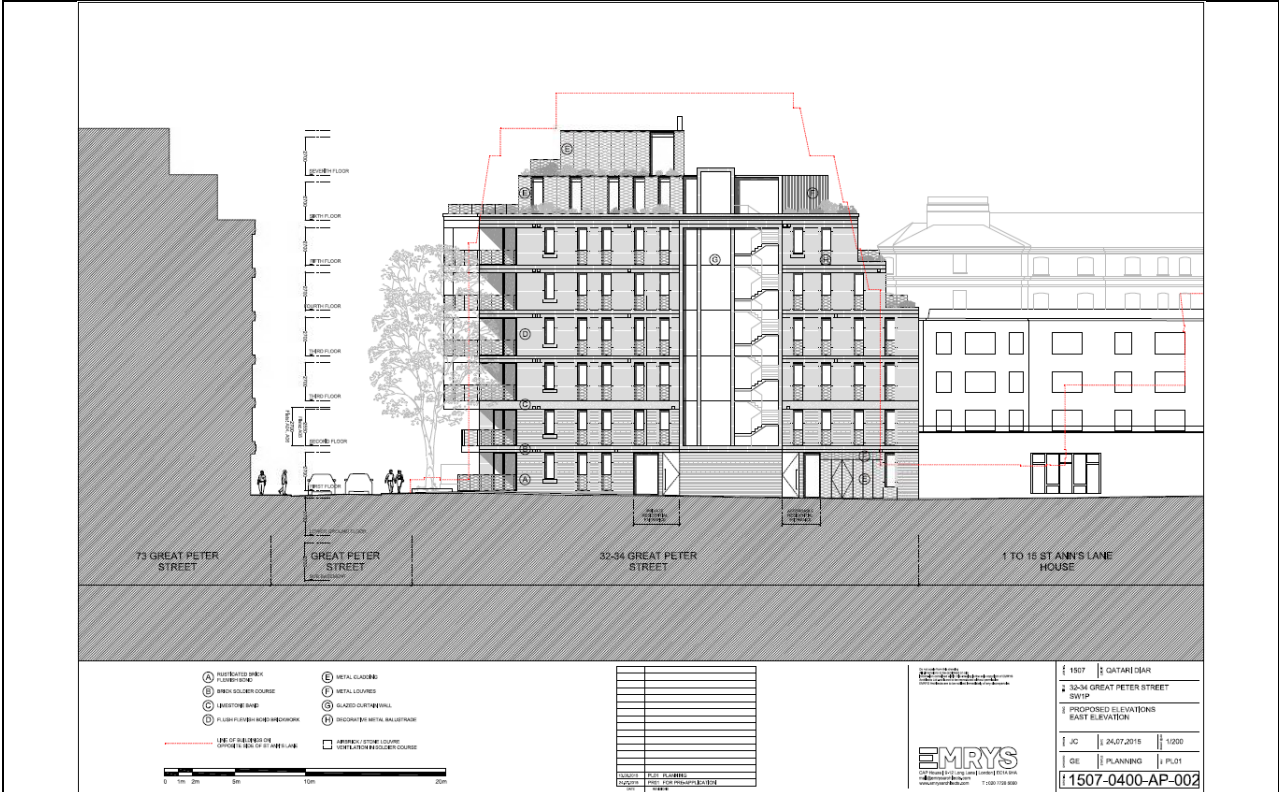


Proposed seventh floor plan

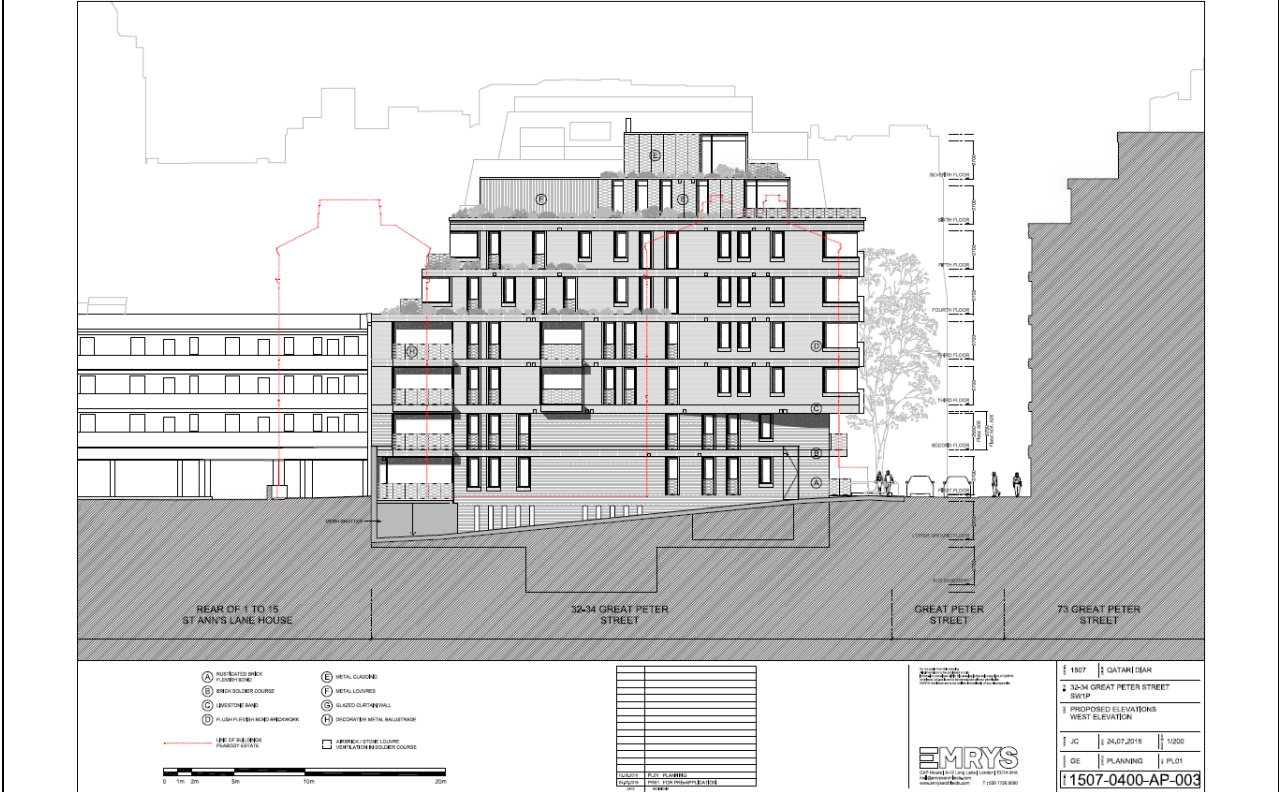


Proposed roof plan

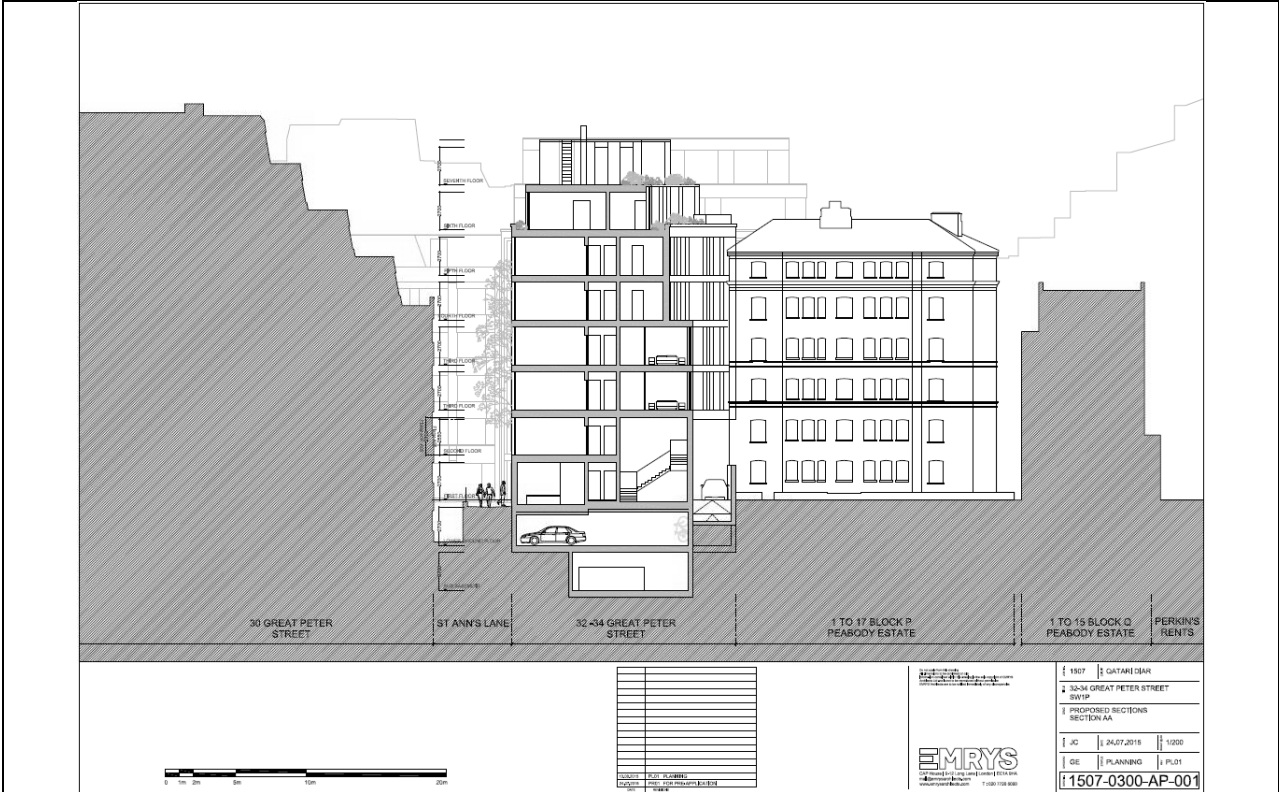




Proposed side (east) elevation



Proposed side (west) elevation



Proposed section AA



Proposed section BB



Existing View



Proposed View



Existing View



Proposed View

Existing and proposed visuals

**DRAFT DECISION LETTER**

**Address:** 32-34 Great Peter Street, London, SW1P 2DB,

**Proposal:** Demolition of the existing building and redevelopment of the site to provide 21 residential units (15 x private residential units and 6 x affordable residential units) (Class C3) in a new eight storey building (basement with sub basement, ground plus seven upper floors) with the provision of car parking, plant and associated works.

**Plan Nos:** Existing Plans 1507-0100-AP-000 PL01 , 100 PL01, 001 PL01, 002 PL01, 003 PL01, 004 PL01, 005 PL01, 006 PL01, 007 PL01, 008 PL01, 009 PL01, 010 PL01, 011 PL01, 015 PL01, 016 PL01; Demolition Plans 1507-0140-AP-001 PL01, 002 PL01, 003 PL01, 004 PL01, 005 PL01, 006 PL01, 007 PL01, 008 PL01, 009 PL01, 010 PL01, 011 PL01; Proposed Plans 1507-0200-AP-001 PL01, 002 PL02, 003 PL02, 004 PL02, 005 PL02, 006 PL02, 007 PL02, 008 PL02, 009 PL02, 010 PL02, 011 PL02; 1507-0300-AP-001 PL01, 002 PL01; 1507-0400-AP-001 PL02, 002 PL01, 003 PL01; Design and Access Statement by Emrys Architects; Planning Statement by Gerald Eve LLP; Transport Assessment by Milestone Transport Planning; Framework Travel Plan by Milestone Transport Planning; Energy Strategy by Norman Disney and Young; Sustainability Statement by Norman Disney and Young; Statement of Community Involvement by Four Communications; Noise Survey Report by Hilson Moran; Historic Environment Assessment by MOLA; Flood Risk Assessment by Price and Myers; Construction Management Plan by Buro Four; Air Quality Assessment by Air Quality Consultants; Drainage Strategy Analysis by Heyne Tillett Steel; Phase I Habitat Survey by Hone Ecology; Tree Survey by Chalice Consulting; Daylight and Sunlight Report by Gordon Ingram Associates; (For Information purposes: Structural Methodology Statement and Basement Impact Assessment by Heyne Tillett Steel).

**Case Officer:** David Dorward

**Direct Tel. No.** 020 7641 2408

**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 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. , , Noisy work must not take place outside these hours. (C11AA)

## Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

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

## Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Peabody Estates: South Westminster Conservation Area Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. 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 using the approved materials. (C26BC)

## 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 Peabody Estates: South Westminster Conservation Area Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 5 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 Peabody Estates: South Westminster Conservation Area Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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 detailed drawings of the following parts of the development:  
i) Provision of an over sailing horizontal capping detail to ease the vertical proportions of the upper two floors.

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 works according to these approved drawings.

- 6 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 Peabody Estates: South Westminster Conservation Area Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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 provide the waste stores shown on drawing 1507-0200-AP-003 PL02 before anyone moves into the residential units. You must clearly mark it and make it available at all times to everyone using the residential units. 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.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 8 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. The residential car parking space must not be sold, leased or allocated to individuals on either a temporary or permanent basis or to be used on any other basis other than on a first come first served basis without the prior written consent of the local planning authority.

Reason:

To provide parking spaces for people using the development as set out in TRANS 23 of our Unitary Development Plan that we adopted in January 2007.

- 9 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 TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 10 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: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 11 (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: Strategic Policies adopted November 2013, 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.

- 12 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.

- 13 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.

- 14 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise 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 of our Unitary Development Plan that we adopted in January 2007, and the

related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 15 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 11 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

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: Strategic Policies adopted November 2013, 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.

- 16 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 13 and 14 of this permission. 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 details approved before the residential units are occupied and thereafter retain and maintain.

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: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 17 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terraces and balconies. (C26NA)

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 Peabody Estates: South Westminster Conservation Area Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 18 **Pre Commencement Condition.** Notwithstanding the details submitted in the tree report, 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 what you have sent us. You must then carry out the work according to the approved details.

Reason:

To protect the trees and the character and appearance of this part of the Peabody Estates: South Westminster Conservation Area Conservation Area. This is as set out in S25, S28 and S38 of Westminster's City Plan: Strategic Policies adopted November 2013 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. (R31DC)

- 19 Notwithstanding the details submitted in the tree report, you must apply to us for approval of measures relating to building design, management and maintenance to show how you will limit interference with the building or inconvenience for the future occupiers from the London plane tree. You must not start any work until we have approved what you have sent us. You must then carry out the measures at all times that the building is in use.

Reason:

To protect the trees and the character and appearance of this part of the Peabody Estates: South Westminster Conservation Area Conservation Area. This is as set out in S25, S28 and S38 of Westminster's City Plan: Strategic Policies adopted November 2013 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. (R31DC)

- 20 Notwithstanding the details submitted in the floor plans 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 one 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 five of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To protect the trees and the character and appearance of this part of the Peabody Estates: South Westminster Conservation Area Conservation Area. This is as set out in S25, S28 and S38 of

Westminster's City Plan: Strategic Policies adopted November 2013 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. (R31DC)

- 21 (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 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 work 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 protect the trees and the character and appearance of this part of the Peabody Estates: South Westminster Conservation Area Conservation Area. This is as set out in S25, S28 and S38 of Westminster's City Plan: Strategic Policies adopted November 2013 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. (R31DC)

#### **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: Strategic Policies adopted November 2013, Unitary Development Plan, 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 This permission is governed by a legal agreement between the applicant and us under Section

106 of the Town and Country Planning Act 1990. The agreement relates to:

- i. provision of affordable housing on-site;
  - ii. the applicant to comply with the Council's Code of Construction Practice, provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £26,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers.
  - iii. unallocated parking;
  - iv. costs of monitoring the S106 agreement.
- 3 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).
- 4 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 phone 020 7641 2642. 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). (I09AC)
- 5 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 6 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 7 Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation., , Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year). (I38AB)

- 8 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work. Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974., 24 Hour Noise Team, Environmental Health Service, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP, Phone: 020 7641 2000, Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)
- 9 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, perhaps by issuing regular bulletins about site progress.
- 10 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)
- 11 Conditions 11 and 12 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 12 Condition 18 requires you to submit a method statement for works to a tree(s). The method statement must be prepared by an arboricultural consultant (tree and shrub) who is registered with the Arboricultural Association, or who has the level of qualifications or experience (or both) needed to be registered. It must include details of:
- \* the order of work on the site, including demolition, site clearance and building work;
  - \* who will be responsible for protecting the trees on the site;
  - \* plans for inspecting and supervising the tree protection, and how you will report and solve problems;
  - \* how you will deal with accidents and emergencies involving trees;
  - \* planned tree surgery;
  - \* how you will protect trees, including where the protective fencing and temporary ground protection will be, and how you will maintain that fencing and protection throughout the development;
  - \* how you will remove existing surfacing, and how any soil stripping will be carried out;
  - \* how any temporary surfaces will be laid and removed;
  - \* the surfacing of any temporary access for construction traffic;
  - \* the position and depth of any trenches for services, pipelines or drains, and how they will be dug;
  - \* site facilities, and storage areas for materials, structures, machinery, equipment or piles of



soil and where cement or concrete will be mixed;

- \* how machinery and equipment (such as excavators, cranes and their loads, concrete pumps and piling rigs) will enter, move on, work on and leave the site;
- \* the place for any bonfires (if necessary);
- \* any planned raising or lowering of existing ground levels; and
- \* how any roots cut during the work will be treated.

- 13 Please let our arboricultural team (020 7641 2922) know when you are going to start work on the site. It would be useful if you could give us at least five working days' notice of this date. This will allow us to inspect your tree-protection measures during the work. (I92BA)
- 14 You must protect the trees during demolition and building work (as set out in your arboricultural method statement), and you must make sure that people working on the site know that the trees are protected and the methods that have been agreed. If you do not keep to this condition, we may take enforcement action. You may also be prosecuted for damaging or destroying protected trees, under section 210 and 211 of the Town and Country Planning Act 1990. (I92DA)
- 15 The London plane tree on the site protected by a Tree Preservation Order. You must obtain our consent before you carry out any tree works. The Town and Country Planning (Tree Preservation)(England) Regulations 2012 allow for exception from the need to obtain consent, so far as such work is necessary to implement a planning permission, but for the avoidance of doubt any tree work not necessary to implement the planning permission will require a separate tree works application on the standard application form.
- 16 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. Notwithstanding the proposal in your tree report, we cannot agree removal of the off-site pear tree (2) in order to implement the planning permission as the tree(s) are outside the site boundary. You must make a separate section 211 notification at least six weeks prior to doing so. You are advised to obtain the permission of the owner of the tree prior to submission to the section 211 notification, and include proposals for replacement with your submission.
- 17 Condition 16 requires the submission of sound insulation measures and Noise Assessment Report to predict internal noise levels with the proposed residential units. Your assessment should include a BS8223 façade calculation using the glazing and ventilation specification to demonstrate that the required internal noise levels are achievable. (I93AA)
- 18 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge., If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/> . **You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**

- 19 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.
- 20 Your attention is drawn to the advice contained in the Environment Agency letter dated 16 September 2015 which recommends that finished floor levels are raised to the 2100 breach of 4.91mAOD.

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.

# Agenda Item 3

Item No.
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3
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 26 January 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>Macdonald House, 1 - 3 Grosvenor Square, London, W1K 4BN,</b>		
<b>Proposal</b>	Demolition and redevelopment to provide three basement levels, lower ground, ground and first to seventh floor levels to provide between 42-46 residential units (Class C3) with associated ancillary leisure facilities, car parking, cycle parking, mechanical plant and associated works within the basement levels. Creation of terraces and balconies at various levels and installation of photovoltaic panels and plant with associated screening at main roof level. Use of part of the lower ground and ground floor levels as a restaurant unit fronting Grosvenor Street (Class A3).		
<b>Agent</b>	DP9		
<b>On behalf of</b>	Lodha Developers 1GSQ Ltd		
<b>Registered Number</b>	15/07800/FULL	<b>Date amended/ completed</b>	28 August 2015
<b>Date Application Received</b>	7 August 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Grant conditional permission subject to the views of the Mayor of London and a S106 agreement to secure the following:

- i) Not to occupy the residential units at Grosvenor Square until the 10 Affordable Housing Units at Dorset Close have been completed and have been transferred to a Registered Provider.
- ii) a financial contribution of £14.5million towards the Council's affordable housing fund with £1 million to be paid on commencement, £5 million on occupation and the remainder (£8.5 million on occupation of 80% of the residential units).
- iii) £2.5 million towards public realm within the vicinity of the site
- ii) all highway works around the site for the development to occur including vehicle crossovers, including the costs of any necessary Traffic Management Orders, changes to on-street restrictions and footway repaving
- iv) compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £35,000.
- v) unallocated car parking
- vii) costs of monitoring S106 agreement

3. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution then:

a) The Director of Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not

b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

4. That the Committee authorises the making of a draft order pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of that area of highway necessary to enable the development to take place.

5. That the City Commissioner for Transportation be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order.

## 2. SUMMARY

The application site lies on the south east corner of Grosvenor Square and involves an eight storey building currently occupied by the Canadian High Commission. The proposals involve the redevelopment of the site for residential use with parking for 39 cars.

There is an extant planning permission for residential use, which expires in December 2017 for redevelopment behind retained facades which secured provision of 10 affordable units off-site at Dorset Close together with an affordable housing payment of £17,295,093 (with £4,300,000 being paid on commencement and £12,995,093 prior to occupation).

The key issues in this case are:

- \* The impact of the scheme on the character and appearance of the conservation area.
- \* The provision of affordable housing.
- \* The impact of the scheme on the amenity of neighbouring occupiers.
- \* Parking and servicing arrangements

The proposals trigger the requirement for affordable housing provision. The independent consultants appointed by the City Council have reviewed the applicant's financial viability case for providing 10 affordable housing units off-site at Dorset Close (together with a payment in lieu) rather than making on-site provision (a total financial package of £18 million). The consultant agrees that this is the maximum viable for the scheme. The applicants have since revised their offer, recognising that the previous package secured a significantly enhanced offer than initially proposed, and now offer the following:

- i. Delivery of 10 units of affordable housing at 1-5 Dorset Close
- ii. An affordable housing contribution of £14.5 million with £1 million to be paid on

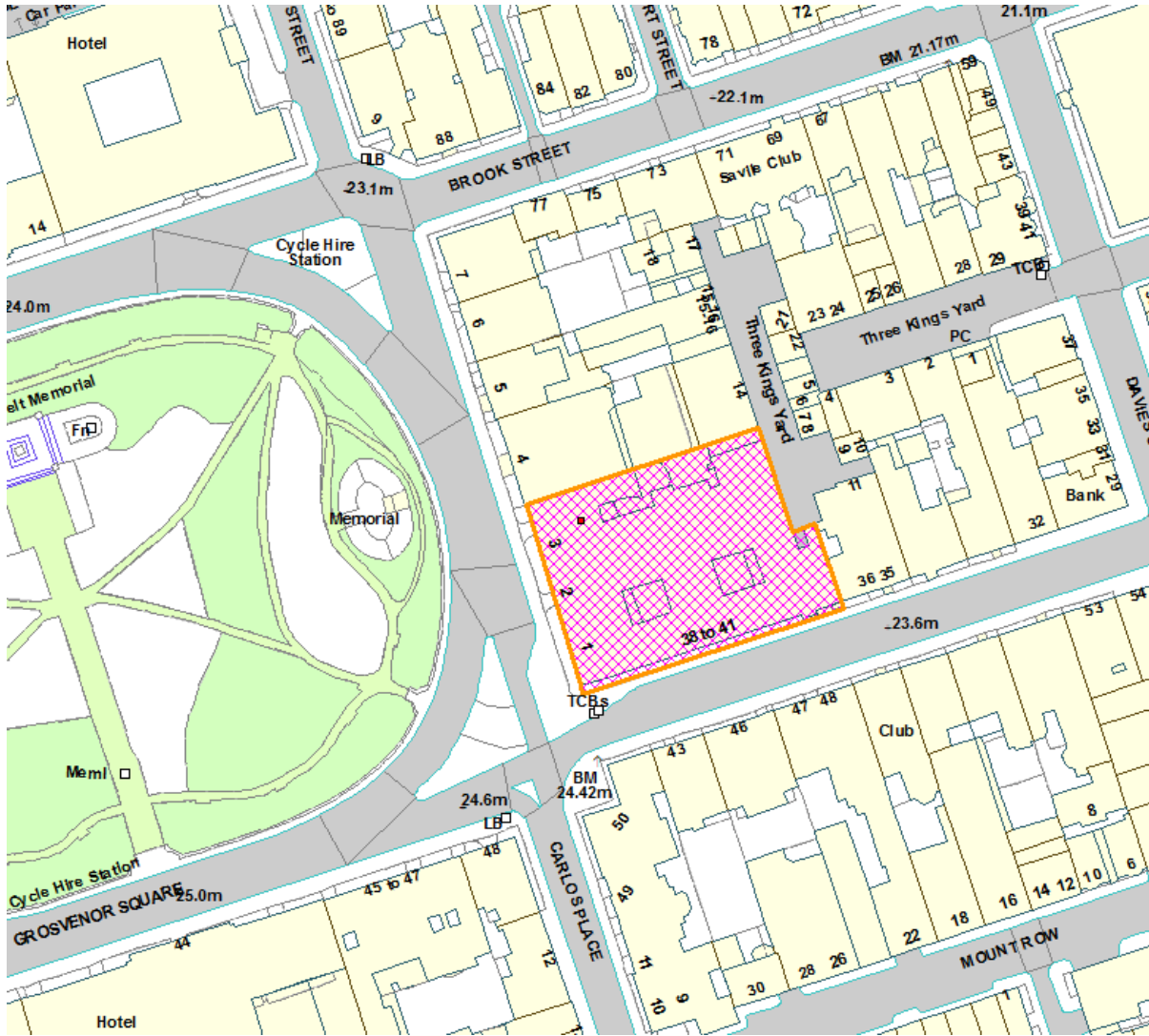
commencement, £5 million on occupation and the remainder (£8.5 million on occupation of 80% of the residential units).

iii. A £2.5 million public realm investment to enhance the immediate vicinity of the site namely Grosvenor Square, Grosvenor Street and Three Kings Yard.

This offer is welcomed and would be secured by S106 agreement.

It is not considered that the proposals would have any materially harmful impact on conditions on the public highway, or on residential amenity, and would comply with local planning policy in these regards. The proposed design of the dormer windows and the hierarchical arrangement of the fenestration raises design concerns, however, it is considered that the benefits of the scheme would outweigh any disadvantages and the proposals are recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### GREATER LONDON AUTHORITY

Supports the principle of a residential-led development, subject to an independent review of the applicant's viability statement. Considers that whilst the proposal will lead to a temporary loss of significance of the non-designated heritage asset, and some temporary harm to the significance of the Conservation Area and nearby listed building, once the building has been reconstructed any harm is considered acceptable. A reduction in the level of car parking is encouraged and electric vehicle charging point, blue badge parking, controlled parking zone restrictions, showering/changing facilities, delivery and servicing plan, construction logistics plan and a detail travel plan should be secured. Further information is required concerning the energy strategy for the site and any shortfall in carbon dioxide savings should be met off-site.

### TRANSPORT FOR LONDON

A Delivery and Service Plan and Construction and Logistics Plan should be secured by condition. Considers that a reduction in car parking should be sought and a car parking management plan and travel plan (to also secure funding for cycle hire membership) should be sought. Residents should be exempt from applying for parking permits and the provision of electric vehicle charging points must also be provided.

### HISTORIC ENGLAND (LISTED BUILDINGS/CONSERVATION AREAS)

Do not wish to offer any comments.

### HISTORIC ENGLAND (ARCHAEOLOGY)

Raise no objections subject to conditions.

### ENVIRONMENT AGENCY

No objections raised.

### RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Object to excessive basement 'dig' and general disruption over a lengthy period.

### HIGHWAYS PLANNING MANAGER

Considers that the shortfall in car parking could lead to an increased demand for on-street car parking and that the provision of life-time car club membership for each residential unit should be secured, that all residential car parking spaces (except the Town House and Penthouse spaces) should be unallocated so as to serve the needs of the development more flexibly. Raises no objection to a restaurant use in this location subject to the submission of a Service Management Plan.

### ENVIRONMENTAL HEALTH

No objections subject to conditions.

### BUILDING CONTROL

Any comments to be verbally reported to Committee.



## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 333  
Total No. of replies: 5  
No. of objections: 5  
No. in support: 0

## Design

- \* Adverse impact on Grosvenor Square
- \* The significant excavation proposed is likely to cause harm to the adjoining listed building
- \* The Construction Management Plan needs thorough review with specialist experts in relation to the potential vibrational impact on artworks in 4 Grosvenor Square.

## Amenity

- \* Additional height proposed will be overbearing
- \* Cooking smells from proposed restaurant
- \* Increased sense of enclosure
- \* The impact of sunlight/daylight on 14 Three Kings Yard has not been assessed

## Highways/Parking

- \* Parking is already at capacity in the vicinity
- \* Refuse removal and access to the restaurant should not be allowed through Three Kings Yard
- \* Three Kings Yard is unsuitable for servicing

## Other Issues

- \* Loss of property values
- \* Damage from extensive excavations
- \* Noise and vibration during construction may cause further damage to adjacent buildings
- \* Dust and air pollution will cause health problems
- \* Working hours should be restricted to 08:00 to 17:00 Mondays to Fridays and no working should be allowed on Saturdays
- \* Expects compensation for loss of amenity, including noise and disturbance, during the construction period, possible sound proofing, damage during construction and any costs of relocation during build programme
- \* Security issues raised due to the number of windows/Juliet balconies to the internal lightwells facing 4 Grosvenor Square, and the terraces at fifth and sixth floor level, and details of the courtyard wall and security measures to the seventh floor roof terrace need to be secured/resolved.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises an eight storey building plus basement and rooftop plant room, located on the south east corner of Grosvenor Square at its junction with Grosvenor Street. The rear of the building faces onto Three Kings Yard.

The current building on the site was completed in 1938 and was used for diplomatic uses as part of the American Embassy. In 1961 the building was occupied by the Canadian High Commission, with office floorspace over part of the basement to fifth floor and residential accommodation over part basement to first floors and at sixth floor levels. The Canadian High Commission vacated the building in 2015 and have relocated its office functions to its premises at Canada House, Trafalgar Square.

The main entrance to the site is from Grosvenor Square. There are two secondary access points on Grosvenor Street with servicing access to the rear off Three Kings Yard.

The immediate area around the site is mixed in use, with Grosvenor Square accommodating a number of commercial uses, including the US Embassy and two hotels. The closest neighbours to the building are 4 Grosvenor Square to the north, which is occupied by the Italian Embassy and 35-36 Grosvenor Street to the east, which is in part office and part residential use at the rear. There are a number of other residential properties within Three Kings Yard at the rear of the site.

### 6.2 Recent Relevant History

In December 2015 planning permission was granted for the demolition and redevelopment, behind retained Grosvenor Square and Grosvenor Street facades, for 41 residential units, associated ancillary leisure facilities, car and cycle parking plant and associated works. This application has not been implemented.

In 2009 Certificates of Lawful Use were granted for the following areas of the building:

1. Use of part basement, part ground, part first, second, third and fifth floors as offices.
2. Use of part of the basement, ground and first floors as High Commissioner's official residence.
3. Use of part ground and part first to fifth floors and sixth floor as six residential units.

## 7. THE PROPOSAL

The application seeks the complete redevelopment of the site to provide between 43 and 48 residential units together with a new restaurant at ground and lower ground floor levels on the Grosvenor Street frontage. The proposals would be broadly similar in scale and height to the previous scheme but would be served by three new basement levels (two more than the consented scheme). The basement levels would provide plant and car and cycle parking at basement level 1, car and cycle parking at basement level 2 ( a total of 39 car parking spaces) and leisure facilities at basement level 3 including a pool, spa, gym, cinema, library and private function room.

The proposed design retains the architectural style of the existing building, and the applicant intends to dismantle and reassemble the Grosvenor Square and western wing of the Grosvenor Street facades, reusing as much of the original materials as possible within the reassembled facades.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### **Loss of office use**

Policy S47 of the City Plan advises that 'when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework... to secure development that improves the economic, social and environmental conditions in the area.'

Paragraph 51 of the NPPF advises that local planning authorities should normally approve planning applications for change of use to residential and any associated development from commercial buildings (currently in the B use class) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.

There are no policies within the UDP or City Plan which safeguard the existing office use. However, the City Council recognises that adopted development plan policies relating to office and mixed use policies are out of date and that, given recent pressures to convert office buildings to residential use, there is now an under-supply of office accommodation within the borough, eroding the character of commercial areas and resulting in a need to protect existing office floorspace. However, this objective still needs to be balanced against the requirement to provide new homes. Consequently, interim measures, (set out in an initial statement dated 1 March 2015), have been drawn up in relation to the consideration of applications involving the replacement of offices with new residential floorspace, (and applications for the provision of new office floorspace). From 1 September 2015, any such applications are determined under a 'presumption in favour of sustainable development' in line with national policy. This means that within the Core CAZ (and in other specified locations) housing is no longer acceptable in principle where it results in the loss of office floorspace. A further statement (dated 22 July 2015) confirmed that the loss of offices will be acceptable where they are to other commercial uses, or outside of the Core CAZ or other specified locations.

As the current application was submitted in August 2015, it is not subject to consideration under the interim measures or emerging policies, but should be considered in the light of adopted development policies which do not protect existing office uses.

#### **Restaurant use**

UDP Policies TACE 8-10 are applicable to entertainment uses and aim to control the location, size and activities of entertainment uses in order to safeguard residential amenity, local environmental quality and the established character and function of the

various parts of the City, whilst acknowledging that they provide services to people living in, working in and visiting the City and contribute to its role as an entertainment centre of national and international importance. UDP entertainment policies are intended to represent a 'sliding scale' of permissibility from TACE 8 ('generally permissible') to TACE 10 ('permissible only in exceptional circumstances'), dependent upon the location, size and type of the entertainment use.

As the new restaurant comprises 498m<sup>2</sup> it needs to be considered under TACE9 which states that permission for restaurant uses (Class A3) of between 150m<sup>2</sup> – 500m<sup>2</sup> of gross floorspace inside the Core CAZ and designated West End Stress Area may be permissible where the proposed development will have no adverse impact on residential amenity or local environmental quality, and no adverse effect on the character or function of its area. Policy S24 of the City Plan also relates to new entertainment uses and has similar policy requirements for units of this size.

It is recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. Factors that the Council will take into account when assessing new entertainment uses include the gross floorspace to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use.

The site is located within the Core CAZ which is identified within Policy S6 of the City Plan as being an appropriate location for a range of commercial uses. The site is also within a predominantly commercial location and whilst there is some residential in the locality: the nearest are flats at 32 Grosvenor Street (at the junction with Davies Street) and a single family dwelling at 52 Grosvenor Street to the north of the site. There is therefore limited residential accommodation within the immediate vicinity of the site.

The applicant states that the restaurant would provide high quality dining and plans submitted with the application indicate that the proposed restaurant would be limited to approximately 100 seats. The applicant has also indicated that whilst the operator has not been agreed at this stage, the restaurant is expected to be operated in accordance with a draft Operational Management Plan which seeks to address a range of considerations to protect neighbouring amenity, including hours of operation, entrance and exit arrangements, deliveries and servicing, security and staff arrangements, fume extraction and mechanical plant. Appropriate conditions can mitigate any potentially adverse impact on the amenity of residents in the wider area.

The opening hours of the premises are proposed until 12:30 am daily. Paragraph 8.88 of the UDP states that; 'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'. Considering this is not a 'predominantly residential area', the proposed opening hours are considered reasonable and in line with the UDP requirements for this location.

In order to further ensure the protection of residential occupiers in the vicinity, a condition is proposed requiring the submission of a full Operational Management Plan to

ensure the restaurant is managed effectively. A condition is also proposed to ensure that no more than 15% of the restaurant floor area is used for a bar/bar seating and that drinks can only be served at the bar to restaurant customers, before, during or after their meals. A standard condition is also proposed in relation to noise transference through the building structure to the proposed residential units on the upper floors.

Given the existing office use, it is considered the new restaurant premises would help to enliven the street frontage which would be considered a benefit of the scheme. The principle of the proposed restaurant premises is therefore considered to be in accordance with UDP Policy TACE9 and City Plan Policy S24.

There have been no objections to the principle of a restaurant use in this location.

### **Residential use**

Policies S14, S15 and S16 relate to residential use. This use is a priority across Westminster, and residential developments are expected to provide an appropriate mix of units in terms of size, type and affordable housing provision to create mixed communities and to meet housing needs. UDP Policies H3, H4, H5 and H8 are also relevant.

Policy H3 of the UDP seeks to maximise the amount of land in housing use, where appropriate, within the CAZ. Policy S6 also relates to Core CAZ, identifying it as an area appropriate for residential development.

The application provides 43 new residential units. UDP Policy H5 requires the provision of a range of unit sizes in new housing schemes, including at least 33% family-sized (i.e. 3+ bedrooms) of which at least 5% should be more than three bedrooms. The proposals would provide 72% family-sized housing to meet the requirements of the policy, of which 51% would have more than three bedrooms, also complying with Policy H5.

### **Unit sizes**

The units proposed would range in size between 51m<sup>2</sup> and 722m<sup>2</sup> as set out below:

<b>Bedrooms</b>	<b>No. units</b>	<b>Size (m<sup>2</sup>)</b>
Studio	4	51 - 59
One bedroom	4	91 - 94
Two bedroom	4	167
Three bedroom	9	220 - 299
Four bedroom +	21	317 - 610
Five bedroom penthouse	1	722

London Plan Policy 3.4 states that new developments should optimise housing output and Policy S14 in Westminster's City Plan also seeks to optimise the number of residential units on development sites in order to achieve and exceed Westminster's housing targets. There is a range of unit sizes in the proposed development but some of the 4+ bedroom sized units are considered to be extremely large. The penthouse accommodation is excessively large (722m<sup>2</sup>), however, this is comparable in size to the

existing High Commissioner's residence. It is also considered that the policy can be applied flexibly given the physical constraints of the existing building and the fact that the consented scheme was for a similar number of units (41) of a similar size.

The applicant has requested some flexibility with the number of units and the application has been amended to provide up to 48 residential flats. This can be achieved through changes to the internal layout and does not affect the height, bulk or external appearance of the building and will allow the developer some flexibility to respond to market demand.

London Plan Policy 3.4 'optimising housing potential' seeks to optimise housing density and has a range of 650 to 1100 habitable rooms per hectare for this area. At 789 hr/h, the development is within the densities as set out in the UDP and London Plan.

### **Residential standards**

Policy H8 requires all new housing units to meet Lifetime Homes standards and requires 10% of the units to be designed to be wheelchair accessible or adaptable and the applicant is committed to providing 10% of the units as being as being wheelchair accessible/adaptable.

Policy H10 requires housing developments to include an element of amenity space, including the use of balconies and roof terraces on sites within CAZ. Private courtyard space is provided within the internal lightwell, roof terraces are provided at the rear of the building from fifth floor upwards and balconies at second floor and above on the Grosvenor Street frontage. The penthouse apartment at seventh floor also benefits from private roof terraces.

The application is supported by an assessment of the amount of natural light received within the proposed flats. The report calculates the Average Daylight Factor (ADF), which is the mean daylight factor on the horizontal working plane inside the room. The BRE guidance recommends minimum ADF values of 1% for bedrooms, 1.5% for living rooms and 2% for kitchens. Where rooms are in mixed use, they should achieve the highest value amongst those uses.

The application originally proposed four single aspect north facing studios that would have failed to meet these standards receiving 0% ADF values and both the GLA and Environmental Health raised concerns about light levels to these flats. These flats have now been relocated to the Grosvenor Street frontage and whilst they still do not achieve full compliance with the BRE guidance, they do now face south east. Based on the submitted analysis, most rooms within the remaining flats would meet, and generally exceed, minimum ADF values. However, where rooms fail to meet these standards light is largely constrained by their aspect and proximity to neighbouring buildings and the deep plan form of the building. Given the relationship of the site with neighbouring buildings, these values are, overall, considered acceptable.

The application also includes an ancillary pool, spa, gym, cinema, library and private function room at basement level 3 for residents use only and meeting/function rooms at lower ground floor level.

In terms of exposure to noise, the applicant has assessed the scheme in accordance

with the relevant noise standards as set out in the UDP. The windows to the flats are all to be replaced with casement windows. Environmental Health has confirmed that in principle, subject to conditions, this is acceptable.

### **Affordable housing**

#### **The policy requirement**

Policy S16 relates to affordable housing. It requires that proposals of 10 or more new residential units, or over 1000m<sup>2</sup> of additional residential floorspace will be expected to provide a proportion of the floorspace as affordable housing. The proportion of affordable housing sought on individual sites will be set out in the City Management Plan when it is adopted but until then is set out in an interim guidance note. For sites within Core CAZ with a residential floorspace increase of more than 2,500m<sup>2</sup> the guidance specifies a floorspace requirement of 25% or if this is proved impractical or unfeasible, the affordable housing should be provided off-site in the vicinity.

The expectation of the London Plan, the UDP and the City Plan is that affordable housing should be provided on site. Policy S16 states "Where the Council considers that this is not practical or viable, the affordable housing should be provided off-site in the vicinity. Off-site provision beyond the vicinity of the development will only be acceptable where the Council considers that the affordable housing provision is greater and of a higher quality than would be possible on or off site in the vicinity, and where it would not add to an existing localised concentration of social housing..."

In appropriate circumstances under Policies H4 and S16 where it can be demonstrated that it would not be reasonably practical to provide affordable housing on-site or that by providing affordable housing on site the viability of the whole development would be reduced to such an extent that it would not proceed, the requirement for on-site affordable housing may be waived, in which case a payment in lieu may be considered as an alternative to on-site provision. In the case of this scheme the total additional residential floorspace proposed is 25,153m<sup>2</sup> which generates a requirement for 6288m<sup>2</sup> (25%) to be affordable housing or, in accordance with the formula set out in the interim guidance note and if it is accepted that affordable housing cannot be provided on site or in the vicinity, a payment in lieu of affordable housing of £41,242,206.

In the consented scheme, a S106 package was negotiated involving the provision of 10 affordable units off-site at Dorset Close together with an affordable housing payment of £17,295,093 (with £4,300,000 being paid on commencement and £12,995,093 prior to occupation).

#### **The applicant's proposals**

The proposal is once again to provide market residential units with no on site affordable housing. The applicant argues that the super-prime market is materially weaker than at the time when the previous application was considered, and there has also been a significant increase in build costs. The applicant therefore contends that to make this scheme competitive, a significantly upgraded amenity package has been provided (ie the leisure accommodation at basement level 3) which in turn has increased build costs and has impacted on the scheme's viability significantly. The financial viability assessment (FVA) subsequently concludes that the scheme can only viably support a total affordable housing contribution of £18,000,000 (ie provision of the 10 off-site units

at Dorset Close together with an affordable housing payment of £9,088,000). The FVA has been independently assessed by GVA on behalf of the City Council and they concur with this assessment, on the basis that the £9,088,000 is paid on commencement of works on site. They submit that should there be any deferred payment, as in the extant scheme, higher figures should be made to allow for the interest saving.

The applicants have since revised their offer, recognising that the previous package secured a significantly enhanced offer than initially proposed, and now offer the following:

- i. Delivery of 10 units of affordable housing at 1-5 Dorset Close
- ii. An affordable housing contribution of £14.5 million with £1 million to be paid on commencement, £5 million on occupation and the remainder (£8.5 million on occupation of 80% of the residential units).
- iii. A £2.5 million public realm investment to enhance the immediate vicinity of the site namely Grosvenor Square, Grosvenor Street and Three Kings Yard.

This offer is significantly more than that which our consultants believe to be viable and is welcomed. This package would be secured by S106 agreement.

## 8.2 Townscape and Design

The proposal is similar in principle to that previously approved, except that it is now intended to entirely demolish the facades and to and rebuild them to a modified design. The rooftop and rear extensions are similar to those previously approved.

In heritage asset terms, the existing building makes a positive contribution to the Mayfair Conservation Area and is an important part of the setting of the grade II listed American Embassy on the west side of Grosvenor Square and the neighbouring Italian Embassy on the east side of the square.

The proposed alterations to the façade are intended to provide more uniform accommodation internally and partly reduce and partly remove the hierarchy of fenestration by stretching some windows, shortening others and tampering the column bases to stretch them to fit the increased height of the façade. On Grosvenor Street there are to be a set of balconies in neo-Georgian style to match the building. At roof level an enlarged penthouse is to be provided but an originally proposed turret feature on Grosvenor Street has been omitted. The new dormer windows are formed of copper with full height casements and metal railings. The proposed design of the dormers does not suit the building, and fails to maintain the uniformity of the square's roofscape which is characterised by white-painted timber dormer windows. An objection has been received on the grounds that the proposal would have an adverse impact on Grosvenor Square.

The application again involves the relocation of the former oval room. This is to be re-provided at basement level 3, details of which would be secured by condition.

An objection relating to the potential impact of the proposal on the fabric of the adjoining grade II listed building has been made, but there is sufficient detail in the application documents to demonstrate the necessary special regard is being (and will be) had to



maintaining the structural integrity and fabric of the building so as to make refusal of permission for this reason unjustifiable. In line with the NPPF test, the harm caused to heritage assets has to be weighed against public benefits. It is concluded that the harm is less than substantial in this case and the public benefits of the regeneration of this scheme and affordable housing provision outweigh that harm. The application is recommended for approval accordingly.

### 8.3 Residential Amenity

#### 8.3.1 Daylight and Sunlight

UDP Policy ENV 13 aims to protect and improve the amenity of the residential environment, which includes ensuring that sunlighting and daylighting levels to existing properties are not unreasonably compromised. In implementing this policy, the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used.

The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of light reaching the outside face of a window. Using this method, if an affected window is already relatively poorly lit and the light received by the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable and the adverse affect would have to be taken into account in any decision making. The BRE guidelines seek mainly to protect daylighting to living rooms, dining rooms and kitchens (where they are sufficiently large to be used as a habitable room), whilst bedrooms are protected to a lesser extent.

With regard to sunlighting, the BRE guidelines state that where the amount of sunlight to an existing window is already limited and would be reduced by more than 20% as a result of a development, or a 4% loss in total annual sunlight hours, the window is likely to be adversely affected. Only windows facing within 90 degrees of due south of the proposed development need to be tested, and living rooms and conservatories are considered to be the most important rooms to be protected – with kitchens and bedrooms less so.

The closest residential to the site is at the rear of the site within 9-10 and 5-8 Three Kings Yard and adjacent to the site within 4 Grosvenor Square. These properties have all been assessed in the submitted daylight/sunlight report, as has (despite the contention from the Italian Embassy) the adjoining building at 14 Three Kings Yard.

The rear facade is to be rebuilt with a part sheer and part stepped façade with a steeper profile than the existing. The new floor at roof level would also introduce some additional bulk at roof level. The only residential windows affected by daylight losses of 20% or more are in 7-8 and 9-10 Three Kings Yard. A second floor window in 7-8 Three Kings Yard would experience a 24.1% loss of VSC and two first floor living room windows with 9-10 Three Kings Yard would experience VSC losses of 20.8% and 26.1%. These would be material losses in terms of VSC, however, in each case actual percentage losses are relatively small (between 2.5 and 3.5%) and it is not considered that these losses would so harmful to warrant refusal.

With regard to annual sunlight, the residential properties within Three Kings Yard have a westerly aspect and therefore a sunlight analysis has been carried out for these properties. Three windows within 9-10 Three Kings Yard would lose between 29.63% and 42.86% APSH. These windows fail BRE guidance. However, two of the windows serve bedroom accommodation, which the BRE guidance state as being less important than main habitable accommodation and the third window is in a room served by a further window that is unaffected by the proposals. Nine windows within No's 5-8 Three Kings Yard would also experience losses of between 24% and 45.45% in Annual Probable Sunlight Hours however the level of APSH retained for each affected window is considered reasonable for this central London location. It is considered that within this urban built-up location, the levels of sunlighting retained are acceptable and the impact is not considered sufficient to justify a refusal.

### **8.3.2 Overlooking and Sense of Enclosure**

UDP Policy ENV13 also seeks to safeguard the amenity of existing residential occupiers by not allowing proposals that would result in an unreasonable sense of enclosure or overlooking. The most obvious impact on sense of enclosure would result from the rebuilding of the Three Kings Yard façade, the replacement of the rooftop plant with the proposed penthouse and the reduction in depth to the existing lightwell between the site and 4 Grosvenor Square. However, this rooftop penthouse would not be in close proximity to any directly facing windows and it would therefore have only a minimal impact on sense of enclosure. At the rear, the existing triple height mansard would be replaced with a part sheer and part stepped rear wall and an additional sheer storey, however, as there would be no significant increase to the overall height at the rear, therefore there would be no material effect on sense of enclosure.

Additional windows are proposed in the rear mansard, however, there are already many windows at the rear, and therefore there would be no significant increase in overlooking of any neighbouring property.

An objection has been received from an occupier of a residential property on the opposite side of Grosvenor Street on the grounds that the proposal would introduce additional height and subsequently would be overbearing. The proposed scheme is very similar in parapet height to that approved, and whilst the proposal does introduce additional bulk at roof level where a plant room is proposed, this is set 16m back from the Grosvenor Street facade and it is not considered that this would introduce any harmful impact to neighbouring residents.

An objection on behalf of the Italian Embassy at 4 Grosvenor Square has also been received on the grounds that the proposal would result in an increased sense of enclosure particularly at fifth floor level which is closer to 4 Grosvenor Square than in the consented scheme. Whilst the fifth and sixth floor levels are no longer stepped back behind the rear façade of 4 Grosvenor Square (as in the consented scheme) they do not project in front of any residential windows. The retained lightwell between the two buildings is also not as deep than that in the consented scheme, however, a 6.5m lightwell is still retained and it is not considered that the proposed massing at this level would cause sufficient harm to warrant refusal.

## 8.4 Transportation/Parking

The proposals would provide 39 car parking spaces for the 43 proposed flats. This is a shortfall of 5 spaces.

The parking spaces would be located at basement levels 1 and 2, to which access would be from Grosvenor Street. The proposed vehicular entrance is two-way and will allow good access to the car park. This is served by two car lifts which is considered appropriate for the number of proposed car parking spaces. Whilst the site has a high level of public transport accessibility, the Highways Planning Manager is concerned that given the shortfall in parking provision, that the scheme would result in some residents parking on-street. Objections have also been received on parking grounds. The Highways Planning Manager has suggested that if the parking spaces were to be provided on a 'right to park' basis (by not allocating spaces to specific flats other than the Town Houses and Penthouse), then this lower provision of car parking could be considered to be acceptable in this case. This approach could be secured through a S106 legal agreement.

The GLA ask that the levels of car parking are reduced and request conditions relating to electric vehicle charging point, blue badge parking, controlled parking zone restrictions, showering/changing facilities, delivery and servicing plan, construction logistics plan and a detail travel plan. As the level of car parking is consistent with the maximum standards of TRANS 23 of the UDP and the standards set out in the London Plan, the amount of car parking is considered acceptable. Vehicle charging points, cycle parking and compliance with the Construction Management Plan are secured by condition. Conditions for a travel plan are not considered necessary for a scheme of this nature.

The proposed location of the vehicular entrance on Grosvenor Street would result in the relocation of existing on-street residential car parking bays. This would require an amendment to the existing Traffic Management Order the cost of which together with the cost of relocating the car parking bays would need to be borne by the developer.

The proposals include cycle parking facilities which would also be provided at basement levels 1 and 2. These spaces would be reserved by condition to ensure compliance with UDP Policy TRANS10 and the FALP.

### **Servicing**

UDP Policy TRANS 20 states that the City Council will, in most cases, require the servicing needs of all developments to be adequately accommodated on site and off-street, preferably behind or under new or converted buildings. Policy CS41 also requires servicing and delivery needs to be fully met within each development site, except where the Council considers that this is not possible, in which case servicing and delivery needs will be met in such a way that minimises the adverse effects on other highway and public realm users, and other residential or commercial activity. Where some or all of the servicing and delivery needs are met through use of the public highway, the development will meet the initial and on-going costs associated with such use e.g. through the creation of on-street servicing bays.

Off-street servicing is provided for within the site for smaller delivery vehicles whilst larger vehicles will either have to make use of the public highway or may be

accommodated within Three Kings Yard. The site is located within a Controlled Parking Zone, which means that single and double yellow lines in the vicinity also allow loading and unloading to occur. The largest regular service vehicle expected to be associated with the proposed development in this location is likely to be the refuse collection.

The Transport Statement sets out that the majority of deliveries associated with the restaurant will be undertaken via Three Kings Yard, other than larger vehicles which due to the restricted access arrangements on entry to Three Kings Yard, which will service the restaurant on street. Objections have been received on the grounds that Three Kings Yard is unsuitable for servicing, will affect access to the Italian Embassy, and that refusal removal and access to the restaurant should not be allowed through Three Kings Yard. However, this arrangement for servicing is similar to the current arrangement for the existing use and nearby other properties and Three Kings Yard provided the main access to the car parking and servicing in the consented scheme.

Given the size of the restaurant use the servicing requirements are not expected to be high. A Service Management Plan (SMP) has been submitted to help further reduce the impact of servicing on the public highway. This will be secured by condition.

### **8.5 Economic Considerations**

The economic benefits generated are welcomed.

### **8.6 Access**

The proposal removes the existing stepped access to the Grosvenor Square and Grosvenor Street and the new building will be fully accessible to people with mobility difficulties.

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

#### **Plant**

Plant is proposed at basement and also within a screened enclosure on the roof of the new building. The application is supported by an acoustic report. The Environmental Health officer has assessed the submitted acoustic report and raises no objection to the proposals subject to conditions relating to plant noise and vibration. However, as the plant scheme design is at an early stage, the applicant will need to provide a supplementary acoustic report to demonstrate that the selected equipment will operate in accordance with the standard noise condition. Subject to these conditions, it is not considered that the plant operation would adversely affect the amenities of existing, or future, residents.

The restaurant is served by a full height extract duct which is to be routed internally (from basement level) and extract at roof level. This is sufficient to overcome the concerns raised regarding fumes and will be secured by condition.

#### **Refuse /Recycling**

Facilities for refuse and recycling are proposed at basement level. Waste would then be transported by the management company via the goods lift to the temporary waste storage area at ground floor level to await collection on waste collection day. These

arrangements are satisfactory subject to a condition to ensure that the waste storage areas are provided and permanently maintained and one to restrict rubbish collection between 07:00 and 23:00.

### **8.8 London Plan**

The London Plan promotes the provision of new housing and requires, in new housing schemes, the maximum reasonable amount of on-site affordable housing. At the same time economic viability should be taken into account and it may be appropriate to accept a financial contribution in lieu of on-site affordable provision.

The application is referable to the Mayor because it comprises a building which is more than 30 metres high and it outside the City of London. The GLA have indicated in their Stage 1 referral report that the development is broadly acceptable subject to further discussion on a number of energy and transport related issues. Once the City Council has resolved to determine the application, it will be referred back to the Mayor for his decision.

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

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

### **8.10 Planning Obligations**

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as

affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced later in May 2016. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

For reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure the following:

- i) a financial contribution of £14.5 million towards the Council's affordable housing fund;
- ii) all highway works around the site for the development to occur including vehicle crossovers, changes to on-street restrictions and footway repaving;
- iii) a financial contribution of £35,000 per annum to the Council's Environmental Inspectorate to monitor compliance with the Construction Environmental Management Plan
- iv) unallocated car parking;
- vi) a financial payment to cover the costs of amending the Traffic Management Order and relocation of the Grosvenor Street residential car parking bays;
- vii) costs of monitoring S106 agreement.

It is considered that the 'heads of terms' listed above satisfactorily address City Council policies and CIL Regulations.

## **8.11 Sustainability and Biodiversity**

The application is supported by an Energy Statement. This statement sets out passive design measures (high specification glazing, thermal insulation) and the use of energy efficient building services (mechanical ventilation with heat recovery, energy efficient heating, cooling, lighting and water systems) to improve the building's performance and to reduce CO2 emissions. In addition, photovoltaic panels will be installed on the main roof. It is estimated that these measures would achieve a reduction in CO2 emissions of 29%.

It is anticipated that the development would achieve a level of sustainability equivalent to BREEAM Very Good (with the potential to achieve Excellent) for the restaurant use and an equivalent code for Sustainable Home Level 4 for the residential use.

The GLA has assessed the report and has expressed concern that the application is not fully compliant with London Plan policy requirement for 40% carbon reductions to be delivered. He has requested that the shortfall be addressed through carbon offsetting. It is understood that such a payment would be in the region of £35,000. The applicant

has confirmed that they are willing to make this payment however they argue that this should be deducted from any payment towards the affordable housing fund. Given the policy priority for affordable housing, Committee is asked to consider whether this money should be put towards affordable housing.

## 8.12 Other Issues

### Basement

Objections have been raised from adjoining occupiers and the Amenity Society who are concerned about the potential impact of the development and particularly the proposed triple basement upon ground water and the structural integrity of their properties.

This issue is at the heart of concerns expressed by residents across many central London Boroughs, heightened by well publicised accidents occurring during basement constructions. Generally residents are concerned that the excavation of new basements is a risky construction process with potential harm to adjoining buildings/structures and occupiers. Many also cite potential effects on the water table and the potential increase in the risk of flooding.

In terms of the progression of our policy towards basements, the City Council adopted its Supplementary Planning Document (SPD) 'Basement Development in Westminster' in October 2014 and this application has been assessed having regard to this SPD, which provides detailed advice on how current policy in relation basement development is implemented. It does not introduce any additional restrictions on basement development above and beyond the precautionary approach that the City Council had already adopted in response to such development.

The Draft Basements Revision to the City Plan ('the Draft Basements Policy') has been the subject of consultation between 16 July and 9 September 2015. Following this pre-submission consultation exercise, the Draft Basements Policy, which has now reached an advanced stage, is likely to be submitted to the Secretary of State for public examination by an independent Inspector following minor modification. In view of its advanced stage of adoption and the limited number of unresolved objections, the Cabinet Member Statement dated 23 October 2015 sets out that the Draft Basements Policy will be applied, where there are no unresolved objections, to all new planning applications received from 1 November 2015 onwards. However, given this application was submitted well in advance of that date, in accordance with the Cabinet Member Statement, it has not been assessed against the Draft Basements Policy.

Studies have been undertaken which advise that subterranean development in a dense urban environment, especially basements built under existing vulnerable structures is a challenging engineering endeavour and that in particular it carries a potential risk of damage to both the existing and neighbouring structures and infrastructure if the subterranean development is ill-planned, poorly constructed and does not properly consider geology and hydrology.

While the Building Regulations determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely, the National Planning Policy Framework March 2012 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and

existing development from contributing to or being put at unacceptable risk from, or being adversely affected by land instability.

The NPPF goes on to state that in order to prevent unacceptable risks from land instability, planning decisions should ensure that new development is appropriate for its location. It advises that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The NPPF advises that planning decisions should ensure that a site is suitable for its new use taking account of ground conditions and land instability and any proposals for mitigation, and that adequate site investigation information, prepared by a competent person, is presented.

Officers consider that in the light of the above it would be justifiable to adopt a precautionary approach to these types of development where there is a potential to cause damage to adjoining structures. To address this, the applicant has provided a structural engineer's report explaining the likely methodology of excavation. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage.

The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

Building Control has been consulted and members will be updated verbally at the committee meeting. These statements will not be approved, nor will conditions be imposed requiring the works to be carried out in accordance with them. The purpose of the reports is to show that there is no foreseeable impediment to the scheme satisfying the Building Regulations in due course. It is considered that this is as far as this matter can reasonably be taken as part of the consideration of the planning application. Detailed matters of engineering techniques, and whether these secure the structural integrity of the development and neighbouring buildings during the course of construction, are controlled through other statutory codes and regulations cited above. To go further would be to act beyond the bounds of planning control.

### **Construction impact**

Objections have been received on the grounds of noise and disturbance during the construction period and the Italian Embassy raise concerns about the vibrational impact on their artworks and impact of noise on events. A draft Construction Management Plan has been submitted, which provides an indicative approach to demonstrate how the impacts of the demolition and construction stages of the development can be managed. Environmental Health have raised concerns regarding the fact that the number of banks men has not been provided and information is required to ensure safe reversing for construction traffic and the applicant's request that the submitted CMP is not conditioned is not accepted. It is therefore recommended that a condition is attached requiring the



submission and approval of a detailed construction management plan prior to the commencement of work.

The concerns regarding weekend construction works are noted, and the standard hours of work condition is imposed. The concern raised by neighbours regarding structural damage and by the Italian Embassy regarding the vibrational impact on their artwork is a Party Wall matter.

### **Crime and security**

The Italian Embassy also object on the grounds that the introduction of windows and roof terraces raise security concerns and that further details of the courtyard wall and landscaped green wall need to be submitted to establish any security risks associated with it. Whilst these matters are noted, the relationship of the proposed windows and terraces to the Embassy is similar to that in the consented scheme and is not significantly different to the relationship of other established embassies to existing residential accommodation within Westminster. It is also understood that there are ongoing discussions between the Embassy and the applicant to resolve these concerns. It is not considered that the application could be refused on these grounds.

### **Other Issues**

Loss of property values are not material considerations in planning terms. Neighbours have also requested compensation for secondary/double glazing and the costs of relocation whilst building works are taking place. It is not considered that such compensation could reasonably be required.

The applicant has also asked that as they have submitted information relating to Building Recording and Archaeology Investigation that these matters are not subject to conditions. However, Historic England have requested that these conditions are imposed.

## **9. BACKGROUND PAPERS**

1. Application form and letter from applicant dated 12 January 2016
2. Letter from GLA dated 4 November 2015
3. Letter from TfL dated 20 October 2015
4. Response from Residents Society Of Mayfair & St. James's, dated 28 September 2015
5. Response from Historic England (Listed Builds/Con Areas), dated 16 September 2015
6. Response from Historic England (Archaeology) dated 23 September 2015
7. Letter from occupier of 5 Three Kings Yard, London, dated 28 September 2015
8. Letter from occupier of 47 Grosvenor Square, London, dated 25 September 2015
9. Letter on behalf of the occupier of 4 Grosvenor Square and 14 Three Kings Yard, dated 30 September 2015
10. Letter from occupier of 47 Grosvenor Square , London W1K 2HS, dated 28 September 2015
11. Letter from occupier of 8 Three Kings Yard , London W1K 4JR, dated 29 September 2015
12. Response from Highways Planning Manager dated 23 September 2015
13. Memorandum from Environmental Health dated 13 January 2016
14. Response from Environment Agency dated 15 January 2016

Item No.
<b>3</b>

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT JO PALMER ON 020 7641 2723 OR BY EMAIL AT [CentralPlanningTeam@westminster.gov.uk](mailto:CentralPlanningTeam@westminster.gov.uk)

10. KEY DRAWINGS



Existing Grosvenor Square elevation



Proposed Grosvenor Square elevation

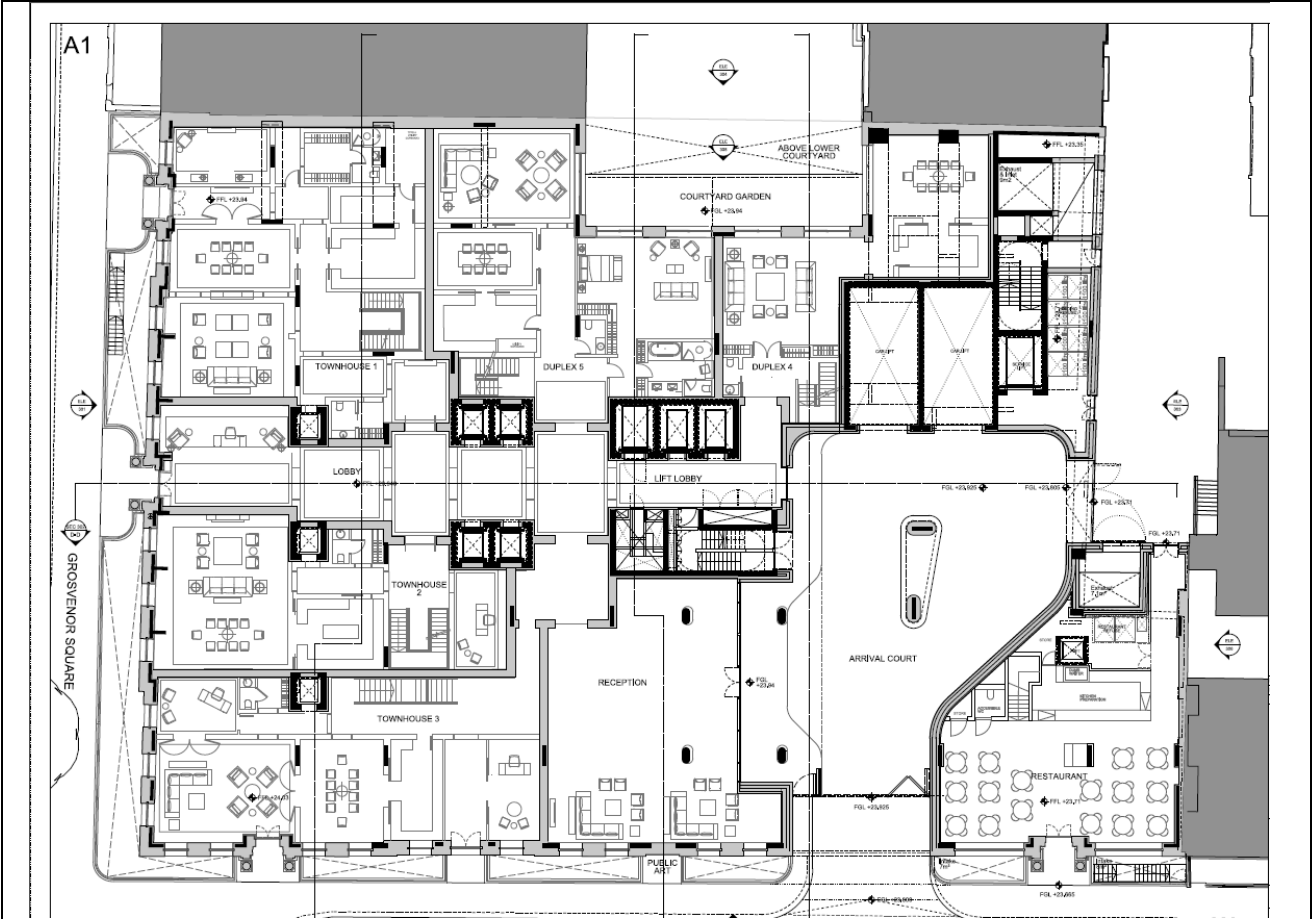


Existing Grosvenor Street elevation



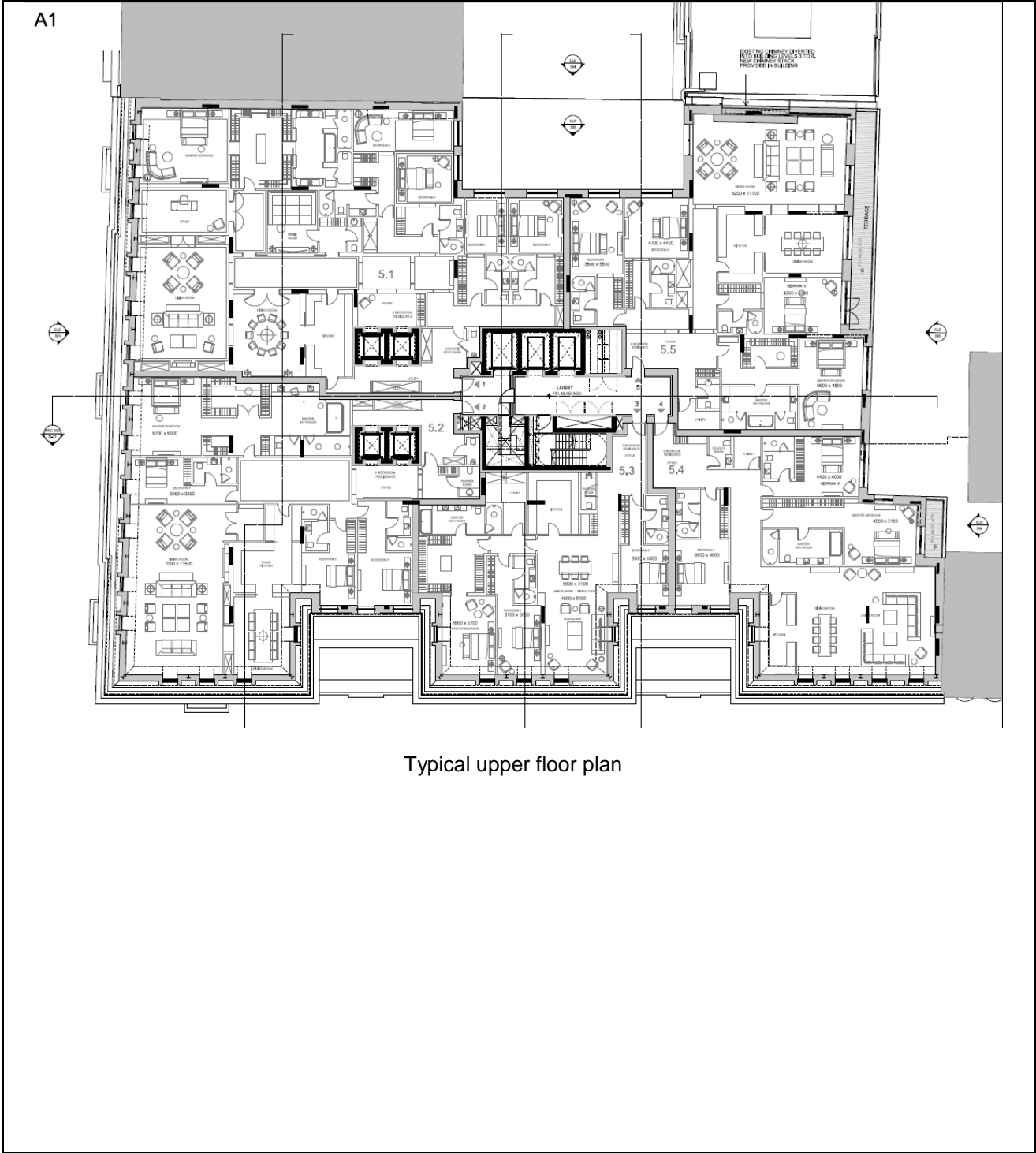
Proposed Grosvenor Street elevation

Proposed ground floor



Proposed ground floor

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)



Typical upper floor plan

**DRAFT DECISION LETTER**

**Address:** Macdonald House, 1 - 3 Grosvenor Square, London, W1K 4BN,

**Proposal:** Demolition and redevelopment to provide three basement levels, lower ground, ground and first to seventh floor levels to provide between 42-46 residential units (Class C3) with associated ancillary leisure facilities, car parking, cycle parking, mechanical plant and associated works within the basement levels. Creation of terraces and balconies at various levels and installation of photovoltaic panels and plant with associated screening at main roof level. Use of part of the lower ground and ground floor levels as a restaurant unit fronting Grosvenor Street (Class A3).

**Plan Nos:** EPA GSQ 05 PLN 096, 097, 098, 099, 100, 101,102,103,104,105, 106, 107, 108; EPA GSQ 05 ELE 301, 302, 303, 304, 305, 306, 311, 312, 313; EPA GSQ 05 SEC 302, 305, 311, 312; EPA GSQ 05 DET 301, 302, 303, 304, 350, 351, 355

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

**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 basement excavation 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 basement excavation 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. (C11BA)

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

3

You must put up a copy of this planning permission and all its conditions on all street frontages of the development site at ground floor level for as long as the work continues on site.

You must highlight on the copy of the planning permission any condition that restricts the hours of building work. (C21JA)

Reason:

To make sure people in neighbouring properties are fully aware of the conditions and to protect their rights and safety. (R21GA)

4

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 TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

5

You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

6

(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: Strategic Policies adopted November 2013, 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.

7

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.

8

The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise 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 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

9

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.

10

You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 8\_9 of this permission. 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 details approved before the residential units are occupied and thereafter retain and maintain.

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: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

11

(1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

12

(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 restaurant 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 restaurant 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.

13

You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 6 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

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: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

14

You must provide the waste store shown on approved drawings before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. 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: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

15

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

16

You must apply to us for approval of detailed drawings at scales 1:10 of the following parts of the development:

1. Windows (a typical example of each type)
3. Doors

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 detailed drawings. (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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

17

The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

18

You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

19

You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

20

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

21

You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

22

You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

23

You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the balcony. (C26OA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

24

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: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

25

You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application.

photovoltaics

You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44AC)

26

Pre Commencement Condition. No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority. The plan shall provide the following details:

- (i) a construction programme including a 24 hour emergency contact number;
- (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;
- (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);
- (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and
- (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works.

You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

- (vii) hours of when noisy works will be suspended

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

27

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 Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

28

You must apply to us for approval of details of the following parts of the development:

- re-use of features including panelling, ceiling rooflight and other internal features within the existing oval room within the new building

You must not start demolition work of the relevant part until we have approved what you have sent us.

You must then carry out the work according to these approved details. (C26CB)

Reason:

To protect the heritage of the City of Westminster as set out in S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

29

Pre Commencement Condition.

(a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work other than demolition to existing ground level until we have approved what you have sent us.

(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, to Historic England, and to the Greater London Sites and Monuments Record, 1 Waterhouse Square, 138-142 Holborn, London EC1N 2ST.

(c) You must not use any part of the new building until we have confirmed that you have carried out the archaeological fieldwork and development according to this approved scheme.

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)



30

You must apply to us for approval of a written scheme of investigation for a programme of building recording and reporting. You must not start work until we have approved what you have sent us.

No development shall take place other than that in accordance with the Written Scheme of Investigation.

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

31

If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

32

You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours of 08.00 to 00.30 Monday to Sundays. (C12DC)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

33

You must provide detailed drawings (plans and section/elevation) showing the full height kitchen extract duct indicated on your approved drawings. These details must be provided before the restaurant use commences and the approved duct shall thereafter be permanently retained for as long as the restaurant is in use.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

34

You must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant use until we have

approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant use is in use. (C05JB)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

35

You must apply to us for approval of an Air Quality Assessment (AQA) showing the standards that will be achieved. The AQA should:

- \* assess the existing air quality in the study area (existing baseline)
- \* predict the future air quality without the development in place (future baseline)
- \* predict the future air quality with the development in place
- \* describe the demolition and/or construction impacts
- \* identify mitigation measures
- \* the impact of the CHP on any sensitive receptors on and off site

You must not start work until we have approved what you have sent us. You must then carry out the work according to the approved AQA.

Reason:

To assess the significance of the development impact on air quality as set out in S31 of Westminster's City Plan: Strategic Policies adopted November 2013.

36

Pre Commencement Condition. You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated land, a guide to help developers meet planning requirements' - which was produced in October 2003 by a group of London boroughs, including Westminster.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 3: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate. (C18AA)

**Reason:**

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007. (R18AA)

37

All servicing must take place between 07:00 on Monday to Saturday and 23:00 on Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

**Reason:**

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

38

You must apply to us for approval of a detailed scheme to prevent overheating based on a whole house ventilation scheme with windows closed prior to occupation.

You must then carry out the work according to these details.

**Reason:**

To ensure a satisfactory environment for future occupiers as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013

39

No vibration shall be transmitted from the Piccadilly Line so 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 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.

40

The design and structure of the development shall be of such a standard that it will protect residents within it from ground-borne noise from the Piccadilly line so that they are not exposed to levels indoors of more than 35 dB LASmax within habitable rooms during day and night.

**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.

41

Electric vehicle charging points must be provided in the basement at a ratio of one charging point to every five car parking spaces.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44AC)

**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: Strategic Policies adopted November 2013, Unitary Development Plan, 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

This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to the provision of off-site affordable housing at Dorset Close, an affordable housing contribution, highway works and financial contributions towards monitoring of construction works.

3

This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.

If you have not already done so you must submit an Assumption of Liability Form to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>.

You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.

4

We recommend you speak to the Head of the District Surveyors' Services about the stability and condition of the walls to be preserved. He may ask you to carry out other works to secure the walls. Please phone 020 7641 7240 or 020 7641 7230. (I22AA)

5

When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental

Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

6

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, [sitenquiries@ccscheme.org.uk](mailto:sitenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).

7

Conditions 6 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

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.

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# Agenda Item 4

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 26 January 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	<b>Harcourt House, 19 Cavendish Square, London, W1G 0PL,</b>		
<b>Proposal</b>	Refurbishment of existing building, including demolition works and alterations to the rear, installation of services at new basement level, removal of roof plant and erection of roof extension at main roof level in connection with the use of part lower ground and part ground floor levels for Class D1 use and 25 residential apartments (Class C3) at part lower ground to seventh floor levels. Balconies from third to sixth floor level to the rear with terraces and plant located within an acoustic enclosure at seventh floor level and other minor external alterations to the front façade.		
<b>Agent</b>	DP9		
<b>On behalf of</b>	Harcourt Investments Ltd		
<b>Registered Number</b>	14/09419/FULL – 15/07700/LBC	<b>Date amended/ completed</b>	19 August 2015
<b>Date Application Received</b>	18 September 2014		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Harley Street		

## 1. RECOMMENDATION

Refuse permission - detailed design of rear roof slope, roof extension, alterations to the front entrance doors and steps and the associated loss of features of special architectural interest.
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## 2. SUMMARY

<p>The application site involves 19 and 19A Cavendish Square, a Grade II listed building on the west side of the square. The application seeks approval for the works of refurbishment of the existing building, including the part demolition of the rear façade and roof, excavation at basement level and erection of a new roof storey for a mixed medical and residential use.</p>
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<p>A new medical facility is proposed at part ground and basement floor accessed by a dedicated entrance on the northern side of the building. 25 flats are proposed on the remainder of the ground and upper floors.</p>
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<p>The key issues in this case are:</p>
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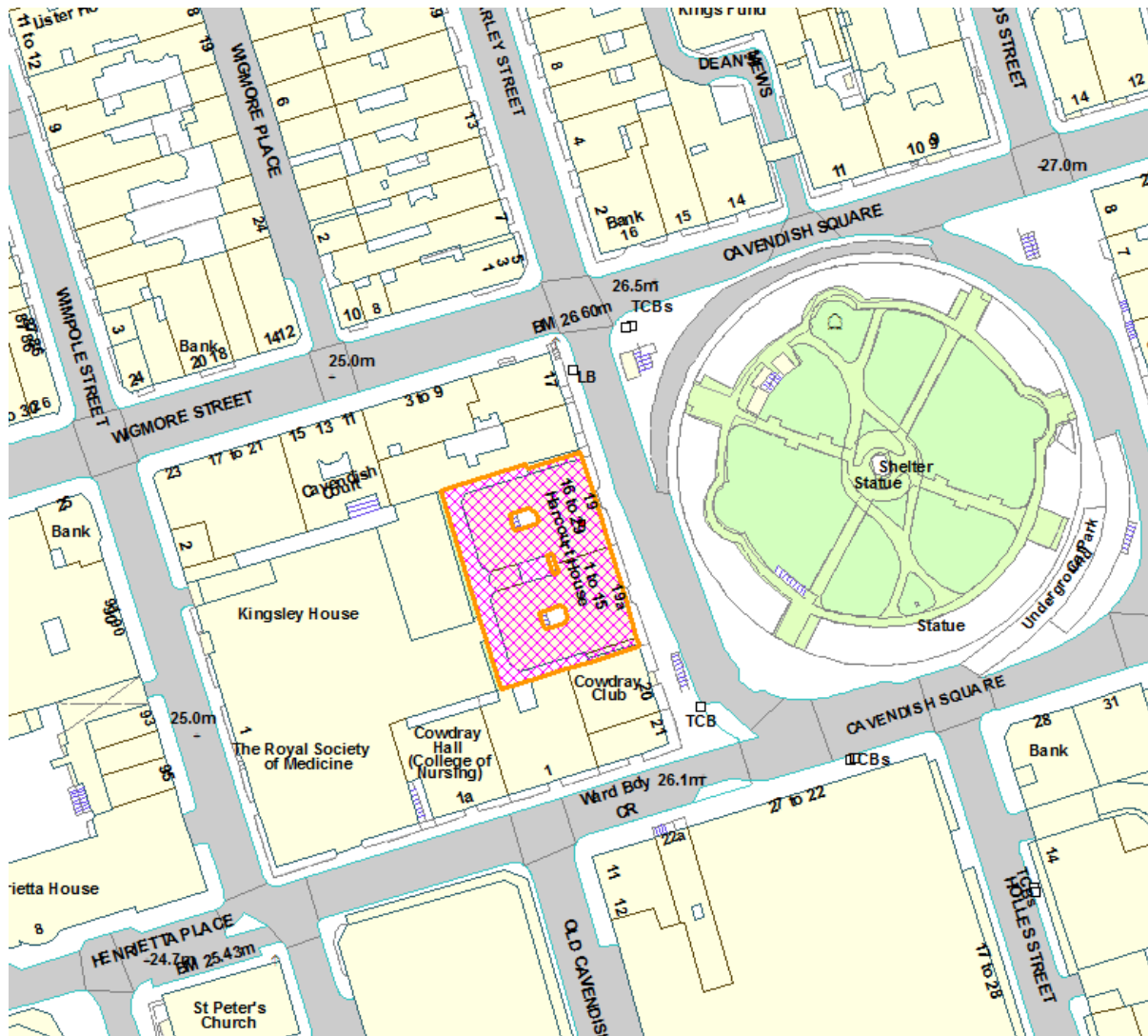
- \* The acceptability of the proposal in land use terms including the affordable housing offer.
- \* The impact of the proposed works on the character and appearance of this part of the Harley Street Conservation Area and upon the special interest of this listed, and the adjacent listed, building.
- \* The principle of the loss of existing D1 floorspace and its replacement with a new medical facility.
- \* The impact of the proposals on the amenities of neighbouring residents.

The principle of the residential use of the upper floors of this building is acceptable in land use and amenity terms. However, the proposed addition of another storey at roof level is unacceptable in design and heritage asset terms. The reconstruction of the roof slopes to a modern design and the alteration of the existing front steps is also considered unacceptable. The application is therefore recommended for refusal on design grounds.

The replacement medical use is 542 sqm smaller than the space it replaces and had the application been considered acceptable in design grounds, views would have been sought as to whether the provision of the new medical floorspace is acceptable and sufficient to offset the loss of the existing D1 floorspace on the upper floors.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### HISTORIC ENGLAND (LISTED BUILDS/CON AREAS)

Believe that the special interest of the building is derived from its grand principal elevation onto Cavendish Square. The interiors of the building also make a contribution to the building's special interest. The demolition of the roof and infilling of the internal service lightwells will represent a significant intervention into the building and will result in the loss of a substantial amount of historic fabric and noticeable change to the historic plan form. However, recognise that the lightwells are relatively of lower significance and the rear sloping roof retains the chimney stacks and is not prominent in views. Given the heritage benefits including the repair and reinstatement of damaged or missing elements of decorative interiors/joinery and the return of the building to its original residential purposes, the substantial interventions proposed would appear unlikely to result in undue harm to the building's special interest.

### MARYLEBONE ASSOCIATION

Object to the proposals on the grounds that the proposed rear elevations lack local contextual reference and are 'corporate' in character concealing the intimate and human scale qualities of the residential uses behind the facades. Consider that air conditioning to residential apartments is unnecessary and unsustainable.

### MET POLICE

Proposals meet the minimum 'designing out crime' standards.

### HIGHWAYS PLANNING MANAGER

Objects to the scheme on the grounds that the provision of 25 flats with no off street parking will add to parking pressures in the area.

### CLEANSING

No objections raised.

### ENVIRONMENTAL HEALTH

No objections raised.

### BUILDING CONTROL

Any comments to be reported verbally

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 211

Total No. of replies: 8

No. of objections: 6 (including one letter sent on behalf of all the practitioners in Suite 21, Harcourt House)

No. in support: 2

### Land Use

\* Many suites have been in medical/dental use for many years, and the proposed loss of these services will inconvenience many thousands of patients each year.

- . \* Although the proposed plans include D1/medical use, this will not be completed for at least 2-3 years and will deprive the community of much needed medical services during that period
- . \* Existing clinics have not been offered relocation in the new D1 facilities being proposed and there are few alternative suitable premises available in the proximity to main transport links
- . \* Central London does not need any more extremely expensive luxurious apartments that are not affordable to local people

#### Design

- \* The roof profile and the contrast of the old facade and modern rear may have a negative impact
- . \* The proposals would result in the loss of a mural by the artist Rupert Shepherd dated 1943
- . \* Potential damage to Rococo plasterwork within adjoining building

#### Highways

- \* Proposed apartments do not have any parking facilities
- . \* Many existing clients and patients have mobility problems and proximity to taxis, tube and bus services is of critical importance to enable easy access and regular attendance

#### Other

- . \* The application documents play down the part that medical/dental suites have played in Harcourt House and fails to mention the long established practices within Suite 21 that provides excellent affordable treatments that are not readily available on the NHS
- . \* Lack of notification
- . \* Insufficient information submitted to assess whether the measures proposed would minimise vibration and noise

### RE-CONSULTATION FOLLOWING REVISED PLANS

One letter of objection raising the following (additional) concerns:

#### Heritage

- . \* The 1990 Act requires proposals to have regard to preserving designated heritage assets
- \* The submitted construction methodology is based upon limited ground surveys and inadequate levels of monitoring are suggested during the construction period
- \* The importance of 18 Cavendish Square has been underestimated in omissions and statements within the Townscape and Heritage statement contrary to Paragraph 128 of the NPPF

#### Design

- . \* The building is identified in the Conservation appraisal as one where a roof extension is unlikely to be acceptable.
- . \* The Design and Access statement fails to provide sufficient views from private viewpoints to adequately justify the proposed roof extension

#### Amenity

- . \* Overlooking from roof terraces

- . \* Insufficient distance between the rear elevation and the office building behind
- . \* The daylight report fails to assess the impact on the surrounding residential uses.
- . \* Four of the proposed bedrooms fail to meet minimum daylight standards resulting in sub-standard accommodation

#### Land Use

- . \* Policy states that all social and community floorspace is protected however the scheme proposed a loss of 451sqm of D1 floorspace.
- . \* The applicant has failed to demonstrate that there is no demand for the lost D1 floorspace
- . \* The loss of office floorspace is contrary to Westminster's policy to protect office floorspace

#### Other

- . \* A residential use is incompatible with the surrounding commercial uses, plant and air conditioning units.
- . \* Insufficient cycle parking
- . \* Lack of public consultation and site notices not displayed

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises a seven storey plus basement building, located on the west side of Cavendish Square.

The current building, known as Harcourt House, was built in 1909 for residential purposes but is currently within a mix of office, medical and residential use. The site is located within the Core Central Activities Zone (CAZ) and lies just south of the Harley Street Special Policy Area.

The building is listed Grade II.

The immediate area around the site is mixed in use, with Cavendish Square accommodating a number of commercial uses, including retail, office and entertainment uses. There is also a limited amount of residential accommodation within the vicinity of the site. The closest neighbours to the building are 18 Cavendish Square to the north, which is in office use and 20 Cavendish Square to the south, which is occupied by the Royal College of Nursing. The building at the rear, 1 Wimpole Street, is occupied by the Royal Society of Medicine.

The closest permanent residential properties to the site are within the upper floors of 11-15 Wigmore Street and 5 Wigmore Street.

### 6.2 Recent Relevant History

The majority of the existing suites within the building were granted lawful development certificates in the 1990's for uses including B1 offices and dental practices. Some of the building is in lawful residential use.

In January 1993 planning permission was granted for office use in Suite 22, in March 1998 planning permission was granted for office use in Suite 4 and in September 1999, permission was granted for office use in Suite 25.

The latest planning records also granted the use of Suite 27 at 5th floor level for medical purposes (Class D1) on the 14<sup>th</sup> June 2007 (RN: 11/03406/FULL).

## 7. THE PROPOSAL

The application initially involved the demolition of the building behind retained facades however, in February last year the building became listed, and the application has since been amended to relate to works of refurbishment of the existing building, including the part demolition of the rear façade and roof, excavation at basement level and erection of a new roof storey for a mixed medical and residential use.

A new medical facility is proposed at part ground and basement floor accessed by a dedicated entrance on the northern side of the building. 25 flats are proposed on the remainder of the ground and upper floors. The proposals involve the following alterations to the floor areas:

Use	Existing (m2)	Proposed (m2)	+/- difference (m2)
Office	4,592	0	-4,592
Medical	2,650	2,108	-542
Residential	832	8,725	+7,893
Shared space	1,210	0	-1,210
<b>Total</b>	<b>9,284</b>	<b>1196</b>	<b>+45</b>

The applicants argue that since the building was constructed, the building has never had any significant refurbishment and is in need of substantial repair and modernisation, including replacement of the electrical system, central heating system, cold water system and lifts, replacement of the main roof, repair works to the mansard dormer windows, replacement of windows and removal of asbestos.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of office use

Policy S47 of the City Plan advises that 'when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework... to secure development that improves the economic, social and environmental conditions in the area.'

Paragraph 51 of the NPPF advises that local planning authorities should normally approve planning applications for change of use to residential and any associated development from commercial buildings (currently in the B use class) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.

There are no policies within the UDP or City Plan which safeguard the existing office use. However, the City Council recognises that adopted development plan policies relating to office and mixed use policies are out of date and that, given recent pressures to convert office buildings to residential use, there is now an under-supply of office accommodation within the borough, eroding the character of commercial areas and resulting in a need to protect existing office floorspace. However, this objective still needs to be balanced against the requirement to provide new homes. Consequently, interim measures, (set out in an initial statement dated 1 March 2015), have been drawn up in relation to the consideration of applications involving the replacement of offices with new residential floorspace, (and applications for the provision of new office floorspace). From 1 September 2015, any such applications are determined under a 'presumption in favour of sustainable development' in line with national policy. This means that within the Core CAZ (and in other specified locations) housing is no longer acceptable in principle where it results in the loss of office floorspace. A further statement (dated 22 July 2015) confirmed that the loss of offices will be acceptable where they are to other commercial uses, or outside of the Core CAZ or other specified locations.

Objections have been raised on the grounds that the application should be considered in light of the emerging policies, however as the current application was submitted in April 2015 and revised in August 2015, it is not subject to consideration under the interim measures or emerging policies, but should be considered in the light of adopted development policies which do not protect existing office uses.

### **Medical use**

Policy S34 of the City Plan considers social and community infrastructure which includes private medical facilities. It states that these facilities will be protected 'except where existing provision is being reconfigured, upgraded or is being re-located in order to improve services and meet identified needs as part of a published strategy by a local service provider'. The policy states that 'in those cases where the council accepts a loss or reduction of social and community floorspace the priority replacement use will be residential'.

There are 10 medical suites within the existing building totalling 2,650 sqm and a number of objections from existing medical tenants have been received on the loss of the existing accommodation. The replacement medical use occupies 2,108 sqm and therefore the proposed community use is 542 sqm smaller than the space it replaces and evidence has not been put forward (such as a robust marketing exercise) to demonstrate that there has been no demand for an alternative social/community use to occupy the entire area currently occupied as medical use.

The existing D1 uses in the building are contained in ten separate units distributed in a fragmented fashion throughout the building with both staff and visitors sharing access

and circulation space within the building with office tenants and residential occupiers. The applicants claim that the existing medical units are inefficient due to their fragmented nature and inflexible layout, and argue that as the existing clinical space was originally designed for residential use, that many of the rooms are over-sized for their current use with some rooms housing only a single dentist's chair. They also state that there is duplication of support facilities within the building as each medical suite has its own reception, waiting rooms, staff facilities, storage and wc's, and they believe that these areas could be significantly rationalised in a single self-contained medical facility. The applicants also argue that none of the D1 units are wheelchair accessible as there are steps up from street level and lift access is only available once within the building. In addition nearly half the existing medical units have internal stairs due to level changes within those units and they therefore contend that the existing arrangements are unsatisfactory for medical uses.

The D1 accommodation is proposed at part ground and basement floor accessed by a dedicated entrance on the northern side of the building. It has been designed as a flexible space to either accommodate a single user, or for a range of smaller medical suites. However, it is understood that the applicants have had a number of discussions with a day clinic providing ophthalmology services and therefore have submitted an illustrative layout showing the ground floor as a reception area and initial consulting room and the lower ground floor as diagnostic, preparation, treatment and recovery rooms.

The proposed D1 floorspace would be 542 sqm smaller than the space it replaces, and in support of their application, the applicant argues that:

- The new facility would avoid the duplication of ancillary facilities and so would provide more usable space
- The space would be purpose designed and provide improved layout, services and future running costs and sustainability
- The indicative medical layout shows that 73 rooms could be accommodated for clinical use, which is 28% more than the 57 rooms which are in clinical use in the existing building
- The new clinic would be designed to meet the full requirements for disabled access

Whilst the proposed D1 space is smaller than the space the medical uses currently occupy, it is accepted that the proposal would rationalise existing space and create a purpose designed facility. Had the application been considered acceptable in all other respects, the Committee's views are sought on whether the size of the space is acceptable and sufficient to offset the loss of the existing D1 space.

### **Residential use**

Policies S14, S15 and S16 relate to residential use. This use is a priority across Westminster, and residential developments are expected to provide an appropriate mix of units in terms of size, type and affordable housing provision to create mixed communities and to meet housing needs. UDP Policies H3, H4, H5 and H8 are also relevant.

Policy H3 of the UDP seeks to maximise the amount of land in housing use, where



appropriate, within the CAZ. Policy S6 also relates to Core CAZ, identifying it as an area appropriate for residential development.

The application provides 25 new residential units. UDP Policy H5 requires the provision of a range of unit sizes in new housing schemes, including at least 33% family-sized (i.e. 3+ bedrooms) of which at least 5% should be more than three bedrooms. The proposals would provide 72% family-sized housing to meet the requirements of the policy, of which 32% would have more than three bedrooms, also complying with Policy H5.

### Unit sizes

The units proposed would range in size between 106 sqm and 365 sqm as set out below:

Bedrooms	No. units	Size (sqm)
One bedroom	1	107
Two bedroom	6	172 - 191
Three bedroom	10	241 - 251
Four bedroom	8	293 - 365

London Plan Policy 3.4 states that new developments should optimise housing output and Policy S14 in Westminster's City Plan also seeks to optimise the number of residential units on development sites in order to achieve and exceed Westminster's housing targets. The one bed and two bed units are not considered to be excessively large. Whilst the larger family sized units could conceivably be reduced in size to provide more units, it is recognised that the physical and listed constraints of the building limit the further sub-division of the building and would result in single aspect units with poor daylight.

London Plan Policy 3.4 'optimising housing potential' seeks to optimise housing density and has a range of 650 to 1100 habitable rooms per hectare for this area. At 806 hr/h, the development is within the densities as set out in the UDP and London Plan.

### Residential standards

Policy H8 requires all new housing units to meet Lifetime Homes standards and requires 10% of the units to be designed to be wheelchair accessible or adaptable and the applicant is committed to providing three (12%) of the units as being wheelchair accessible/adaptable.

Policy H10 requires housing developments to include an element of amenity space, including the use of balconies and roof terraces on sites within CAZ. Private roof terraces are provided at the rear of the building from third floor upwards, balconies at second floor and the penthouse apartments at seventh floor benefit from private roof terraces.

The application is supported by an assessment of the amount of natural light received within the proposed flats. The report calculates the Average Daylight Factor (ADF), which is the mean daylight factor on the horizontal working plane inside the room. The BRE guidance recommends minimum ADF values of 1% for bedrooms, 1.5% for living

rooms and 2% for kitchens. Where rooms are in mixed use, they should achieve the highest value amongst those uses.

Based on the submitted analysis, most rooms within the proposed flats would meet, and generally exceed, these minimum values. However, 5 of the rooms would fail to meet these standards and will have low levels of natural light and an objection has been received on these grounds. These are five bedrooms on the first floor, in three separate flats. Light to these bedrooms is largely constrained by their aspect - facing the office building at the rear. However, none of these bedrooms are main bedrooms and the principle living rooms to these flats face onto Cavendish Square and all receive good levels of light. Given the relationship of the site with neighbouring buildings, these values are, overall, considered acceptable.

The application also includes an ancillary gym at basement level for residents use only and a meeting/function room at ground floor level.

In terms of exposure to noise, the applicant has assessed the scheme in accordance with the relevant noise standards as set out in the UDP. The windows to the flats are to be upgraded with secondary glazing. Environmental Health has confirmed that in principle, subject to conditions, this is acceptable.

### **Affordable housing**

#### **The policy requirement**

Policy S16 relates to affordable housing. It requires that proposals of 10 or more new residential units, or over 1000m<sup>2</sup> of additional residential floorspace will be expected to provide a proportion of the floorspace as affordable housing. The proportion of affordable housing sought on individual sites will be set out in the City Management Plan when it is adopted but until then is set out in an interim guidance note. For sites within Core CAZ with a residential floorspace increase of more than 2,500m<sup>2</sup> the guidance specifies a floorspace requirement of 25% or if this is proved impractical or unfeasible, the affordable housing should be provided off-site in the vicinity.

The expectation of the London Plan, the UDP and the City Plan is that affordable housing should be provided on site. Policy S16 states *“Where the Council considers that this is not practical or viable, the affordable housing should be provided off-site in the vicinity. Off site provision beyond the vicinity of the development will only be acceptable where the Council considers that the affordable housing provision is greater and of a higher quality than would be possible on or off site in the vicinity, and where it would not add to an existing localised concentration of social housing...”*

The scheme results in an increase in residential floorspace of 7,893 sqm (GEA). Applying the Interim Guidance, a scheme of this size is expected to provide 25% of its floorspace as affordable housing, which equates to 1,973 sqm. If this were to be met by a financial payment in lieu, this would generate a requirement for £9,437,118.

#### **The applicant’s proposals**

The proposal is to provide 25 market residential units with no on site affordable housing. The applicant has provided a financial viability assessment which concludes that it would not be viable to provide the required affordable housing floorspace on site and argues

that the proposals are unable to viably support a financial contribution towards affordable housing.

The City Council has employed GL Hearn as an independent consultant to review the applicant's financial viability case. Our consultant has concluded that the scheme cannot viably support either a policy compliant 25% affordable housing on site or a financial contribution to an off-site solution by way of a commuted sum. The applicant however has offered a £1,000,000 ex gratia payment to the Council's affordable housing fund. This is welcomed.

## 8.2 Townscape and Design

The existing building was recently added to the Statutory List at Grade II. Previously, it was designated as an unlisted building of merit in the Harley Street Conservation Area Audit wherein it is also highlighted as a building where a roof extension would not normally be considered acceptable. This is because it is clearly a completed architectural composition and an important part of the square's setting as well as that of the surrounding listed buildings. The existing roof is an integral part of the building's design and forms the architectural climax of the façade. Objectors are also concerned that a roof extension would be unacceptable in principle and on the grounds that insufficient views from private viewpoints to adequately justify the proposed roof extension. These objections are supported. Any additional height or bulk would be detrimental to its special architectural interest and would harm the appearance of the building in views from surrounding properties, contrary to polices DES 1, DES 6, DES 9 and DES 10.

The rear of the building is also a noteworthy design and an intrinsic part of its special interest. The reconstruction of the roof slopes to a modern design is neither necessary nor acceptable and objections on these grounds have also been received. Its detailed design is incongruous and it would result in the loss of a key feature of the building's special interest contrary to polices DES 6, DES 9 and DES 10.

Facing Cavendish Square, it is proposed to alter the entrance doors to provide level access. While there is some public benefit to this alteration given the partly retained medical use, there is no evidence to suggest the alteration is essential and the building can continue in its current use (or as residential accommodation) without this alteration.

Objections from occupiers of the neighbouring property, No. 18 Cavendish Square, which is a grade II-star listed building, relate to the physical impact that construction works could have on the integrity of No. 18, especially its fine decorative plasterwork. In heritage asset terms, the objection is sound in principle. Nevertheless, building works are common both next to and beneath listed buildings and take place without mishap. In this case, with the oversight provided by other legislation (such as the Party Wall etc. Act) along with the construction information provided by the applicant, it is not considered that the development presents a sufficient risk to the neighbouring listed building to justify refusal for risking harm to that building.

Concerns have been raised regarding the loss of a mural by the artist Rupert Shepherd dated 1943, however, this is now to be retained in situ.

The scheme seeks to maximise the commercial value of the site rather than to optimise it while having special regard to maintaining the special interest of the building and the character and appearance of the surrounding conservation area. The result would cause harm to this designated heritage asset which is not outweighed by public benefits. It is unacceptable in heritage asset terms.

### **Public realm improvements**

As part of the West End Partnership initiative launched by the City Council in June 2015 discussions are underway on a public realm scheme for Cavendish Square. The traffic implications will be set out by the current studies into Oxford Street and the proposals for Hanover Square which are now being developed for public consultation later this year. The progress of both of those projects will allow a new context to be established allowing a full reconsideration of the squares layout along with the future of any proposals for the car park whose freehold is now with the City Council. The applicants have stated that they are willing to contribute towards the funding of a study towards the Cavendish Square public realm improvement plans and/or a fountain within Cavendish Square. This would have been secured by S106 agreement had the application been recommended for approval

## **8.3 Residential Amenity**

### **Daylight and Sunlight/Overlooking and Sense of Enclosure**

UDP Policy ENV 13 aims to protect and improve the amenity of the residential environment, which includes ensuring that sunlighting and daylighting levels to existing properties are not unreasonably compromised. The policy also seeks to safeguard the amenity of existing residential occupiers by not allowing proposals that would result in an unreasonable sense of enclosure or overlooking.

The closest residential to the site is within the upper floors 5 Wigmore Street to the north of the site. The proposals involve the rebuilding of the rear façade and there therefore would be some minor change to the rear profile. The new floor at roof level would also introduce some additional bulk at roof level. The application is supported by a sunlight/daylight report that demonstrates that there would be no material loss of daylight or sunlight to the closest facing residential windows. The residential accommodation in Wigmore Street is also some 15m from the side of the existing building, and the rooftop penthouse would not be in close proximity to any directly facing windows. It is therefore considered that there would be no material effect on sense of enclosure or increased overlooking.

Additional windows are proposed in the rear mansard and balconies/terraces are proposed from third floor level and above. However, there are already many windows at the rear, and given the flats at 11-15 Wigmore Street are some 19m distance from the rear elevation, it is not considered that there would be any significant increase in overlooking or material loss of amenity to these flats.

Objections have been received on the grounds that there would be overlooking to the office building immediately at the rear, however, given that the City Council's policy for protecting amenity is primarily aimed at protecting the living standards of residents rather

than commercial occupiers, it is not considered that a reason for refusal could be sustained on the grounds of overlooking to existing office windows.

## 8.4 Transportation/Parking

### Car parking

UDP Policy TRANS 23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased to 'stress levels'. The UDP parking standards normally require one parking space per residential flat which in this case would amount to a requirement for 25 spaces. No car parking would be provided and there would be a deficiency of 25 spaces.

'Stress levels' are considered to have occurred where the occupancy of on-street legal parking bays has exceeded 80%. Within a 200m radius of the development site the occupancy of on-street parking during the day is currently 91%, although this reduces to 19% at night when Single Yellow Line kerbspace is available. The Highways Planning Manager has objected to the scheme on the basis that daytime stress levels have been reached and that it would be inappropriate to allow further demand for on-street spaces given that the proposal would result in:

1. drivers being forced to circulate around an area seeking empty spaces which causes unnecessary congestion, environmental pollution and noise disturbance;
2. drivers being tempted to park in dangerous or inconvenient locations, such as close to junctions or on pedestrian crossing points;
3. drivers having no choice but to park some distance from their homes causing inconvenience and more serious problems for elderly or disabled residents.

The proposal is therefore contrary to TRANS23 and would be likely to add to existing on-street parking stress overall.

The applicant proposes to provide each of the new flats with free car club membership for a minimum period of 25 years, and a parking fund of £153,000 from which residents would be able to apply for a £500 a year subsidy towards the cost of an annual parking season ticket in the vicinity of the site. These measures would be likely to reduce the likelihood of household car ownership in the proposed development and whilst it would not be sufficient to overcome the known potential problems of lack of off-street parking provision, this needs to be balanced against the land use aim to provide additional housing and meet housing targets. In these circumstances, and given the close proximity of this site to excellent public transport facilities, it is not considered that planning permission could be reasonably refused for this reason.

### Cycle parking

The scheme will result in the provision of 49 off street cycle parking spaces within the basement for the residential units, 24 cycle spaces for the medical unit. Despite the objections raised this exceeds the requirements of UDP Policy TRANS10 and complies with the FALP.

### Servicing

A transport statement by Motion has been submitted in support of the application. This estimates that there would be no significant change in the volume of deliveries which

would continue to take place from Cavendish Square. This aspect of the application is acceptable.

### **8.5 Economic Considerations**

The proposal is in accordance with the UDP and the economic benefits generated are welcomed.

### **8.6 Access**

The building will be fully accessible to people with mobility difficulties.

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

#### **Plant**

Plant is proposed at basement and seventh floor level. A noise report has been submitted with the application which has been reviewed by Environmental Health officers and it is considered that any noise from plant would be within the limits in the City Council's standard noise conditions, and would therefore comply with UDP Policies ENV 6 and ENV 7 and City Plan Policies S29 and S32.

The Marylebone Association consider that air conditioning to residential accommodation is unnecessary. Whilst these concerns are noted, the City Council does not have any policies to enable the application to be refused on these grounds.

#### **Refuse /Recycling**

A dedicated refuse store for the residential flats is proposed at basement level. Had the application been recommended for permission, details of a waste store for the medical use would have been reserved by condition.

### **8.8 London Plan**

The London Plan promotes the provision of new housing and requires, in new housing schemes, the maximum reasonable amount of on-site affordable housing, subject to economic viability being taken into account.

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

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

### **8.10 Planning Obligations**

The City Council's approach to and priorities for planning obligations are set out in our Supplementary Planning Guidance (SPG) on Planning Obligations adopted January 2008. Planning obligations can serve to mitigate the land use impacts arising from a development either on the development site, in the wider locality, or where the development will increase local demands for facilities and services or where it is important to integrate the new development into the new community and environment so that it is more sustainable.

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the three following tests set out in Regulation 122(2):

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development;
- c) fairly and reasonably related in scale and kind to the development.

Strategic Policy S33 relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 6 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 6 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced in 2016. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

In this case, had the application been considered acceptable in design terms, for the reasons outlined elsewhere in the report, the principal 'Heads of Terms' of the legal agreement would have covered the following issues:

- i) a financial contribution of £1,000,000 towards the City Council's affordable housing fund (index linked and payable upon commencement of development)
- ii) lifetime car club membership (minimum 25 years) for occupants of the new flats.
- iii) a parking fund of £153,000
- iv) £120,000 towards funding of a public realm study and possible fountain in Cavendish Square
- vii) monitoring costs

## 8.11 Sustainability and Biodiversity

Policy 5.4 of the London Plan relates to retrofitting and states that the environmental impact of existing urban areas should be reduced through policies and programmes that bring existing buildings up to the Mayor's standards on sustainable design and construction. These standards are set out in Policy 5.3 of the London Plan and include minimising carbon dioxide emissions, avoiding internal overheating, efficient use of natural resources, minimising pollution and promoting and protecting biodiversity and green infrastructure.

Policy S39 of Westminster's City Plan: Strategic Policies states that major development should be designed to link to and extend existing heat and energy networks in the vicinity, except where the City Council considers that it is not practical or viable to do so.

Policy S40 of Westminster's City Plan: Strategic Policies requires all major development to maximise on-site renewable energy generation to achieve at least a 20% reduction in carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considers it not appropriate or practical due to site specific considerations.

The application is supported by a Sustainability Statement and Environmental Performance Statement. The residential element of the proposal has been assessed against BREEAM Refurbishment and seeks to achieve BREEAM 'very good'. The energy statement sets out passive design measures (high specification glazing, thermal insulation) and the use of energy efficient building services (energy efficient heating, cooling, lighting and water systems) to improve the building's performance and to reduce CO2 emissions. In addition, Air Source Heat Pumps renewables will be installed. It is estimated that these measures would achieve a reduction in CO2 emissions of 32%. Whilst this is not fully compliant with London Plan policy requirement for 40% carbon reductions to be delivered given the listed fabric of the building and retention of the majority of the structure, this is considered acceptable.

To encourage biodiversity, green roofs are proposed.

## 8.12 Other Issues

### Basement works

The proposals involve the excavation of a new basement plantroom. The applicant has provided a structural engineer's report explaining the likely methodology of excavation. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage.

The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the



construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

Building Control have assessed the reports provided and consider that, the proposed construction methodology appears satisfactory. We are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with the integral professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course. This report will be attached for information purposes to the decision letter. It is considered that this is as far as we can reasonably take this matter under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations as cited above. To go further would be to act beyond the bounds of planning control.

#### **Other issues**

An objection has been received on the grounds that there has been a lack of public consultation and site notices have not displayed. Immediate neighbours have been notified, and re-notified on receipt of amended plans. A revised site notice has also been placed on site.

An objection has been received on the grounds that luxurious flats are not necessary or affordable to local residents however the application could not be refused on these grounds.

## **9. BACKGROUND PAPERS**

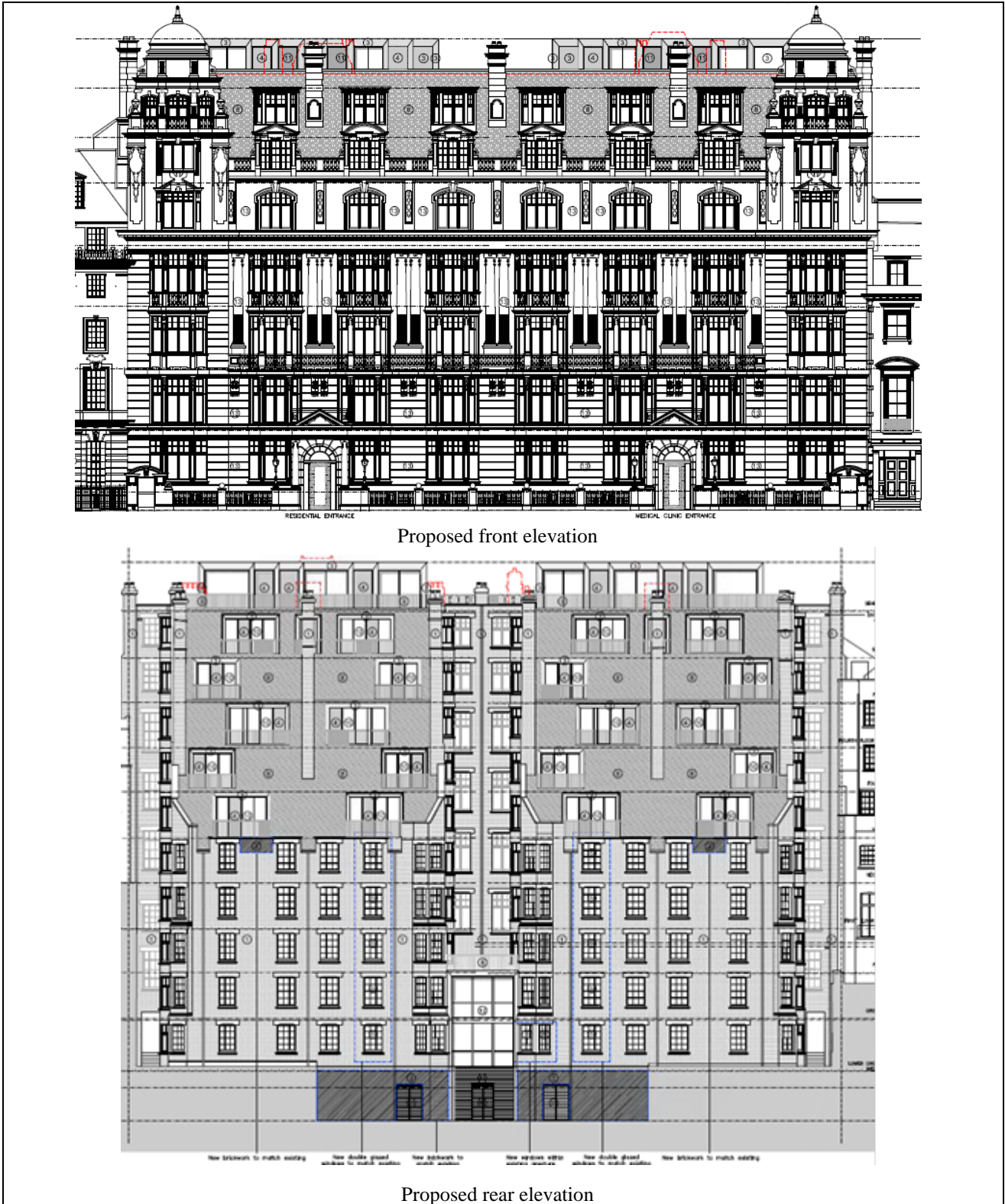
1. Application form
2. Response from Marylebone Association, dated 20 October 2014
3. Response from Cleansing - Development Planning, dated 17 October 2014
4. Response from Environmental Health - Premises Management, dated 12 December 2014 and 20 August 2015
5. Response from Met Police dated 28 October 2014.
6. Response from Historic England (Listed Builds/Con Areas), dated 22 September 2015
7. Memorandum from Highways Planning Officer dated 10 November 2014.
8. Letter from occupier of 21 Harcourt House, 19 Cavendish Square, dated 21 October 2014
9. Letter from occupier of 21 Harcourt House, 19 Cavendish Square, dated 22 October 2014
10. Letter from occupier of 33 birling drive, Tunbridge wells, dated 24 October 2014
11. Letter from occupier of Suite 21 Harcourt House, 19 Cavendish Square, dated 23 October 2014
12. Letter from occupier of 21 Harcourt House, 19 Cavendish Square, dated 27 October 2014
13. Letter from occupier of 23 Queen Anne Street, London W1G 9DL, dated 28 November 2014
14. Letter from occupier of 19 Cavendish Square, London, dated 14 November 2014
15. Letter from occupier of Prestbury Investment Holdings Limited, 18 Cavendish Square,

- dated 21 January 2015
16. Letter from occupier of Prestbury Investment Holdings Limited , Cavendish House ,  
dated 22 September 2015
17. Response from Building Control dated 13.01.16

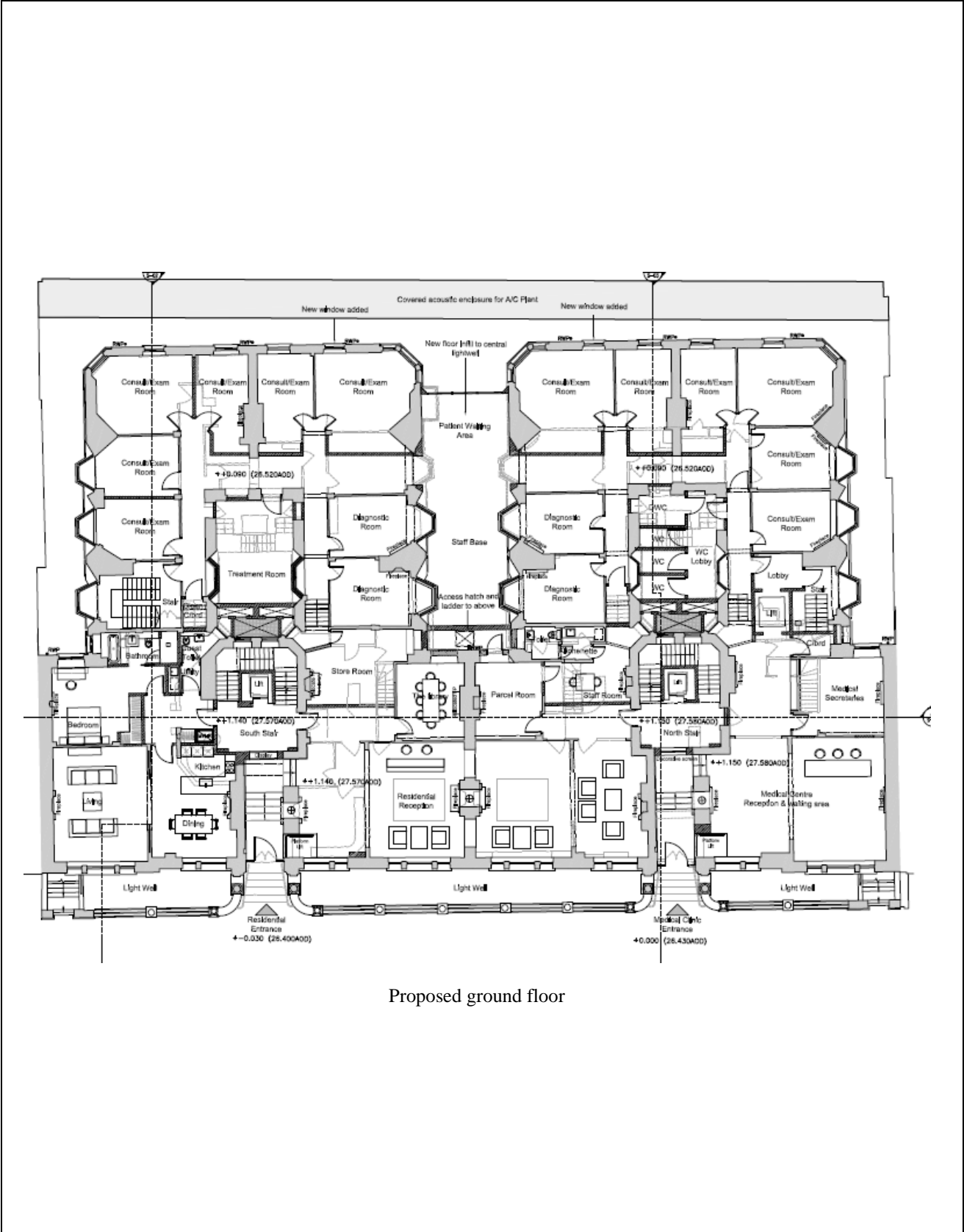
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT JO PALMER ON 020 7641 2723 OR BY EMAIL AT [CentralPlanningTeam@westminster.gov.uk](mailto:CentralPlanningTeam@westminster.gov.uk)

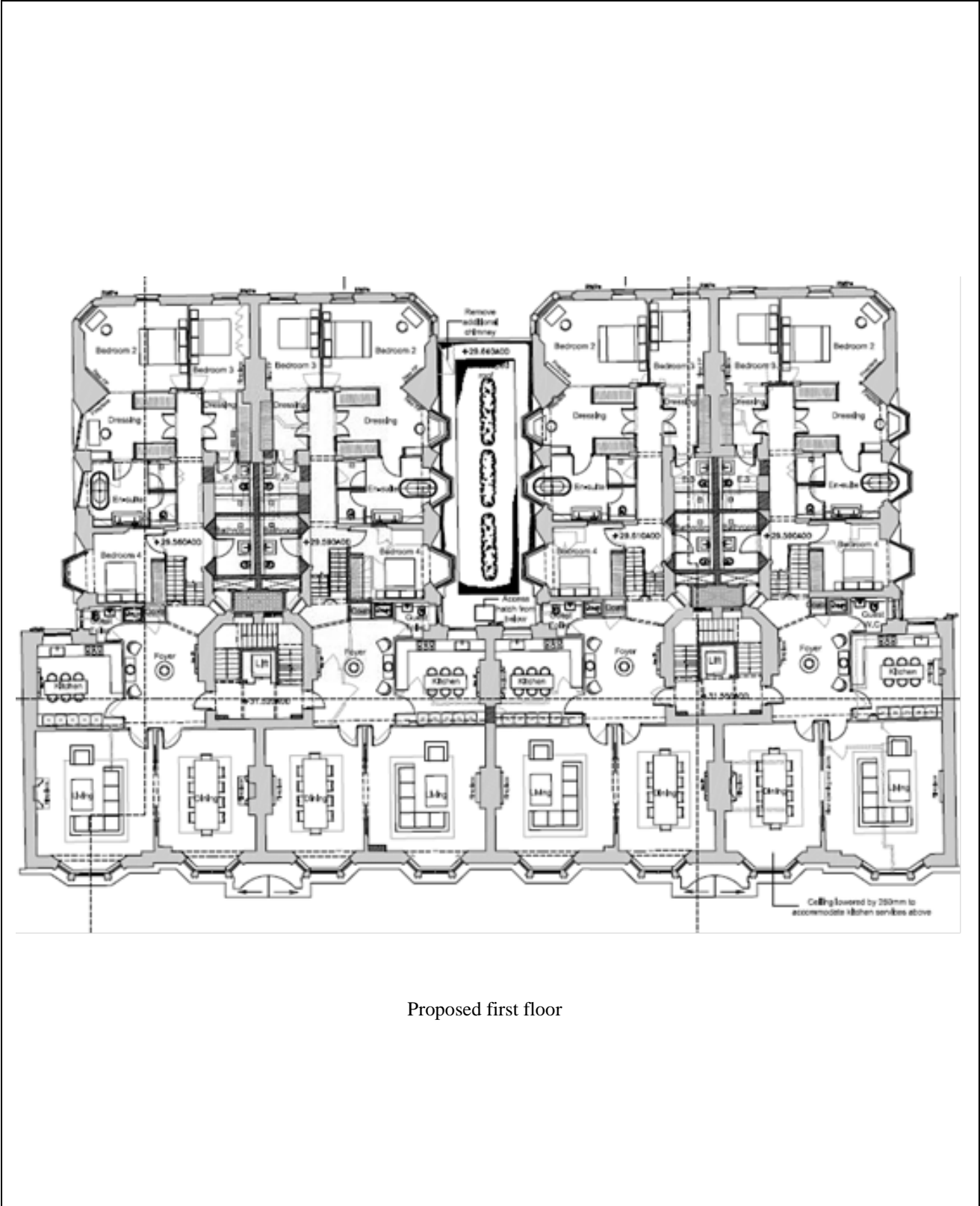
10. KEY DRAWINGS







Proposed ground floor



Proposed first floor

**DRAFT DECISION LETTER**

**Address:** Harcourt House, 19 Cavendish Square, London, W1G 0PL,

**Proposal:** Refurbishment of existing building, including demolition works and alterations to the rear, installation of new services at basement level, removal of roof plant and erection of roof extension at main roof level in connection with the use of part lower ground and part ground floor levels for Class D1 use and 25 residential apartments (Class C3) at part lower ground to seventh floor levels. Balconies from third to sixth floor level to the rear with terraces and plant located within an acoustic enclosure at seventh floor level and other minor external alterations to the front façade.

**Plan Nos:** (01)-P-100 Rev PL; (03)-P-01 Rev PL-1, 02 Rev PL-1, 03 Rev PL-1, 04 Rev PL-1, 05 Rev PL-1, 06 Rev PL-1, 07 Rev PL-1, 08 Rev PL-1, 09 Rev PL-1, 10 Rev PL-1, 11 Rev PL-1, 12 Rev PL-1, 13 Rev PL-1; (03)-E-01 Rev PL-1, 02 Rev PL-1, 03 Rev PL-1, 04 Rev PL-1, 05 Rev PL-1, 06 Rev PL-1, 07 Rev PL-1; (03)-S-01 Rev PL-1, 02 Rev PL-1, 03 Rev PL-1

Structural methodology statement dated July 2015 (INFORMATION ONLY)

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

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

1. Because of their detailed design the new rear roof slope and alterations to the front entrance doors and steps, and because of the detailed design and the height and bulk of the roof extension, the external alterations would harm the appearance of this grade II listed building. They would also fail to maintain or improve (preserve or enhance) the character and appearance of the Harley Street Conservation Area. This would not meet S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 5, DES 6, DES 9, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

**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 so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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<b>4</b>

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.



**DRAFT DECISION LETTER**

**Address:** Harcourt House, 19 Cavendish Square, London, W1G 0PL

**Proposal:** Internal and external alterations to Harcourt House to enable the provision of new Class D1 facility ground and lower ground levels with residential uses above.

**Plan Nos:** (01)-P-100 Rev PL; (03)-P-01 Rev PL-1, 02 Rev PL-1, 03 Rev PL-1, 04 Rev PL-1, 05 Rev PL-1, 06 Rev PL-1, 07 Rev PL-1, 08 Rev PL-1, 09 Rev PL-1, 10 Rev PL-1, 11 Rev PL-1, 12 Rev PL-1, 13 Rev PL-1; (03)-E-01 Rev PL-1, 02 Rev PL-1, 03 Rev PL-1, 04 Rev PL-1, 05 Rev PL-1, 06 Rev PL-1, 07 Rev PL-1; (03)-S-01 Rev PL-1, 02 Rev PL-1, 03 Rev PL-1

**Case Officer:** Jo Palmer Direct Tel. No.020 7641 2723

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

1 Reason:

Because of their detailed design the new rear roof slope and alterations to the front entrance doors and steps, and because of the detailed design and the height and bulk of the roof extension, the external alterations would harm the appearance of this grade II listed building. They would also fail to maintain or improve (preserve or enhance) the character and appearance of the Harley Street Conservation Area. This would not meet S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 5, DES 6, DES 9, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

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# Agenda Item 5

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 26 January 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>Nightingale House, 65 Curzon Street, London, W1J 8PE,</b>		
<b>Proposal</b>	Demolition of existing building and redevelopment, including excavation, to create up to three basement storeys, ground and eight storeys to be used for up to 32 residential flats, creation of a ground floor arcade link between Stratton Street and Curzon Street for use as retail and/or restaurant uses (Classes A1 and A3). Provision of up to 21 car parking spaces over the basement level, basement and rooftop plant areas. Creation of terrace/balcony areas on both elevations		
<b>Agent</b>	JLL		
<b>On behalf of</b>	LGPS Nominee (Nightingale House) Limited & LGPS Nominee (Canterbury) Limited as Trustees for the National Grid UK Pension Scheme		
<b>Registered Number</b>	15/07627/FULL	<b>Date amended/ completed</b>	18 August 2015
<b>Date Application Received</b>	18 August 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

<p>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:</p> <ul style="list-style-type: none"> <li>a) Provision of £32,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate;</li> <li>b) Unallocated car parking;</li> <li>c) Car Club Membership for 25 years for all the flats;</li> <li>d) Walkway Agreement;</li> <li>e) Car Lift Maintenance;</li> <li>f) Highways alterations required for the development to occur (at no cost to the City Council); and</li> <li>g) The costs of monitoring the S106 agreement.</li> </ul> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:</p> <ul style="list-style-type: none"> <li>(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director</li> </ul>
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of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

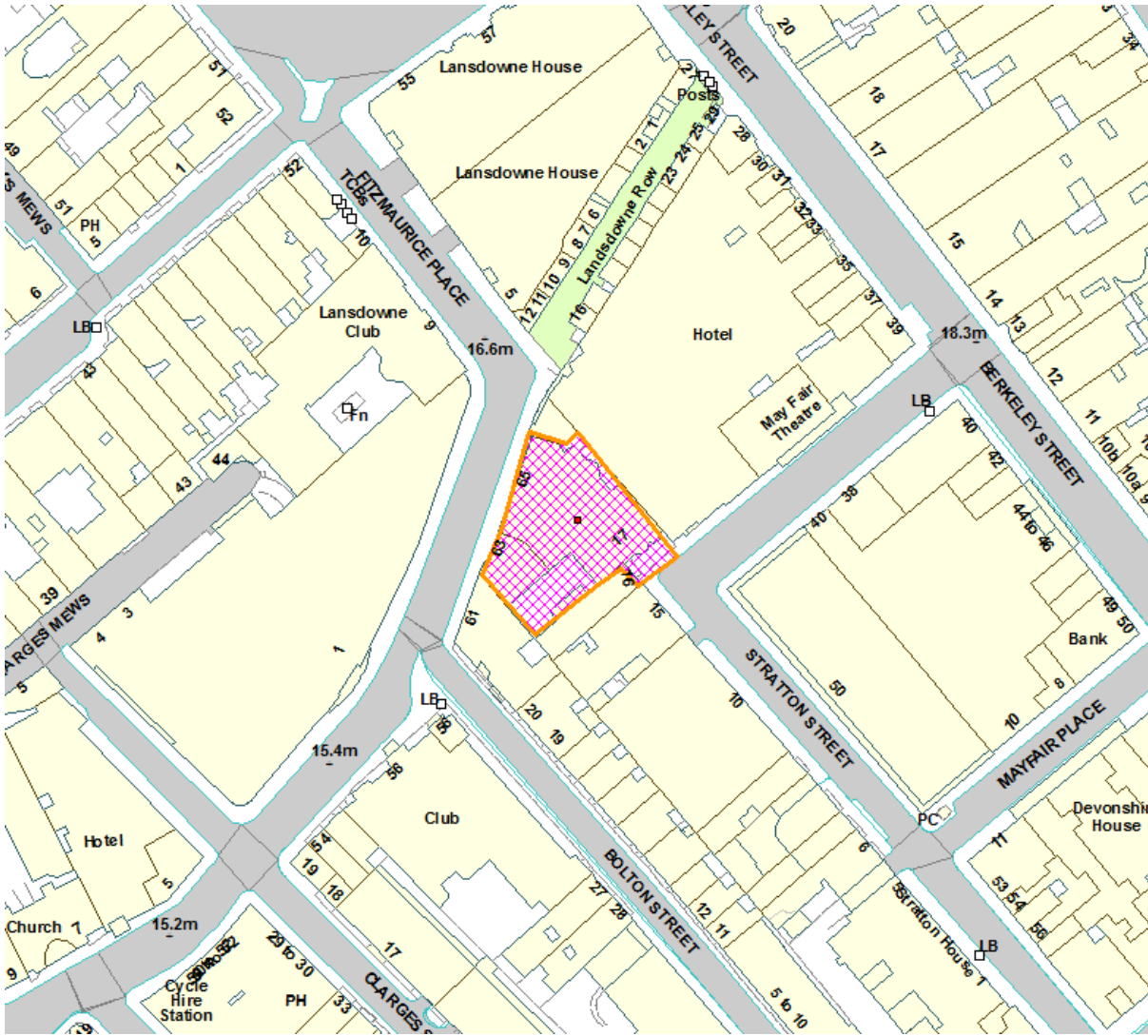
The application site comprises an unlisted office building situated within the Mayfair Conservation Area. The building has two frontages, on Stratton Street and one on Curzon Street. It is proposed to demolish and erect a new building comprising of two basement levels, lower ground, ground and eight upper levels. A new retail arcade is proposed at ground floor level and this will provide a pedestrian link between Stratton Street and Curzon Street. Retail/restaurant floorspace is proposed at lower ground and ground floor level, with up to 32 residential units proposed over the upper floors.

The key issues for consideration are:

- The design of the new building and the impact on the Mayfair Conservation Area;
- The impact of the new restaurant uses on existing and new residential properties

The proposal is considered acceptable and complies with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan) and is therefore recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Elevation on Stratton Street



Elevation on Curzon Street

## 5. CONSULTATIONS

### HISTORIC ENGLAND

Do not wish to comment on the application

### HISTORIC ENGLAND (ARCHAEOLOGY)

Any response to be reported verbally

### GREATER LONDON AUTHORITY

- The principle of the redevelopment of the site for housing and retail is acceptable in strategic planning terms;
- The Council should confirm it is satisfied with the mix of units proposed;
- The overall massing, height and architectural treatment of the scheme addresses the scale of the conservation area and is supported in strategic planning terms. The loss of 17 Stratton Street is outweighed by the public benefits of the creation of a new arcade and the high quality design of the building;
- The applicant should demonstrate on plan how it will satisfy the accessible housing standards in terms of design requirements and floor plans;
- The proposed climate change adaption measures should be secured by condition;
- The carbon dioxide savings meets the London Plan targets, however further information should be provided on cooling and overheating, the site heat network and the proposed CHP;
- A car free development is strongly encouraged, other than the proposed wheelchair accessible spaces. The cycle parking layout should be re-considered and details secured by condition;
- Management of the pedestrian arcade should be secured by condition.

### TFL

- Car parking provision is excessive;
- Provision of pedestrian route through the site is supported.

### RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

No objection

### HIGHWAYS PLANNING MANAGER

No objection

### ENVIRONMENTAL HEALTH

No objection

### BUILDING CONTROL

No objection

### DESIGNING OUT CRIME

No objection

### THE ROYAL PARKS

Any response to be reported verbally

THAMES WATER UTILITIES LTD  
No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED  
No. Consulted: 529  
Total No. of replies: 2  
No. of objections: 2  
No. in support: 0

Objections raising all or some of the following:

Other

- Noise and dust pollution from the demolition of Nightingale House
- Curzon Street will have to be shut down during demolition works which will be severely disruptive to traffic
- Excavation works may affect services to nearby buildings
- Vibration from excavation works
- Impact of the works on local businesses
- Impact of the works on guests of the Lansdowne Club

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site relates to an unlisted office building situated within the Mayfair Conservation Area. The building has frontages on both Stratton Street and Curzon Street, the building is known as Nightingale House. Stratton Street runs north from Piccadilly, and then runs east to meet Berkeley Street. The application site is located at the point the road changes direction.

The existing building has two distinct frontages, the Stratton Street facade dates from 1893, and was retained following redevelopment in late 1980's and the facade to Curzon Street is post modern.

The application site overlooks two lightwells, one to the east which is shared with the Mayfair Hotel and one to the west which is overlooked by three other buildings; 16 Stratton Street; 61 and 63 Curzon Street.

The nearest residential is located at 16 Stratton Street, where there are six residential flats. Permission has been granted for six residential flats at 63 Curzon Street and these would potentially share a boundary wall with the application site.

### **6.2 Recent Relevant History**



Permission was granted in 1984 for the demolition of the existing building to provide an office building comprising basement, ground and six upper floors. The facade on Stratton Street was retained and formed part of an earlier unlisted mansion (residential) block. This permission was implemented and it is the building subject to this application.

### 63 Curzon Street

Planning permission was granted on 30 January 2013 for the use of the basement and ground floor as retail and the first to sixth floors as residential.

## 7. THE PROPOSAL

Permission is sought for the demolition of the existing building and rebuilding to provide two sub-basement levels, lower ground, ground and first to eight floor levels. Two of the basement levels which will accommodate the car parking and cycle parking associated with the development; a new retail arcade is proposed at ground floor level, this will provide a pedestrian link between Stratton Street and Curzon Street. There are differences in levels between both streets, with ground floor level on Stratton Street being higher than Curzon Street. Therefore the arcade will be slightly downward sloping towards Curzon Street. The entrance to the arcade will be double height on Stratton Street. The western part of the arcade will accommodate retail/restaurant uses, with retail displays on the opposite side. The lower ground floor will provide additional floorspace for either retail/restaurant uses. The upper floors will be used for up to 32 residential units. The residential units will be accessed from Stratton Street.

The land use table below sets out the proposal.

	Existing (M2)	Proposed (M2)	+/-
Office	4959	0	-4959
Retail/Restaurant	0	892	+892
<b>Total Commercial</b>	<b>4959</b>	<b>892</b>	<b>-4067</b>
Residential	0	7451	+7451
<b>Total</b>	<b>4959</b>	<b>8343</b>	<b>+3384</b>

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### **Loss of office use**

The proposal results in the loss of 4959m<sup>2</sup> of office floorspace. The application was submitted prior to the 1<sup>st</sup> September 2015, therefore the loss of the office floorspace cannot be resisted in this instance.

#### **Residential (unit mix and standard of residential floorspace)**

The proposed mix would provide 6 x 1 bed, 16 x 2 beds, 9 x 3 beds and 1 x 4 bed units and therefore 31% would be provided as family-sized accommodation. This is 2% short of the UDP Policy H5 target, however it is considered acceptable. All the flats would comply with the minimum dwelling space standards as set out in the London Plan.

All the flats are lifetime homes compliant and three of the units (10%) will be provided as easily adaptable wheelchair housing.

**Table showing the flat sizes (m2)**

Level	1 Bed		2 bed			3 bed			4bed
1	65	96	107	111					
2	66		108	111	136	166			
3	66		108	111	136	166			
4	66		108	111	136	166			
5	66		108	111	136	166			
6				108	137	172	158		
7						143	138	208	
8								380	
<b>Total</b>	<b>6</b>		<b>16</b>			<b>9</b>			<b>1</b>

In its Stage 1 response the GLA has stated that the proposed mix and provision of family sized units is supported. No children's playspace is being provided, and the applicant has identified that the child yield produced by the development is 6-7 children. The Mayor's 'Shaping Neighbourhoods: Play and Recreation' SPG requires proposals that include housing to provide 10sqm of playspace per child. The SPG does not require on-site provision where child yield is less than 10. Given the low child yield and proximity to Green Park and Berkeley Square, it is not considered necessary to provide playspace.

### **Affordable housing**

The 7451m2 additional residential floorspace requires the provision of 25% on-site affordable housing under Policies H4 and S16. Where it is acknowledged as being impractical or inappropriate to provide affordable housing either on nor off-site (on land nearby), the City Council may consider a financial contribution to the City Council's affordable housing fund in accordance with the adopted formula. For the amount of increased floorspace in this scheme, a policy compliant contribution would be £11,888,000.

The applicant has stated that the affordable housing cannot be provided on site for the following reasons:

- The building would require separate lift and stair access from the street to the affordable housing floors within the building to enable ease of management and acceptable management costs; and
- Potential loss of the retail arcade to accommodate the separate core.

The applicant has therefore concluded that on-site affordable housing is inappropriate. The applicant has also concluded that it is not possible to provide the required affordable housing floorspace off-site due to the high costs involved in purchasing a site, which would have an impact on viability.

The applicant has also argued that the proposed development is not able to be support the level of policy compliant contribution set out above.

The City Council's has appointed an independent viability expert to assess the proposals and to advise on the matter. Our consultants agree that the provision of on-site affordable housing would undermine the economic viability of the proposals. They also agree that the scheme would not be viable with a payment towards affordable housing as the residual land value (projected value) is lower than the benchmark land value (existing value).

### **Retail**

There is no existing retail floorspace and its introduction is welcomed and supported by Policy S21 of the City Plan. The retail floorspace will be created within the arcade, and a unit is also proposed on Curzon Street to give the arcade a street presence. The useable floorspace will be created to the western side of the arcade with retail display units/kiosks to the eastern side of the arcade. All the floorspace (apart from the display units/kiosks) will be used flexibly between retail and/or restaurant uses. It is not considered reasonable to impose a condition to ensure that a portion of the new floorspace is only used for retail purposes as there is no existing retail floorspace on site.

### **Restaurant**

City Plan Policy S6 accepts that, in principle, entertainment uses are appropriate for the Core Central Activities Zone, the site is not located within a Stress Area where the introduction of new entertainment uses is considered more sensitive.

The maximum size for the restaurant within the flexible floorspace is 795m<sup>2</sup>. In such circumstances, given that these are 'large-sized' entertainment uses UDP Policy TACE10 applies which requires the City Council to consider carefully the potential impact on residential amenity and environmental quality, taking into account the cumulative impact with other nearby entertainment uses, and the effect on the character and function of the area.

The restaurant proposals are speculative with no end-user identified, and therefore it is not possible at this time to consider the likely impact by assessing the track record of the intended occupier. However, conditions could be used to control the opening times and activity to limit the impact. These conditions would ensure that the uses would essentially be sit-down restaurants with any ancillary bar limited to a small part of the premises (i.e. 15%) and the bar could only be used by diners before and after meals. The restaurant would only be accessible when the arcade is open and it is proposed that the arcade will be open from 07.00 to 02.00. It is considered, to protect residential amenity, that the restaurant is restricted to a terminal hour of 12.30. This will allow the customers to leave and allow staff to clean up before the arcade is closed at 02.00.

The proposed lower ground floor plan indicates that part of the western lightwell will be used for outside seating in connection with the restaurant use. As there are residential windows at first floor level and above in the proposed development and within 16 Stratton Street a condition is recommended that the courtyard is only used until 21.00 daily.

The building has been designed to incorporate an internal kitchen extract terminating at high level.

## 8.2 Townscape and Design

Only the Stratton Street façade has merit and it makes a positive contribution to the street and surrounding Mayfair Conservation Area despite its rather crude modern roof. There are various longer views of the site from the north and south and the site is prominent in views from Berkeley Square and particularly Piccadilly where it terminates the view north along Stratton Street.

In urban design terms, there has never been any connection between Stratton Street and Curzon Street and this layout reflects the historic development of the area which was formerly occupied by the grounds of Devonshire House and Lansdowne House.

The culverted River Tyburn runs along Curzon Street, and there may be archaeological deposits related to early development on this site. The archaeological desk-top assessment has identified potential for remains of low significance but an archaeological watching brief during preliminary ground preparation and subsequent foundation construction would ensure that any archaeological assets were not removed without record. It is also recommended that geoarchaeological sampling is undertaken if alluvial deposits are present within the site. Any archaeological work would need to be undertaken in accordance with an approved Written Scheme of Investigation (WSI) and this may be secured by condition.

There are listed buildings near the site in Fitzmaurice Place and Stratton Street, the setting of which will be affected by the proposed development, and Berkeley Square is a grade II registered garden.

### **Proposed design**

#### Curzon Street

The facade is divided into three bays across the street frontage, each of which has a projecting window or balcony. The larger area of masonry between the bays creates a vertical rhythm with an oriel window terminating the western edge of the facade where it steps back to the facade of No.63 Curzon Street. The service access is at the opposite end of the facade to where the northern end of the arcade emerges. Between the two is a retail unit and fire escape.

The two top floors would be set back from the street frontage to provide terraces, and the lower of the two floors is designed as an arcade over which sits a metal clad, lightweight, glazed pavilion.

Brickwork is to be of a “Roman module”, i.e. long and thin, set between natural stone string courses above a stone plinth. The recessed upper floors are set below zinc roofing. The windows will have bronze finished frames and other metalwork will have a bronze finish.

In design and heritage asset terms, the proposed façade will be an improvement because of its more visually interesting and appropriate palette of materials and detailed design. Thus the view from Berkeley Square will be improved and the setting of the grade II-star listed Lansdowne Club will be improved.

### Stratton Street

The proposed facade comprises two bays and incorporates the southern entrance to the arcade which stands forward of the adjoining entrance to the residential accommodation. The verticality of the design sits well in its context and will maintain the setting of nearby listed buildings in Stratton Street and the character and appearance of the surrounding conservation area.

### Arcade

The new arcade is a substantial public benefit which will help to better connect the new Crossrail Station in Davies Street to Green Park and the streets south of Berkeley Square. Furthermore, it will be an attractive feature in its own right and will reinforce the character of Mayfair as a high quality retail destination which features several other arcades. The layout and generous scale of the arcade will make it an attractive feature of the building and of the new walking route it creates.

### **Conclusion**

In design and heritage asset terms, there is no objection to redevelopment of the site as the detailed design is suitable for the site and its surroundings. The arcade is highly attractive and will provide substantial public benefits to outweigh the harm caused by loss of the existing Stratton Street façade which, whilst handsome, has been very poorly served by the 1980s conversion to office use and which could not be sensibly altered to accommodate the new arcade.

## **8.3 Residential Amenity**

The nearest residential is located within 16 Stratton Street where there are six residential units. This building shares an internal lightwell with the application site, 61 and 63 Curzon Street and all these buildings have windows that overlook the lightwell.

### **Daylight and Sunlight overview**

Policy S29 of the City Plan aims to improve the residential environment of Westminster whilst UDP Policy ENV13 aims to protect and improve residential amenity, including sunlighting and daylighting to existing properties. In implementing Policy ENV13 the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used and it is a requirement of the City Council that most major planning applications are accompanied by a sunlight and daylight report using accepted BRE methodology.

For daylighting matters, the most commonly used BRE method for calculating values is the 'vertical sky component' (VSC) method which measures the amount of light reaching the outside face of a window. This method is most widely used as it does not need to rely on internal calculations, which means that it is not necessary to gain access to all affected properties to assess, and compare, potential light loss across all properties. However, it is still important to know what an affected room is used for, since the BRE guidelines principally seek to protect living rooms, dining rooms, kitchens and, to a lesser extent, bedrooms. Under this method, if an affected window is already not well lit (considered to be below a nominal value of 27%) and the daylight received at the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable. The numerical values used in this

assessment are not intended to be prescriptive in every case and are to be interpreted flexibly depending on the given circumstances.

With regard to sunlighting, the BRE guidelines state that where the amount of sunlight to an existing window is already limited, and would be reduced by more than 20% as a result of a development, the window is likely to be adversely affected. Only windows facing within 90 degrees of due south of the proposed development need to be tested, and living rooms and conservatories are considered to be the most important rooms to be protected in terms of sunlighting – with kitchens and bedrooms less so.

A daylight and sunlight report has been submitted with the planning application which includes an assessment of the development under the BRE guidelines, and this is analysed below.

All the windows within 16 Stratton Street have been tested for reductions in VSC. One window out of the 56 tested results in a loss in VSC levels of 23%. This window is located on the front elevation at fourth floor level. This window is one of three windows at this level which are likely to serve the same room. The other two windows comply with the BRE guidelines (losing 14% and 10%) and it is therefore considered that the occupants of this room are unlikely to notice the loss to this one window.

Three of the windows that face into the lightwell result in a loss of no sky line over 20%. However, the rooms will still remain well lit and it is not considered that the losses are materially harmful.

None of the windows within 16 Stratton Street face within 90 degrees of due south and therefore do not need to be tested.

The applicants have also tested 63 Curzon Street, as this property has planning permission to change to residential. This shows that there will be no breaches to the BRE guidelines and in fact there will be minor improvements to the rear windows.

### **Sense of Enclosure**

The proposed building will not extend beyond the existing footprint, but will be approximately two storeys taller. It is not considered the proposed building will have an adverse effect on the nearest residential windows within 16 Stratton Street.

### **Privacy**

There are existing office windows within the lightwell shared with the nearest residential at 16 Stratton Street and there is mutual overlooking between these two properties. The existing office windows clad the whole façade but they are set away from No.16 due to an existing escape stair. The proposal will introduce a more traditional fenestration pattern but they will be built closer to the existing residential windows, therefore reducing the distance window to window. This may lead to greater mutual overlooking, but it is not considered that this is so significant to justify the refusal of the planning application.

New windows are proposed to the east lightwell which overlook the Mayfair Hotel. There is a two storey bar (Skybar) in close proximity (within the lightwell) to the boundary of the application site, the Skybar is fully glazed on all sides, including the roof. There is the potential for overlooking from customers using the Skybar into the new residential

windows at second floor level. The applicants have set back this elevation from the boundary and are proposing a 2m high screen to prevent overlooking. This is considered acceptable.

### **Noise**

As previously mentioned the Mayfair hotel's 'Skybar' is located 3 metres from the proposed residential windows and although there are no openable windows in the 'Skybar', Environmental Health were concerned that there is the potential for noise and disturbance to the proposed residential units (internally and external amenity areas). A supplementary acoustic report has been submitted, and this recommends that suitable glazing is selected to ensure the internal noise levels are in line with the standard noise conditions. Environmental health are now satisfied with the findings in the acoustic report and do not object to the proposal subject to conditions.

Plant is proposed within the basement and at roof level. The roof top plan will be enclosed by a screen. An internal full height extract duct is proposed and this will terminate within the plant screen.

## **8.4 Transportation/Parking**

The proposal includes the provision of 21 car parking spaces for the 32 residential units, resulting a shortfall of 11 spaces. The on-street parking pressures within 200m of this site are 55% during the nighttime and 70% during the daytime. It is expected that 32 residential units in this location would generate an additional nine vehicles, and these nine additional vehicles would increase on-street car parking to over the 80% threshold.

The applicant has indicated that they will offer car club membership for 25 years. However, the applicant has not indicated that the off-street car parking would be provided on an unallocated basis. It is considered that the 21 car parking spaces should be offered on an unallocated basis and this, in conjunction with car club membership, would be considered consistent with UDP Policy TRANS23. The unallocated parking will be secured within the S106.

Electric charging points are shown on the proposed plans and these will be secured by condition.

The GLA has objected to the scheme on the grounds of over-provision of car parking spaces, but this is not supported by the Council's own parking policy.

Cycle parking is proposed for the residential part of the development, and a total of 60 spaces are proposed. Cycle parking is also proposed for the retail and restaurant parts of the development and a total of 24 spaces are proposed and this is considered acceptable and consistent with FALP.

The basement car parking is accessed via a single car lift from Curzon Street. The car lift is set back from the building edge, but it does not provide an off-street waiting space. Concern has been raised by the Highways Planning Manager that this may lead to localised congestion. The applicant has indicated that one car lift cycle time is 1 minute

53 seconds and argues that the trip generation rates, the lift cycle times and number of car parking spaces queuing on the highway would be rare.

Concern has also been raised to the lack of pedestrian visibility splays for vehicles exiting the car park. A condition is recommended to ensure that adequate visibility splays are incorporated into the ground floor design.

The existing building incorporates off-street servicing. The proposed building relies on on-street servicing and the Highways Planning Manager concludes that the proposal is not consistent with S42 of the City Plan or TRANS20 of the UDP which require adequate off-street servicing provision. In response, the applicant has submitted a servicing management plan (SMP). It is considered that the SMP is insufficiently detailed and as such an updated SMP is required. This will be secured by condition.

The applicant is proposing a number of changes to the on-street parking restrictions, including changes to two existing taxi ranks, the applicants are in discussions with TFL regarding these changes. In Curzon Street, the existing taxi rank would be moved slightly along the frontage of the development site to accommodate the new basement car parking access. Within Stratton Street an existing taxi bay is proposed to be removed. These changes will be subject to the formal Traffic Management Order process, which is a separate legal process.

#### **Arcade/Walkway Agreement**

The pedestrian link is welcomed and the applicant has agreed that it will be secured with a formal Walkways Agreement and a two metre passage will be kept clear at all times, this will be secured via S106 to ensure that the benefit is delivered and retained. To prevent anti-social behaviour a condition is recommended to ensure that the arcade is closed between 02.00 – 07.00 daily.

### **8.5 Economic Considerations**

The economic benefits generated by the proposal are welcomed.

### **8.6 Access**

Level access will be provided for the retail arcade and to the residential entrance. Lift access is provided to all the residential units.

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

#### **Basement**

Objections have been received to the impact of the proposed basement excavation on neighbouring properties.

This impact of basement excavation is at the heart of concerns expressed by residents across many central London Boroughs, heightened by well publicised accidents occurring during basement constructions. Residents are concerned that the excavation of new basements is a risky construction process with potential harm to adjoining



buildings and occupiers. Many also cite potential effects on the water table and the potential increase in the risk of flooding.

Studies have been undertaken which advise that subterranean development in a dense urban environment, especially basements built under existing vulnerable structures is a challenging engineering endeavour and that in particular it carries a potential risk of damage to both the existing and neighbouring structures and infrastructure if the subterranean development is ill-planned, poorly constructed and does not properly consider geology and hydrology.

While the Building Regulations determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely, the National Planning Policy Framework March 2012 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by land instability.

The NPPF goes on to state that in order to prevent unacceptable risks from land instability, planning decisions should ensure that new development is appropriate for its location. It advises that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The NPPF advises that planning decisions should ensure that a site is suitable for its new use taking account of ground conditions and land instability and any proposals for mitigation, and that adequate site investigation information, prepared by a competent person, is presented.

Officers consider that in the light of the above it would be justifiable to adopt a precautionary approach to these types of development where there is a potential to cause damage to adjoining structures.

To address this, the applicant has provided a structural engineer's report explaining the likely methodology of excavation. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage.

The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

This report has been considered by our Building Control officers who advised that the structural approach appears satisfactory. We are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with the integral professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the building regulations in due course. This report will be attached for information purposes to the

decision letter. It is considered that this is as far as we can reasonably take this matter under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations as cited above. To go further would be to act beyond the bounds of planning control.

The City Management Plan will include policies specifically dealing with basement and other subterranean extensions. This is at an early stage of development and will not carry any weight as a material consideration in determining planning applications until it has progressed significantly along the route to final adoption.

### **Construction**

A number of objections have been received relating to the impact of the construction on noise, dust, health and safety and construction traffic causing congestion etc. Planning permission cannot be reasonably refused on these grounds. However, a construction management plan (CMP) has been submitted, but this does not fully address all the requirements for CMP's as set out in Appendix 2 of the adopted Basement SPD. A condition is recommended to ensure that a full CMP is submitted before works start on site.

The applicant has offered to fund the Council's Environmental Inspectorate to monitor compliance with a Site Environmental Management Plan. This contribution will be secured under a S106 legal agreement given the close proximity of the site to adjoining residential properties.

Hours of building and excavation works can also be controlled by condition. Through the use of these measures it is considered that objectors concerns about the impact of the construction process are fully addressed.

### **Sustainability**

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture. The applicant has submitted an energy strategy setting out the measures incorporated into the proposed development in the context of sustainable design principles. The London Plan states that there should be a 35% reduction. The submitted energy assessment states that this 35 % reduction will be achieved through a range of passive design features and demand reduction measures, the demand for cooling will be minimised through solar control glazing. As there are no existing or planned district heating networks within the vicinity, the applicant has provided a commitment to ensure that the development is designed to allow for future connection to a district heating network should one become available. The proposal includes the installation of a CHP unit, which will be secured by condition. Photovoltaic panels (95sqm) are proposed at roof level and these will also be secured by condition. In conclusion the proposal complies with S28 of the City Plan and Policy 5.2 of the London Plan.

## **8.8 London Plan**

The application is referable to the Mayor of London and a Stage 1 response has been received which is generally supportive of the scheme, however there are concerns to the level of car parking, which is covered previously in this report.

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

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

### **8.10 Planning Obligations**

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced later in 2015. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

For reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure a combination of some the following:

- Contribution to the Council's Environmental Inspectorate (merged services Environmental Sciences and the Environmental Inspectorate);
- Unallocated car parking;
- Car Club Membership for 25 years for all the flats;
- Walkway Agreement;
- Car Lift Maintenance;
- Highways alterations required for the development to occur (at no cost to the City Council); and
- Costs of monitoring the legal agreement.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Residents Society Of Mayfair & St. James's, dated 28 September 2015
3. Response from Historic England (Listed Builds/Con Areas), dated 16 September 2015
4. Response from the GLA dated 26 October 2015
5. Response from TFL dated 6 October 2015
6. Response on behalf of the Environmental Inspectorate, dated 23 September 2015
7. Letter from occupier of Designing Out Crime, dated 14 September 2015
8. Memorandum from the Highways Planning Manager dated 12 October 2015
9. Memoranda from Environmental Health dated 23 December 2015 and 7 January 2016
10. Email from Building Control dated 22 December 2015
11. Letter from occupier of 9 Fitzmaurice Place, Mayfair, dated 30 September 2015
12. Letter from occupier of Flat 16, 17 Clarges Street, dated 6 October 2015

### 10. Key Drawings

Do not scale dimensions. Dimensions govern.  
 All dimensions are in millimeters unless noted otherwise.  
 Pillbrow & Partners shall be notified in writing of any discrepancies.

**Sections Legend**

- Void
- Reception/Lobby
- Reception
- Open
- Meeting Room
- Plant
- Corridor
- Core

2 10/06/2015 Issue for Planning Approval  
 1 10/07/2015 Draft Stage 2 Review

Revisions

**Pillbrow & Partners**

218 St. John Street  
 BOSTON  
 02114  
 Tel: 0207 463 3333  
 www.pillbrow.com

**Nightingale House**

Issue  
 Stage 2 Planning

Drawing No.  
 Section BB

Project Number  
 1419-25002

Scale  
 1:100

Author  
 MN

Checker  
 WW

Do not scale dimensions. Dimensions govern.  
 All dimensions are in millimeters unless noted otherwise.  
 Pillbrow & Partners shall be notified in writing of any discrepancies.

**Plan Colour Fill Legend**

- Void
- Reception/Lobby

INDICATIVE SHOP FRONT DESIGN

2 10/06/2015 Issue for Planning Approval  
 1 10/07/2015 Draft Stage 2 Review

Revisions

**Pillbrow & Partners**

218 St. John Street  
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**Nightingale House**

Issue  
 Stage 2 Planning

Drawing No.  
 Ground Floor Plan

Project Number  
 1419-10100

Scale  
 1:100

Author  
 MN

Checker  
 WW

Item No.
5

(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 HELEN MACKENZIE BY EMAIL AT [hmackenzie@westminster.gov.uk](mailto:hmackenzie@westminster.gov.uk)

**DRAFT DECISION LETTER**

**Address:** Nightingale House, 65 Curzon Street, London, W1J 8PE,

**Proposal:** Demolition of existing building and redevelopment, including excavation, to create up to three basement storeys, ground and eight storeys to be used for up to 32 residential flats, creation of a ground floor arcade link between Stratton Street and Curzon Street for use as retail and/or restaurant uses (Classes A1 and A3). provision of up to 21 car parking spaces over the basement level, basement and rooftop plant areas. Creation of terrace/balcony areas on both elevations

**Plan Nos:** 1415 03099 1, 03100 1, 03101 1, 03102 1, 03103 1, 03104 1, 03105 1, 03106 1, 03107 1, 04001 1, 04002 1, 04003 1, 04004 1, 10097 2, 10098 2, 10099 2, 10100 2, 10102 2, 10101 2, 10106 2, 10107 2, 10108 2, 10109 2, 20001 2, 20002 2, 20003 2, 20004 2, 25001 2, 25002 2, 25003 2, 25004 2

Structural methodology statement dated August 2015 (INFORMATION ONLY)

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

**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 basement excavation 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 basement excavation 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. (C11BA)

**Reason:**

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 Development shall not commence until a drainage strategy detailing any on and /or off site drainage works, has been submitted to and approved by the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred in the strategy have been completed.

Reason:

The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

- 4 If you provide an A3 use or uses, no more than 15% of the floor area of each of the uses shall consist of a bar or bar seating. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 5 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours 07.00 to 00.30 Monday to Saturday and 08.00 - 23.00 on Sundays. (C12DC)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 6 You must apply to us for approval of details of the ventilation system to get rid of cooking smells from the restaurant(s), including details of how it will be built and how it will look. You must not begin any restaurant use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 7 You must apply to us for approval of a management plan to show how you will prevent



restaurant customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 8 In the event that the Class A3 restaurant use is implemented , you must submit detailed drawings showing the layout of the restaurant uses before the restaurants are occupied. The drawings must include the entrances, kitchens, covers and bar areas.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 9 In the event that the Class A3 restaurant use is implemented, you must provide detailed drawings (plans and section/elevation) showing the full height kitchen extract duct indicated on your approved drawings. These details must be provided before the restaurant use commences and the approved duct shall thereafter be permanently retained for as long as the restaurant is in use.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 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 TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 11 You must apply to us for approval of details of how waste is going to be stored on the site (for the residential and A uses) and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 12 Prior to occupation of retail/restaurant uses, you must submit and have approved in writing a Servicing Management Plan. The plan should identify the process, internal storage locations, scheduling of deliveries and staffing.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 13 You must apply to us for approval of details of the location of the electric charging points; one charging point must be provided for every two car parking spaces. You must not occupy the residential part of the development until we have approved what you have sent us and you have carried out the work according to the approved details.

Reason:

To promote sustainable forms of transport.

- 14 You must apply to us for approval of details of the ventilation system to get rid of vehicle exhaust emissions from the basement car park. You must not occupy the residential part of the development until we have approved what you have sent us and you have carried out the work according to the approved details.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 15 You must apply to us for approval of detailed drawings of the following parts of the development; the detailed design of the vehicle entrance/exit and adjoining walls. You must not start work until we have approved what you have sent us.

You must then carry out the work according to these detailed drawings;. (C26CB)

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

- 16 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 17 You must apply to us for approval of a lift gate management strategy. This should include the provision of a traffic light system to the entrance to the car lift, ensure that the lift should always be returned to ground floor level to give priority to drivers entering the development, and set out a maintenance strategy to minimise downtime.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 18 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved either:

- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or  
 (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 19 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 Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 20 All vehicles must enter and exit the site in forward gear

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 21 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: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 22 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. 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 using the approved materials. (C26BC)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 23 You must apply to us for approval of detailed drawings at 1:10 of the following parts of the development - of a typical example of each window type and of all external doors and gates. 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 detailed drawings. (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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 24 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 25 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terraces. (C26NA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 26 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the balconies. (C26OA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

27 **Pre Commencement Condition.**

(a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work until we have approved what you have sent us.

(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, to Historic England, and to the Greater London Sites and Monuments Record, 1 Waterhouse Square, 138-142 Holborn, London EC1N 2ST.

(c) You must not use any part of the new building until we have confirmed that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

- 28 No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council.

The plan shall consider the issues set out in Appendix 2 of our Supplementary Planning Document - Basement Development in Westminster. These include measures to mitigate dust and to confirm the other relevant codes and standards that you will need to comply with.

You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 29 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise 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 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 30 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. Inside bedrooms 45 dB LAm<sub>ax</sub> is not to be exceeded no more than 15 times per night time from sources other than emergency sirens

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.

- 31 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 29 and 30 of this permission. 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 details approved before the residential units are occupied and thereafter retain and maintain.

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: Strategic Policies adopted November 2013, by contributing to reducing

excessive ambient noise levels.

- 32 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated land, a guide to help developers meet planning requirements' - which was produced in October 2003 by a group of London boroughs, including Westminster.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.  
(C18AA)

Reason:

To make sure that any contamination in the building or of the ground under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007.  
(R18BA)

- 33 (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: Strategic Policies adopted November 2013, 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.

- 34 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.



- 35 You can only use the western courtyard for sitting out purposes (in connection with the restaurant/retail use) between 07.00 - 21.00 Monday to Sunday. Outside these hours the full height doors must be fixed shut.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

**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: Strategic Policies adopted November 2013, Unitary Development Plan, 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 In relation to Condition 15, details are required to ensure that there are adequate visibility splays for other highways users including pedestrians.
- 3 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply.

The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [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.

- 4 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. If you would like more information, you can contact Ray Gangadeen on 020 7641 7064. (I54AA)
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 6 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 phone 020 7641 2642. 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). (I09AC)
- 7 Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation.  
  
Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year). (I38AB)
- 8 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the basement and ground floor (west side only) floor can change between the retail (Class A1) and restaurant (Class A3) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)
- 9 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting

work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 10 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:

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

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

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

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

- 11 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.  
Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:

- \* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;
- \* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;
- \* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;
- \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
- \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 12 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following.

\* Window cleaning - where possible, install windows that can be cleaned safely from within the building.

\* Internal atria - design these spaces so that glazing can be safely cleaned and maintained.

\* Lighting - ensure luminaires can be safely accessed for replacement.

\* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).

More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/falls/index.htm](http://www.hse.gov.uk/falls/index.htm).

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)

- 13 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 14 Condition 32 refers to a publication called 'Contaminated land, a guide to help developers meet planning requirements' - produced in October 2003 by a group of London boroughs, including Westminster. You can get a copy of this and more information from our environmental health section at the address given below.

Contaminated Land Officer  
Environmental Health Consultation Team  
Westminster City Council  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

Phone: 020 7641 3153

(I73AB)

- 15 Approval for this residential use has been given on the basis of façade sound insulation and ventilation mitigation measures being incorporated into the development to prevent ingress of external noise. Occupiers are therefore advised, that once the premises are occupied, any request under the Licensing Act 2003, Environmental Protection Act 1990, Control of Pollution Act 1974 or planning legislation for local authority officers to make an assessment for noise nuisance arising from external sources is likely to be undertaken only if the noise and ventilation mitigation measures installed are in operation i.e. windows kept closed and ventilation scheme utilised.
- 16 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- a) Provision of £32,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate;
  - b) Unallocated car parking
  - c) Car Club Membership for 25 years for all the flats
  - d) Walkway Agreement
  - e) Car Lift Maintenance
  - f) Highways alterations required for the development to occur (at no cost to the City Council).

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.

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# Agenda Item 6

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 26 January 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>Site 1: 57 Broadwick Street, London, W1F 9QS,</b> <b>Site 2: Shaftesbury Mansions, 52 Shaftesbury Avenue, London, W1D 6LP,</b>		
<b>Proposal</b>	<p>Site 1: Alterations and extensions to the existing building including erection of single storey extension at roof level to enlarge fourth floor level and extensions at ground, first, second and third floor levels on north (Broadwick Street), south and west (Marshall Street) elevations to provide ancillary car / cycle parking, ancillary plant and retail (Class A1) at basement level; part retail (Class A1), part dual / alternative retail (Class A1) and / or cafe / restaurant (Class A3), part office entrance (Class B1) and part residential entrance (Class C3) at ground floor level; dual / alternative office (Class B1) and / or retail (Class A1) use at first floor level and installation of plant at rear first floor level; office (Class B1) with rear terraces at second and third floor level; part office (Class B1) with front terraces and two flats (Class C3) with terraces at fourth floor level and installation of kitchen extract plant to fourth floor roof.</p> <p>Site 2: Use of part ground and first to fourth floors as seven residential flats (Class C3).</p>		
<b>Agent</b>	Rolfe Judd Planning		
<b>On behalf of</b>	Shaftesbury PLC		
<b>Registered Number</b>	1.15/07957/FULL 2. 15/07956/FULL	<b>Date amended/ completed</b>	17 September 2015
<b>Date Application Received</b>	26 August 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

### Site 1:

1. Does Committee agree that the application is only considered acceptable subject to an amending condition requiring the submission of revised drawings to provide two family sized units of residential accommodation at 57 Broadwick Street.

2. Subject to 1 above grant conditional planning consent subject to the completion of a S106 legal agreement to secure:
- a. The residential use at 52 Shaftesbury Avenue to be provided prior to the occupation of the office/retail/restaurant accommodation on site;
  - b. Works to the highway including the removal of street trees, phone box and other street furniture items prior to the commencement of development;
  - c. Replacement of street trees in vicinity of the site;
  - d. All relevant costs for the stopping up of parts of Marshall Street and Broadwick Street
  - e. The costs of monitoring the S106 legal agreement;
3. If the S106 legal agreement has not been completed within 6 weeks, then:
- a. The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not
  - b. The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
4. a. That Sub-Committee authorises the making of a draft order pursuant to S247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway to enable this development to take place.
- b. That the City Commissioner of Transportation be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order. (The applicant will be required to cover all costs of the Council in progressing the stopping up order).

**Site 2:**

Recommendation:

1. Grant conditional permission, subject to the completion of a S106 legal agreement to secure:
  - a. Car club membership for each flat for 25 years;
  - b. The costs of monitoring the S106 legal agreement;
2. If the S106 legal agreement has not been completed within 6 weeks, then:
  - a. The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not
  - b. The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the



proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

57 Broadwick Street (Site 1) is an unlisted building located on the south side of Broadwick Street at the junction with Marshall Street within the Soho Conservation Area and the Core Central Activities Zone as defined by the adopted City Plan. The building comprises of basement, ground and first to third floors with a tower element on part of the building. The ground and first to fourth floors are currently primarily used as office accommodation whilst the tower is in use as residential flats and the basement is utilised for parking and services. The proposals are for extensions at ground to fourth floor levels, reconfiguration of parking and servicing arrangements and the installation of plant with the partial change of use of the property to provide residential, office, retail and restaurant uses. External alterations are proposed from the ground to fourth floors. The residential tower does not form part of the proposals.

52 Shaftesbury Avenue (Site 2) is an unlisted building in the Chinatown Conservation Area comprising of ground to fourth floor level, which is currently used as office accommodation. The proposals include the provision of off-site residential within this property through the conversion of the office accommodation.

The key issues are:

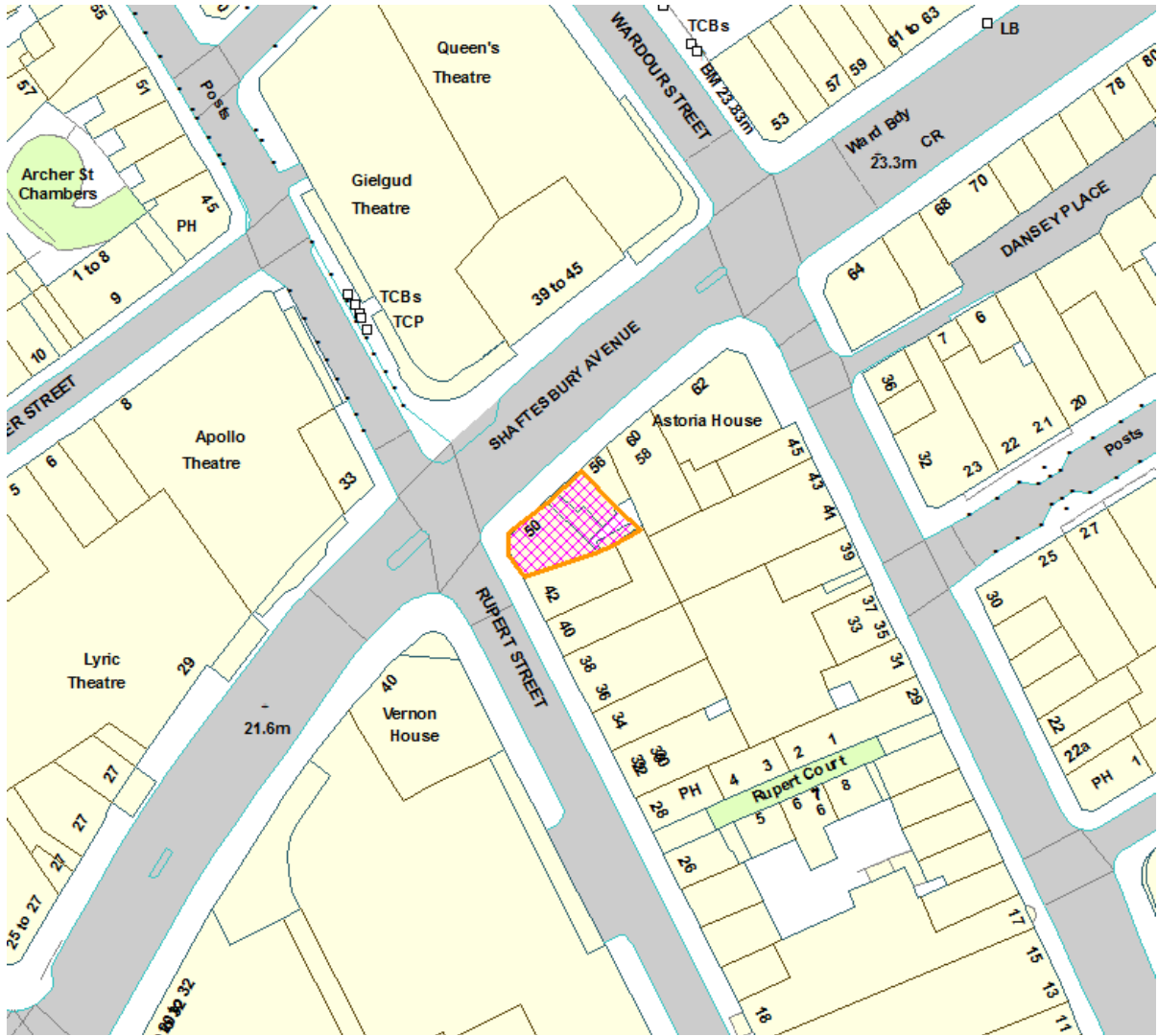
- \* The principle of the restaurant use at Site 1 and the terminus of the extraction ducting;
- \* The principle of providing a proportion of the required off-site residential accommodation at Site 2;
- \* The amenity impact of the proposed extensions and terraces on surrounding sensitive properties at Site 1;
- \* Impact of alterations at Site 1 on the character and appearance of the conservation area;
- \* The impact of the scheme on servicing and parking on the local highway network;
- \* The impact of the extensions at Site 1 on the existing street trees and the mitigation of this impact; and
- \* The proposed mix of residential units.

There are substantial benefits associated with the scheme with regard the provision of floorspace serving visiting members of the public and significant design benefits. Given this, Committee's views are sought as to the acceptability of the proposal in terms of the proposed mix of residential units. It is considered that the current mix (which provides no family sized accommodation) is unacceptable in principle and the application is only considered acceptable with an amending condition requiring the submission of revised drawings to show the provision of two family sized units at 57 Broadwick Street.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Site 1



Site 2



## 5. CONSULTATIONS

### SITE 1

#### SOHO SOCIETY

Objection on the following grounds:

- The loss of trees and the loss of tree planting spaces need to be fully addressed with regard alternative tree planting in the immediate vicinity.
- The large commercial units are not 'commensurate' with the Soho Conservation Area, the creation of smaller retail / restaurant units would be acceptable.

#### ENVIRONMENTAL HEALTH

No objection.

#### HIGHWAYS PLANNING MANAGER

No objection.

#### ARBORICULTURAL SECTION

Objection - the loss of two street trees is considered unacceptable and it is considered a further three street trees would be so adversely impacted by the works that these trees would also die.

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

No. Consulted: 271

Total No. of replies: 36

No. of objections: 33

No. in support: 3

Objections on some or all of the following grounds:

#### Land use:

- The proposed retail unit is too large;
- The required residential provision should be within the demise of 57 Broadwick Street not off-site in the vicinity.

#### Amenity:

- Impact of the proposed restaurant on public disorder and an increase in noise from patrons;
- Cumulative impact of restaurants in the vicinity;
- Odour nuisance from the proposed restaurant extraction duct;
- Overlooking and noise from the fourth floor terraces adversely impacting existing residents in Stirling Court;
- Increased sense of enclosure to residents in 1A Marshall Street;
- Loss of daylight and sunlight to existing residents in 1A Marshall Street, Stirling Court;
- Overlooking of the existing residential units in 1A Marshall Street;
- Concern that the green roof areas could be used as outside amenity space;
- Potential noise disruption from the users of the proposed terraces;

- The proposed overhanging element of the facades will provide opportunities for anti-social behaviour;
- Noise impact from the plant installation.

#### Highways:

- Reduction in the pavement width will adversely impact pedestrians;
- The reduction in car parking provision will have adverse implications for parking in the vicinity and implications for services being provided to the residential flats;
- Increased congestion from deliveries to the new commercial units;
- The existing residential flats are not being provided with cycle parking spaces.

#### Design:

- Design of the proposed building could be improved;
- The design of the podium section creates a disjointed appearance when compared to the retained existing tower element of the building;

#### Other:

- Disruption to local residents from construction works;
- Unacceptable loss of street trees.
- Possible fire hazard resulting from the removal of the existing external metal staircase.
- The submitted Statement of Community Involvement does not accurately reflect the opinions expressed by residents.
- Potential disruption from waste collections to residential amenity and the highway.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

#### SITE 2

#### SOHO SOCIETY

No objection.

#### ENVIRONMENTAL HEALTH

No objection.

#### HIGHWAYS PLANNING MANAGER

Objection – lack of off-street and on-street car parking availability.

#### CROSS LONDON RAIL LINKS LTD

Any response to be reported verbally.

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

No. Consulted: 22

Total No. of replies: 1

Letter of raising concern to the impact of the construction works on the operation of the Apollo Theatre at 31-33 Shaftesbury Avenue.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### The Application Sites

Site 1 relates to 57 Broadwick Street an unlisted building located within the Soho Conservation Area, the building has frontages on Broadwick Street and Marshall Street. The building comprises of a podium and tower elements. The application relates to the basement, ground and first to fourth floor levels. The tower element is primarily unaffected (except for at fourth floor level). The basement is currently utilised as car parking (for both residential and commercial occupiers), the ground floor is office accommodation with a lawful retail unit on the west side of the site which is currently unlawfully occupied by a restaurant operator. The first, second and third floor levels are used as office accommodation, with the fourth floor used as office space and a 'caretakers flat'. The remainder of the tower is used as residential flats.

Site 2 relates to 52 Shaftesbury Avenue an unlisted building situated within the Chinatown Conservation Area. The building comprises ground to fourth floor levels and is currently utilised as office accommodation. The property has elevations to Shaftesbury Avenue on the north and Rupert Street on the west.

### Recent Relevant History

Site 1- Planning permission was refused on the 17<sup>th</sup> May 1984 for the use of part of the basement car park (approximately 25 car parking spaces) by residents of the area. An appeal against an enforcement notice, issued against the use of the car park by unauthorised persons, was dismissed on the 6<sup>th</sup> February 1985.

## 7. THE PROPOSAL

At Site 1, permission is sought for extensions to the property on the Broadwick Street elevation to the north, the Marshall Street elevation to the west and at the rear of the property where there is currently a servicing yard to the south. It is proposed to partially extend the property on Broadwick Street at ground floor level to match the building line of the properties to the east, which will partially re-instate the historic building line. Further west along Broadwick Street extensions are proposed at first to third floor levels which oversail the public highway and at the rear of the property the extensions at ground to third floor level would oversail a new servicing yard. It is also proposed to erect a single storey extension at fourth floor level to the east of the podium for use as office accommodation with a plant room above. Green roof areas and terraces are proposed at second, third, fourth and fifth floor level.

Internally it is proposed to use part of the basement and ground as a retail unit and part of the ground floor for flexible retail or restaurant use. Flexible use retail/office use is also proposed at first floor level. At fourth floor level it is proposed to create two residential flats in an area which is currently utilised as office accommodation. At basement level, the creation of retail accommodation and the provision of cycle parking and space for plant results in a reduction in the level of off-street parking.



The proposal will result in the removal of two existing trees and tree pits on Broadwick Street. An existing telephone box is also to be removed from the public highway on Broadwick Street to ensure sufficient pavement width is retained for pedestrian movement.

The proposals at Site 2 include the change of use of the part ground to fourth floor levels to residential accommodation (Class C3)

The table below shows the land use figures for both schemes:

**57 Broadwick Street:**

Use	Existing (GEA)	Proposed (GEA)	+/- difference (m <sup>2</sup> )
Retail	171	520	+349
Office	2714	2167	-547
Residential	267	521	+254
Refuse and Sub-station	118	341	+223
Car and cycle parking	906	535	-371
Flexible retail and office	0	674	+674
Flexible retail and restaurant	0	322	+322
<b>TOTAL</b>	<b>4176</b>	<b>5080</b>	<b>+904</b>

**52 Shaftesbury Avenue:**

Use	Existing (GEA)	Proposed (GEA)	+/- difference (m <sup>2</sup> )
Office	561	0	-561
Residential	0	561	+561
<b>TOTAL</b>	<b>561</b>	<b>561</b>	<b>0</b>

**Land use figures for the combined schemes:**

Use	Existing (GEA)	Proposed (GEA)	+/- difference (m <sup>2</sup> )
Residential	267	1082	+815
Commercial	2885	3122	+237
Refuse / Parking / Sub-station	1024	876	-148
<b>TOTAL</b>	<b>4737</b>	<b>5641</b>	<b>+904</b>

**Restaurant Use Table:**

	<b>Proposed restaurant incorporating basement and ground floor levels</b>
Restaurant floorspace (m2)	322m <sup>2</sup>
No of covers	150
Hours of Operation	07:30 till 00.30 Monday to Saturday 07:30 to 00:00 (midnight) Sundays and Bank Holidays
Ventilation arrangements	Kitchen extract duct terminating on the podium at fifth floor level and a/c units
Refuse Storage arrangements	To be stored within separate refuse and recycling storage areas at rear ground floor level.

**8. DETAILED CONSIDERATIONS****8.1 Land Use****8.1.1 Office use**

Depending on the flexible use of the first floor at Site 1, the proposals will either result in the loss of 547m<sup>2</sup> of office accommodation or an increase of 127m<sup>2</sup>. At Site 2, there will be a loss of 561m<sup>2</sup> of office floor space.

The application was submitted prior to the 1<sup>st</sup> September 2015, therefore the loss of the office floorspace cannot be resisted in this instance.

If the flexible floorspace at first floor was utilised as office floor space it would result in an uplift of 127m<sup>2</sup>. The site is located within the Core Central Activities Zone, where new offices are directed by City Plan Policy S18 and UDP Policy COM1. Therefore, an increase in office floorspace is acceptable in principle.

**8.1.2 Retail provision**

The proposal will result in an increase in retail accommodation on the site over basement, ground and potentially the whole of the first floor. There is an existing retail unit on the western side of the property fronting both Marshall Street and Broadwick Street (although this appears to be in unauthorised use as a restaurant use). The proposal would either result in a retail uplift of 349m<sup>2</sup> or 1023m<sup>2</sup> or a maximum of 1345m<sup>2</sup> if all the flexible floorspace at first floor level and ground floor is implemented as retail. This increase in retail floorspace is welcomed in land use terms at this location within the Core CAZ and West End Special Retail Policy Area. Policy S7 of the City Plan states that the West End Special Retail Policy Area will be maintained and enhanced through the provision of 'improved retail space'. Policy S6 states that within the Core CAZ 'retail floorspace is encouraged throughout the area'. The increase in retail accommodation is therefore considered a benefit of the scheme in this location.

Objections have been received from the Soho Society and local residents with regard the size of the proposed retail unit which they do not consider reflects the existing, smaller retail units in the wider Soho Conservation Area. The City Council does not have a policy basis to request the provision of smaller retail units, only policies to increase the provision of retail floorspace. For this reason the application could not be reasonably refused on these grounds.

### **8.1.3 Restaurant use**

The proposal includes a new restaurant use fronting Broadwick Street on the eastern side of the site measuring 322m<sup>2</sup>. City Plan Policy S6 accepts that, in principle, entertainment uses are appropriate for the Core Central Activities Zone. As the site is located within the West End Stress Area, the introduction of entertainment uses is considered more carefully. UDP Policy TACE9 states that permission for restaurant uses inside the Core CAZ and designated West End Stress Area may be permissible where the proposed development will have no adverse impact on residential amenity or local environmental quality as a result of noise, vibration, smells, late night activity, increased parking and traffic, and no adverse effect on the character or function of its area. Policy S24 of the City Plan also relates to new entertainment uses and has similar policy requirements for units of this size.

The immediate vicinity is characterised mainly by restaurant and retail units on the lower floors and office or residential uses on the upper floors. The nearest residential properties are on the upper floors of the adjoining building to the east (49 Broadwick Street), on the upper floors of the building opposite (William Blake House) and within the tower element of the application site itself. Objections have been received from nearby occupiers to the introduction of a new restaurant use which they consider may have implications for noise and disturbance from patrons and a cumulative impact when taking into account other entertainment uses in the vicinity.

The site is located within the defined West End Stress Area, an area where the numbers of restaurants, cafés, takeaways, public houses, bars and other entertainment uses is considered to have reached a level of saturation. Paragraph 8.89 of the UDP states that “in some parts of the city, particularly in the Stress Areas, there are significant numbers of entertainment premises close together”. In such circumstances the City Council will consider whether any additional entertainment proposal, when taken alongside others nearby, will adversely affect residential amenity, local environmental quality, or the character or function of the surrounding area.”

It is recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. Factors that the Council will take into account when assessing new entertainment uses include the gross floorspace to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use.

The restaurant proposals are speculative with no end-user identified, therefore it is not possible at this time to consider the likely impact by assessing the track record of the

intended occupier. However, conditions could be used to control the opening times and activity to limit the impact. These conditions would ensure that the use would essentially be sit-down restaurant with any ancillary bar limited to a small part of the premises (15%) and this could be used only by diners before and after meals.

The proposed restaurant would be accessed from Broadwick Street away from the existing residential entrance on Marshall Street. The main entrance doors at ground floor level would be required to be self-closing to minimise noise escape.

The opening hours of the premises are proposed as 07:30 till 01:00 however, it is considered due to the number of residential properties in the vicinity (including on the upper floors of 49 Broadwick Street) that the terminal hour should be 00:30 Monday to Saturday and 07:30 till midnight on Sundays and Bank Holidays. Paragraph 8.88 of the UDP states that; 'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'. The proposed opening hours therefore broadly accord with this policy.

Conditions are also proposed to ensure that there is no takeaway service (including home delivery service) from the restaurant and to restrict the number of covers to 150.

The proposed extract duct from the restaurant would terminate on the podium section of the building at fifth floor level. This is below the tower element of the building which is used as residential flats. The duct would terminate 13m from the residential windows in the tower. City Council's guidance; 'Guidelines for control of odour from commercial kitchen extract ventilation systems', states that extracts ducts should terminate higher than all sensitive windows that are within 20m of the duct terminus.

The applicant states that although they are the freeholder of the tower element of the building, they do not have the necessary consents from the long leaseholder to install the duct up the side of the tower, which would allow the duct to terminate above the residential windows. Therefore they state that the podium location is the only feasible location for the duct terminus. The applicant is proposing a high level scheme of odour reduction including an electrostatic precipitator, UV ozone system and carbon filtration which should provide an exceptionally high level of odour control. It is also noted that the proposed location of the ductwork terminus would allow for good air dispersion due to the duct being above the height of most other nearby buildings which allows for unhindered air movements.

A number of objections have been received from residents in the tower element of the building to the potential for odour nuisance from the proposed restaurant to detrimentally impact their amenity. An Environmental Health Officer has visited the site and assessed the submitted information, they consider that with suitably worded conditions to ensure the installation of the proposed odour reduction elements, a system of maintenance and further assessment of the exact location and design of the extract terminus, the proposal would provide an effective means of odour dispersal. Subject to these conditions the kitchen extract duct is considered acceptable and would provide the required odour discharge, the objections on these grounds are not therefore considered sustainable to justify refusing the application.

It is acknowledged that the restaurant premises would be located within the designated West End Stress Area and that adjoining occupiers have objected to the introduction of a restaurant use on noise grounds and its cumulative impact. However, the number of covers and the hours of use are similar to other premises in the immediate vicinity. It is therefore not considered that, subject to conditions, the proposal would have a detrimental impact on the living conditions of neighbouring residents nor local environmental quality and it is not considered the application could be refused on these grounds.

The principle of the proposed restaurant premises is therefore considered to be in accordance with UDP Policy TACE9 and City Plan Policy S24.

#### **8.1.4 Residential use**

Policies S1 of the City Plan and COM2 of the UDP seek to promote mixed use developments within the Central Activities Zone. Policy S1 requires that where the increase in office floorspace exceeds 200m<sup>2</sup> or the increase in retail accommodation exceeds 400m<sup>2</sup> the provision of an equivalent amount of residential floorspace will be required on-site where the council considers this appropriate and practical. This policy is not applied to changes of use between different commercial uses, only to extensions.

The application results in an overall increase in commercial floorspace of 650m<sup>2</sup>. The proposal would therefore trigger a requirement for on-site residential provision to match the commercial increase. It is proposed to create two new residential units at fourth floor level within Site 1, through the conversion of office accommodation, this results in a residential uplift of 254m<sup>2</sup>. The applicant has stated that additional residential floorspace cannot be provided within Site 1 due to existing structural walls that restrict the optimal layout of the space and create a number of rooms which could not be used for any purpose due to the need to create residential corridors to reach other units. A number of objectors have commented on this issue and questioned why the required residential provision can not be provided at Site 1. The applicant has provided drawings to support their rational and officers accept this argument. To address the shortfall in residential provision, the applicant proposes to convert an office building in their ownership at 52 Shaftesbury Avenue to residential accommodation comprising seven units. The floorspace of this property is 561m<sup>2</sup>. Across both sites there is an overall residential increase (815m<sup>2</sup>) which exceeds the commercial uplift and therefore the proposal is considered acceptable. The proposals also comply with Policies H3 of the UDP and S14 of the City Plan, which seek to maximise the amount of land or buildings in residential use.

Overall the proposals at Site 1 and 2 result in the creation of nine residential units. As the scheme would not result in an increase of residential floorspace exceeding 1000m<sup>2</sup> or in excess of 10 additional residential units there is no requirement for an affordable housing provision as set out in Policy S16 of the City Plan.

Policy H5 of the UDP requires that in new developments 33% of the residential units should be family sized (in excess of three bedrooms). Policy S15 of the City Plan reiterates this and states that 'residential development will provide an appropriate mix of units in terms of size, type, and affordable housing provision to contribute towards Westminster's housing needs, and creating mixed communities.' The application proposes 5x1 bedroom units and 4x2 bedroom units. To accord with the provisions of Policy H5 the proposal should include three family sized units, as none are proposed the

application is contrary to the requirements of the above policies. The policy can be applied with some flexibility where the proposed housing is located in a very busy or noisy location. The applicant states that due to the location of the proposed flats in Soho (and in particular on Shaftesbury Avenue) which are noisy locations, the provision of family sized should be applied flexibly. Whilst it is accepted that the proposed flats in Site 2 are on a busy, noisy road without external amenity space, the same arguments can not be applied to Site 1. Broadwick Street and Marshall Street are significantly quieter than Site 2, and there are already residential units in the vicinity, the proposed flats would also have private terraces. It is considered that minor internal amendments at fourth floor level to increase the size of the residential flats would enable the provision of family sized units in Site 1.

It is therefore considered the application is contrary to the provisions of policies H5 of the UDP and S15 of the City Plan and Committees view are sought on whether a condition requiring the submission of amended floorplans to provide two family sized units at fourth floor level in 57 Broadwick Street is acceptable.

The applicant has stated that the freeholder considers 'sensibly sized one and two-bedroom units of accommodation much more readily satisfy the demand for rental accommodation in this area', however; this is not considered sufficient justification for non-compliance with the City Council's adopted policies.

The table below shows the GIA floorspace figures of the proposed flats:

	Bedrooms	GIA (m <sup>2</sup> )
Site 1 (Unit 1)	1	63
Site 1 (Unit 2)	2	128
Site 2 (Unit 1)	1	49
Site 2 (Unit 2)	1	49
Site 2 (Unit 3)	2	70
Site 2 (Unit 4)	1	49
Site 2 (Unit 5)	2	73
Site 2 (Unit 6)	1	47
Site 2 (Unit 7)	2	70

The residential unit sizes accord with the size and space standards of the national technical standards.

All the units within Sites 1 and 2 are dual aspect and have openable windows which allow for natural ventilation. An acoustic report has been submitted to provide detailed information on the existing noise levels at Site 2 (being a noisy location on Shaftesbury Avenue adjacent to a restaurant use). Specifications have been provided of the acoustic mitigation proposed to ensure that internal noise levels in the units are compliant with City Council policy. Conditions are proposed to ensure these mitigation measures are installed and a further condition is proposed with regard the transference of vibration through the building structure as required by the Environmental Health Officer.

## 8.2 Townscape and Design

The existing tower and podium do not make a positive contribution to the character and appearance of the Soho Conservation Area. Ideally they would be demolished and

replaced by a lower building which related to its context. However, the tower is very unlikely to be demolished and so improvements to the appearance of the podium are acceptable in principle.

The new façade is brought forward to the historic building line, which is welcome in townscape terms. The façade comprises an expressed grid clad brickwork, with recessed blue glazed vertical and horizontal panels. This is an attractive modern design which will enhance the street.

The roof storey is set back from the street facade, approximately half way between the building line of the tower and the new facade, and features large areas of glazing at the east end (office) and smaller windows within metal panels at the west end (residential). There is a small roof level plant enclosure, set well back from the street frontages to reduce its visual impact.

The proposal is acceptable in urban design and conservation terms. It complies with the City Council's policies including S25 and S28 and Unitary Development Plan policies including DES 1, DES 5 and DES 9.

### **8.3 Residential Amenity**

#### **Sunlight and Daylight Overview**

A daylight and sunlight report has been submitted with the application which assesses the impact of the development with regard to BRE guidelines for daylight and sunlight to existing sensitive properties. Paragraph 2.2.2 of the BRE guidelines states that they 'may also be applied to any existing non-domestic building where the occupants have a reasonable expectation of daylight; this would normally include schools, hospitals, hotels and hostels, small workshops and some offices.'

Under the BRE guidelines the level of daylight received by a property may be assessed by the Vertical Sky Component which 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 window will have the potential to provide good levels of daylight. The guidelines also suggest that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change.

With regard to situations where the existing daylight levels are below the BRE recommendations, Policy ENV13 states that 'where principal habitable rooms such as bedsits, living rooms, studies or kitchens are affected, the City Council may find any loss of light unacceptable.' The BRE guidelines state that daylight to living rooms, kitchens, and bedrooms should be assessed but 'windows to bathrooms, toilets, storerooms, circulation areas and garages need not be analysed'.

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that any reduction in sunlight below this level should be kept to a minimum. If the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just

during winter months, then the occupants of the existing building are likely to notice the loss of sunlight.

The submitted report considers the impacts of the proposals on residential properties at 1 Marshall Street, 73 Beak Street, 71 Beak Street, William Blake House (which is on Broadwick Street opposite the application site) and Marshall House (which is opposite the application site on Marshall Street).

### Daylight

None of the assessed windows in 71 Beak Street, 73 Break Street or Marshall House experience losses in excess of the BRE guidelines with regards to VSC. However, some residential windows in William Blake House and 1 Marshall Street do experience material losses in excess of the stated guideline levels.

Objections have been received on the potential loss of daylight / sunlight to residential occupiers within 1 Marshall Street and to residential occupiers within the flats in the tower section of the building.

Within 1 Marshall Street the material losses are to panes of projecting semi circular window at first floor level. The window has been divided into seven 'panes' and three of these experience VSC losses in excess of 20% where the remaining VSC is under the 27% threshold. Overall the window will continue to retain good levels of VSC from the other four 'panes' which make up the semi circular window serving a living room and therefore the losses to the window are considered acceptable.

There are not considered to be any implications for daylight / sunlight to the flats in the tower part of the site as all extensions are at lower floor levels. There is a proposed enclosure for the extract duct terminus at fifth floor level, which will be at the same height as residential windows in the tower but this will be to the east of the windows and approximately 9m distant. It is not therefore considered to result in any detrimental impact upon the daylight / sunlight levels that these flats will receive

There are VSC losses in excess of the BRE Guidance to windows at William Blake House, which is located opposite the site at third, fourth and fifth floor levels. These losses are detailed in the table below. As no objections have been received to the application from the occupants of these residential units it is not known what rooms these windows serve.

Window	%VSC		
	Existing	Proposed	Loss
Third Floor (W3)	2.71	1.99	26.57%
Third Floor (W4)	0.23	0.09	60.87%
Third Floor (W5)	1.63	1.16	28.83%
Third Floor (W8)	4.43	3.39	23.48%
Third Floor (W9)	0.32	0.12	62.50%
Third Floor (W10)	1.70	1.12	34.12%
Fourth Floor (W4)	0.86	0.27	68.60%
Fourth Floor (W5)	2.13	1.63	23.47%
Fourth Floor (W8)	1.54	0.74	51.95%



Fifth Floor (W4)	1.05	0.70	33.33%
Fifth Floor (W8)	1.72	1.29	25%

These losses exceed the 20% threshold stipulated within the BRE guidance and the remaining VSC is below the 27% threshold. However, it should be noted that all the windows which experience these losses in excess of the BRE Guidelines have deep recessed balconies.

The BRE Guidance states that 'existing windows with balconies above them typically receive less daylight. Because the balcony cuts out light from the top part of the sky, even a modest obstruction opposite may result in a large relative impact on the VSC, and on the area receiving direct sunlight.' This would appear to be the case in this instance; all the windows detailed in the table above have deep recessed balconies. Other windows at the same floor levels (which do not have deep balconies) all experience minor losses well within the BRE Guidance. It would therefore appear that the losses result from the design of William Blake House with the deep recessed balconies and not from the proposed development and the application could not be reasonably refused on these grounds.

### **Sunlight**

An assessment has been made to the sunlight losses of windows at 73 Beak Street and William Blake House. There are no losses of sunlight to 73 Beak Street but again the same windows within William Blake House are disproportionately affected due to the recessed balcony areas. Again, the windows tested which are not affected by balconies are compliant with the BRE Guidance whilst a number of the windows with balconies have losses in excess of the BRE Guidelines. As detailed above, it is considered that the losses to sunlight are due to the design of William Blake House and the proposal is considered acceptable in daylight and sunlight grounds.

### **Sense of Enclosure**

Objections have been received from the residential occupier at 1 Marshall Street with regards to the increased sense of enclosure. Policy ENV13 of the UDP states that the City Council will seek to ensure new developments do not result in a 'significant increase in the sense of enclosure'. The occupants of these flats would have oblique views of the extension proposed at the rear of the property and have more direct views of the extension proposed on Marshall Street. The extension on Marshall Street is proposed to project approximately 0.5m at ground floor level and 2.5m at first to third floor levels over the public highway on Marshall Street. The extension is approximately 12.5m away from the residential windows in 1 Marshall Street and therefore the sense of enclosure is not considered to cause a material impact that would justify the refusal of the scheme.

### **Privacy**

There are terraces proposed in association with the office floorspace at the rear of the building at second and third floor level and fronting Marshall Street at fourth floor level. Further terraces are proposed at fourth floor level, one fronting Marshall Street and the other fronting Broadwick Street which are proposed as private terraces for the residential units. Objections have been received to the application due to the potential for overlooking to nearby sensitive properties from the proposed terraces.

Policy ENV13 of the UDP states that 'new developments should not result in a significant increase in overlooking', Policy S29 of the City Plan has a similar aim and seeks to ensure that new development does not result in an unacceptable loss of residential amenity.

The proposed terraces at the rear of the building would be within an enclosed courtyard and it is not considered they would result in any overlooking of nearby sensitive properties. There are windows facing into this courtyard area serving 45 Broadwick Street to the east of the proposed terraces but this building is in office use and therefore not protected by policy requirements with regard overlooking.

The fourth floor terrace fronting Marshall Street measures 1.5m x 9m and would be approximately 11.5m from the residential windows in 1 Marshall Street to the south. City Council records also show there are residential flats within the building on the opposite side of Marshall Street at a distance of 12.5m. Taking into account the distances to the nearest residential windows; the terrace is in use with a single residential unit and the relatively small size of the terrace it is not considered it would result in a 'significant' loss of privacy.

Two further terraces are proposed at fourth floor level fronting Broadwick Street, one serving the residential flat (measuring 8m x 2m) and the other terrace serving the office accommodation (measuring 13.5m x 2m). The office terrace is opposite the residential tower of William Blake House, which is approximately 15m away. There is a degree of existing mutual overlooking from the existing office building to the residential windows and the proposed office terrace will be closer, however, it is considered that conditions should be attached to control the hours of use of the office terrace. On this basis the proposal is considered acceptable, and objections received are not considered sustainable.

An objector has commented on the potential for noise nuisance to result from the use of the terraces which would impact on residential amenity. These concerns are noted and considered justified, a condition is imposed to restrict the hours of use of the terraces for the office accommodation to between 08:30 and 20:30 daily. Due to the relatively small size of the residential terraces and that they are only associated with single residential units it is not necessary to condition the hours of use of the terraces.

## **8.4 Transportation/Parking**

### **Building line**

#### **Site 1**

It is proposed to extend the building line along Broadwick Street and Marshall Street. Adjacent to 49 Broadwick Street, the ground floor would be extending by 2.5m for a distance of 17m (restoring the historic building line), the rest of the ground floor on Broadwick Street and Marshall Street would be extended by approximately 0.5m. It is also proposed to oversail the public highway at second, third and fourth floor levels on Broadwick Street and on the Marshall Street elevations. To facilitate the extensions of the building line it is proposed to remove two street trees and a phone box and re-locate a litter bin to allow for 2.75m of clear pavement to be retained for pedestrian movement. The Highways Planning Manager considers the proposal acceptable. Along the remainder of Broadwick Street (towards the junction with Marshall Street) there is at least 4m of

pavement width retained for pedestrian movement. Although some of this space is taken up with street trees and public cycle parking hoops, the Highways Planning Manager considers the application acceptable on highways grounds subject to a stopping-up order, an oversailing license and a S106 to include the removal of the relevant trees and phone box and re-location of the litter bin.

The principle of restoring the historic building line for this small section is cautiously considered acceptable when taking into account the other benefits provided by the proposal. It is noted the reduction in the pavement width has been objected to by a number of local residents but considering the comments from the Highways Planning Manager and that with the removal of certain items of street furniture the pedestrian zone will be compliant with the Westminster Way the proposal is considered acceptable.

### **Car and cycle parking**

#### **Site 1**

There are 35 car parking spaces at basement level, and a condition was attached to the permission granted for the development of the site in August 1967 which stated that 'the whole of the car parking accommodation shown on the drawings shall be provided and retained permanently for the accommodation of vehicles of the occupiers (including employees using the building) and persons calling at the building for the purposes of conducting business with the occupiers thereof.'

Planning permission was refused on the 17<sup>th</sup> May 1984 for the use of part of the basement car park (approximately 25 car parking spaces) by residents of the area. An appeal against an enforcement notice, issued against the use of the car park by unauthorised persons, was dismissed on the 6<sup>th</sup> February 1985.

It would appear that 14 car parking spaces in the basement are leased by residents in the tower part of the building, with the other spaces used by the commercial office occupier (Jaeger). The proposal seeks to reduce the current number of car parking spaces from 35 to 15 which would retain the existing 14 residential car parking spaces and provide one additional space for use by the two new residential units proposed at fourth floor level. Objections have been received from residential occupiers in Stirling Court to the loss of car parking spaces, they consider the current spaces are heavily used and any loss will increase parking demand in the vicinity and cause difficulties in having any trades people park off the site. It is noted that the car parking may be heavily used currently but the City Council seeks to restrict parking associated with commercial uses whilst providing residential spaces.

The Highways Planning Manager has advised that they consider this acceptable, provided all the car parking spaces which are lost are the ones used by the commercial occupiers. The applicant has advised this is the case and a large number of the car parking spaces are clearly marked on-site as being reserved for Jaeger (the office occupier). A condition is proposed to secure the use of the retained spaces for residential purposes. Any additional parking demand in the vicinity will be subject to the existing on-street parking restrictions.

27 cycle parking spaces are proposed in the basement of the property as a shared facility between the office, retail, restaurant and residential uses. To accord with the requirements

of FALP 53 cycle parking spaces should be provided for these uses. The applicant proposes that in addition to the 27 cycle parking spaces in the basement they could also provide 31 cycle parking spaces to the rear of the building opposite which is also in their ownership (50 Marshall Street). The Highways Planning Manager has reviewed the proposal, and whilst it is not an ideal arrangement they consider the proposal acceptable to meet the requirements of FALP and the cycle provision is secured by condition.

An objector has queried the why the proposal does not provide cycle parking spaces for existing residential occupiers. The planning application does not include the existing residential units and therefore there is no requirement for cycle parking to be provided for these units. The objection on these grounds is not therefore considered sustainable.

## **Site 2**

No off-street car parking is proposed in association with the seven residential flats at Shaftesbury Mansions. UDP Policy TRANS23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased beyond identified 'stress levels'. 2011 census figures indicate 29% of households in the West End ward have one or more cars. 'Stress levels' are considered to have occurred where the occupancy of on-street legal parking bays exceeds 80%.

Within a 200m radius of the site, parking occupancy during the day is 100%. Overnight parking occupancy is 96.6% although it should be noted residents can also park in metered bays and on single yellow lines.

The Highways Planning Manager has objected to the application due to the lack of on-street parking availability. However, given the close proximity of this site to excellent public transport facilities, including Leicester Square and Piccadilly Circus Underground Stations, and the City Council's aim to increase the housing stock, it is not considered that permission could be reasonably withheld for parking reasons. The applicant also agreed to provide lifetime membership of a car club for each of the residential units to ameliorate the impact of the development; this would be secured via the legal agreement. Given these measures the scheme is considered acceptable on parking grounds.

Cycle parking has not been shown on the submitted drawings and the Highways Planning Manager has objected to this not being provided. At the site visit it was determined that there was sufficient capacity in an area at the rear of the premises behind the lift core to provide cycle parking for the flats and if recommended for approval a condition would have been applied requiring the submission of amended floor plans to show this provision.

## **8.5 Economic Considerations**

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

## **8.6 Access**

Level access will be provided to the retail and restaurant units and to the office accommodation, lifts will serve all the floors in the offices. The internal layout of the restaurant and retail units has not been finalised as final tenants have not been identified.

## 8.7 Other UDP/Westminster Policy Considerations

### Plant

Plant is proposed at first and fifth floor levels on the Broadwick Street development site, whilst there is no plant associated with the Shaftesbury Avenue site.

The proposed plant installation has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance.

Background noise assessments have been undertaken at four key positions around the site. Some of the proposed plant will serve the retail and office accommodation with proposed operational hours of 07:00 till 23:00. The plant serving the residential units and the restaurant would require permission to operate at any time over a 24 hour period.

The area has been identified in the Acoustic Report as having background noise levels which are above WHO guideline levels during the daytime and nighttime. To accord with Policy ENV7 of the UDP, the noise levels emitted by the plant will have to be 10dB below background at the nearest noise sensitive windows.

The nearest noise sensitive windows have been identified as being within the tower element itself for the fifth floor plant area at a distance of 5m and the residential windows to 2 Marshall Street for the plant at first floor level being at a distance of 5m from the proposed plant.

In order to ensure the plant noise is compliant with the City Council criteria, Environmental Health require that certain mitigation measures are installed as detailed within the submitted acoustic report. This includes the acoustic screening for the units located on the main roof area and the installation of silencers, enclosures and lagging for the kitchen extract duct and other plant items. With these acoustic mitigation measures in place, Environmental Health has confirmed that the application will be compliant with the Council noise criteria and have raised no objection to the proposal. Conditions are proposed in relation to noise, vibration, the installation of the acoustic mitigation features and the submission of a supplementary acoustic report once the plant was installed to ensure the final plant installation was compliant with the stipulated criteria.

Whilst a number of objections have been received from local residents concerned about the potential for noise nuisance from the plant operation the applicant has provided the relevant information to demonstrate that the plant will be compliant with the City Council standard noise criteria. With safeguarding conditions in place it is not considered the proposal could be reasonably refused on this basis.

### Servicing

There is an existing servicing yard at the rear of the property which it is proposed to retain (although it will be slightly smaller mainly due to the provision of dedicated waste and recycling storage facilities). It is considered the proposed servicing yard will be able to cater for the same size vehicle as is currently accommodated. It is not considered the

service yard would be able to accommodate the servicing requirements of a supermarket and therefore any approval would have a condition attached restricting this use.

A number of objections have been received to the application commenting on the potential additional servicing requirements of the commercial units and how this would be accommodated on-site. A condition is proposed requiring the submission of a Delivery and Servicing Management Plan to co-ordinate the servicing requirements and to ensure that the access road is kept clear of vehicles as far as is possible, so that residents' vehicles do not get blocked in. The Highways Planning Manager considers that with a condition such as this in place the delivery and servicing schedule of the property will be much better controlled than is currently the case and should improve the situation for the residents who access the garaging. The objections on these grounds are not therefore considered sustainable.

### **Trees**

There are seven street trees located along Marshall Street and Broadwick Street (six Callery Pears and one Whitebeam). The application proposes the removal of two street pear trees and the retention of the remaining trees. The applicant has submitted an arboricultural report demonstrating the trees to be kept can be protected during construction works and then retained once the proposed building has been constructed. The report suggests that the retained trees are sufficiently distant from the proposed projections on the building that with some 'light canopy pruning' the trees will be able to co-exist with the proposed building.

Policy ENV16 of the UDP concerns trees and shrub cover, Part A states 'all trees in conservation areas and all those trees subject to tree Preservation Orders will be safeguarded unless dangerous to public safety or, in rare circumstances, when felling it required as part of a replanting scheme.' The policy further states the planning permission will be refused where development results in the loss or damage to trees making a significant contribution to ecology or the character / appearance of the conservation area and that planting of new or replacement trees could form conditions on planning consents. Policy S38 of the City Plan has much the same requirements.

The submitted arboricultural report has been assessed by the City Council Arboricultural Officer who considers the removal of the two pear trees unacceptable without replacement tree planting locations and species. Two of the trees (most western pear tree on Broadwick Street and the most northern pear tree on Marshall Street) can be protected during construction works and retained with the new building.

The canopies of remaining three retained trees have not been accurately plotted on the drawings and the Arboricultural Officer considers they have a larger canopy than is detailed in the report. Whilst it is accepted these trees could potentially survive the construction works, the surgery to the trees required to accommodate the building would be so severe as to render them worthless in amenity terms, and/or their future life expectancy would be compromised. As such, their retention even in the short term would not be realistic.

The Arboricultural Officer considers, that Broadwick Street is almost the only street in Soho which is broad enough and with wide enough pavements to accommodate tree

planting. Given the lack of available tree planting spaces in Soho, these trees provide very valuable greening. The loss of the street trees and the potential damaging impact upon those trees to be 'retained' has also been objected to by local residents as they consider the trees provide an important amenity benefit.

The applicant states that it would not be possible to amend the design of the proposed building to further accommodate the street trees as it would strike directly at the architectural and structural composition of the proposed building. The also point out that the applicant has planted 15 street trees in the last decade and made financial contributions to the Westminster Tree Fund.

The objection from the local residents and the Arbocultural Officer on these grounds are considered sustainable, however, it is not considered the application can be reasonably refused on these grounds and it is considered that further detailed information be submitted for the replacement of street trees in the vicinity of the site, this will be secured by condition.

### **Biodiversity**

Green roof areas are proposed at second, fourth and fifth floor level at Site 1. The inclusion of these green roof areas is welcomed in biodiversity terms and had the application been recommended for approval conditions would have been proposed to require the submission of a management plan and species list and to ensure that the green roof areas were provided and retained.

Concerns have been raised by objectors that the green roof areas, which are identified on the drawings as having 'restricted access', may be used by office workers as an amenity space which would result in noise and overlooking issues. There are proposed terrace areas associated with the offices and a condition is imposed to ensure access is restricted to the green roof areas solely for maintenance or means of escape. If the green roof areas were used for any other purpose then planning enforcement action could be taken. The objection on these grounds is not therefore considered sustainable.

### **Other Issues**

Objections have been received from residents of Stirling Court to the removal of the rear external fire escape as they consider this has implications for their fire safety. The proposal includes new fire escape arrangements which will be assessed against building regulations. This is not considered a material planning issue and the objections on these grounds are not considered sustainable.

A number of residents have commented on the submitted 'Statement of Community Involvement' which they do not consider accurately reflects the concerns they raised to the application at the public meeting. These comments are noted and it is considered the response to the public consultation more accurately reflects the opinions of the proposal by affected residents.

A letter of comment have been received from Nimax Theatre Group in relation to Site 2 and the impact of proposed construction works with regard noise and deliveries to the site upon the operation of the theatre. Taking into account the application does not include any

external alterations to the property it is not considered that construction noise (which will be internal) could possibly have an impact on the operation of the theatre which is on the opposite side of Shaftesbury Avenue. Any construction vehicles would also need to park close to the site and it is not considered that materials or workmen would park near the theatre as this would necessitate crossing Shaftesbury Avenue to service the site. It is not considered any conditions are required with regard this issue.

### **Waste**

Suitable waste stores are provided at the rear of Site 1 for the various uses with easy access to the rear servicing yard. A condition is proposed to ensure these storage facilities are provided and retained. It is noted that a number of objectors have commented on the provision of waste and recycling storage facilities but the Highways Planning Manager confirmed the proposal to be acceptable and it is considered to be a significant improvement on the current situation.

No waste storage details have been provided for Site 2 and a suitably worded condition is proposed requesting further information.

### **8.8 London Plan**

This application raises no strategic issues.

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

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

### **8.10 Planning Obligations**

Policy S33 of the City Plan states that 'the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and, if appropriate, seek contributions for supporting infrastructure.'

The City Council's approach to and priorities for planning obligations are set out in the Supplementary Planning Guidance (SPG) on Planning Obligations adopted January 2008. Planning obligations can serve to mitigate the land use impacts arising from a development either on the development site, in the wider locality, or where the development will increase local demands for facilities and services or where it is important to integrate the new development into the new community and environment so that it is more sustainable.

#### **Site 1**

- The residential use at 52 Shaftesbury Avenue to be provided prior to the occupation of the office/retail/restaurant accommodation on site;
- Works to the highway including the removal of street trees, phone box and other street furniture items prior to the commencement of development;
- Replacement of street trees in vicinity of the site;



- All relevant costs for the stopping up of parts of Marshall Street and Broadwick Street
- The costs of monitoring the S106 legal agreement;

#### **Site 2**

- Car club membership for each flat for 25 years;
- The costs of monitoring the S106 legal agreement;

These contributions are proposed to be secured by a S106 agreement.

### **8.11 Environmental Impact Assessment**

The application is not of a sufficient scale to warrant the submission of an Environmental Impact Assessment.

### **8.12 Other Issues**

#### **Construction impact**

Objections have been received to the application with regard the potential impact of the construction works on the amenity of existing residents with regard noise, dust and transportation movements. A condition is proposed requiring the submission of a Construction Management Plan and standard conditions are attached in relation to the building hours. With these conditions in place it is considered the impact of the construction is ameliorated.

#### **Crime and security**

Comments have been received from objectors that the overhanging elements of the facades could provide opportunities for anti-social behaviour. However, the overhanging elements are quite limited and it is not considered having projecting floors would automatically result in anti-social behaviour. It is noted that the entrances to the restaurant and the office are recessed and amending conditions are proposed to ensure these are flush with the surrounding shopfronts.

## **9. BACKGROUND PAPERS**

### **Site 1:**

1. Application form
2. Memorandum from the Highways Planning Manager dated 27 November 2015.
3. Memorandum from Environmental Sciences dated 23 November 2015 and subsequent email dated 11 January 2016.
4. Memorandum from the Arboricultural Section dated 2 December 2015 and subsequent email dated 11 January 2016.
5. Response from Soho Society, dated 6 October 2015 and the 18 October 2015.
6. Letter from occupier of Flat 7, 1A Marshall Street, dated 22 October 2015
7. Letter from occupier of Flat 7, 1A Marshall Street, dated 22 October 2015
8. Letter from occupier of 7.1 Stirling Court, Marshall St, dated 14 October 2015
9. Letter from occupier of flat 9, 16 Upper John Street, London, dated 13 October 2015
10. Letter from occupier of Flat 9, 45 Broadwick Street, dated 7 October 2015

11. Letter from occupier of 53 Stirling Court, Marshall Street, dated 21 October 2015
12. Letter from occupier of Flat 8/5, Stirling Court, Marshall Street, dated 14 October 2015
13. Letter from occupier of Marshall Street, London, dated 14 October 2015
14. Letter from occupier of 7/3 Stirling Court, Marshall Street, dated 14 October 2015
15. Letter from occupier of 7.5 Stirling Court, 3 Marshall St, dated 14 October 2015
16. Letter from occupier of 93 Stirling Court, 3 Marshall Street, dated 13 October 2015
17. Letter from occupier of 10.1 Stirling Court, 3 Marshall Street, dated 14 October 2015
18. Letter from occupier of 5.6 Stirling Court, Marshall St, dated 14 October 2015
19. Letter from occupier of 55 Dean Street, London, dated 18 October 2015
20. Letter from occupier of Flat 1, 6 Upper John Street, dated 21 October 2015
21. Letter from occupier of 6 Upper John Street, London, dated 12 October 2015
22. Letter from occupier of 10.2 Stirling Court, London, dated 14 October 2015
23. Letter from occupier of 6.6 Stirling Court, 3 Marshall Street, dated 13 October 2015
24. Letter from occupier of Flat 8.3 Stirling Court, London, dated 23 October 2015
25. Letter from occupier of 53 Stirling Court, London, dated 13 October 2015
26. Letter from occupier of 9.6 Stirling Court, 3 Marshall St, dated 14 October 2015
27. Letter from occupier of Flat 2, 6 Upper John Street, dated 16 October 2015
28. Letter from occupier of Flat 2, 6 Upper John Street, dated 13 October 2015
29. Letter from occupier of 6 Upper John Street, London, dated 12 October 2015
30. Letter from occupier of Flat 2, 6 Upper John Street, dated 12 October 2015
31. Letter from occupier of Flat 2, 6 Upper John Street, dated 21 October 2015
32. Letter from occupier of 65 Stirling Court, 3 Marshall Street, dated 14 October 2015
33. Letter from occupier of Flat 12, 6 Upper John Street, dated 13 October 2015
34. Letter from occupier of Stirling Court, London, dated 13 October 2015
35. Letter from occupier of Stirling Court, London, dated 15 October 2015
36. Letter from occupier of Stirling Court, Marshall Street, dated 14 October 2015
37. Letter from occupier of 53 Stirling Court, Marshall Street, dated 13 October 2015
38. Letter from occupier of 94 Stirling Court, 3 Marshall Street, dated 13 October 2015
39. Letter from occupier of Stirling Court, 3 Marshall Street, dated 26 October 2015
40. Letter from occupier of 61-63, Beak Street, dated 24 October 2015
41. Letter from occupier of Flat 5.1 Stirling Court, Marshall Street, dated 26 October 2015
42. Letter from occupier of Stirling Court, 3 Marshall Street, dated 26 October 2015
43. Letter from occupier of Stirling Court, Marshall Street, dated 2 November 2015
44. Email from occupier of Flat 5.3, Stirling Court, Marshall Street, dated 23 October 2015.

**Site 2:**

1. Application form
2. Email from the Soho Society, dated 6 October 2015.
3. Memorandum from Environmental Sciences, dated 24 September 2015.
4. Memorandum from the Highways Planning Manager dated 27 November 2015.
5. Letter from occupier of 11 Maiden Lane, London, (representing the Apollo Theatre at 31-33 Shaftesbury Avenue) dated 8 October 2015.

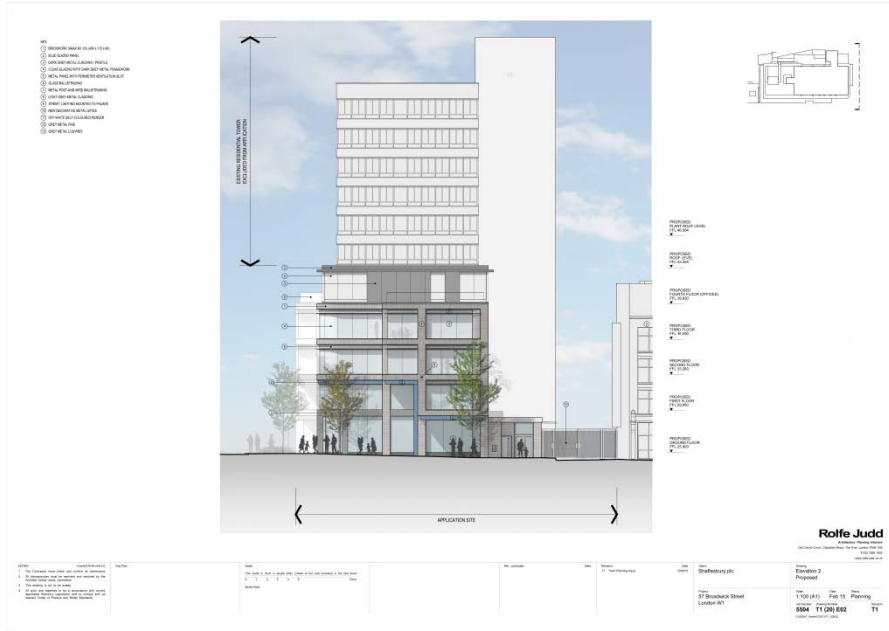
**Selected relevant drawings**

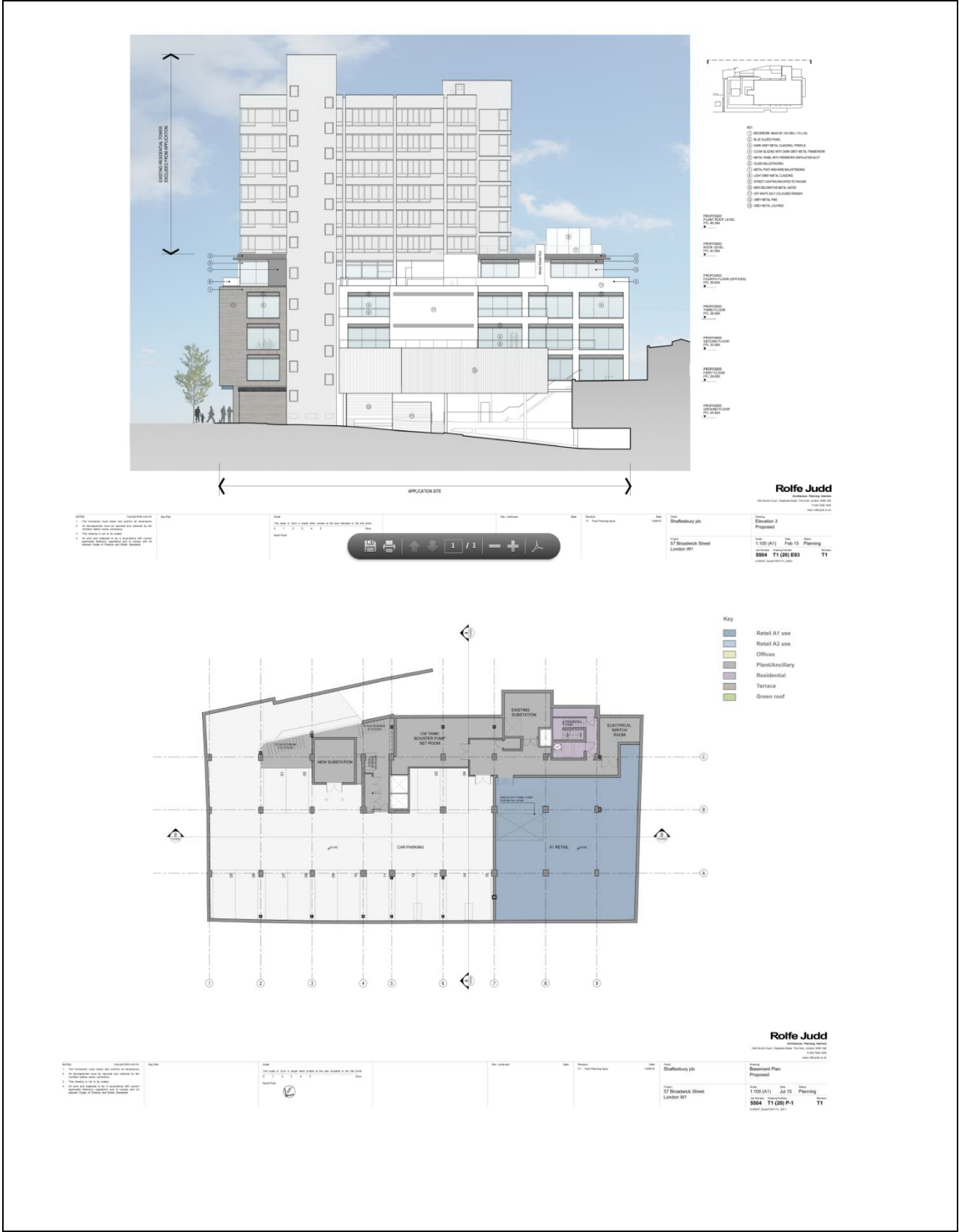
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

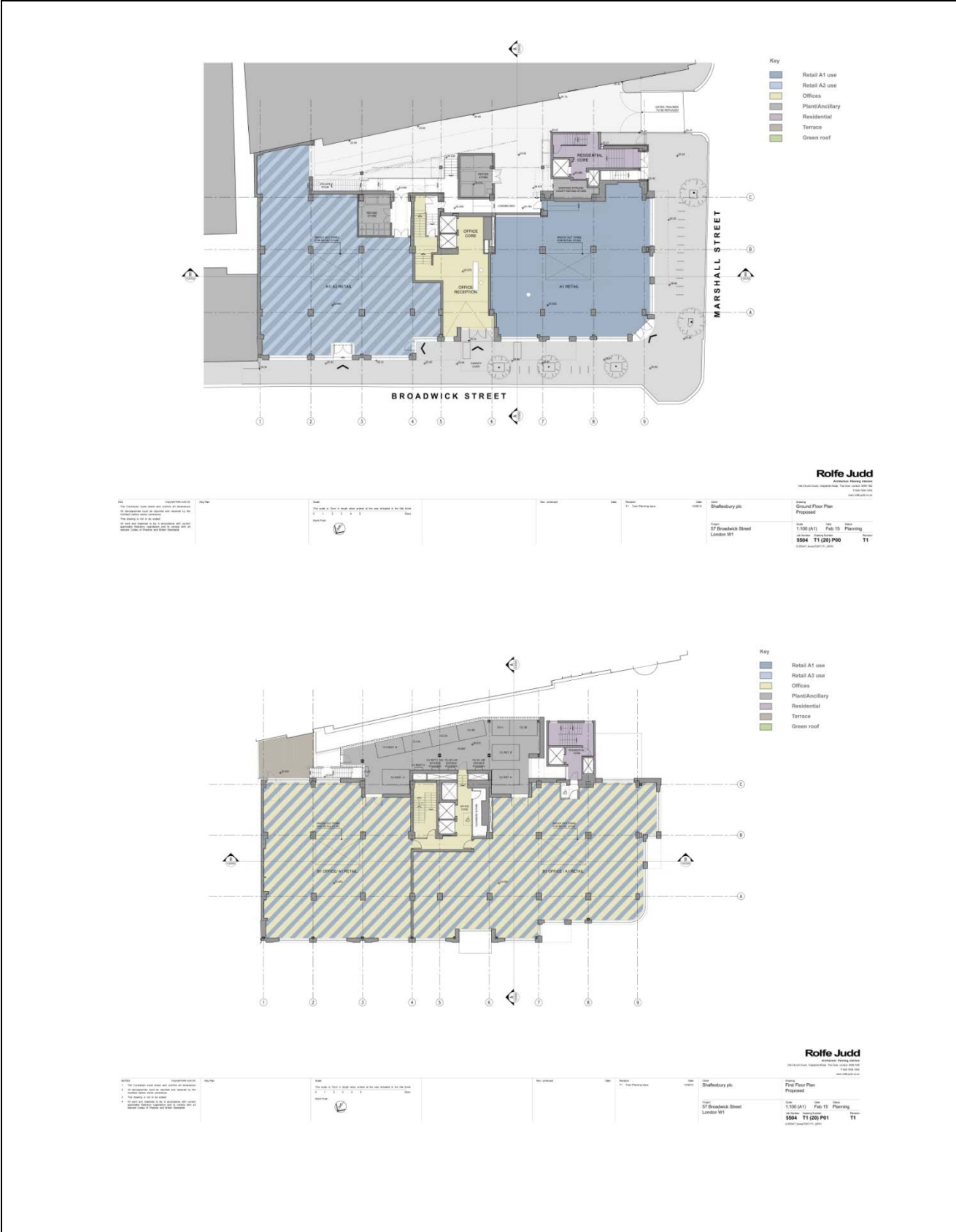
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT HELEN MACKENZIE BY EMAIL AT <a href="mailto:hmackenzie@westminster.gov.uk">hmackenzie@westminster.gov.uk</a>
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# 10. KEY DRAWINGS

Site 1



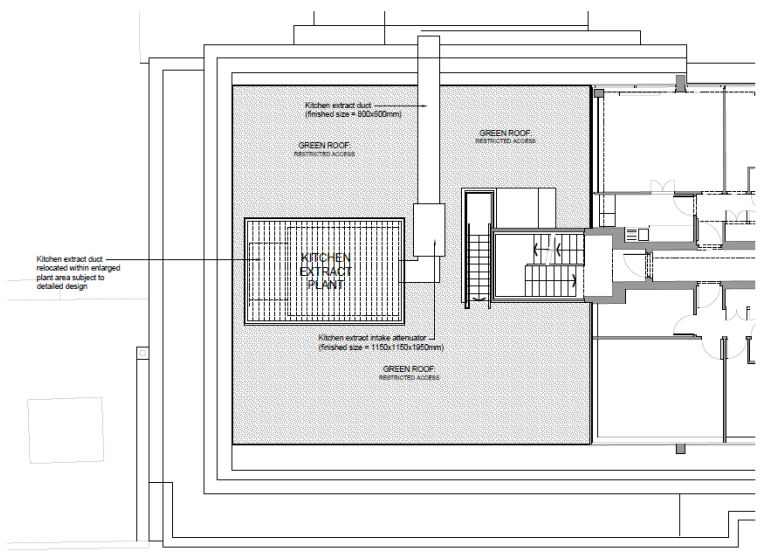








<p><b>NOTES</b></p> <p>1. The Contractor shall check and verify all dimensions of all work on site to be done and reported to the Architectural Consultant immediately if any discrepancy is found.</p> <p>2. This drawing is not to be used for any other purpose without the written consent of the Architectural Consultant.</p> <p>3. All work shall be done in accordance with the latest edition of the Building Regulations and all other relevant legislation.</p>	<p>Project Name: <b>Shafesbury plc</b></p> <p>Address: <b>67 Broadwick Street, London W1</b></p>	<p>Client: <b>Shafesbury plc</b></p> <p>Project: <b>Fourth Floor Plan Proposed</b></p> <p>Scale: <b>1:100 (A1)</b></p> <p>Date: <b>Feb 15</b></p> <p>Sheet: <b>5504_T1 (20) P04</b></p> <p>Revision: <b>T1</b></p>
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<p><b>NOTES</b></p> <p>1. The Contractor shall check and verify all dimensions of all work on site to be done and reported to the Architectural Consultant immediately if any discrepancy is found.</p> <p>2. This drawing is not to be used for any other purpose without the written consent of the Architectural Consultant.</p> <p>3. All work shall be done in accordance with the latest edition of the Building Regulations and all other relevant legislation.</p>	<p>Project Name: <b>Shafesbury plc</b></p> <p>Address: <b>67 Broadwick Street, London W1</b></p>	<p>Client: <b>Shafesbury plc</b></p> <p>Project: <b>Kitchen Plant / Extract Revision Roof Plan</b></p> <p>Scale: <b>1:50 (A1)</b></p> <p>Date: <b>Dec 11</b></p> <p>Sheet: <b>5504_T1(K) 054</b></p> <p>Revision: <b>A</b></p>
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**DRAFT DECISION LETTER**

**Address:** 57 Broadwick Street, London, W1F 9QS,

**Proposal:** Alterations and extensions to the existing building including erection of single storey extension at roof level to enlarge fourth floor level and extensions at ground, first, second and third floor levels on north (Broadwick Street), south and west (Marshall Street) elevations to provide ancillary car / cycle parking, ancillary plant and retail (Class A1) at basement level; part retail (Class A1), part dual / alternative retail (Class A1) and / or cafe / restaurant (Class A3), part office entrance (Class B1) and part residential entrance (Class C3) at ground floor level; dual / alternative office (Class B1) and / or retail (Class A1) use at first floor level and installation of plant at rear first floor level; office (Class B1) with rear terraces at second and third floor level; part office (Class B1) with front terraces and two flats (Class C3) with terraces at fourth floor level and installation of kitchen extract plant to fourth floor roof. (Land use swap with Shaftesbury Mansions, 52 Shaftesbury Avenue).

**Plan Nos:** Acoustic Report dated 23rd April 2015, Acoustic Report dated 18th November 2015, Acoustic Report dated 6th January 2016, Transport Statement Rev2 dated 25 June 2015, Odour Report (J0029/1/F1) dated 24 April 2015 , Drawings: 10324.40, T(SK)017 RevA, T(SK)016 RevA, T1(20)P00 RevT1, T1(20)P-1 RevT1, T1(20)P01 RevT1, T1(20)P02 RevT1, T1(20)P03 RevT1, T1(20)P04 RevT1, T(SK)056 RevA, T(SK)055 RevA, T(SK)054 RevA, T1(20)E01 RevT1, T1(20)E02 RevT1, T1(20)E03 RevT1, T1(20)E04 RevT1, T1(20)E05 RevT1, T1(20)E06 RevT1, T1(20)S01 RevT1, T1(20)S02 RevT2, T1(21) D01 RevT1, T1(21)D02 RevT1, T1(21)D03 RevT1, T1(21)D04 RevT1.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641 5942

**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 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. Noisy work must not take place outside these hours. (C11AA)

## Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 (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: Strategic Policies adopted November 2013, 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.

- 4 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.

- 5 You must install the acoustic attenuation as detailed in the submitted acoustic information at the same time as the plant is installed. This must be maintained in this form for as long as the plant remains in situ.

Reason:

To protect the environment of people in neighbouring properties, as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13BC)

- 6 As detailed within the submitted acoustic information, all first floor plant / machinery hereby permitted (except the three units serving the restaurant) shall not be operated except between 07:00 hours and 23:00 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: Strategic Policies adopted November 2013 and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 7 You must apply to us for approval of detailed drawings and manufacturers specification of the following parts of the development - restaurant ducting terminus. 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 protect the environment of people in neighbouring properties and the appearance of the site. This is in line with S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007. (R13CC)

- 8 The restaurant extract duct shown on the approved drawings (with further details approved under Condition 7 of this permission) shall be fully installed before the restaurant use commences and thereafter maintained for as long as the premises are used as a Class A3 restaurant.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 9 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the proposed plant at fifth floor level will comply with the Council's noise criteria as set out in Condition 3 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

To protect the environment of people in neighbouring properties and the appearance of the site. This is in line with S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007. (R13CC)

- 10 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.

- 11 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise 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 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 12 You must not sell any hot-food take-away or drink within either approved restaurant premises (Class A3), nor operate a delivery service, even as an ancillary part of the primary Class A3 use.

Reason:

We cannot grant planning permission for unrestricted restaurant uses (Class A3) because it would not meet Policy TACE9 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case.

- 13 The bar areas and bar seating in each of the restaurants, must not take up more than 15% of the floor area of the individual restaurant premises. You must use the bar (if provided) to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Soho Conservation Area. This is in line with S24 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE9 of our Unitary Development Plan that we adopted in January 2007.

- 14 You must not play live or recorded music within either of the restaurant premises that will be audible externally or in the adjacent properties.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 15 You must not allow more than 150 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 16 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on the approved drawings. You must clearly mark them and make them available at all times to everyone using the property.

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 17 Prior to the occupation of the restaurant / retail units, you shall submit and have approved in writing by the local planning authority detailed servicing management strategies for the individual retail / restaurant accommodation to include an assessment of delivery noise combined with mechanical services, servicing hours, noise from doors and gates and activity noise from trolleys and/or human voices. All servicing shall be undertaken in accordance with the approved strategies unless otherwise agreed in writing by the local planning authority.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that

we adopted in January 2007. (R23AC)

- 18 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours: , 07:30 to 00:30 Mondays to Saturdays; and, 07:30 to 00:00 (midnight) Sundays and Bank Holidays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 19 You must apply to us for approval of detailed drawings showing the following alterations to the scheme:

The shopfronts on Broadwick Street to the restaurant and office accommodation must not be recessed. They must be flush with the front façade.

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to these approved drawings.

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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 20 You must apply to us for approval of an odour management plan setting out the specifications of the odour abatement system and the maintenance strategy of the kitchen extract system. The agreed odour abatement system and maintenance strategy shall remain in place for as long as the restaurant remains in use. 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 protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 21 You must provide each cycle parking space shown on the approved drawings prior to occupation (this includes all cycle parking spaces in the basement of the property and in the rear courtyard area of Marshall House). 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 TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 22 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of the building.

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 23 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: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 24 The Class A1 retail use hereby approved shall only be used for non-food retailing.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 25 The terrace areas hereby approved associated with the office accommodation can only be used between the hours of 08:30 and 20:30 Monday to Friday. You can not use the terrace areas outside of these hours other than in the case of an emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 26 The Class A3 use allowed by this permission must not begin until you have fitted self-closing doors at the Broadwick Street entrance. You must not leave these doors open except in an emergency or to carry out maintenance. (C13MA)

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)



- 27 You must provide the following bio-diversity features before you start to use any part of the development, as set out in your application:
- green roof areas / wildflower planting areas
- You must not remove any of these features.
- Reason:  
To reduce the effect the development has on the biodiversity of the environment, as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43AB)
- 28 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roof areas to include construction method, layout, species and maintenance regime., 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 increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)
- 29 Access is only to be provided to the identified 'green roof -restricted access' areas for maintenance purposes. These roof areas are not to be used for any other purpose unless in the case of an emergency.
- 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: Strategic Policies adopted November 2013 and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)
- 30 Notwithstanding what is shown on the approved drawings you must apply for approval of amended floorplans to show the provision of two three bedroomed residential units within 57 Broadwick Street. These units must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms.
- Reason:  
To ensure the development provides an appropriate mix of residential units including family sized accommodation as set out in S15 of Westminster's City Plan: Strategic Policies adopted November 2013 and H 5 of our Unitary Development Plan that we adopted in January 2007.
- 31 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. 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 using the approved materials. (C26BC)

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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 32 You must apply to us for approval of sound insulation measures to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 10 of this permission. 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 details approved before the residential units are occupied and thereafter retain and maintain.

Reason: You must apply to us for approval of sound insulation measures to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 10 of this permission. 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 details approved before the residential units are occupied and thereafter retain and maintain.

- 33 **Pre Commencement Condition.** No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority. The plan shall provide the following details:

- (i) a construction programme including a 24 hour emergency contact number;
- (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;
- (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);
- (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and
- (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works.

You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

**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 Planning Strategic Policies adopted November 2013, Unitary Development Plan, 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 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10A)
- 3 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990.
- 4 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise or smells or other types of nuisance. (I06AA)
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 6 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 verges. 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 Highways 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 phone 020 7641 2642. 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). (I09AC)
- 7 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply. The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [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

of a defence should an access issue be raised under the Disability Discrimination Acts.

- 8 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. If you would like more information, you can contact Ray Gangadeen on 020 7641 7064. (I54AA)
- 9 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)
- 10 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following., \* Window cleaning - where possible, install windows that can be cleaned safely from within the building., \* Internal atria - design these spaces so that glazing can be safely cleaned and maintained., \* Lighting - ensure luminaires can be safely accessed for replacement., \* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission)., More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/falls/index.htm](http://www.hse.gov.uk/falls/index.htm)., , Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)
- 11 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 12 Please let our arboricultural team (020 7641 2922) know when you are going to start work on the site. It would be useful if you could give us at least five working days' notice of this date. This will allow us to inspect your tree-protection measures during the work. (I92BA)
- 13 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge., If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/> . **You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**

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.

Item No.
<b>6</b>

**DRAFT DECISION LETTER**

- Address:** Shaftesbury Mansions, 52 Shaftesbury Avenue, London, W1D 6LP,
- Proposal:** Use of part ground and first to fourth floors as seven residential flats (Class C3). (Land use swap with 57 Broadwick Street).
- Plan Nos:** Acoustic Report dated 27th February 2015, Email from Rolfe Judd dated 6th January 2016, Drawings: (00\_111 RevP01, (00)\_112 RevP01, (00)\_113 RevP01, (00)\_114 RevP01, (00)\_110 RevP01.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641 5942

**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 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. Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the property. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 4 You must apply to us for approval of details of secure cycle storage for the residential use. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

Reason:

To provide cycle parking spaces for people using the development as set out in TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 5 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: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 6 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.

- 7 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise 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 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 8 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.

- 9 The flats must be constructed in accordance with the acoustic mitigation measures as detailed in the approved acoustic report and the email from Rolfe Judd dated 6th January 2016. These acoustic measures must then be retained in situ and maintained for as long as the flats are in use for residential purposes.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

### **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: Strategic Policies adopted November 2013, Unitary Development Plan, 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 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply., , The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [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. If you would like more information, you can contact Ray Gangadeen on 020 7641 7064. (I54AA)
- 4 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)



- 5 The design and structure of the development shall be of such a standard that the dwelling is free from the 29 hazards listed under the Housing Health Safety Rating System (HHSRS). However, any works that affect the external appearance may require a further planning permission. For more information concerning the requirements of HHSRS contact: , Residential Environmental Health Team, 4th Floor East, Westminster City Hall, 64 Victoria Street, London SW1E 6QP, [www.westminster.gov.uk](http://www.westminster.gov.uk), Email: [res@westminster.gov.uk](mailto:res@westminster.gov.uk), Tel: 020 7641 3003 Fax: 020 7641 8504.
- 6 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge., If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/> , **You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**
- 7 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990.

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.

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# Agenda Item 7

Item No.
7

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 26 January 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>Site 1: 2 Stanhope Row; 16 Stanhope Row; 36 And 37 Hertford Street</b> <b>16a, 16B And 17 Market Mews; London; W1J 7BT</b> <b>Site 2: 46 Hertford Street, London; W1J 7DP</b>		
<b>Proposal</b>	<p>Site 1: Demolition of 2-6 Stanhope Row and 16-17a Market Mews, excavation of sub-basement beneath 2-6 Stanhope Row and excavation of basement beneath 17a Market Mews and erection of replacement building over sub-basement, basement, ground - fifth floors (with plant above) (2-6 Stanhope Row) and three-storey building to Market Mews to provided a 29 bedroom hotel (Class C1) with ancillary casino. Demolition of 37 Hertford Street and rear third floor mansard roof of 36 Hertford Street and erection of replacement building over basement, ground to third plus mansard roof to provide 13 residential units (Class C3) provision for cycle parking, refuse storage and rooftop plant, together with other associated works.</p> <p>Site 2: Use of the first to fourth floors as four flats (Class C3) and internal alterations</p>		
<b>Agent</b>	DP9		
<b>On behalf of</b>	Genting UK plc		
<b>Registered Number</b>	Site 1: 15/07611/FULL and 15/07613/LBC Site 2: 15/07614/FULL and 15/07615/LBC	<b>Date amended/completed</b>	18 August 2015
<b>Date Application Received</b>	17 August 2015		
<b>Historic Building Grade</b>	Site 1: 36 Hertford Street – Grade II listed. The rest of the buildings are unlisted Site 2: Grade II listed		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Site 1 1. Grant conditional permission. 2. Grant conditional listed building consent. 3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.  Site 2 1. Grant conditional permission. 2. Grant conditional listed building consent.
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3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

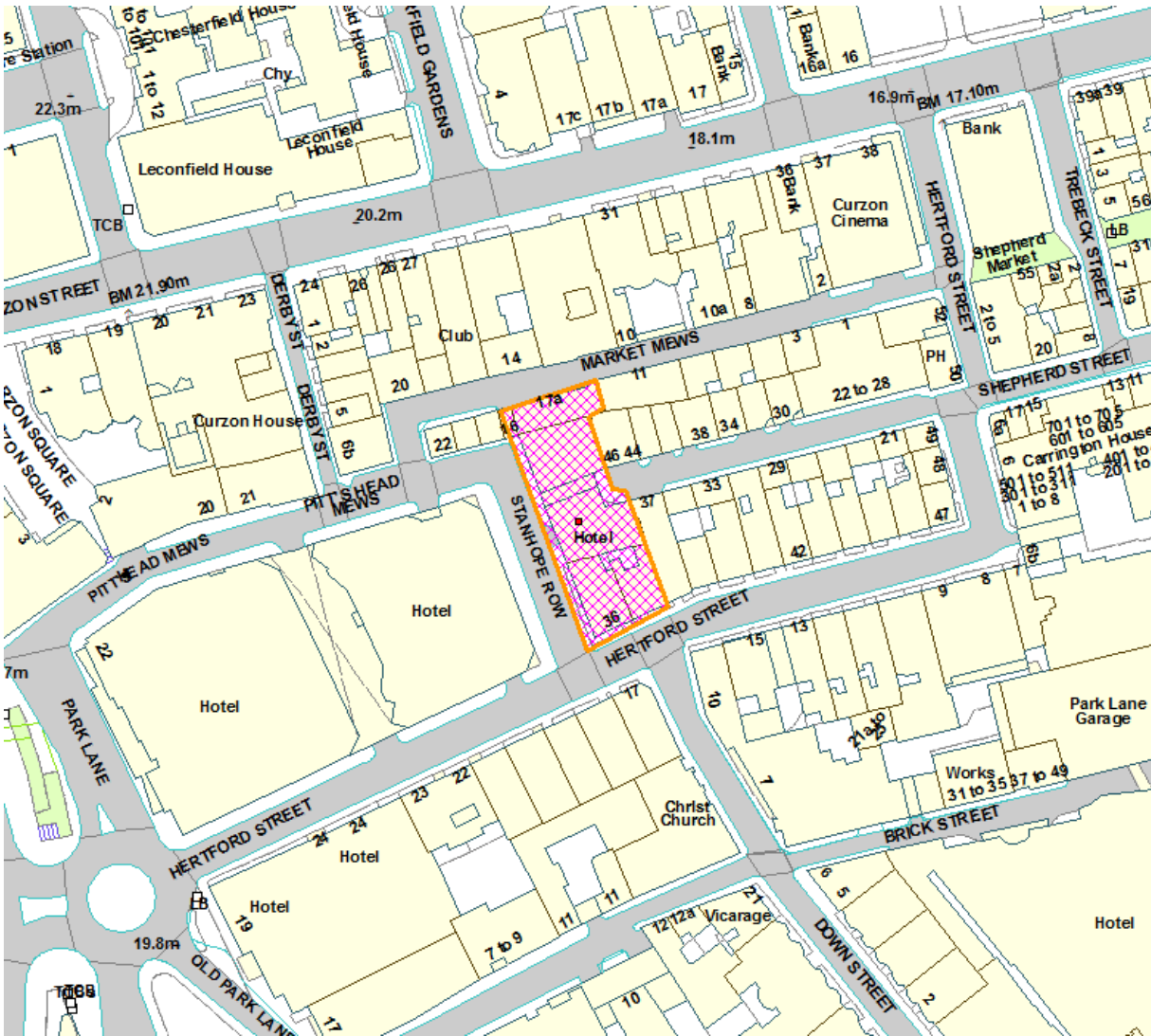
The proposals comprise two sites; Site 1 relates to the Park Lane Mews Hotel which occupies 2-6 Stanhope Row, this application site also includes 16a, 16b and 17 Market Mews, 16 Stanhope Row and 36 and 37 Hertford Street. It is proposed to demolish to majority of the buildings on-site with the exception of the grade II listed 36 Hertford Street. The hotel floorspace will be replaced albeit with less floorspace and a reduction in hotel bedrooms. Part of 2-6 Stanhope Row will be used as a casino. Residential floorspace will be provided within 36 and 37 Hertford Street. The proposals are linked to Site 2, 46 Hertford Street, a grade II listed building currently in office use. It is proposed to use the first to fourth floors of this building as four residential units. The commercial increase at Site 1 will be partially offset by the increase in residential floorspace across both Site 1 and Site 2 (shortfall of 86m<sup>2</sup>).

The key issues for consideration are:

- The impact of the hotel/casino use on neighbouring residential amenity; and
- The impact on the new buildings on the character and appearance of the conservation area.

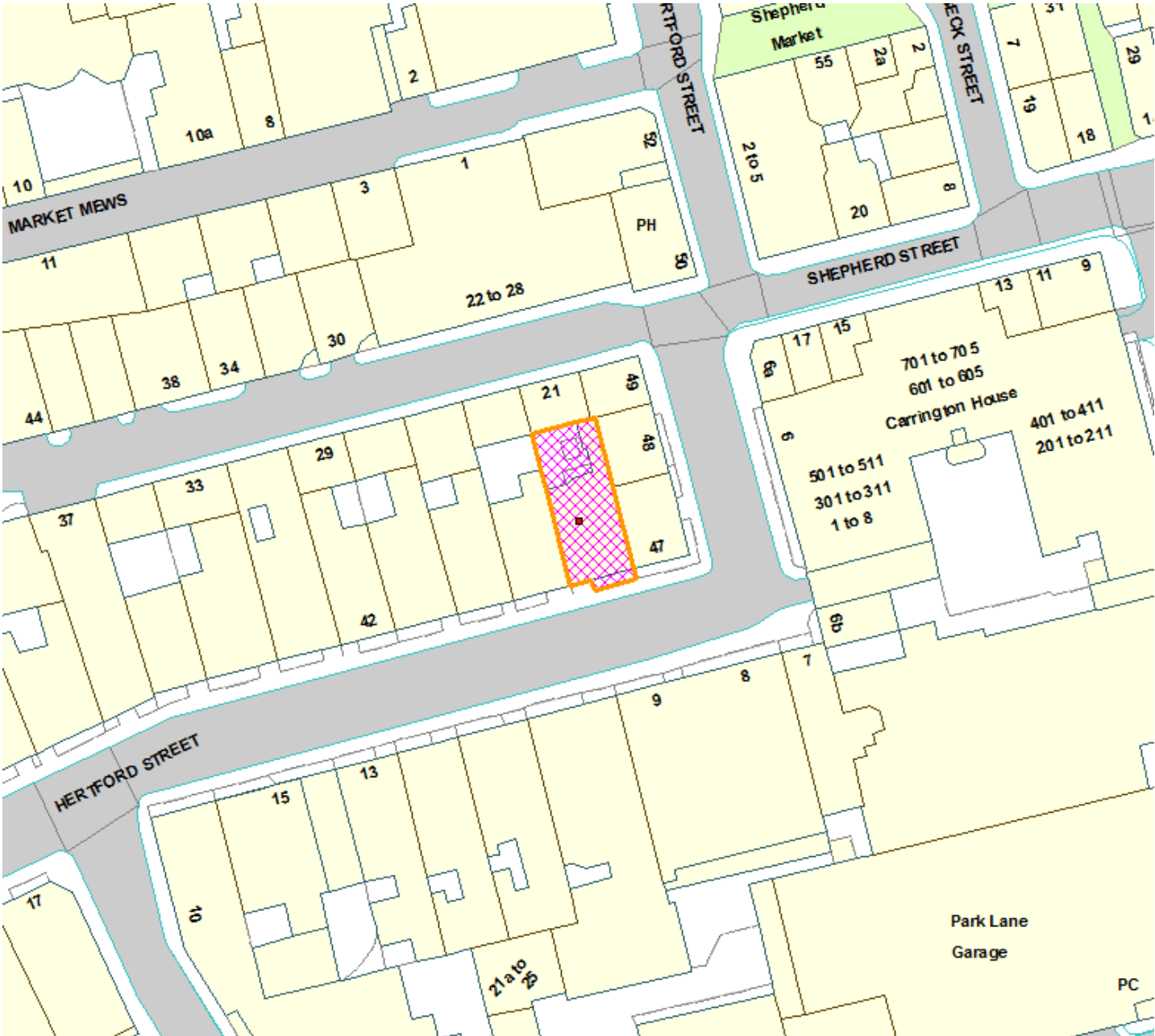
The proposals are considered acceptable in land use, amenity and design and the applications are in line with the City Council's Unitary Development Plan (UDP) and Westminster' City plan: Strategic Policies (City Plan) and the application are recommended for approval

**3. LOCATION PLAN**  
**Site 1**



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Site 2



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4. PHOTOGRAPHS  
Site 1



Park Lane Mews Hotel

36 Hertford Street





16-17 Market Mews    37 Hertford Street    16 Stanhope Row





Site 2



## 5. CONSULTATIONS

Site 1

HISTORIC ENGLAND

Authorisation received

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

No objection

HIGHWAYS PLANNING MANAGER

No objection

ENVIRONMENTAL HEALTH

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 195

Total No. of replies: 2

No. of objections: 2

No. in support: 0

Two letters of objection received from neighbouring residential occupiers raising all or some of the following grounds:

Amenity

- Noise and disturbance from servicing in Market Mews
- Noise and disturbance from people leaving the restaurant and casino

Parking/traffic

- On street parking is inadequate to meet current and proposed demand
- Pedestrian traffic will increase because of the casino use

Other

- Impact of construction traffic on surrounding streets

PRESS ADVERTISEMENT / SITE NOTICE: Yes

Site 2

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

No objection

HIGHWAYS PLANNING MANAGER

Objection – no cycle parking provided

ENVIRONMENTAL HEALTH

Any response to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 68

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Sites

Site 1 comprises five properties within the Mayfair Conservation Area and the Core Central Activities Zone (CAZ). These are:

1. Park Lane Mews Hotel, which occupies 2-6 Stanhope Row. This is an unlisted building over basement, ground and five upper floors and provides a 72 bedroom hotel, ground floor dining rooms and reception area and a loading/servicing area at front ground floor. There is an existing ground floor passageway which connects Stanhope Row with Shepherd Street.
2. 16a, 16b and 17 Market Mews is an unlisted building comprising ground floor commercial parking spaces, and two floors of residential accommodation.
3. 16 Stanhope Row is an unlisted building, located next to the existing hotel and the upper floors of this building are connected to the upper floors of 16a-17 Market Mews. Together with Site 2 there are five residential flats.
4. 36 Hertford Street is a Grade II listed building on basement, ground and three upper floors, comprising seven residential flats.
5. 37 Hertford Street is an unlisted building over basement, ground and three upper floors, which suffered bomb damage during World War II. Substantial building works were required to rebuild the property, which is currently used as six residential flats.

Site 2 relates to 46 Hertford Street, this is a Grade II listed building comprising basement, ground, first to fourth floors and is in office use.

### 6.2 Recent Relevant History

Planning permission was granted on 18 June 2013 for the use of part ground floor to part third floors as a casino (sui generis) and continued use of the remainder of the building as a hotel (Class C1), and the creation of a third floor terrace on 17A Market Mews. This permission has not been implemented.

Planning permission was granted on 4 March 2010 for demolition and redevelopment of 37 Hertford Street, 16 Stanhope Row, 16a, 16b and 17 Market Mews and the Park Lane Mews Hotel (2-6 Stanhope Row) and refurbishment and extension of 36 Hertford Street to provide a new 44 bedroom hotel (Class C1) with restaurant at lower ground floor, and 15 residential units (Class C3), with associated plant. This permission has not been implemented.

This permission followed an almost identical scheme for redevelopment which was refused on the following grounds:

- Because of its detailed design and materials of construction the new development would fail to maintain or improve (preserve or enhance) the character and appearance of the Mayfair Conservation Area and the setting of the neighbouring listed building at 36 Hertford Street;
- The proposal would lead to a loss of light for people living in 44-46 Shepherd Street.

## 7. THE PROPOSAL

The proposals effectively merges the 2010 hotel redevelopment permission and the 2012 casino permission.

Permission is sought to demolish the Park Lane Mews Hotel, 37 Hertford Street, 16 Stanhope Row and 16a, 16b and 17 Market Mews to provide a new hotel with ancillary casino comprising two basements, ground and five upper floors. The new hotel will occupy the original hotel footprint along with 16 Stanhope Row and 16a, 16b and 17 Market Mews. The new ground floor and basement of 16a, 16b and 17 Market Mews will be used as a servicing/loading bay, with casino floorspace and hotel bedrooms on the upper floors. A larger hotel restaurant is proposed at lower ground floor with a hotel lounge and bar at ground floor level. The entrance to the hotel and casino is also proposed at ground floor level. Gaming areas are proposed at first floor level and fifth floor level. The casino will also occupy part of the second to fourth floors (lift access). The remaining upper floors will be used as hotel bedrooms. There will be an overall reduction in the number of hotel bedrooms from 72 to 29.

37 Hertford Street will be rebuilt, with increased floor to ceiling heights, and to include a mansard roof. Extensions are proposed to the rear, including the infilling of a lightwell at second to fifth floor levels.

No.37 will be linked to 36 Hertford Street at ground to fifth floor levels and will provide 13 residential units. The proposal includes the rebuilding of an existing mansard roof on 36 Hertford Street. No.37 will include a new lift access provide access to the upper floors of the residential accommodation.

The main differences between the consented scheme and the proposed scheme are as follows:

- The hotel includes an ancillary casino comprising 666m<sup>2</sup>;
- The residential flats will be provided in 36, 37 and 46 Hertford Street, rather than the provision of a penthouse apartment to the top floor of the hotel; and
- The number of hotel bedrooms reduces to 29, from 44 in the approved hotel scheme and 31 in the approved casino scheme.

The proposals at Park Lane Mews Hotel (Site 1) will be linked to 46 Hertford Street (Site 2), which is also in the applicant's ownership. It is proposed to use the upper floors of the property as four residential units, thereby bringing the total number of units across the site to 17. The basement and ground floor of the property will remain in office use.

Below is a table detailing the existing and proposed floorspace figures for all the proposals.

	Existing	Proposed	+/-
Hotel floorspace	3188	1880	-1308
Casino floorspace	0	666	+666
Restaurant floorspace	120	348	+228
Shared floorspace (services/stairwells etc)	N/A	1214	+1214
<b>Total hotel/casino floorspace</b>	<b>3188</b>	<b>4108</b>	<b>+920</b>
Office floorspace (46)	668	239	-429

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7

Hertford Street)			
<b>Total commercial</b>	<b>3856</b>	<b>4347</b>	<b>+491</b>
Residential floorspace	1831	2236	+405*

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Overview

The proposals at Site 1 and Site 2 result in an increase in commercial floorspace over existing of 491m<sup>2</sup>. UDP Policy CENT3 and S1 of the City Plan aim to ensure where there are increases of commercial floorspace over 200m<sup>2</sup> it is set off by an equivalent amount of residential floorspace. The proposed residential floorspace across the two sites is proposed to increase by 405m<sup>2</sup>, which represents an 86m<sup>2</sup> shortfall, therefore not in strict compliance with policy. However, it is considered that due to the constraints of the site and other benefits the proposals deliver, the shortfall is considered acceptable.

#### Loss of commercial car parking

The ground floor of 16a, 16b, 17 Market Mews is currently used for off-street commercial car parking. This use is not protected in terms of UDP policy and therefore the loss of this is not considered contentious.

#### Loss of office floorspace

The proposals at Site 2 include the loss of 429m<sup>2</sup> of office floorspace. The application was submitted prior to the 1<sup>st</sup> September 2015, therefore the loss of the office floorspace cannot be resisted in this instance.

#### Hotel floorspace

The lawful use of 2-6 Stanhope Row is as a hotel (Class C1). The proposal involves the creation of a new hotel with an ancillary casino. As a result of the proposals there is a reduction of *actual* hotel floorspace of 1308m<sup>2</sup> and a reduction of hotel bedrooms from 72 to 29. UDP Policy CENT1 states that planning permission will not be granted for developments resulting in the loss of Central London activities within the CAZ including tourism related facilities. UDP Policy TACE 1 and City Plan S23 resist the loss of existing hotels within the CAZ where they do not have significant adverse effects on residential amenity. The proposed hotel floorspace does not take into account the hotel restaurant or the shared services (plant/escape stairs/service entrance etc), therefore by taking into account the shared services, the proposed hotel floorspace is likely to be greater than that reported in the table above.

The existing hotel does not have a large dining facility and the hotel bedrooms are small and have low floor to ceiling heights. The previously approved schemes (see paragraph 6.2) resulted the reduction from 72 to 44 bedrooms (2010) and 72 to 31 bedrooms in the 2012 scheme

A hotel function albeit reduced in size will remain on-site and there is no evidence to suggest that it would not continue to remain viable. The proposals will improve the quality of the hotel accommodation and are considered acceptable.

#### Casino floorspace

Casinos are considered to be appropriate Central London activities which are, in general and subject to compliance with other relevant planning policies, suitably located within CAZ under UDP Policy CENT1.

City Plan Policy S24 states, among other things, that entertainment uses (including casinos) are appropriate to the character and function of the area including in terms of size and scale, also

taking into account existing concentrations of similar uses. This part of Mayfair already contains a number of casinos. However, it is not considered that there are so many that it has a negative impact on local character and function. The existing casinos are located at 30 Curzon Street; 28 Curzon Street, 24 Hertford Street; 14 Old Park Lane; the Hilton Hotel and 5 Hamilton Place. The casino licence is likely to be transferred from an existing casino in Soho.

An objection has been received from a neighbouring residential occupier at No. 38 Hertford Street on the grounds that the introduction of a casino will cause more noise and disturbance at night and early morning, especially since it would be a 24-hour facility. Whilst these concerns are understood, in reality casinos as an entertainment genre are almost always well-managed and attract mainly serious and/or professional gamblers who attend for gaming purposes and not drinking and revelry. As such, casinos are recognised in the UDP at paragraph 8.85 as contributing little to disorder or otherwise having adverse effects. The proposed casino would be relatively small and, given this, it is unlikely that it would generate large crowds or the type of customers who would cause a harmful disturbance in the area. It is also relevant to consider that the site already operates as a 24-hour hotel with guests arriving and departing at all times, and it is therefore not considered that the proposed casino would materially increase late-night activity.

The proposed casino would be smaller in scale than the existing casinos on Curzon Street, and the applicants have stated that as they are also the hotel operator, it is in their interest to ensure that their own hotel guests would not be disturbed by the casino operation, or cause a disturbance to neighbouring local residents.

It is anticipated that the number of customers attending the casino would be maximum of 75 during any 24-hour period, with the peak hours being between 20.00 – 03.00. A management plan has been submitted to demonstrate how the casino would be operated to control its impact, the compliance with which would be required by planning condition.

#### **Increase in restaurant floorspace**

The new hotel restaurant, although ancillary, could be used by hotel and non-hotel guests and this must therefore be considered in light of policies relating to entertainment uses. The existing restaurant (which can be used by non-hotel guests) has approximately 40 covers (120m<sup>2</sup>). The proposed restaurant (348m<sup>2</sup>) would accommodate up to 75 covers. UDP Policy TACE8 is the applicable policy. Entertainment uses of the type and scale proposed will generally be permissible, provided the proposed development has no adverse effect upon residential amenity or local environmental quality as a result of noise, vibration, smells, increased late night activity or increased parking and traffic and has no adverse effect on the character or function of the area.

The existing restaurant is not subject to planning control, and it is not visible from the main Stanhope Row frontage. Although the size of the restaurant is larger than the existing restaurant it is not considered that it will have an impact on the surrounding character and function of the area. However, it is considered that conditions be attached to the decision to control hours and covers. The restaurant is located at lower ground floor level and will be accessed via the ground floor bar/lobby area. It is the applicant's intention for non-hotel guests to be able to use the restaurant, accessing it from the ground floor entrance. There is also direct access to the restaurant from the upper floor of the hotel via a lift.

An objection has been received from a resident in Hertford Street on the grounds of additional noise disturbance.

It is recognised that this part of Mayfair has a high residential population. Ordinarily, the City Council would seek to impose planning conditions that no customers other than hotel guests would be allowed to remain on the premises after midnight on Sundays to Thursdays and after 00.30 on Fridays and Saturdays. Given the existing and new residential in close proximity to the

site, earlier times are sought, when non-hotel guests should be off the premises. The proposed hours of 09.00 – 23.30 Monday to Saturday and 10.00 – 23.00 on Sundays and Bank Holidays are to be reserved by condition.

It is not considered that the increased size of the restaurant will have an adverse impact on the character of the surrounding area, subject to conditions regarding hours and capacity. Subject to these conditions, the objections received are not considered sustainable.

**Residential floorspace**

There is existing residential floorspace at 36 and 37 Hertford Street, 16 Stanhope Row and 16a, 16b and 17 Market Mews (17 residential units/1831m<sup>2</sup>). As a result of the proposals, the existing residential accommodation at 16a, 16b and 17 Market Mews will be relocated to 36 and 37 Hertford Street (Site 1) and 46 Hertford Street (Site 2). Seventeen units are to be re-provided over a greater floorspace of 2236m<sup>2</sup> (increase of 405m<sup>2</sup>). The increase in residential floorspace complies with UDP Policy H3 and S14 of the City Plan.

The existing residential units comprise 2 x studio flats, 7 x 1 bed units, 7 x 2 bed units and a 1 x 3 bed unit. The proposed units comprise 9 x 1 bed units, 6 x 2 bed units and 2 x 3 bed units. Although the provision of 2 x 3 bed units falls short of the 33% family housing required by UDP Policy H5 (6 units), given the improvement compared to the existing situation, it is considered that the mix is acceptable.

The three 1-bedroom flats at first floor level within Site 1 (at 44m<sup>2</sup> (x2) and 45m<sup>2</sup> GIA) are slightly below the minimum 50m<sup>2</sup> GIA for a 1-bedroom/2 person unit standard set out in the London Plan (although larger than the 37m<sup>2</sup> GIA for a 1 person unit). The London Plan Policy 3.5(D) recognises that, in some instances, development which compromises on some of the design standards may be acceptable where it contributes to meeting other planning objectives and is exemplary quality. Para 2.1.26 of the draft Interim Housing SPG also recognises that “Failure to meet one standard would not necessarily lead to an issue of compliance with the London Plan.”

The scope to fully satisfy the London Housing Design Guidelines/London Plan standards is limited by the constraints of the existing building which is being converted and is listed. The proposed first floor units would still provide a good standard of residential amenity, improves the overall housing yield from the proposed development and provides a wider mix of residential units.

**Table showing the flat sizes (m<sup>2</sup>)**

Level	1 Bed			2 bed				3 bed
G				94	79	134	87	
1	79*	45			112			
2	71*	44	52	101				
3	74*	52	44					122
4	71*							149
<b>Total</b>	<b>9</b>			<b>6</b>				<b>2</b>

\* residential units with Site 2

The residential flats within Site 1 will be accessed from both 36 and 37 Hertford Street. The existing listed staircase within No.36 would be retained and a new lift would provide access to the upper floors in No.37.

## 8.2 Townscape and Design

Both sites comprises four unlisted buildings and two Grade II listed building, all in the Mayfair Conservation Area.

1. The existing hotel building at 2-6 Stanhope Row is a modern neo-Georgian building of little architectural quality. It is considered that the existing building does not make a positive contribution to the character and appearance of the conservation area.
2. 16a, 16b and 17 Market Mews are probably Georgian mews buildings but much altered with no original features remaining. Its interior is early Twentieth Century. It is considered to make a neutral to positive contribution to the conservation area.
3. 16 Stanhope Row is of similar quality although not painted white.
4. 37 Hertford Street was originally a Georgian house but following bomb damage the house was rebuilt in a Georgian style, although not to a high standard.
5. 36 Hertford Street is Grade II listed and contains a good staircase, and some principal rooms but the remainder has been heavily altered. In 1996 a mansard roof extension was built at the rear.
6. 46 Hertford Street is also Grade II listed, similar to No.36, it has a good stair and modified interiors, especially at second floor level and above.

The immediate context is dominated by the rear of the podium of the Hilton Hotel which blights this part of Hertford Street and Stanhope Row.

### Demolition

Apart from the listed buildings, there is not a strong presumption to retain any of the buildings on the site. Their demolition has been permitted in 2010, in the context of a different redevelopment scheme. The issue is whether or not the current proposal provides a suitable replacement building which will preserve or enhance the character and appearance of the Mayfair Conservation Area and respect the settings of the adjacent listed buildings.

### Proposed hotel building

The new building will replace the existing hotel building, 6 Stanhope Row, 16a, 16b and 17 Market Mews. The plan form of the building adopts the existing building lines and retains the passageway from Stanhope Row to Shepherd Street. In terms of height and bulk, the proposed building is similar to the existing building, and similar to the previously approved. These aspects are acceptable.

The new building has three street frontages: Stanhope Row, Shepherd Street and Market Mews

- a. The front facade is seven bays long and five storeys high, with a set-back roof storey. The base is clad in glazed terracotta. The upper floors are clad in a light coloured handmade facing brickwork, with recessed bays also clad in glazed terracotta, but this profiled to add texture, from which the windows project. There is a decorative spandrel panel at second floor level. The roof storey is also clad in glazed terracotta and zinc. This is facade design is less modelled, and perhaps more conventional, than the previous approved design, but it is an acceptable design approach in this location.
- b. The rear facade on to Shepherd Street is a simple design, with windows projecting from the façade which is again clad in hand-made bricks. The ground floor level is clad in glazed terracotta (faience). The roof is clad in zinc. The roof level plant will be visible in longer views from the east. It takes the form of a rectangular box is clad in black aluminium louvres.



- c. In Market Mews a similar design approach is used. At ground floor level there are large doors top the service areas, and a substation.

It is considered that the proposed design is of high quality and that it responds positively to its conservation area context. Detailed drawings of the facades and samples of the materials should be reserved by condition.

### **Hertford Street buildings**

No. 36 is to be refurbished and restored. The render is to be removed and the brickwork reinstated and stained black. This will improve the appearance of the building and enhance the terrace. The 1990's mansard at the rear is to be replaced with a more appropriate mansard, with the top floor set back, to reduce its bulk. The interior will be respected, with the retention of surviving original features, and replacement of later (1990's) work.

No. 37 is to be rebuilt as a modern interpretation of the Georgian house, using high quality brickwork and external metalwork. It will feature a mansard roof, at a similar level to that at No. 38. This is similar to the approved design. It will also enhance the appearance of the terrace and the conservation area generally.

The interior of No.46 has been altered over the years, especially at second floor level and above, but it retains a good staircase and rooms at ground floor level and first floor level, although these too have been modified, to a lesser degree than the upper floors. The proposal is to convert the upper floors into residential use, from first floor level upwards. Given the degree of alteration to the interior the proposal is acceptable in principle.

### **Design Conclusion**

This is a high quality, well considered scheme in design and conservation terms. It will enhance the character and appearance of the Mayfair Conservation Area, and is in accordance with UDP Policies DES1, DES4, DES9 and DES10.

## **8.3 Residential Amenity**

There are a number of residential properties in close proximity to Site 1. Shepherd Street to the rear is predominantly residential, with Nos.44-46 and No.37 sharing boundary walls with the application site. No. 18 Stanhope Row is located to the west of the site and shares a boundary wall with 16 Stanhope Row. There are also a number of residential properties in Hertford Street with No.38 adjoining part of the application site.

### **Daylight and Sunlight overview**

Policy S29 of the City Plan aims to improve the residential environment of Westminster whilst UDP Policy ENV13 aims to protect and improve residential amenity, including sunlighting and daylighting to existing properties. In implementing Policy ENV13 the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used and it is a requirement of the City Council that most major planning applications are accompanied by a sunlight and daylight report using accepted BRE methodology.

For daylighting matters, the most commonly used BRE method for calculating values is the 'vertical sky component' (VSC) method which measures the amount of light reaching the outside face of a window. This method is most widely used as it does not need to rely on internal calculations, which means that it is not necessary to gain access to all affected properties to assess, and compare, potential light loss across all properties. However, it is still important to know what an affected room is used for, since the BRE guidelines principally seek to protect living rooms, dining rooms, kitchens and, to a lesser extent, bedrooms. Under this method, if an affected window is already not well lit (considered to be below a nominal value of 27%) and the

daylight received at the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable. The numerical values used in this assessment are not intended to be prescriptive in every case and are to be interpreted flexibly depending on the given circumstances.

With regard to sunlighting, the BRE guidelines state that where the amount of sunlight to an existing window is already limited, and would be reduced by more than 20% as a result of a development, the window is likely to be adversely affected. Only windows facing within 90 degrees of due south of the proposed development need to be tested, and living rooms and conservatories are considered to be the most important rooms to be protected in terms of sunlighting – with kitchens and bedrooms less so.

### **Site 1**

#### **Park Lane Mews Hotel**

Planning permission was refused in August 2009 on the grounds of the loss of light that the proposal would cause to the neighbouring property at 44-46 Shepherd Street. No objection has been received from this property and the proposals are almost identical to those granted planning permission in 2010. A daylight and sunlight report has been submitted in support of the proposals and this indicates that there are losses to VSC to 44-46 Shepherd Street (ranging from 1-17%) but as these do not exceed 20% it is not considered that these will be noticeable.

There are losses of sunlight (annual and winter) to three known residential properties in Shepherd Street (Nos. 40, 42 and 44-46). However, losses in summer are below the 20% BRE guideline and as such the losses are considered to be acceptable. There are losses to winter sun above 20%, but the actual losses are not so high as to justify a refusal of the scheme, particularly in this built up urban location and given that for the year as a whole no loss is greater than 20%, with very good sunlight levels maintained for summer.

#### **Increased sense of enclosure**

The proposed rear hotel elevation abutting 44-46 Shepherd Street is being brought forward by 0.5m and will be set back from the party wall by 4m. Given this modest alteration to the building footprint it is not considered that there will be any material increased sense of enclosure created by the proposal.

#### **Overlooking**

The rear garden area of 44-46 Shepherd Street looks directly into the existing windows of the hotel. Although this elevation is proposed to project 0.5m closer to Nos. 44-46 it is considered that the existing overlooking situation will improve. This is due to the proposed windows being smaller than existing. The windows serve store rooms over the lower levels and two hotel bedrooms at third and fourth floor. A condition is recommended that they contain obscure glazing, therefore there will be no overlooking to 44-46 Shepherd Street.

The fifth floor level of the hotel would have a roof terrace along its perimeter to the front; this will overlook Stanhope Row and Market Mews. However, the terraces would be set back from the building edge and therefore it is not considered that there will be any potential for direct overlooking arising from this aspect of the scheme.

#### **Servicing**

The existing hotel is serviced from Stanhope Row, which means that a large part of the ground floor frontage is an unattractive blank facade. To improve the townscape in Stanhope Row, it is proposed to move the servicing bay to Market Mews. Objections have been received from properties in Hertford Street on the grounds that there will be increased noise from the servicing of the hotel/casino.

The applicant has identified that there will be on average 3-4 servicing vehicles per day between 07.00 and 19.00 daily. There are currently no restrictions in place with regards to the existing

hotel servicing. Market Mews is used once daily by the waste collection service at 06.30 – 08.30 Monday to Friday and in addition there is a recycling collection on Friday only, between the hours 07.00 – 14.00. Even though refuse vehicles can enter Market Mews from 06.30, and given the relocation of the servicing bay and proximity to residential, it is considered that the earliest servicing for the hotel should be restricted to between 07.00 and 19.00, and a condition is recommended.

Subject to this condition, it is not considered that the relocation of the hotel servicing would affect the surrounding residential amenity to a degree that would justify a recommendation for refusal.

### **16a, 16b and 17 Market Mews**

The existing building comprises ground and two upper floors. The proposed building will be slightly taller due to increased floor to ceiling heights. The ground floor will be used as a hotel loading and servicing bay and the two upper floors will provide hotel rooms. The properties directly opposite the site are lower than the existing and proposed building and appear to be used as garages and offices used in connection with 29 Curzon Street.

Two terraces are proposed at first and third floor level. These have been approved in the previous application and it is not considered that they would afford any opportunity for direct overlooking into adjoining properties.

### **37 Hertford Street**

The new building at 37 Hertford Street will comprise of basement, ground and four upper floors, with a rear extension at first to fifth floors. There is a lightwell to the rear of the site which would be infilled at second to fourth floors. There is an existing rear terrace at third floor level which projects out further than the existing building line. The rear extensions will be brought out to this line.

The new lift will be part of these rear extensions to No. 37, and this will be slightly higher than the roof line. However, it is not considered that the additional bulk to the rear of the building would adversely affect neighbours amenity.

### **Site 2**

No external alterations are proposed and therefore there are no amenity implications arising from this proposal.

## **8.4 Transportation/Parking**

Objections have been received on the grounds that there are existing on street parking problems in the area and the proposals will increase pressure on parking. There are currently no off-street car parking for the existing hotel and residential flats and with a decrease in the number of hotel bedrooms and with the number of residential flats staying the same across both sites, there is no policy requirement to provide off-street car parking. The proposed provision of 27 off-street cycle spaces is in line with FALP standards and will be secured by condition.

Coach parking arrangements will be as existing, whereby passengers will utilise the 20 coach bays on Park Lane. It is expected that there will be some reduction in the coaches as the number of bedrooms are reduced.

The existing access points from Stanhope Row are to be retained within the redeveloped hotel. The existing pedestrian passageway from Stanhope Row to Shepherd Street will not be changed.

Objections have been received on the grounds that the casino and restaurant will increase the amount of traffic congestion in the area and increase the amount of pedestrian traffic. It is

considered that there may be traffic movements over and above the existing situation, but these are not considered to be numerous enough to cause highways issues, provided that they are in line with the submitted management plan.

The Highways Planning Manager raises no objection to the proposed servicing arrangements as set out in the Servicing Management Plan.

The Highways Planning Manager initially raised concerns regarding the lack of off-street car parking at Site 2. However, as the proposals have been submitted as a land use package, the number of residential units does not increase, therefore no objection is raised. No off-street cycle parking is proposed, normally cycle parking would be accommodated within the basement vaults, however, as the lower floors are remaining in office use the vaults are not accessible by the residential occupiers. On this basis it is not considered reasonable that cycle parking can be accommodated in this building.

## 8.5 Economic Considerations

Any economic benefits generated by the scheme are welcomed.

## 8.6 Access

Level access is provided for the entrances to the hotel/casino (Site 1). Lift access is provided to all levels of the building, including to the lower ground restaurant use.

There is existing stepped access to No.36 and 37 and it is not proposed to alter the steps as part of the scheme.

Similarly at Site 2, there is existing stepped access into the building and this would remain. It is not considered practical to change this within the context of this scheme.

## 8.7 Other UDP/Westminster Policy Considerations

### Basement

While the Building Regulations determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely, the National Planning Policy Framework March 2012 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by land instability.

The NPPF goes on to state that in order to prevent unacceptable risks from land instability, planning decisions should ensure that new development is appropriate for its location. It advises that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The NPPF advises that planning decisions should ensure that a site is suitable for its new use taking account of ground conditions and land instability and any proposals for mitigation, and that adequate site investigation information, prepared by a competent person, is presented.

Officers consider that in the light of the above it would be justifiable to adopt a precautionary approach to these types of development where there is a potential to cause damage to adjoining structures.

To address this, the applicant has provided a structural engineer's report explaining the likely methodology of excavation. Any report by a member of the relevant professional institution

carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage.

The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

This report has been considered by our Building Control officers who advised that the structural approach appears satisfactory, but request further information before works start on site which is to be conditioned. We are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with the integral professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the building regulations in due course. This report will be attached for information purposes to the decision letter. It is considered that this is as far as we can reasonably take this matter under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations as cited above. To go further would be to act beyond the bounds of planning control.

The City Management Plan will include policies specifically dealing with basement and other subterranean extensions. This is at an early stage of development and will not carry any weight as a material consideration in determining planning applications until it has progressed significantly along the route to final adoption.

### **Construction impact**

A construction management plan (CMP) has been submitted with the proposal and this is secured by condition. Objections have been received on the impact of the construction on nearby residential properties.

The applicant has offered to fund the Council's Environmental Inspectorate to monitor compliance with a Site Environmental Management Plan. This contribution will be secured under via a Grampian condition given the close proximity of the site to adjoining residential properties.

Hours of building and excavation works can also be controlled by condition. Through the use of these measures it is considered that objectors concerns about the impact of the construction process have been mitigated as far as reasonable practicable.

### **Plant**

New screened roof top plant is proposed at Site 1, plant and services is also proposed within the basement. Environmental Health has no objection to the proposal on the basis that a supplementary acoustic report is submitted once the plant has been selected.

No new plant is proposed at Site 2.

### **Sustainability**

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture. The applicant has submitted an energy strategy setting out the measures incorporated into the proposed development in the context of sustainable design principles. The proposals seek to accord with the London Plan energy hierarchy of Lean, Clean and Green. Policy 5.2 of the London Plan requires a 35% improvement in carbon dioxide emissions over the 2013 Building Regulations. The proposals at

Site 1, would provide approximately 40% of carbon reduction improvements over the Building Regulations which are welcomed.

This will be achieved by designing a low energy building, by adopting high levels of insulation, solar shading, high performance glazing and low air permeability and the use of high efficiency plant and equipment.

A green roof is proposed to the hotel building which is to be secured by condition.

The proposals at Site 2 are of an insufficient scale to require an energy statement.

## **8.8 London Plan**

This application raises no strategic issues.

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

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

## **8.10 Planning Obligations**

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced later in 2015. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the council and working pro-actively with applicants to continue to secure infrastructure projects by

other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

A Grampian condition is recommended to deal with the contribution to the Council's Environmental Inspectorate (merged services Environmental Sciences and the Environmental Inspectorate).

## 9. BACKGROUND PAPERS

### Site 1

1. Application form
2. Response from Residents Society Of Mayfair & St. James's, dated 28 September 2015
3. Response from Historic England dated 5 October 2015
4. Response from Environmental Health, dated 23 September 2015
5. Response from the Environmental Inspectorate, dated 23 September 2015
6. Response from the Highways Planning Manager dated 20 November 2015
7. Letter from occupier of Flat 1, First Floor, 38 Hertford Street, dated 24 September 2015
8. Letter from Savills on behalf of the owners/occupiers of 38, 40 and 49 Hertford Street dated 6 October 2015

### Site 2

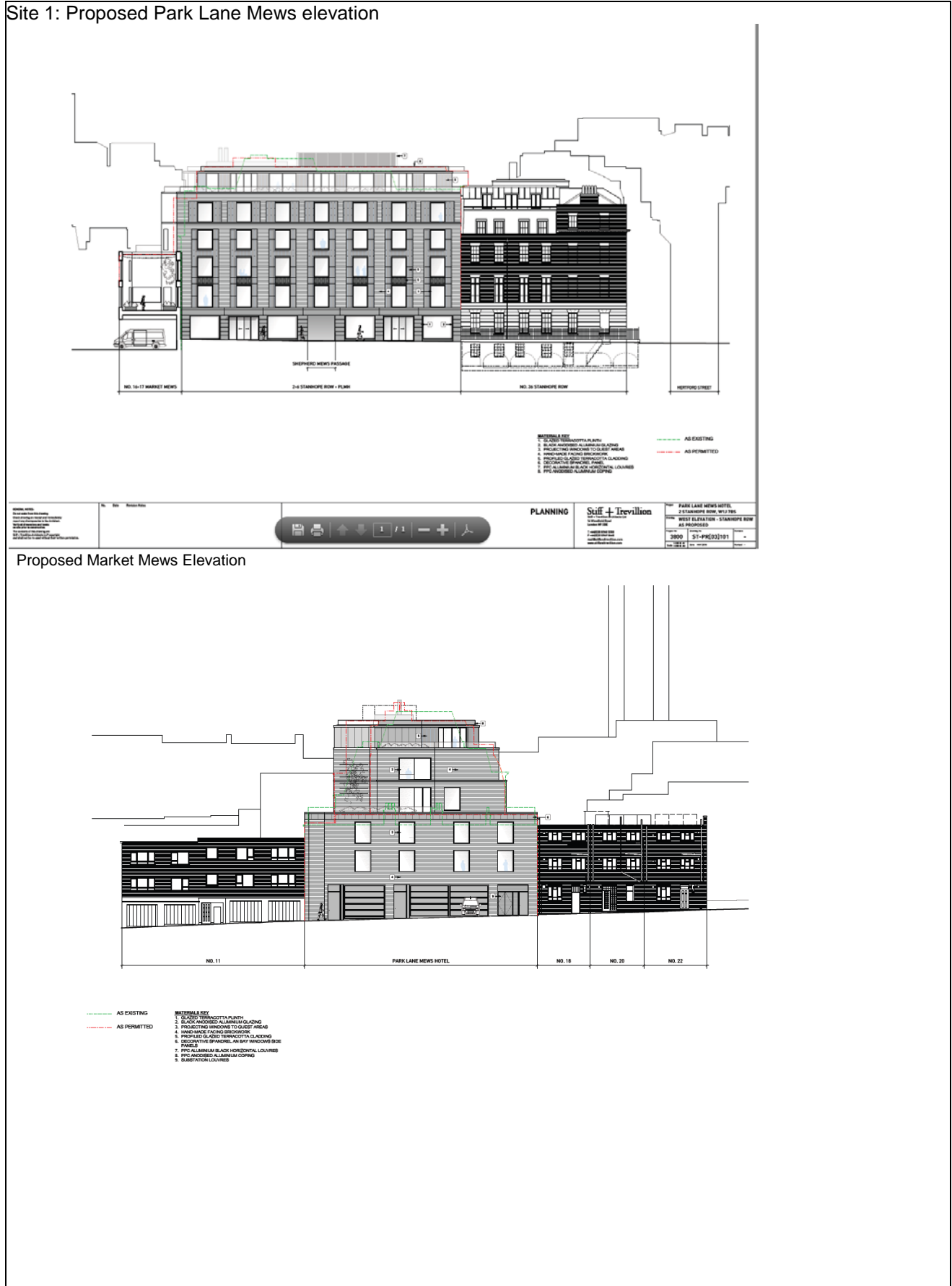
9. Application form
10. Response from Residents Society Of Mayfair & St. James's, dated 28 September 2015
11. Response from the Highways Planning Manager dated 20 November 2015

(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 HELEN MACKENZIE ON 020 7641 2921 OR BY EMAIL AT [hmackenzie@westminster.gov.uk](mailto:hmackenzie@westminster.gov.uk)

### 10. KEY DRAWINGS

Site 1: Proposed Park Lane Mews elevation

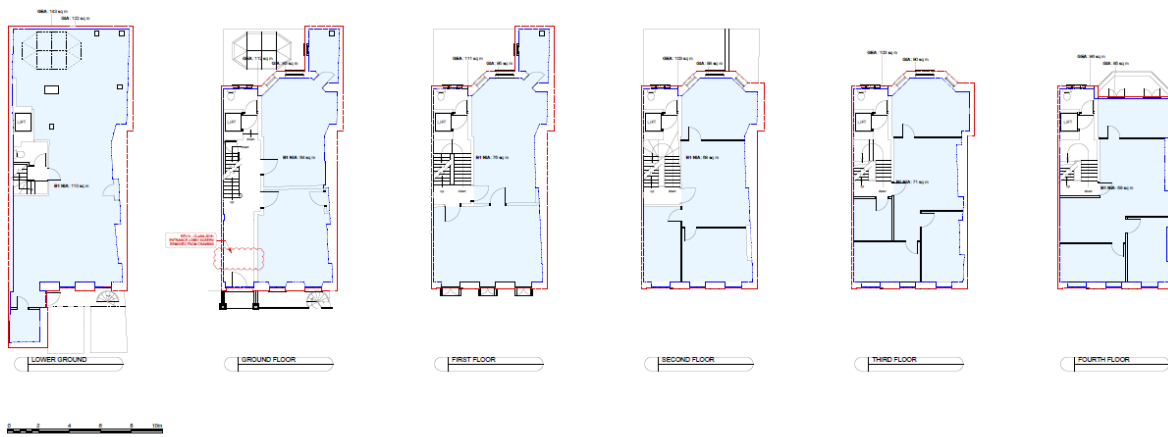






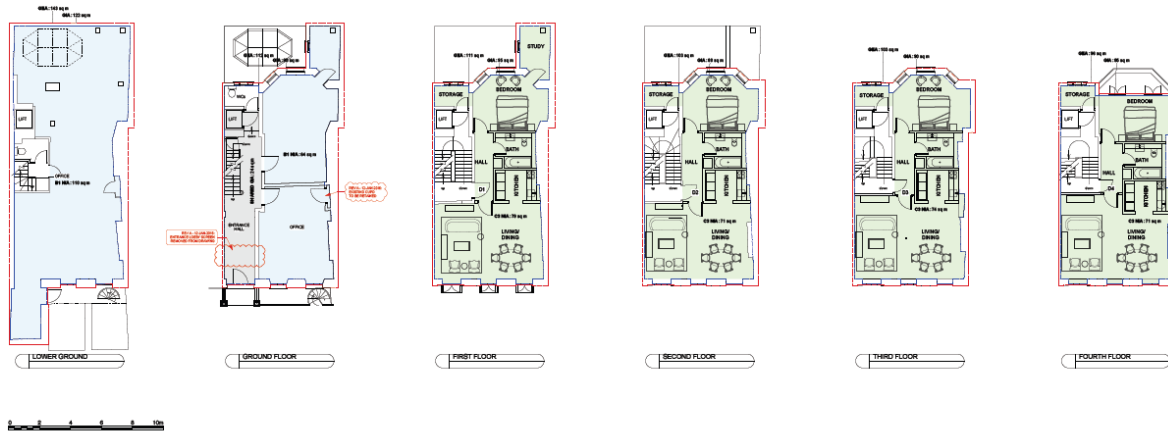


Site 2  
Existing floorplans



<p>GENERAL NOTES</p> <p>1. All dimensions are in millimeters unless otherwise stated.</p> <p>2. Check drawings for consistency and accuracy.</p> <p>3. Verify all dimensions and levels.</p> <p>4. All work to be completed in accordance with the relevant Building Regulations.</p> <p>5. All work to be completed in accordance with the relevant Building Regulations.</p> <p>6. All work to be completed in accordance with the relevant Building Regulations.</p>	<p>No. Date Revision Notes</p>	<p>PLANNING</p>	<p><b>Stiff + Trevillion</b>          10 HERTFORD STREET          LONDON W1T 2ET          T +44 (0)20 7641 0100          F +44 (0)20 7641 0101          www.stiffandtrevillion.com</p>	<p>PROJECT PARK LANE NEWS HOTEL PROJECT          46 HERTFORD STREET          PLANS AS EXISTING</p> <p>3800 ST-EX(02)110</p> <p>Rev. 10/22/10</p>
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Proposed floorplans



**GENERAL NOTES:**  
 Do not scale from this drawing.  
 Check drawings for correct and consistent use of dimensions and levels.  
 All dimensions are in millimetres.  
 All levels are in metres above sea level.  
 All levels are in metres above sea level.  
 All levels are in metres above sea level.  
 All levels are in metres above sea level.

No.	Date	Revision Notes

PLANNING

**Stiff + Trevillion**  
 10 Hertford Street  
 London W1P 9SE  
 Tel: +44 (0)20 7592 0000  
 Fax: +44 (0)20 7592 0001  
 email: info@stiffandtrevillion.com  
 www.stiffandtrevillion.com

PARK LANE NEWS HOTEL PROJECT 2 STANHOPE ROW, W1J 7WS	
44 HERTFORD STREET	
PLANS AS PROPOSED	
3800	ST-PR[02]110
Scale: 1:100	Date: 01/09/2010
Sheet: 01	Total: 01

**DRAFT DECISION LETTER**

- Address:** 2 Stanhope Row; 16 Stanhope Row, 36 And 37 Hertford Street, 16a, 16B And 17 Market Mews, London
- Proposal:** Demolition of 2-6 Stanhope Row and 16-17a Market Mews, excavation of sub-basement beneath 2-6 Stanhope Row and excavation of basement beneath 17a Market Mews and erection of replacement building over sub-basement, basement, ground - fifth floors (with plant above) (2-6 Stanhope Row) and three-storey building to Market Mews to provided a 29 bedroom hotel (Class C1) with ancillary casino. Demolition of 37 Hertford Street and rear third floor mansard roof of 36 Hertford Street and erection of replacement building over basement, ground to third plus mansard roof to provide 13 x flats (Class C3) provision for cycle parking, refuse storage and rooftop plant, together with other associated works. [Land use swap with 46 Hertford Street].
- Plan Nos:** 3800 DM-02-099-2, EX-02-100-2, DM-02-101-2, DM-02-102-2DM-02-103-2, DM-02-104-2, D,-02-105-2DM-02-106-2, ST-DM[03]101-2ST-DM[03]102-2, ST-DM[03]103-2, ST-EX[03]104-2  
3800 PR-02-098-2, 099-2, 100-2, 101-2, 102-2, 103-2, 104-2, 105-2, 106-2  
PR-04-100-20101-2, ST-PR[04]103, ST-PR[03]101, 102, 103, 104, 105, ST-PR[31]201-2, 202-2,203-2, 204-2. Email from DP9 dated 12.01.2016, Construction management plan, casino management plan

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

- 1 Except for basement excavation 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 basement excavation 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. (C11BA)

Reason:

To protect the environment of neighbouring residents. This is as set out in STRA 16, STRA 17 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AB)

- 2 You must apply to us for approval of detailed drawings (1:20 and 1:5) of the following parts of the development:

1. Typical facade details (all facades, including 37 Hertford Street)
2. Roof extension at rear of 36 Hertford Street
3. Green roofs
4. Public Art

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 detailed drawings. (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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 3 You must apply to us for approval of samples of all facing materials including glazing. 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 samples.

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must apply to us for approval of a sample panel of the ceramic and brickwork (all buildings). You must not start any work on these parts of the development until we have approved these sample panels. You must then carry out the work according to these panels.

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 5 You must apply to us for approval of full particulars and a sample panel of the treatment of the brickwork at 36 Hertford Street (colour to be agreed)

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 particulars and the sample panel.

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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 Customers who are not residents of the hotel, or their guests, shall not be allowed access to or remain on the premises within the hotel restaurant and other ancillary facilities except between 09.00 - 23.30 Monday to Saturday and 10.00-23.00 on Sundays and Bank Holidays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 You must not sell any take-away food or drink on the premises, even as an ancillary part of the hotel restaurant.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 8 The 2 No. three-bedroom residential units must be provided and each one shall thereafter be retained as a residential unit with three separate bedrooms.

Reason:

To protect family accommodation as set out in S15 of Westminster's City Plan: Strategic Policies adopted November 2013 and H 5 of our Unitary Development Plan that we adopted in January 2007. (R07DC)

- 9 You must put a copy of this planning permission and all its conditions at street level outside the building for as long as the work continues on site.

You must highlight on the copy of the planning permission any condition that restricts the hours of building work. (C21KA)

Reason:

To make sure people in neighbouring properties are fully aware of the conditions and to protect their rights and safety. (R21GA)

- 10 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 11 You must provide the following bio-diversity features before you start to use any part of the development, as set out in your application.

- green walls

You must not remove any of these features, unless we have given you our permission in writing. (C43FA)

Reason:

To increase the biodiversity of the environment, as set out in STRA 37 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FA)

- 12 (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: Strategic Policies adopted November 2013, 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.

- 13 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.

- 14 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 12 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

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: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 15 You must provide each cycle parking space shown on the approved drawings (for the residential and commercial uses) 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 TRANS 10 of our

Unitary Development Plan that we adopted in January 2007.

- 16 All servicing must take place between 07.00 and 19.00 on Monday to Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building.

Reason:

To protect neighbouring residents from noise nuisance, as set out in STRA 13, STRA 16, STRA 17, ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FA)

- 17 You must use the parking, access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes. (C23AA)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in STRA 24, STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AB)

- 18 You must not allow more than 75 customers into the hotel restaurant at any one time.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with STRA 28 and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FB)

- 19 You must use the bar to serve hotel residents and restaurant customers only, before, during or after their meals. You must only use the rest of the property as a sit-down restaurant with waiter service.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with STRA 28 and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FB)

- 20 You must put up the plant screen shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in STRA 16, STRA 17, ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AB)

- 21 The hotel use allowed by this permission must not commence until the residential use has been completed to our satisfaction.

Reason:

Developing the site without the residential would not meet Policies S1 of Westminster City Plan: Strategic Policies that we adopted in November 2013 or CENT3 of our Unitary Development Plan that we adopted in January 2007.

- 22 The glass that you put in the windows in the east elevation (overlooking the rear of 44-46 Shepherd Street); 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 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. (C21DB)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in STRA 16, STRA 17, ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BB)

- 23 The design and structure of the new hotel, including the basement restaurant, shall be of such a standard that it will protect residents within the same building/development or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise 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 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 24 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.

- 25 The casino use hereby approved can only be carried out in the areas shaded blue on drawings PR-02-100-2, PR-02-101-2, PR-02-105-2.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE1 of our Unitary Development Plan that we adopted in January 2007, or CS22 of the Core Strategy. (R05AB)

- 26 You must carry out the measures included in your management plan by Genting UK plc at all times that the casino is in use. (C05KA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 27 You must adhere to the Construction Management Plan by BWB Consultancy dated 13 August 2015 at all time the construction is taking place.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 28 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved either:

- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or
- (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 29 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 Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 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)

- 30 **Pre Commencement Condition.** You must not start work on the site until we have approved appropriate arrangements to secure the following.

- a contribution to the Council's Environmental Inspectorate

In the case of each of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements. (C19AB)

**Reason:**

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 of Westminster's City Plan: Strategic Policies adopted November 2013.

- 31 You must apply to us for approval of details of the following parts of the development: the proposed construction stages of excavation and temporary supports, as well as the sequencing of the piling proposed. You must not start work until we have approved what you have sent us.

You must then carry out the work according to these details. (C26CB)

**Reason:**

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

**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: Strategic Policies adopted November 2013, Unitary Development Plan, 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 Conditions 12 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 4 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, perhaps by issuing regular bulletins about site progress.
- 5 One or more of the conditions above prevent work starting on the development until you have applied for, and we have given, our approval for certain matters. It is important that you are aware

that any work you start on the development before we have given our approval will not be authorised by this permission. (I77BA)

- 6 Under condition 30, we are likely to accept a legal agreement under section 106 of the Town and County Planning Act to secure a contribution to the Environmental Inspectorate, as set out in the letter dated 12.01.2016 from DP9. Please look at the template wordings for planning obligations (listed under 'Supplementary planning guidance') on our website at [www.westminster.gov.uk](http://www.westminster.gov.uk). Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition. (I77AA)
  
- 7 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.  
If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>  
Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>.  
**You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**

**DRAFT DECISION LETTER**

**Address:** 36 Hertford Street, London, W1J 7SE,

**Proposal:** Internal and external alterations including the rebuilding of the rear third floor mansard roof.

**Plan Nos:** 3800 PR[02]209, 210, 211, 212, 213, 214, 215

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

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

**Reason:**

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

- 2 You must apply to us for approval of full particulars and a sample panel of the treatment of the brickwork at 36 Hertford Street (colour to be agreed).

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 particulars and the sample panel.

**Reason:**

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 3 You must apply to us for approval of detailed drawings (at scales 1:20 and 1:5) of the following parts of the development -
1. The new roof of the rear wing
  2. Green roof
  3. New windows
  4. New doors
  5. Cornice to facade.

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 detailed drawings. (C26DB)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 5 The new joinery work must exactly match the existing original work unless differences are shown on the drawings we have approved. (C27EA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 6 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 7 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)



**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan July 2011, Westminster's City Plan: Strategic Policies adopted November 2013, and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the character of this building of special architectural or historic interest.

In reaching this decision the following were of particular relevance:

S25 and S28 of Westminster's City Plan: Strategic Policies and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3 and 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.



**DRAFT DECISION LETTER**

**Address:** Archeson House, 46 Hertford Street, London, W1J 7DP

**Proposal:** Use of first to fourth floors as four flats (Class C3)

**Plan Nos:** 3800-ST-PR-02-110A, PR-03-110

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

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

Reason:

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

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

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 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.

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

**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: Strategic Policies adopted November 2013, Unitary Development Plan, 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 Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year). (I38AB)

- 3 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.

If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>.

**You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**

**DRAFT DECISION LETTER**

**Address:** Archeson House, 46 Hertford Street, London, W1J 7DP

**Proposal:** Internal alterations to all floors.

**Plan Nos:** 3800-ST-PR-02-110A, PR-03-110

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

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

**Reason:**

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

- 2 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 4 The internal decorative features at ground floor and first floor level in the front and rear rooms shall be retained insitu.

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in

S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 5 You must apply to us for approval of detailed drawings and /or full particulars of the following parts of the development -

All internal works at ground floor level and first floor level

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 detailed drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan July 2011, Westminster's City Plan: Strategic Policies adopted November 2013, and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the character of this building of special architectural or historic interest.

In reaching this decision the following were of particular relevance:

S25 and S28 of Westminster's City Plan: Strategic Policies and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3 and 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

# Agenda Item 8

Item No.

8

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 26 January 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Regent's Park	
<b>Subject of Report</b>	<b>St Johns Wood Delivery Office, 30 Lodge Road, London, NW8 8LA.</b>		
<b>Proposal</b>	Development of existing vacant sorting office and associated hardstanding on site. Erection of 10 storey building comprising 49 residential units and ancillary floorspace (Class C3), provision of 54 car parking spaces, waste management areas, cycle parking and chp facility within basement, public realm works and access to car lifts from Lodge Road.		
<b>Agent</b>	Mr Tom Vernon		
<b>On behalf of</b>	Regal Homes		
<b>Registered Number</b>	15/08211/FULL	<b>Date amended/ completed</b>	10 September 2015
<b>Date Application Received</b>	18 August 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside of the nearby St John's Wood Conservation and Regents Park Conservation Areas which run along St John's Wood Road and Park Road respectively.		

## 1. RECOMMENDATION

1. Subject to the concurrence of the Mayor of London, grant conditional permission subject to a S106 legal agreement to secure:

- i) A financial contribution of £5,446'560 towards the City Councils affordable housing fund (index linked and payable upon commencement of development.
- ii) Payment for the cost of highways works necessary to facilitate the development including the reinstatement of pedestrian highway.
- iii) Provision of basement car parking on an un-allocated basis.
- iv) To carry out the development in accordance with a car stacker maintenance and management plan to be submitted.
- v) Replacement street tree in the event that it is not retained.
- vi) Monitoring costs

2. If within six weeks of the resolution to grant conditional permission the S106 planning obligation has not been completed or there is no immediate prospect of the planning obligation being completed, then

- a) The Strategic Director shall consider whether it would be possible and appropriate to issue

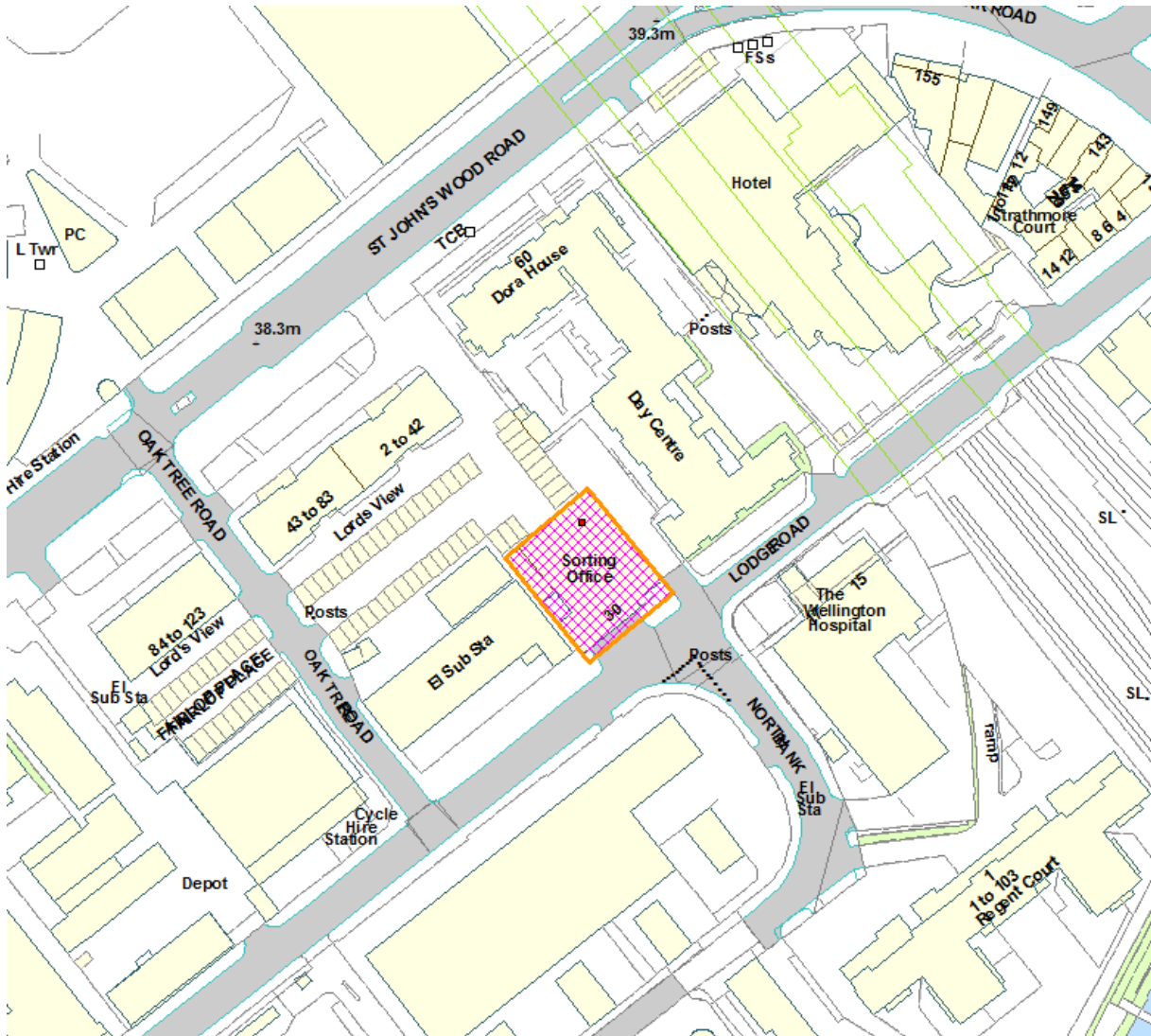
permission with additional conditions attached to secure the benefits listed above. If so, the Strategic Director is authorised to determine and issue such a decision under Delegated Powers; however, if not b) The Strategic Director shall consider whether permission should be refused on the grounds that it has not proved possible to complete a S106 planning obligation within an appropriate timescale, and that the proposal is unacceptable in the absence of the benefits which would have been secured; if so, the Strategic Director is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

Permission is sought to redevelop this two-storey Royal Mail sorting office building with a ten-storey building to provide 49 private residential units with balconies and terraces and associated car and cycle parking. The proposal has been amended during the course of the application to address concerns of officer's and the Mayor with respect to the number of family sized unit sizes, quantity of cycle spaces and accessible units and car parking spaces. The residential development would provide 49 good quality residential with an element of family sized units along with external amenity space and car and cycle parking. A financial contribution of over £5m is proposed as a payment in lieu of providing affordable housing and has been independently verified as the maximum viable contribution that the scheme can afford. The proposal is also notwithstanding objections from three local residents, considered to be acceptable in design and townscape, amenity and transportation terms and accords with the relevant Unitary development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan). As such the application is recommended favourably, subject to conditions and a S106 legal agreement to secure the affordable housing contribution matters relating to transport and the highway.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### GREATER LONDON AUTHORITY

The application is generally acceptable in strategic terms, but does not fully comply with the London Plan, but remedies could address the deficiencies.

City Council should seek more family housing units; No affordable housing on site, but the constraints should not be obstacles at least to provide intermediate units. Any independent review of the applicants viability assessment should be provided to the GLA prior to stage 2 referral; Layout of ground floor should be revisited to enable passive surveillance and details of architectural principles and facing materials should be secured to ensure highest standards of design and place making are delivered;

Whilst proposed density is higher than that suggested in the London Plan it is acceptable in this instance; The provision of play space at roof level within the community amenity space is welcomed; the 105 wheelchair accessible units should be annotated as such; As the units are not expected to overheat application should consider omitting air conditioning units to maximise carbon savings; details of the proposed operation of the CHP should be secured.

Travel plan, delivery and service plan (DSP) and construction logistics plan (CLP) should be secured by condition; cycle parking should be increased and should include short stay provision; Travel plan should also secure funding for cycle hire membership for each residential unit; encourage reduction in car parking; provision of blue badge parking and of electrical vehicle charging points (EVCP's) should accord with the London Plan. Residents should be exempt from applying for parking permits, car club membership should be secured for each residential unit and a car park management plan should be required. A payment of £50 per square metre should be secured fro CIL.

### TRANSPORT FOR LONDON

Lodge Road forms part of the Transport for London Road Network

Provision of off street car parking at a ratio of 1:1 is excessive and should be reduced and provision made for wheelchair accessible parking and electric vehicle charging points provided. A car parking management plan should be secured by condition

Residents should also be exempt from applying for parking permits.

25 year car club membership is welcomed.

87 cycle parking spaces expected along with sufficient size lift for bike access to basement.

Expect Travel plans and Delivery and Service Plan (DSP) Expect a delivery and service plan (DSP) and Construction and Logistics Plan (CLP) to be required by condition to manage effect on road network. Request that construction vehicles FORS silver accredited. From September 2015 all vehicles of 3.5 tones entering London must be fitted with side guards and mirrors to safeguard cyclists.

Considering further matters including servicing and vehicular access arrangement particularly during demolition and construction, whether a financial contribution for Legible London signage to improve legibility of walking routes in the vicinity. Updated comments on these matters is to be provided with GLA comments.

### HISTORIC ENGLAND

Application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

**ROYAL PARKS**

Any response to be reported verbally.

**THE GARDENS TRUST (GARDEN HISTORY SOCIETY)**

Any response to be reported verbally.

**THAMES WATER**

Require details of a drainage strategy for any on and off site drainage work and piling method statement to be agreed in liaison with Thames Water.

Request applicant informed of the following, encouraged to incorporate a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions and Groundwater Risk Management Permit from Thames Water will be required for discharging ground water into a public sewer. General advice on water pressure  
No objection to water infrastructure capacity

**ENVIRONMENT AGENCY**

No comment

**WARD COUNCILLORS**

Any response to be reported verbally.

**ST JOHNS WOOD SOCIETY**

No objection.

**ST MARYLEBONE SOCIETY**

No objection, defer to City Council Conservation officer.

**HOUSING MANAGER**

No objection, a financial contribution of over £5m as a payment in lieu of affordable housing will allow the City Council to deliver more affordable homes elsewhere, potentially around 10- 20 rather than 3 on site.

**HIGHWAYS PLANNING MANAGER**

Generally acceptable, apart from insufficient cycle storage and conditions and planning obligations recommended. Provision is made of cycle storage for 42 cycles at ground floor level, contrary to policy requirement for 87 spaces (also of concern to TFL). A Revised cycle storage capacity is suggested to be required by condition.

The provision of 54 off street car parking spaces with electrical vehicle charging points within basement (car stacker system) for 52 residential units to be provided on an allocated basis is acceptable subject to details to be required by condition. The vehicle access arrangement also allows a vehicle to wait off the highway and enter and exit the site in a forward direction.

Servicing of the site is proposed from the highway utilising yellow line on Lodge Road. Whilst not ideal or consistent with policy, given the location, quantum and nature of development, this arrangement does not raise objection.

Waste and recycling provision is satisfactory.

The proposal reduces the width of the vehicular crossover, improving the environment for pedestrians which is welcomed and to be secured by legal agreement.

#### BUILDING CONTROL

Structural method statement is considered acceptable. An investigation of existing structures and geology has been undertaken and found to be of sufficient detail. The existence of groundwater, including underground rivers, has been researched and the likelihood of local flooding or adverse effects on the water table has been found to be negligible. The basement is to be constructed using piled walls with internal RC retaining walls which is considered to be appropriate for this site. The proposals to safeguard adjacent properties during construction are considered to be acceptable.

#### ENVIRONMENTAL HEALTH

Any response to be reported verbally.

#### ARBORICULTURAL OFFICER

Any response to be reported verbally.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 710

Total.No.of Replies: 4 responses ( 2 from Lords View, 1 from the Pavilions, 1 from Central & Cecil of Dora House)

#### Land use

Good to see site developed for housing

Overdevelopment- concerned at the number of high rise buildings in an area bordered by St John's Wood Road, Park Road, Lodge Road. All planning applications and proposed planning applications should be considered in context and not isolation.

#### Amenity

Following planning consent for medium and high rise buildings at 36-44 Lodge Road and the intention to replace Dora House with tall buildings on Lodge Road and 60 St John's Wood Road, the erection of another tower in this locality would result in major over-development and have an adverse impact on quality of life for residents.

Any structure over 3-4 storeys will block light and overlook Pavilions.

A detailed survey is required to show the cumulative effect of all the proposed buildings on wind turbulence and microclimate in this part of St John's Wood, as there could be significant impacts for residents and pedestrians.

#### Design

The area is an important entry point to St John's Wood and the conservation and the proposed clutch of high rise buildings is out of context

Structure that exceeds 3-4 storeys will block light and overlook flats within the pavilion apartments, 34 St John's Wood Road.

#### Transportation

Lodge Road is a narrow road and not suited to the large number of additional cars.

Traffic jams are frequent, especially when visitors of the mosque seek to park.

Will add to traffic congestion.

#### Other

Central and Cecil welcome the redevelopment of the site and the buildings residents will be important neighbours to the proposed new Dora House and its residents. Proposed scheme is a welcome addition to Lodge road offering high quality housing in addition to the wider regeneration of the area. The constructive and collaborative working relationship between the developer (Regal Homes) and Central and Cecil has resulted in two buildings that are complementary of each other and will significantly enhance the street scape. Confident that the relationship will continue and will result in a co-ordinated approach to construction logistics and minimum disruption during development Satisfied that the proposed buildings will not cause any unacceptable sunlight and daylight issues to Central and Cecil Dora House Regeneration proposals and support the application.

ADVERTISEMENT/SITE NOTICES: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The existing 2-storey detached brick building was previously occupied by Royal Mail as a sorting office and the site has a dropped kerb and some off street parking to the front. It is unlisted and lies outside of the nearby St John's Wood Conservation and Regents Park Conservation Areas which run along St John's Wood Road and Park Road respectively. To the north/north west lies Lords View and to the west lies EDF site which is currently under redevelopment for residential purposes. To the east is Dora House (60 St John's Wood Road) which provides sheltered housing for the elderly and to the south is a further EDF site and North Bank.

### 6.2 Recent Relevant History

#### 30 Lodge Road

##### 15/05094/EIAOP

Request for Screening Opinion pursuant to Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (amended 2015) in connection with the redevelopment of the site of the former (now vacant) St John's Wood Delivery Office, 30 Lodge Road, St John's Wood, London NW8 8LA

Not required 19 June 2015

##### 13/11559/EIAOP

Request for Screening Opinion pursuant to Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 in connection with the redevelopment of the land at Dora House, No. 60 St John's Wood Road and St Johns Wood Road Mail Delivery Office, 30 Lodge Road.

Not required 2 December 2013

#### Dora House, 60 St John's Wood Road

Pending application for demolition of the existing building and redevelopment to provide two buildings: Building 1 comprising one basement level, ground and twelve upper floors

containing car parking, plant, sheltered accommodation (Class C3) and ancillary communal areas; Building 2 comprising three basement levels, ground and ten upper floors containing plant, car parking, residential accommodation (Class C3) and ancillary leisure; reconfigured vehicular and pedestrian access together with landscaping and other works in association with the development. (15/09769/FULL).

### **36-44 Lodge Road**

Planning permission was granted on 12.08.2013 for Demolition of existing structures and development of buildings extending between five and 12 storeys comprising 132 self-contained private and affordable residential flats (85 private and 47 intermediate affordable housing units), ancillary leisure and gym facility, 103 car parking spaces and 258 cycle spaces with associated landscaping and ancillary works.(09/09773/FULL). This was followed by a number of amending applications. The development has been implemented.

## **7. THE PROPOSAL**

Permission is sought for the demolition of the existing building and the construction of a new 10-storey building with a double height basement to provide 49 self-contained private residential flats with balconies and communal terrace. The double basement is proposed to accommodate 54 car parking spaces within an automated system accessed from ground level with associated plant. The ground floor also accommodates a reception area, 78 cycle spaces, waste and recycling, a small sub-station, resident's gym and a single flat.

The application has been amended since original submission to provide a better mix of unit sizes (6 family sized units instead of 3), which has resulted in a reduction the proposed number of units to 49 (from 52), increase in cycle parking to 78 (from 42) and further annotation of plans to indicate the location of accessible car parking spaces and wheelchair accessible units.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The site has become surplus to Royal Mail's requirements and has consequently been sold to a private developer. The principle of redeveloping this site to provide additional residential accommodation is acceptable in principle in land use terms in accordance with Policy H3 of our Unitary Development Plan (UDP) and S14 of Westminster's City Plan – Strategic Policies (City Plan).

#### **Residential**

The proposed new private residential accommodation would comprise of 49 self-contained flats in the form of 15x1 bedroom, 28x2 bedroom, 6x3 bedroom units, within 5600m<sup>2</sup> (GEA) of floorspace accessed via a single staircase and lift core. This mix of unit sizes including only 12% of the units as family sized falls short of the 33% requirement

under policy H5 of our UDP and S15 of our City Plan, although it is recognized that this level has been increased from the originally proposed 6%.

It is acknowledged that this policy can be applied flexibly as the applicant suggests, but there must be justification to do so. The justification brought forward by the applicant is that the proposed unit mix is reflective of the location of the application site and its constrained footprint. The applicant has also refers to the emerging City Management policy and its direction of travel towards requiring a lower provision of family sized units (25%) and acknowledging that residential units with two bedrooms (3-4 habitable rooms) can provide homes for smaller families with children and thus contributing to the provision of homes for families in Westminster.

It is acknowledged that the footprint of the site is somewhat constrained and the ability to provide gardens and ground floor amenity space limited. Given the direction of travel of the City Council's emerging policy to potentially reduce the levels of family sized units in new developments from 33% to 25% and to take account of two bedroom units as provision for homes for smaller families within Westminster, the overall mix of unit sizes is considered acceptable in this particular case.

The proposed residential units are of a good size between 53m<sup>2</sup>-137m<sup>2</sup> and all but one are dual aspect and would receive adequate ventilation, daylight and sunlight, privacy and outlook. During the course of the application, the applicant was asked to consider removing the isolated single aspect ground floor unit which is located adjacent to the reception area and gym. The applicant considered it key to the viability to retain this unit. Whilst it is single aspect it incorporates 2.6m high glazing and is set back from the external public domain with low level hard and soft landscaping. The overall residential environment, whilst not ideal, is not considered to be so unacceptable to warrant withholding permission.

Furthermore, each residential unit would benefit from external amenity space in the form of a balcony and access to a 148m<sup>2</sup> communal roof terrace. The overall quality of the residential environment created for future occupiers is considered to be acceptable and accords with policy ENV13 of the UDP and S28 of the City Plan.

Given the proposal is for less than 50 units and does not create an anticipated child population of more than 10 children, there is no policy requirement for the development to provide for play and open space. Notwithstanding this, the applicant is proposing 48m<sup>2</sup> of playspace within one of the communal roof gardens which is welcomed.

### **Affordable Housing**

The creation of 5600m<sup>2</sup> (GEA) of additional residential floorspace requires the provision of 1840m<sup>2</sup> or 23 units of affordable housing under policy H4 of our UDP and S16 of our City Plan, with reference to our Interim Guidance Note- Affordable Housing Policy. However no on or off site affordable housing is proposed. The applicant suggests that it is not practical or viable for affordable housing to be provided on site due to scheme design, potential management of units, service charges and overall financial viability and further that there are no available or appropriate donor sites.



The applicant also suggests that a full policy complaint payment in lieu of affordable housing of £9,769,480 is unviable. In support of this stance the applicant has submitted a financial viability report by Gerald Eve LLP, which has been independently assessed by Lambert Smith Hampson (LSH) on behalf of the City Council.

The conclusions of this independent assessment indicates that in considering the opportunity to provide affordable housing on site, it is possible that the scheme could cross fund 3x3bedroom affordable housing units on site or alternatively that the scheme could afford a financial contribution of £5'439.000 in lieu of the provision of affordable housing. The City Council's Housing Manager has advised that such a contribution could allow the City Council to deliver considerably more units (around 10- 20 units rather than 3) on site and on this basis and in this case, he supports the provision of a payment in lieu.

After negotiation, the applicant has agreed to pay £5'439.000, which is the maximum contribution that the City Council's independent consultant considers that the scheme can viably support. For the reasons set out above, the affordable housing offer is considered to meet our policy requirements. Whilst a carbon offset payment is of £7,560 is offered (see section 6.10) to meet the schemes shortfall in carbon reduction, given the viability of the scheme, it is considered that all available contributions should be made to the affordable housing fund, which would provide a total contribution of £5,446'560.000.

## 8.2 Townscape and Design

Lodge Road and the buildings to the north and south of it all lie outside a conservation area. The nearest conservation areas to the site are the St John's Wood Conservation Area which lies to the north (north of St John's Wood Road) and the Regent's Park Conservation Area to the east (east of Park Road). Virtually all the buildings which face onto Lodge Road are post-war in date and none are listed, the exceptions to this being the 1830s grade II listed Church of Our Lady, at the junction of Lodge Road with Lisson Grove and some 250m to the west of the application site; and the 1930s Strathmore Lodge at the junction with Park Road, which is an unlisted building and lies approximately 100m to the east of the application site. The only other building on Lodge Road which is not from the post-war period is the current building on the application site – a 1930s former Postal Sorting Office. This is a two-storey structure with a red brick façade and is of minimal architectural distinction.

Minimal architectural distinction and coherence is a term that could be applied to Lodge Road as whole. As already indicated it is largely faced by buildings of post war date, but added to this, the scale and use of buildings on the street is varied, with the overall effect being a very disjointed street of relatively low townscape merit.

The proposal is to demolish the current building on the site and to provide a replacement residential building comprising two levels of basement, ground floor and nine upper storeys. The ground floor is designed as a podium and occupies most of the site plot and above this the upper floors rise in a cruciform plan, thus creating projecting and recessed elements, which allow a greater surface area to the facades, which in turn allows more windows and balconies.

The ground floor plinth will be faced in brick and the upper floors will be clad in cast metal. The metal cladding will feature a wavy leaf motif and will have a light bronze colour. The residential accommodation will typically comprise 6 flats per floor grouped around a central core, with each flat having access to at least one balcony. There are roof terraces proposed above the podium at first floor level; and at roof level. The roof also contains a zone for plant and for photovoltaic panels.

The proposal is considered acceptable in design terms. While the proposed building is substantially taller than the existing building on the site, the proposal should be considered in the context of a very varied area of townscape and a changing context.

The proposed building would lie immediately to the east of the redevelopment scheme at 36-44 Lodge Road which is approved to have an 8 storey building (62.30m AOD) adjacent to 30 Lodge Road. Immediately to the east of the application site is Dora House, currently a four storey building towards Lodge Road, but currently the subject of re-development proposals and further to the east is the Danubius Hotel, which is approximately 14 storeys in height (77.89m AOD). Finally on the south side of Lodge Road is Wellington Hospital Platinum Medical Centre which is approximately 7 storeys in height (58.85m AOD). In this townscape context where there is no prevailing building height and where there are taller existing buildings, the proposed 10 storey building (72.78m AOD) mediating between that of 36-44 Lodge Road and the Danubius Hotel is considered acceptable.

In terms of detailed design and materials, it is considered that the current townscape within Lodge Road, with its variety of building ages, uses, heights and materials, allows for a degree of design independence and the opportunity for innovative architecture which can introduce a new point of interest to the street. The use of brick and cast metal are materials of proven quality and durability but will need to be secured by condition to ensure that the quality is maintained through to the construction phase. The use of cast-metal as the principal facing material is more unusual, but the modelling of the building and the wavy leaf motive, which creates depth and texture to the finish all offer the potential for an attractive and visually stimulating new building. It is considered that the tonal finish of the cast metal is important to ensure that it still responds to its context and this should be secured by condition.

The application has included a townscape and visual impact assessment and this has demonstrated that the proposed development will not have an adverse impact on designated heritage assets (i.e. listed buildings and conservation areas). When seen in the context of the Church of Our Lady the new building is at some distance away and would not significantly alter the scale of background development, when looking obliquely along Lodge Road and would not harmfully affect its setting. When viewed from Regent's Park (and within the Regent's Park Conservation Area) the building would not project above the tree line and would be lower than the Danubius Hotel. Finally, because the proposed building is lower than Lord's View 1 and the Danubius Hotel, the views from the north (within the St John's Wood Conservation Area) would be negligible, because where the building can be glimpsed it will appear lower than most of the buildings which face onto St John's Wood Road.

The proposal is considered to accord with design policies S25 and S28 of our City Plan; and DES 1, DES 4, DES 9, DES 10 and DES 12 of our UDP. Subject to the recommended conditions to secure samples of facing materials, brickwork panels, details

of cast metal cladding, detailed drawings of windows and doors including car park entrance doors and gates, brick podium and services terminations.

The applicant is not proposing to provide public art as part of the proposed redevelopment, due to the small footprint of the site. Notwithstanding this, given the interesting detailed metalwork to the façade of the building, which could be considered to provide interest to the public, it is not considered necessary to require public art in this particular case.

### 8.3 Residential Amenity

#### Daylight and sunlight

The potential impact of the proposed redevelopment on the amenities currently enjoyed by residents surrounding the site has been considered in light of the British Research Establishment Site layout planning for Daylight and Sunlight – A guide to Good Practice 2011 (The BRE Guide). The report by GVA Schatunowski Books has assessed the impact on residents of Lords View 1 and 2, St John's Wood Road and also on the occupants of the existing Dora House, 60 St John's Wood Road, which provides sheltered accommodation for the elderly. It is understood that more recently, occupants of Dora House have been relocated in anticipation of the outcome of their own redevelopment proposals (see history section 4.2 of this report).

##### Lords Views 1

Lords View 1 (2-83) is located directly north of the application site and comprises of a number of residential flats, many with south facing windows. The eastern part of this building currently faces the existing two-storey Royal Mail Sorting office building and this would be replaced with a 10-storey building. Consequently some flats within Lords View 1 would see a loss of daylight.

Four windows at ground floor level kitchen, bedrooms and living room (dual aspect) would see a loss of daylight above the tolerances of the BRE Guide losses of between 22.65% and 24.31% would reduce levels of daylight to between 16.70 and 22.85 Vertical Sky Component (VSC), although it is noted that these levels remain high for a urban location.

At first floor level three windows would see daylight losses of just over 20%, however these rooms would retain high levels of daylight (25.5 VSC).

In terms of sunlight only one window at ground floor level (a dual aspect living room) would see a loss of winter sunlight (66.6%), from 4 to 1%, although no significant loss of annual sunlight.

Given the relationship between Lords View 1 and the application site, the small scale building existing on the site together with the resultant levels of daylight and sunlight that occupiers of the affected windows in Lords View 1 would receive, it is not considered that the loss of daylight and sunlight would be so significant so as to withhold permission on this ground.

##### Lords View 2

Lords View 2 (84-123) is located north west of the application site and comprises of a number of residential flats, many with south facing windows. Given the orientation and

relationship between the application site and this building, its occupants would not see any significant reduction in daylight or sunlight and the impact accords with the tolerances set out within the BRE guide, so as unlikely to be noticeable to occupants. For the same reasons of distance and relationship with the application site the proposed development would not significantly detrimentally impact upon sense of enclosure or privacy.

#### Dora House

Dora House is a four storey building providing sheltered accommodation for the elderly in the form of small units of accommodation with associated communal facilities. The existing building on site extends from St John's Wood Road through to Lodge Road and the building has both south, but predominantly west facing windows due to its design.

Due to the design of the existing building at Dora House and the proximity to the application site, it is the most affected by the proposed development in terms of amenity impact. The proposed development would result in a loss of daylight and sunlight, above the tolerances of the BRE guide, to a number of rooms within Dora House at ground, first, second, third and fourth floors.

At ground floor level seven windows would see a reduction in daylight. Two windows in the main rear elevation would see a reduction of just over 20% (21%) reducing levels of daylight to 12.79-15.83 VSC. However given the minor breach of the BRE tolerances, this impact is not considered to be so significant. Two further windows to the western flank elevation would see losses of between 24-28%, however fairly high levels of daylight (19 VSC) would be retained to these rooms. The remaining three windows to a common room in this west elevation are the closest to the development and see high losses between 40-89%, and resultant low levels of daylight between (1-11 VSC).

At first floor level, seven windows within the western flank elevation would see a reduction in daylight. Five of these would see losses of between 23-37%, but fairly high levels of daylight would remain (16-20 VSC). The remaining two windows would see losses of between 56-65% and resultant low levels of daylight of 8.45-12 VSC.

At second floor level, seven windows within the western flank elevation would see a reduction in daylight. Five of these would see losses of between 20- 44%, but fairly high levels of daylight would remain (17-22 VSC). The remaining two windows would see losses of between 55-62% and resultant low levels of daylight between 10.29-13.41 VSC.

At third floor level six windows within the western flank elevation would see a reduction in daylight. Four of these would see losses of between 21-42%, but fairly high levels of daylight would remain (8-23 VSC). The remaining two windows would see losses of between 53-57 % and resultant low levels of daylight of between 13-15 VSC.

At fourth floor level three windows would see a reduction in daylight of between 21-42 % and resultant daylight levels of between 14-23 VSC.

In terms of sunlight, eleven rooms would see a reduction in sunlight, predominantly within the western flank elevation. Seven windows at ground floor level would see a reduction in annual and or winter sunlight, although the remaining levels would still be fairly high with around 20's annually and 3-4 during winter. At first floor level three rooms would see a reduction in just winter sunlight with resultant levels around 1-4, and one room also sees

an annual sunlight reduction although the resultant levels remain high, apart from a bathroom. At second floor level, one room would see a reduction in annual sunlight, although levels would remain at 19. At fourth floor level a small loss of winter sunlight to one room occurs, although fairly high levels would remain (4).

Dora House as it currently exists is not particularly neighbourly, as its western flank elevation where most of the affected windows are located, face out of the site to adjacent private land and not to street frontages. This coupled with the proximity of Dora House to the application site means that a number of windows to Dora House would see reductions in daylight and to a lesser extent sunlight. However it is of note that there is a current application to redevelop Dora House with two new buildings of 11 to 13 stories for mixed residential and sheltered accommodation use, which is currently pending. Given these circumstances and the resultant levels of daylight and sunlight to Dora House, the impact is considered to be acceptable in order to enable a residential scheme to come forward on the site and in anticipation of the future development of Dora House. Furthermore, Central & Cecil, owner and operator of Dora House, have written in support of the proposal.

#### Pavilions

Whilst an objection has been raised by an occupier of the Pavilions on grounds of loss of daylight, the Pavilions lies some considerable distance away to the west of the site and is sufficiently distant from the proposed development so as to be unaffected, as such this objection is therefore unsustainable.

#### **Sense of enclosure & privacy**

The proposed building would extend to the site boundaries at double basement and ground floor levels and also at upper levels to its east and west flank elevations. To the front and rear (south and north) at upper floor levels the building is set back and shaped with cutbacks, projections and balconies. Minimal secondary windows are proposed to the east and west flank elevations, which is considered acceptable.

The distance between the proposed development including its external balconies and the south eastern rear elevation of Lords View 1 is around 30m and this is considered to be sufficient to ensure that the residents of Lords View 1 will not suffer an unacceptable increased sense of enclosure or loss of privacy. Lords View 2 lies further away to the west and for this reason, occupiers of Lords View 2 are not considered to be impacted upon by the proposed development.

The distance between the eastern flank elevation of the development and the existing western flank of Dora House building is between 7-12m, which is considered to be sufficient given the design of Dora House and its relationship with the proposed development, to prevent significant sense of enclosure or overlooking.

Furthermore, given Dora House is itself subject to a proposed redevelopment scheme, if this application is successful, then that development will need to consider the impact on this proposed development.

The 8-storey building to adjacent to the west of the site at 36-44 Lodge Road, is part of a residential redevelopment scheme which is under construction. The windows in the flank

of this building generally serve third and fourth bedrooms or kitchens, to large triple aspect flats. On this basis the relationship is considered acceptable.

The 7-storey Wellington Platinum Medical Centre is located south east of the site on the opposite side of Lodge Road. Given its relationship and orientation between the two buildings, the proposal is not considered to unduly impact on this building.

Overall, for the reasons set out in detail above, the proposed development is considered acceptable in amenity terms subject to conditions, in accordance with policy ENV13 of our UDP and S29 of our City Plan.

#### **Noise and disturbance from activities and mechanical plant**

Given the size and location of the external balconies and roof terraces and their relationship and distance to surrounding residential buildings (Lords 1 and 2 and Dora House) it is not considered that their use would result in any significantly detrimental noise disturbance to existing residents.

Mechanical plant is proposed within the double basement land central to the main roof, in addition other mechanical equipment proposed include an internal lift, automated car parking system and substation. The City Council's Environmental Health Consultation officer has been consulted and their response will be reported verbally. It is likely that conditions will be requested in order to comply with policies ENV6, ENV7, ENV13 of our UDP and S29 of our City Plan.

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

A total of 54 off street car parking spaces (including 2 disability spaces) with electric vehicle charging points are proposed in the form of an automated parking system within the double basement accessed from Lodge Road at ground floor level via a car lift. These 54 spaces are to be provided for the occupiers of the now proposed 49 residential units of accommodation, available on an unallocated basis (which also assists with the car stacker system). This provision accords with policy TRANS21 and TRAN23 of the UDP.

The car stacker system is set back from the highway and allows vehicles to wait off of the highway and enter and exit the site in a forward direction. Subject to a condition requiring details of a vehicle signaling system, this arrangement is supported.

It is regrettable that on site servicing is not proposed. However the site is located within a controlled parking zone (CPZ- Zone B/C1) during the hours of 08.30 and 18.30 Monday to Friday, which allows single yellow lines on Lodge Road to be used for servicing (including waste collection). Given the location, type and quantum of development, the Highways Planning Manager has not raised objection on this ground and the proposal is considered acceptable in light of policies S42 and TRANS20 of our UDP

The scheme as originally submitted, proposed 42 cycle spaces for 52 flats. The number of flats has been revised to 49 and 78 internal, secure and weatherproof cycle spaces are now proposed. Whilst this remains slightly short of the London Plan requirement for 83 spaces, a ratio of 1.5 spaces per unit would be provided and on this basis, the slight shortfall is considered acceptable.

Provision of storage for refuse and recycling is made at ground floor level and provides sufficient quantum for the development in accordance with policy ENV12 and TRANS3 of our UDP and policy S41 and S44 of our City Plan.

The existing wide crossover at the site, left over from the previous use, is to be reduced in width to provide vehicular access to car lift only and the remaining area is to be reinstated as pedestrian highway. This is a welcome improvement for pedestrians. This and other works to facilitate the development involving will be funded by the developer and secured via a legal agreement.

Overall, subject to the recommended conditions and s106 agreement to secure the cost of highways alterations, car stacker maintenance and residential car parking on an unallocated basis, the proposal is considered acceptable in transportation terms.

## **8.5 Economic Considerations**

The application is subject to a viability assessment, as detailed elsewhere in this report.

## **8.6 Access**

The proposal makes provision for 10% wheelchair adaptable residential units, 100% lifetime homes and two disabled access car parking spaces, all of which is welcomed.

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

### **Sustainability**

In terms of sustainability and energy, the proposal incorporates a range of passive design features and demand reduction measures including;

- Solar control
- Glazing
- External shading
- A basement combined heat and power (CHP) system for hot water and some heating, designed to allow future connection to a district heating network.
- Grey water recycling/rainwater attenuation tank
- Roof top Photovoltaic panels

The proposal would overall see a 33% reduction in carbon dioxide emissions above building regulations and whilst the Mayor recognises that there is little potential for further reduction, requests that the shortfall is met off site (£7,560. Given the viability of the scheme, it is considered that all available contributions should be made to the affordable housing fund.

Overall it is considered that the development achieves a high sustainable design standard incorporating renewable technologies, alongside a CHP which allows future connection to a district wide system in general compliance with the London Plan and our City Plan policy S39 and S28.

### **Biodiversity**

There are no trees within the site, although an existing young street tree is located outside of the site along Lodge Road, which will be expected to be retained or replaced. Some soft

landscaping is proposed within the curtilage at ground floor level and to the building in the form of green roofs, all of which is welcomed. Full details will be required by condition to include details of irrigation, maintenance, adequate soil depth

## **8.8 London Plan**

The proposal is referable to the Mayor of London under category 1c (a building of over 30m in height) and a stage 1 response has been received which is generally supportive of the scheme as set out in this report. A number of minor comments have also been addressed by the applicant.

If the City Council resolves to make a draft decision on the application, it must consult the mayor again (stage 2) and allow 14 days for his decision as to whether to direct refusal, take it over for his own decision or allow the City Council to determine it itself.

The proposed development is also liable for a Mayoral CiL payment.

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

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

## **8.10 Planning Obligations**

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for



developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced in 2016. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

### **Heads of Terms**

In this case, the principle “Heads of Terms” of the legal agreement are proposed to cover the following issues:-

- i) A financial contribution of £5,446'560 towards the City Councils affordable housing fund (index linked and payable upon commencement of development.
- ii) Payment for the cost of highways works necessary to facilitate the development including the reinstatement of pedestrian highway.
- iii) Provision of basement car parking on an un-allocated basis.
- iv) To carry out the development in accordance with a car stacker maintenance and management plan to be submitted.
- v) Replacement street tree in the event that it is not retained.
- vi) Monitoring costs

It is considered that the ‘Heads of Terms’ listed above satisfactorily address City Council policies. The planning obligations to be secured, as outlined in this report, are in accordance with the City Council’s adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations (2010 as amended).

### **8.11 Environmental Impact Assessment**

An Environmental Impact Assessment was not required for a development of this scale.

### **8.12 Other Issues**

#### **Construction impact**

The applicant has submitted a Construction Management Plan (CMP) prepared by Arup which sets out a preliminary construction methodology along with an assumed construction logistics strategy for the works. It is proposed that the principle contractor (when appointed) would use the plan as a basis for further development, agreement and implementation of a working logistics strategy. The construction programme is proposed to take around 26 months and whilst the submitted plan is useful, it lacks the required details from the appointed contractor. As such a fully details CMP is to be required by condition.

#### **Statement of Community involvement**

The applicant has provided a statement of community involvement detailing that their appointed specialist public affairs company (Four Communications) handled their community consultation which took place between May and July last year. They have engaged with Ward Councillor's, the St John's Wood Society and local residents and businesses (including Lords and Danubius Hotel) with a 3 day public exhibition at the Danubius hotel and letter drops to over 3,500 local residents and businesses.

### 8.13 Conclusion

The principle of the redevelopment of the site for residential purposes is acceptable in land use terms. Overall the scheme is acceptable and the applicant's package of planning benefits offered is considered generally acceptable in light of the viability of the proposal. As such a favourable recommendation is made, subject to conditions and a S106 legal agreement to secure planning obligations and subject to the concurrence of the Mayor of London.

## 9 BACKGROUND PAPERS

1. Application form
2. Response from Greater London Authority dated 27.10.2015.
3. Response from Transport for London dated 05.10.2015
4. Response from Historic England (Listed Builds/Con Areas), dated 22 September 2015
5. Response from Thames Water dated 09.10.2015
6. Response from Environment Agency dated 23.09.2015
7. Response from The St Marylebone Society, dated 5 October 2015
8. Response from The St John's Wood Society dated 16.12.2015
9. Response from Building Control - Development Planning, dated 6 October 2015
10. Response from Highways Planning Manager dated 09.12.2015
11. Response from Head of Affordable and Private Sector Housing dated 06.01.2016
12. Letter from Central & Cecil, owner & occupier of Dora House, 60 St John's Wood Road.
13. Letter from occupier of Flat 122 Lords View, St. Johns Wood Road, dated 29 September 2015
14. Letter from occupier of 106 Lord's View, St John's Wood Road, dated 6 October 2015
15. Letter from occupier of 606 pavilion apartments, 34 St John's Wood Road, dated 13 October 2015

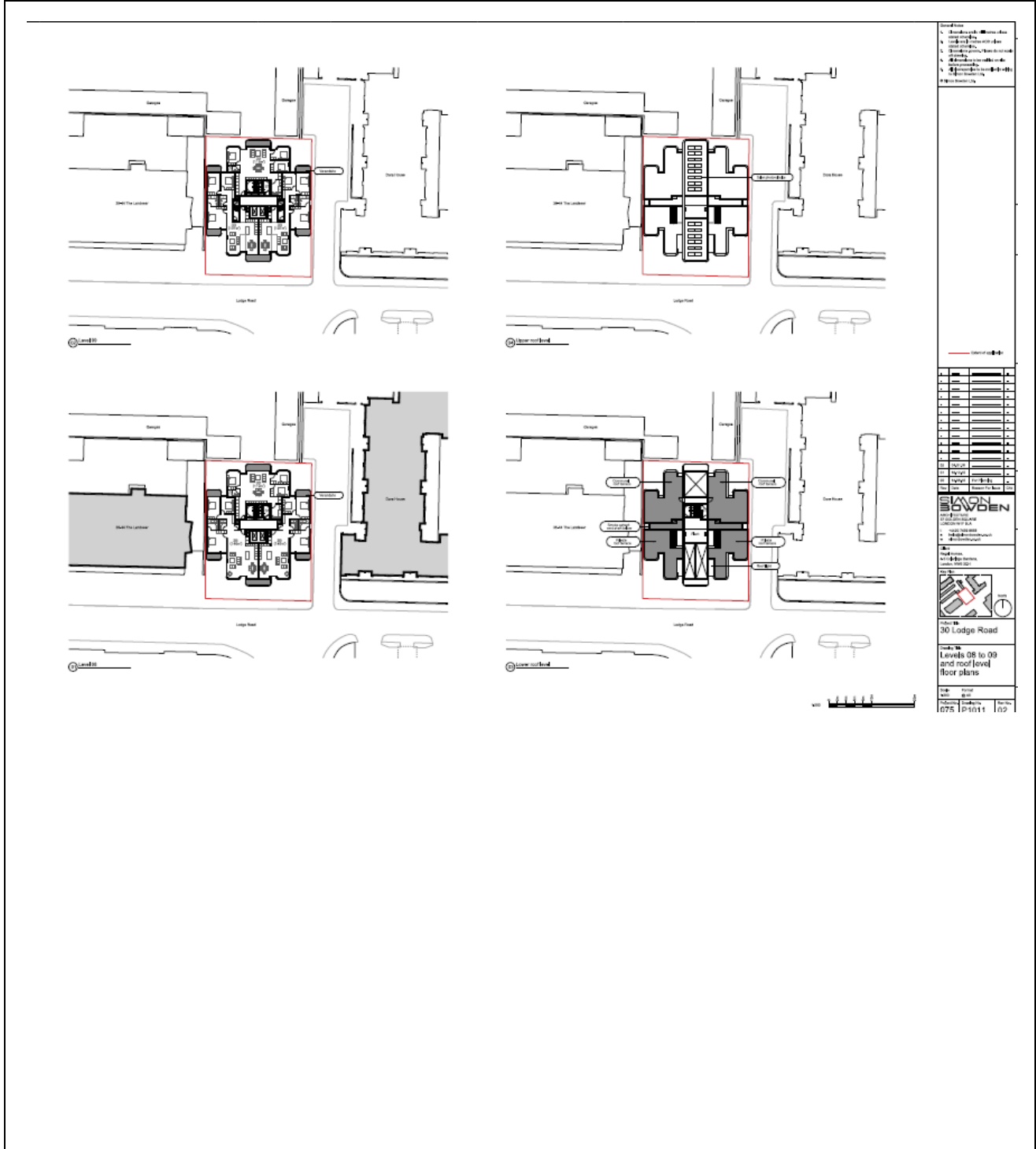
### Selected relevant drawings

(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 SARAH WHITNALL ON 020 7641 2929 OR BY EMAIL AT [NorthPlanningTeam@westminster.gov.uk](mailto:NorthPlanningTeam@westminster.gov.uk)

10 KEY DRAWINGS





**DRAFT DECISION LETTER**

- Address:** St Johns Wood Delivery Office, 30 Lodge Road, London, NW8 8LA,
- Proposal:** Development of existing vacant sorting office and associated hardstanding on site. Erection of 10 storey building comprising 49 residential units and ancillary floorspace (Class C3), provision of 54 car parking spaces, waste management areas, cycle parking and chp facility within basement, public realm works and access to car lifts from Lodge Road.
- Plan Nos:** P0100 Rev 00; P0101 Rev 00; P0550 Rev 00; P0501 Rev 00; P1100 Rev 00; P1101 Rev 00; P1200 Rev 00; P1201 Rev 00; P1202 Rev 00; P1203 Rev 00; P1010 Rev 02; P1011 Rev 02. Planning Statement; Design and Access Statement; Townscape Assessment; Transport Statement; Energy Statement ;Sustainability Statement; Daylight and Sunlight Assessment; Acoustic Assessment; Air Quality Assessment; Construction Management Plan; Structural Methodology Statement; Statement of Community Involvement; Material Palette (for information); Ground floor unit design note (for information).

**Case Officer:** Sarah Whitnall

**Direct Tel. No.** 020 7641 2929

**Recommended Condition(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 **Pre Commencement Condition.** No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority. The plan shall provide the following details:; (i) a construction programme including a 24 hour emergency contact number; , (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);; (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;; (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);; (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and, (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works. , You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 3 Prior to commencement of development you must submit for approval in writing by the City Council in liaison with Transport for London (TFL) the following: -, , i) A Delivery and Service plan (DSP), ii) A Construction and Logistics Plan (CLP),

Reason:

To ensure that the development does not have adverse effects on the Transport for London Road Network and buses and to ensure that all vehicles travelling to the site during construction are at least FORS Silver accredited and the any vehicles of 3.5 tonnes or more are fitted with side guards and mirrors to protect cyclists, as requested by Transport for London (TFL).

- 4 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential flats. (C22BA)

Reason:

To provide parking spaces for people living in the residential flats as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 5 Prior to occupation of the flats you must provide each car parking space shown on the approved drawings together with 20% of them with electrical charging points and disabled access spaces. Each car parking space shall only be used for the parking of vehicles of people living in the flats on an unallocated basis and maintained as such for the lifetime of the development. (C22BA)

Reason:

To provide parking spaces for people living in the residential flats set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 6 Prior to occupation of the flats you must submit the following to the City Council for approval in writing :-, i) Vehicle signalling system for the car park , ii) Car Park Management and Maintenance Plan ( to include process and schedule for maintenance for the car lift, maximum down times and alternative arrangements for vehicles during periods when the car stacker is not available for parking)., , you must thereafter install the vehicle signalling system for the car park prior to occupation of the flats and thereafter maintain it in working order for the life of the development

and also carry out the development in accordance with the approved car park management plan. , , You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 7 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 TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 8 You must provide the waste store shown on drawing P1010 Rev 02; before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. 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: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 10 You must use the parking, access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes. (C23AA)

## Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 11 Development shall not commence until a drainage strategy detailing any on and/off site drainage works, has been submitted to and approved by the City Council in consultation with Thames Water. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

## Reason:

As requested by Thames Water, to ensure that sufficient capacity is made available to cope with the new development, and in order to avoid adverse environmental impact upon the community.

- 12 No impact piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the City Council in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

## Reason:

As requested by Thames Water as the proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

- 13 You must not use the green roofs for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21BA)

## Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 14 You must put a copy of this planning permission and all its conditions at street level outside the building for as long as the work continues on site., , You must highlight on the copy of the planning



permission any condition that restricts the hours of building work. (C21KA)

Reason:

To make sure people in neighbouring properties are fully aware of the conditions and to protect their rights and safety. (R21GA)

- 15 You must apply to us for approval of, i) samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located, ii) Fabricated bench mark mock up of the cast-metal cladding. 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 using the approved materials. (C26BC)

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: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 16 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 the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 17 You must apply to us for approval of detailed drawings of the following parts of the development - , i) typical windows and external doors; , ii) movement joints to brick podium; , iii) services terminations at façade and at roof level; , iv) car park entrance doors/gates., v) ground floor planter and railings, vi) details of lighting, , 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 . (C26DB)

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: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary

Development Plan that we adopted in January 2007. (R26AD)

- 18 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 in its entirety according to the drawings we have approved. (C29BB)

Reason:

To maintain the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 19 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes , i)Details of size and appearance of ground floor planter including number and species of shrubs., ii)Details of retention or replacement of street tree., iii)Details of green roofs and their maintenance and irrigation., iv) Details of hard landscaping to front curtilage, , 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 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 the area, and to improve its contribution to biodiversity and the local environment. This is as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30BC)

- 20 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application., , A basement combined heat and power (CHP) system for hot water and some heating, designed to allow future connection to a district heating network., Grey water recycling/rainwater attenuation tank, Roof top Photovoltaic panels, , You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44AC)

**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: Strategic Policies adopted November 2013, Unitary Development Plan, 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 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:-, i) A financial contribution of £5,446'560 towards the City Councils affordable housing fund (index linked and payable upon commencement of development. , ii) Payment for the cost of highways works necessary to facilitate the development including the reinstatement of pedestrian highway., iii) Provision of basement car parking on an un-allocated basis., iv) To carry out the development in accordance with a car stacker maintenance and management plan to be submitted., v) Monitoring costs, . (I55AA)
- 3 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply., , The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [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.
- 4 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. If you would like more information, you can contact Ray Gangadeen on 020 7641 7064. (I54AA)
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 6 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 phone 020 7641 2642. 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). (I09AC)

- 7 Thames Water has advised that a Groundwater Risk Management Permit from them will be required for discharging groundwater into a public sewer. And that any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. It is expected that the developer 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 telephone 02035779483 or by email [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk). Application forms can be completed online via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality)., , Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Water pipes. The developer should take account of this minimum pressure in the design of the proposed development., , Thames Water advise that a drainage strategy should be provided with the detail of pre and post development surface water run off rates and the proposed methods of surface water flow management e.g attenuation, soakaways etc. The drainage strategy should also contain the points of connection to the public sewerage system as well as the anticipated flows (including flow calculation method) into the proposed connection points. This data can then be used to determine the impact of the proposed development on the existing sewerage system. In addition please indicate what the overall reduction in surface water flows is, i.e.. existing surface water discharges (pre-development) into the public sewers for storm periods 1 in 10, 30,100 versus the new proposed volumes to be discharged for the whole development. If the drainage strategy is not acceptable Thames Water will request that an impact study be undertaken.
- 8 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge., If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>. , **You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**

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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.

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# Agenda Item 9

Item No.
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9
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 26 January 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>County Crown Court, 179 - 181 Marylebone Road, London, W1H 4PT,</b>		
<b>Proposal</b>	Details of public art, pursuant to Condition 7 of appeal decision dated 13 March 2008 (RN: APP/X5990/E/07/2052937).		
<b>Agent</b>	Mr Graham Atter		
<b>On behalf of</b>	Mr Terry Stocks		
<b>Registered Number</b>	14/11164/ADFULL	<b>Date amended/ completed</b>	23 November 2015
<b>Date Application Received</b>	11 November 2014		
<b>Historic Building Grade</b>			
<b>Conservation Area</b>	Portman Estate		

## 1. RECOMMENDATION

Approve details.
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## 2. SUMMARY

The Westminster Magistrate's Court on the south side of Marylebone Road is a relatively recently completed development (late 2011) and was constructed following the grant of planning permission and conservation area consent at appeal on 13 March 2008.

The site partly lies within the Portman Estate Conservation Area and there are grade II listed buildings to the north (Manor House, Marylebone Road) and to the east (the former Samaritan Hospital for Women, Marylebone Road).

Condition 7 of the planning permission related to the submission and approval of a scheme of public art for the site. In January 2009 (08/09961/ADFULL) a scheme was approved which was for a free-standing sculptural piece (designed by Richard Wilson) which was to be located on the private forecourt at the entrance to the building. For reasons of cost and health and safety, this scheme was not pursued and in March 2011 an application was made to vary the wording of condition 7 to allow a scheme of public art to be submitted and approved and that the scheme should be carried out within one year after the building is brought into use, unless subsequently otherwise approved in writing by the Local Planning Authority. This application was approved on 9 March 2012.

Since that time the Ministry of Justice have been developing a revised public art scheme and during the

course of 2015 this has emerged into the current proposal.

The proposal is for an extensive wall art installation which would be fixed to the back wall of the colonnaded section of the building at ground floor level, facing Marylebone Road. The installation is intended as a narrative piece representing in the words of the artists “a journey into London and across time, explaining the origins and history of the site, whilst at the same time the art represents the authority and control of the judicial system that feeds back into the system and the outer reaches of society”.

The artist for the piece is BexSimon who are artist blacksmiths and specialise in contemporary metalwork design.

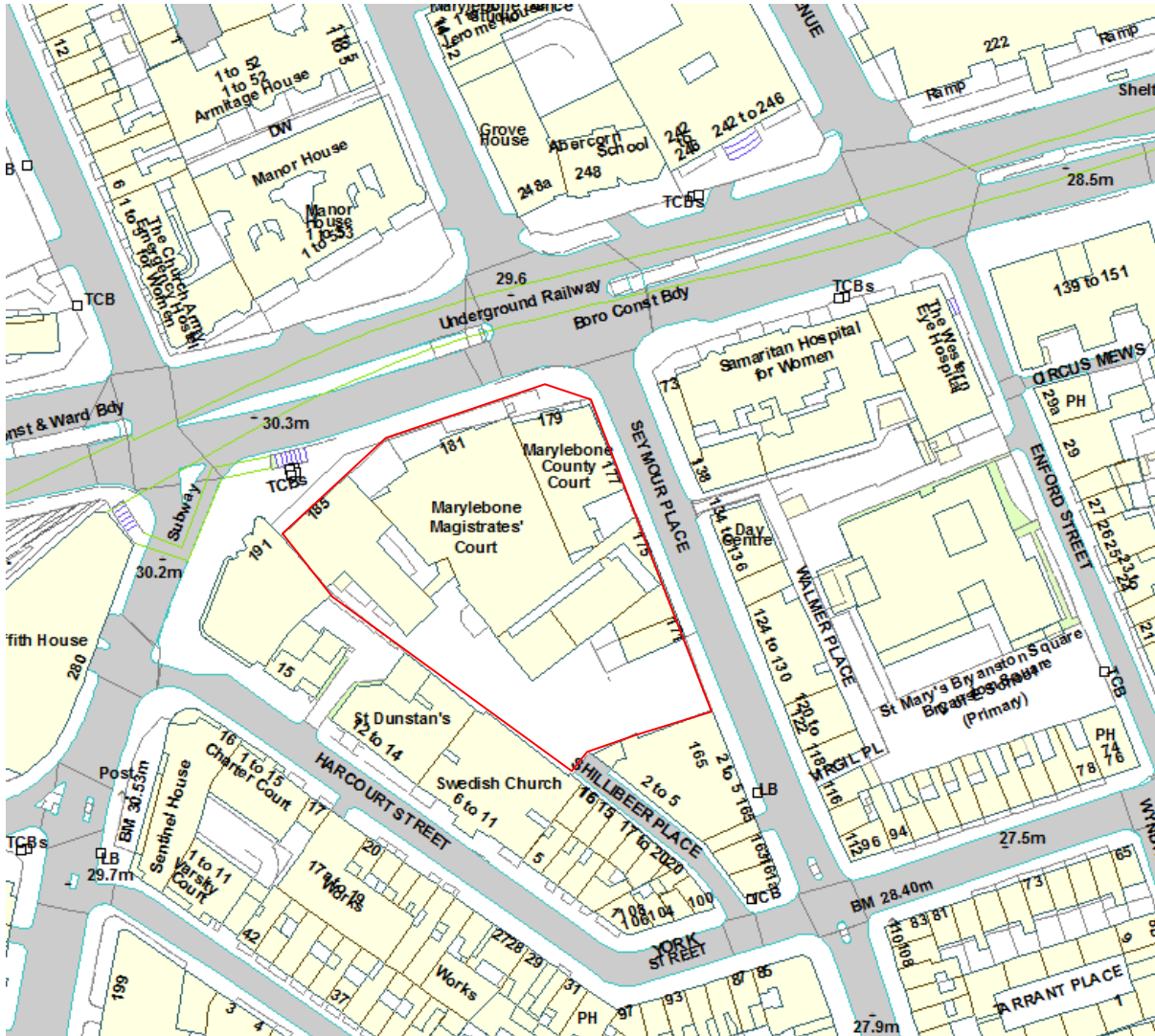
In addition to the narrative of the piece the art is intended to be a celebration of the blacksmithing craft in the modern era. It will mostly be made from forged mild steel, with a hot zinc sprayed galvanise, and a two pack paint finish with graphite and polyurethane to create highlights and extenuate the texture of the forged steel. Other elements will be textured stainless steel, that has been electropolished, and possibly heat treated to give iridescent colours. It will also incorporate elements of copper and cast acrylic.

The metal artwork will be fixed to the stonework and will include a lighting scheme. The lighting will comprise projected light and coloured backlighting. The coloured backlighting will be capable of changing colour. The main items to be illuminated will be the River Thames element and the Coat of Arms.

The proposal is considered acceptable.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS





## 5. CONSULTATIONS

No consultation.

## 6. BACKGROUND INFORMATION

### 6.1 Recent Relevant History

#### 07/00916/FULL

Redevelopment involving the partial demolition of 179 Marylebone Road, the complete demolition of 181/183 and 185 Marylebone Road and the erection of a replacement five storey building to provide a new ten courtroom Magistrates Court with associated minor work at street level.

Non-det - Refusal recommended 25 October 2007

#### 07/00917/CAC

Demolition of 175-177 Seymour Place, demolition of 181,183 Marylebone Road and the partial demolition of 179 Marylebone Road.

Non-det - Refusal recommended 25 October 2007

#### 08/09961/ADFULL

Details of public art pursuant to Condition 7 of planning permission dated 13 March 2008 (RN: 07/00916).

Application Permitted 12 January 2009

#### 11/03230/FULL

Variation of Condition 7 and removal of Condition 35 of planning permission dated 13 March 2008 (RN: 07/00916); namely, to allow public art to be provided on-site up to one year after the building is brought into use and to allow mechanical plant to be operated overnight between the hours of 22.00 and 08.00 in addition to daytime hours.

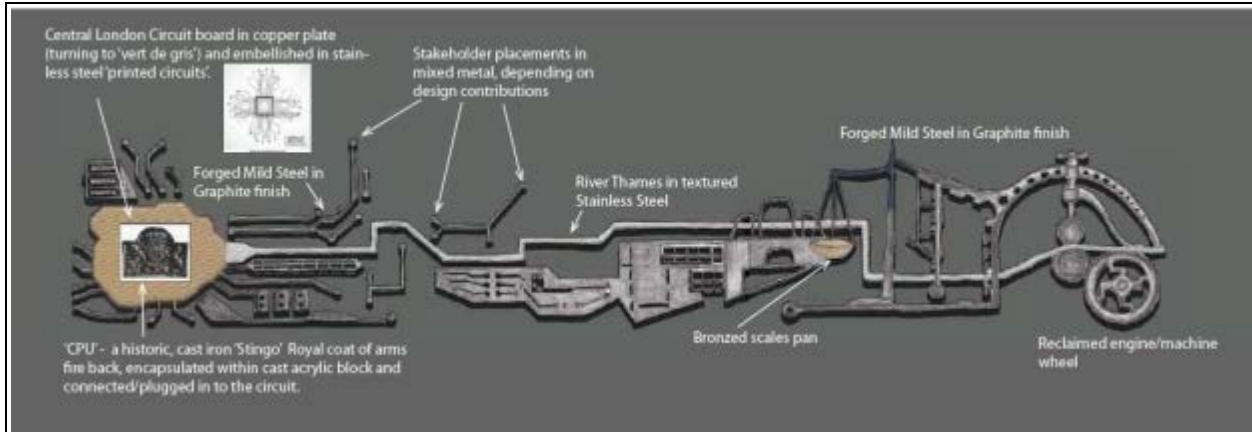
Application Permitted 9 March 2012

### Selected relevant drawings

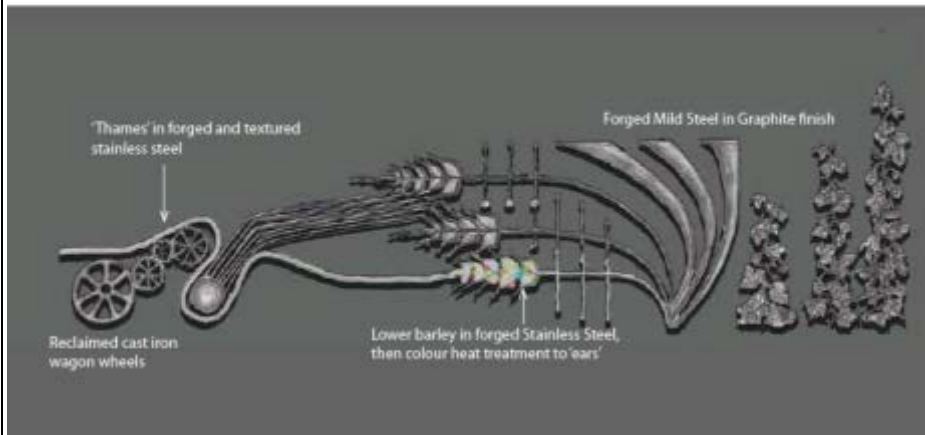
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT TOM BURKE ON 020 7641 2357 OR BY EMAIL AT [NorthPlanningTeam@westminster.gov.uk](mailto:NorthPlanningTeam@westminster.gov.uk)

## 7. KEY DRAWINGS



### From L-R - First section



### Second section





**DRAFT DECISION LETTER**

- Address:** County Crown Court, 179 - 181 Marylebone Road, London, W1H 4PT,
- Proposal:** Details of public art, pursuant to Condition 7 of appeal decision dated 13 March 2008 (RN: APP/X5990/E/07/2052937).
- Plan Nos:** Document titled "Ministry of Justice Westminster Magistrates Court Public Art - Discharge of Planning Condition 7" (submitted 16 June 2015); Document titled "Ministry of Justice Westminster Magistrates Court Public Art - Discharge of Planning Condition 7, Proposed Lighting and Fixing Details" (submitted 23 November 2015), Lighting Design for Art Installation (dated 22 December 2015).

**Case Officer:** Tom Burke

**Direct Tel. No.** 020 7641 2357

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

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.