



City of Westminster

Committee Agenda

Title:

Planning Applications Committee (1)

Meeting Date:

Tuesday 8th March, 2016

Time:

6.30 pm

Venue:

**Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64
Victoria Street, London, SW1E 6 QP**

Members:

Councillors:

Robert Davis (Chairman)
Susie Burbridge
David Boothroyd
Richard Beddoe



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
Corporate Website: 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 that Councillor Richard Beddoe has replaced Councillor Tim Mitchell.

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

- | | |
|--|--------------------------|
| 1. DORA HOUSE, 60 ST JOHN'S WOOD ROAD LONDON NW8 7HN | (Pages 9 - 50) |
| 2. 15 HENRIETTA STREET, LONDON WC2E 8QG | (Pages 51 - 78) |
| 3. ELLIOTT HOUSE, MOLYNEUX STREET, LONDON W1H 5HU | (Pages 79 - 116) |
| 4. 21 - 23 FARM STREET, LONDON W1J 5RG | (Pages 117 - 142) |
| 5. ST GILES HOUSE, 49 - 50 POLAND STREET, LONDON W1F 7NB | (Pages 143 - 184) |
| 6. FENTON HOUSE, 55-57 GREAT MARLBOROUGH STREET, LONDON W1F 7JX | (Pages 185 - 240) |
| 7. 29-30 SOHO SQUARE, LONDON W1D 3QS | (Pages 241 - |

- | | | |
|-----|---|---------------------------|
| 8. | 79 - 81 GROSVENOR STREET, LONDON W1K 3JU | 256)
(Pages 257 - 280) |
| 9. | 35 - 50 RATHBONE PLACE, LONDON W1T 1AA | (Pages 281 - 300) |
| 10. | AUDLEY SQUARE GARAGE, 5 AUDLEY SQUARE, LONDON W1K 1DS | (Pages 301 - 352) |
| 11. | CARLTON TAVERN, 33A CARLTON VALE, LONDON, NW6 5EU | (Pages 353 - 368) |

Charlie Parker
Chief Executive
29 February 2016

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Agenda Item

CITY OF WESTMINSTER
PLANNING APPLICATIONS COMMITTEE – 8 MARCH 2016
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
1	RN 15/09769/FULL Regent's Park	Dora House, 60 St John's Wood Road London NW8 7HN	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.	
<p>Recommendation</p> <p>Refuse permission- i) height and massing of Building 2, ii) absence of a suitable mechanism to secure the delivery of the proposed affordable housing iii) impact on street trees and insufficient space and conditions for provision of soft landscaping.</p>				
2	RN 15/08953/FULL St James's	14 -15 Henrietta Street, London WC2E 8QG	Use of 14 Henrietta Street and the upper floors of 15 Henrietta Street as a hotel with restaurant and bar facilities (sui generis), single storey roof extension at No. 15, installation of plant at rear lower ground floor level and plant within a plant enclosure to the rear of No. 14 at second floor level and associated external works including replacement windows and satellite dishes to both buildings.	
<p>Recommendation</p> <p>Grant conditional planning permission.</p>				
3	RN 15/08836/FULL Bryanston And Dorset Square	Elliott House, 1 Molyneux Street, London W1H 5HU	Demolition of building, excavation of sub-basement, and erection of replacement building over sub-basement, lower ground, ground and part-four and part-five upper storeys to provide 32 car parking spaces (accessed by car lifts on Cato Street), cycle parking, plant, ancillary gym and refuse store at basement level; plant within lower ground floor vaults; and up to 32 flats (Class C3) over lower ground to fourth floor levels.	
<p>Recommendation</p> <p>1. Grant conditional permission subject to a S106 legal agreement to secure the following:</p> <ol style="list-style-type: none"> 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 up to £33,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers; Unallocated parking; Management and maintenance of the car lift and valet parking; Cost of the works associated with the creation of two tree pits and the planting of least two new trees within the vicinity of the site. Cost of widening the vehicular crossover on Cato Street and making good; Cost of relocating a lamppost on Cato Street; and Costs of monitoring the S106 agreement. 				

CITY OF WESTMINSTER
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 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
4	RN 15/11056/FULL West End	21 - 23 Farm Street, London W1J 5RG	Demolition of the existing four storey building, retention of existing basement level and erection of new four storey building comprising a street cleansing depot at ground and part first floor levels and 14 affordable residential units at part first, second and third floor levels.	
			<p>Recommendation</p> <ol style="list-style-type: none"> 1. Grant conditional permission, subject to a S106 legal agreement to secure the following: <ol style="list-style-type: none"> i. Highway works (All highway works immediately surrounding the site required for the development to occur, including changes to on-street restrictions, reinstatement of footway, alterations to the vehicle access, creation of an additional on-street parking bay and adjoining footway and associated work); ii. Lifetime Car Club Membership for Residential Occupiers from first occupation of the development. Car Club operator must be a CarPlus member; iii. Site Environmental Management Plan; and iv. Environmental Inspectorate Contribution (£28,000 per annum). 2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then: <ol style="list-style-type: none"> 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 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. 3. 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 required to enable the development to take place. 4. 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. 	
5	RN 15/08350/FULL West End	St Giles House, 49 - 50 Poland Street, London W1F 7NB	[DEVELOPMENT SITE AT 47, 48 AND 49-50 POLAND STREET & REAR OF 54 & 55-57 GREAT MARLBOROUGH STREET] Demolition of 47, 48 (behind part reconstructed facade) and 49-50 Poland Street and part rear of 54 and 55-57 Great Marlborough Street and redevelopment to provide a new building comprising basement, lower ground floor, ground floor and first to sixth floor levels. Use of the part ground floor as restaurant/bar (Class A3/A4). Use of the basement, lower ground, part ground floor and first to sixth floors as hotel (Class C1) with roof garden and associated works.	

CITY OF WESTMINSTER
 PLANNING APPLICATIONS COMMITTEE – 8 MARCH 2016
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
6	RN 15/03432/FULL West End	Fenton House, 55-57 Great Marlborough Street, London W1F 7JX (Addendum Report)	Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual/alternative retail or restaurant (Class A1/A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (Site includes 54 Great Marlborough Street)	

CITY OF WESTMINSTER
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 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.				
7	RN 15/11340/FULL West End	29-30 Soho Square, London W1D 3QS	Use of part of the building at lower ground to second floor fronting Soho Square and all of the third and fourth floors for Class B1a office purposes.	
<p>Recommendation</p> <ol style="list-style-type: none"> 1. Refuse permission - loss of Class D1 social and community use. 2. Do Members agree that had the Class D1 floorspace been marketed and not taken up, the principle of Class B1 might have been acceptable? 				
8	RN 13/12738/FULL West End	79 - 81 Grosvenor Street, London W1K 3JU	Demolition of all existing buildings (with the exception of the first and second facades of No. 80) and erection of the new building over basement, ground, and five upper storeys including a roof top plant enclosure for dual / alternative use of part basement and part ground floor levels as either a retail unit (Class A1) and / or as a gallery (Class D1) and use of part basement, part ground, first, second, third, fourth and fifth floor levels for office purposes (Class B1), with associated terraces at fourth and fifth floor level.	
<p>Recommendation</p> <ol style="list-style-type: none"> 1. Grant conditional permission, subject to a legal agreement to secure the following: <ol style="list-style-type: none"> a) A payment towards the City Council's Affordable Housing Fund of £1,702,000 (index linked and payable prior to commencement of development) in lieu of providing residential provision on site in order to fund the provision of affordable housing elsewhere in the City. b) Submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring (maximum contribution £30,000 per annum). c) The dedication of the area in front of the proposed building line on the east side of Bourdon Street as public highway (prior to the occupation of the building); and d) The costs of monitoring the S106 legal agreement. 2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then: <ol style="list-style-type: none"> 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 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. 				

CITY OF WESTMINSTER
 PLANNING APPLICATIONS COMMITTEE – 8 MARCH 2016
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
9	RN 15/10824/FULL West End	35 - 50 Rathbone Place, London W1T 1AA	Variation of Condition 1 of planning permission dated 15 October 2013 (RN : 13/04844) for 'Substantial demolition of existing buildings and redevelopment of the site to provide a mixed use scheme accommodated in two L-shaped buildings rising to nine storeys plus basements and rooftop plant with frontages to Rathbone Place and Newman Street set around a central open space; use of new buildings for up to 162 residential dwellings (Class C3) with communal garden, offices (Class B1), shops (Class A1), flexible space for use as shops (Class A1) and/or restaurant (Class A3) and/or bar (Class A4); provision within basement of plant rooms and car/cycle parking with vehicular access via lifts from Newman Street; ground floor loading bay with access from Newman Street; new pedestrian routes through the site from Newman Street and Rathbone Place; and associated works.'; namely the submission of substitute drawings showing re-distribution of floorspace areas at ground and basement levels having the effect of increasing the amount of offices (Class B1) and decreasing shops (Class A1/A3); associated changes to street elevations including new retail frontage with full height glazing, louvres and signage zones on Rathbone Place; change to rooflight arrangement to a linear pattern along southern side of the central garden; levels changes in central garden; additional louvres along the central garden elevation and south facing retail elevations; changes to parapet details; and alterations to office entrance doors on Newman Street.	
<p>Recommendation</p> <ol style="list-style-type: none"> 1. Grant conditional permission subject to a deed of variation to the S106 legal agreement pertaining to planning permission 13/04844/FULL to secure the following additional matter: <ol style="list-style-type: none"> i. A payment of £1,026,771 towards the Council's affordable housing fund. 2. If the deed of variation has not been completed within three months of the date of the Committee resolution, then: <ol style="list-style-type: none"> 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. 				

CITY OF WESTMINSTER
 PLANNING APPLICATIONS COMMITTEE – 8 MARCH 2016
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
10	RN 15/02197/FULL West End	Audley Square Garage, 5 Audley Square, London W1K 1DS (Addendum Report)	Demolition of existing buildings (with the exception of 4 Red Lion Yard which is to be retained with external alterations) and the erection of new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 30 residential units with swimming pool and gymnasium, creation of roof terraces, car parking and cycle parking; vehicular access from Waverton Street; hard and soft landscaping; and plant at roof level.	
<p>Recommendation</p> <p>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:</p> <p style="margin-left: 20px;">a) i. The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street-sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing</p> <p style="margin-left: 40px;">or ii, if planning permission is not granted for i. above, the refurbishment/rebuilding of the Council's street-sweeping depot at 21-23 Farm Street together with a contribution of £9.4M towards the City Council's affordable housing fund (index linked and payable upon commencement of development);</p> <p style="margin-left: 20px;">b) Highways works associated with the development;</p> <p style="margin-left: 20px;">c) Communal on-site parking spaces to be unallocated;</p> <p style="margin-left: 20px;">d) Public art provision</p> <p style="margin-left: 20px;">e) Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers;</p> <p style="margin-left: 20px;">f) Costs of the stopping up order and the Dedication Agreement; and</p> <p style="margin-left: 20px;">g) The costs of monitoring the S106 agreement.</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:</p> <p style="margin-left: 20px;">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 of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</p> <p style="margin-left: 20px;">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.</p> <p>3. 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 required to enable the development to take place.</p> <p>4. 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.</p>				
11	RN 14/05526/FULL Maida Vale	Carlton Tavern 33A Carlton Vale, London, NW6 5EU	Demolition of existing public house and redevelopment to provide a building comprising of basement, ground and four upper floors to provide a public house (Class A4) at ground floor and basement level and 10 residential units from basement to fourth floor levels; associated landscaping works and cycle parking.	
<p>Recommendation</p> <p>For Committee's consideration:</p> <p style="margin-left: 20px;">1. In light of the material changes in circumstances that have arisen since the determination of the application on 13 January 2015, does the Committee agree that the reason for refusal should be</p>				

CITY OF WESTMINSTER
 PLANNING APPLICATIONS COMMITTEE - _____
 PROVISIONAL / SCHEDULE OF APPLICATIONS TO BE CONSIDERED

ITEM No.	References / Ward	SITE ADDRESS	PROPOSAL	APPLICANT
			<p>amended to include objection to loss of the existing building?</p> <p>2. Subject to 1. above, agree the amended reason for refusal set out below (additional text in bold):</p> <p><i>'Because of the loss of the existing building (an undesignated heritage asset), and because of the bulk, height and detailed design of the new building, the development would be detrimental to the view from the adjacent Maida Vale Conservation Area, namely the Paddington Recreation Ground, and from Carlton Vale, where the site is viewed in the context of the gateway entrance to the park (i.e. the Recreation Ground). It would therefore harm the appearance of this part of the City and fail to maintain or improve (preserve or enhance) the setting of the neighbouring Maida Vale Conservation Area. This would not meet S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (F) of our Unitary Development Plan that we adopted in January 2007.'</i></p> <p>3. Subject to 1. above, agree that the City Council will resist the appeal against refusal of planning permission for the additional reason of the loss of the existing building (as set out in 2. above).</p>	

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Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Regent's Park	
Subject of Report	Dora House, 60 St John's Wood Road, London, NW8 7HN,		
Proposal	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.		
Agent	Mr Raoul Veevers		
On behalf of	C&C		
Registered Number	15/09769/FULL	Date amended/ completed	6 November 2015
Date Application Received	15 October 2015		
Historic Building Grade	Unlisted		
Conservation Area	Outside of a conservation area, the St John's Wood and Regent's Park Conservation Areas run along St John's Wood Road and Park Road respectively.		

1. RECOMMENDATION

Refuse permission- i) height and massing of Building 2, ii) absence of a suitable mechanism to secure the delivery of the proposed affordable housing iii) impact on street trees and insufficient space and conditions for provision of soft landscaping.
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2. SUMMARY

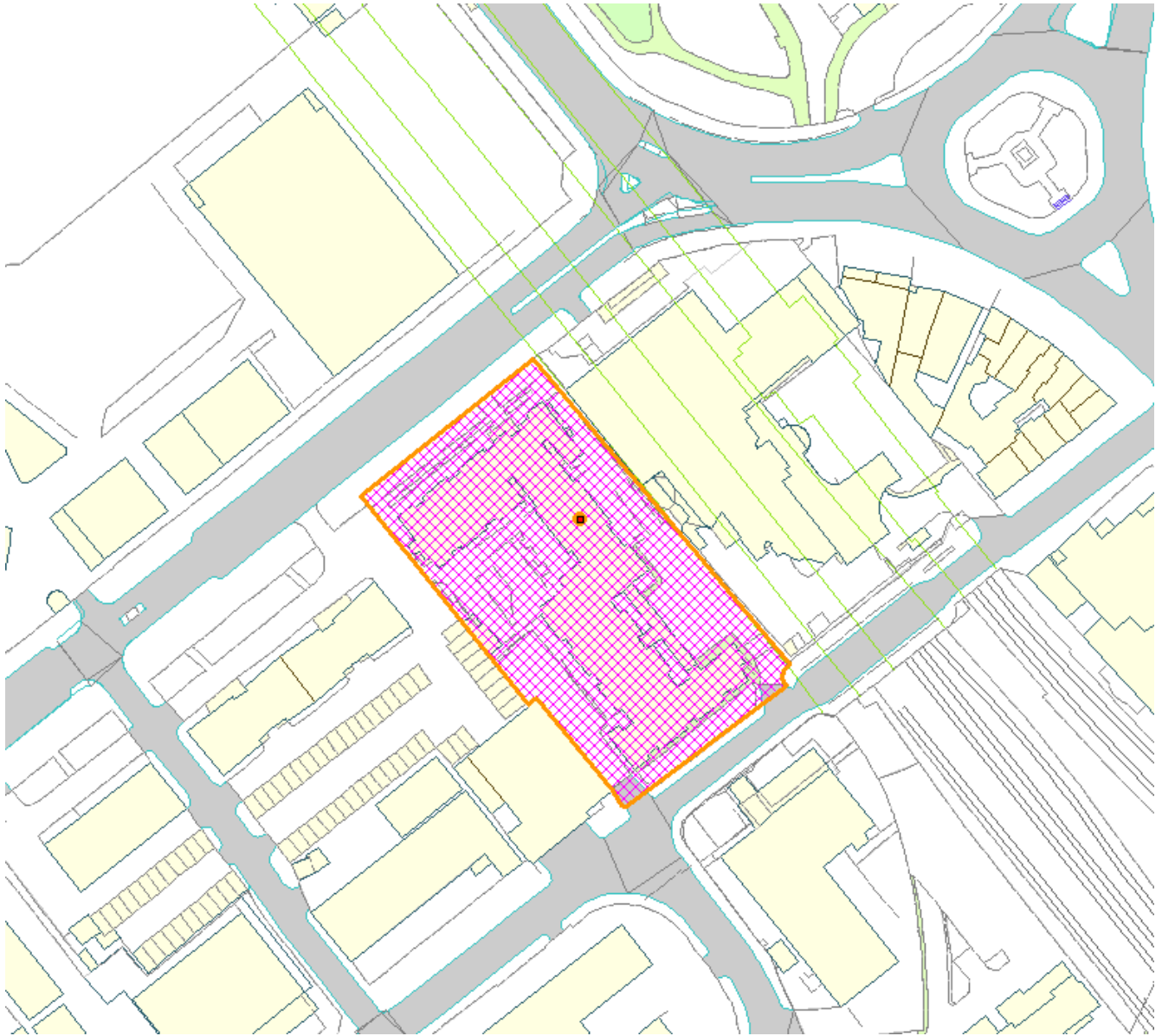
<p>Planning permission is sought by Central and Central for the redevelopment of the existing building known as Dora House, which provides affordable housing in the form of sheltered accommodation for the elderly, and the construction of two new buildings to provide a new "Dora House" in building 1 facing Lodge Road and private residential accommodation in building 2 facing St John's Wood Road.</p>

<p>The proposal has brought about concerns from a number of external bodies with respect to specific aspects and details of the application. The St John's Wood Society has raised concern over the height and detailed design of the buildings and associated soft landscaping.</p>
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Three local residents within Lords View 1 consider the proposal to represent over development of the site and find the architecture and materials proposed for building 2 to St John's Wood Road unsuitable in this locality. The Danubius Hotel and Marylebone Cricket Club have also raised concern with respect to relationships between them and the site, impact upon daylight and sunlight and phasing, demolition and construction. In contrast six representations of support have been received by previous occupiers of Dora House.

The redevelopment of the existing post war building which is of limited architectural merit and which is no longer fit for purpose is welcomed in principle. However the height and massing of building 2 facing St John's Wood Road is of concern, due to its significant height above that of both adjacent buildings (Lords View 1 and the Danubius Hotel) which is exacerbated by its forward projecting building line and its visibility within the townscape and nearby St John's Wood Conservation Area. Furthermore the applicant is not agreeable to the use of our standard mechanism to secure the delivery of affordable housing, instead suggesting an alternative unorthodox method which places the risks associated with the delivery of the affordable housing directly with Westminster and which are considered by officers too great to bear. Finally the proposal does not adequately protect the existing high amenity value street trees or provide suitable space and conditions for the provision of suitable soft landscaping to mitigate against the loss of 19 trees from within the site. As such, for these reasons, the application is contrary to development plan policies and is consequently recommended for refusal.

3. LOCATION PLAN



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4. PHOTOGRAPHS



EXISTING ST JOHN'S WOOD ROAD ELEVATION



EXISTING LODGE ROAD ELEVATION



EXISTING ST JOHN'S WOOD ROAD TOWNSCAPE

5. CONSULTATIONS

Greater London Authority (GLA)

The application broadly complies with the London Plan, however further information and or confirmation is required in respect of land use, housing, design, inclusive design, climate change and transport.

Historic England (Listed Builds/Con Areas)

This application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Historic England (Archaeology)

Any response to be reported verbally.

The Royal Parks

Any response to be reported verbally.

The Gardens Trust

Any response to be reported verbally.

Network Rail

Building 2 with the triple basement raises concerns for Network Rail due to the location of dead bores (2 tunnels which are not used for running trains), that run beneath the Danubius Hotel, St John's Wood Road and Lords Car park and adjacent to the running line for trains. The dead bores are not under Network Rail ownership/liability, but are examined by NR engineers as they provide lateral support for the tunnel used for trains. Consider that the development will be within a zone of influence and require significant details of excavation, earthworks, demolition, foundations, piling, loading, drainage and impact of noise and vibration from tunnels to the new buildings. A further ground movement document remains under review and details of the developer's tunnel monitoring proposal is required along with an amended basic asset protection agreement (BAPA) to include access for a tunnel survey and monitoring equipment in the tunnel.

London Underground Limited

No objection in principle, but there are a number of potential constraints of the redevelopment due to proximity to underground tunnels (Metropolitan line) and infrastructure. Request pre-commencement condition to secure details of ground movement and to accommodate the location of existing structures and tunnels.

Thames Water Utilities Ltd

Request pre-commencement conditions with respect to drainage strategy, piling method statement and water related informatives.

Environment Agency (Thames Region)

No comment.

St John's Wood Society

Cumulative impact of a number of proposed development in the immediate area.

Overdevelopment of the site, large plot sizes.

Materials including colour unacceptable.

Quality of outside space for building 1.

Design and materials of building 2 reflect a lack of understanding of the history and character of the area around it, particularly with reference to Lords.

Concern about triple basement, and detailed design of building 2 and impact on trees.

Impact of construction traffic, especially during match days.

The St Marylebone Society

Defer to St John's Wood Society and Conservation Officer.

Affordable Housing Supply Manager

Welcomes proposal to redevelop Dora House to better address the Council's future needs for older person housing. The development will not attract grant funding from either the GLA or HCA (Homes and Communities Agency) and therefore financing of the redevelopment of Dora House is solely dependent upon the cross subsidy that can be achieved from the open market sale of the St John's Wood site with the benefit of permission for 42 market housing units. In view of the particular circumstances and the nature of C% C as a small registered provider (RP) without the necessary financial muscle enjoyed by larger developing RPs, are sympathetic to C&C's requirement for flexibility to be applied to Westminster's standard s106 requirements in this instance only.

Adult & Community Services

General comments made.

Highways Planning - Development Planning

Generally acceptable in transportation terms, subject to a S106 legal agreement and suggested conditions and informatives.

Cleansing - Development Planning

Objection raised, further details required.

EH Consultation

Objection raised on grounds of remote rooms for fire safety. Conditions recommended in respect of noise (external, facade mitigation and plant), vibration and ventilation of basement garage.

Building Control - Development Planning

The structural method statement is acceptable. Negligible likelihood of local flooding or adverse affects on the water table, approach to basement construction appropriate.

Arboricultural Section - Development Planning

Objection raised, detrimental impact on street trees, insufficient space and conditions for soft landscaping and tree planting to mitigate against loss of 19 existing trees.

Designing Out Crime

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 709

Total No. of replies: 12

No. of objections: 5

- Over-development
- Cumulative impact of development in locality needs to be assessed in terms of microclimatic conditions.
- Lodge Road is becoming a mini Manhattan
- Detailed design more akin to an office and unsuitable for this residential location
- Too high density
- Materials inappropriate
- Amenity impact
- Impact on daylight and sunlight to Danubius Hotel and Lords Cricket Ground.
- Impact of the existing Danubius Hotel operations on future occupiers to be assessed.
- Transportation impact on traffic, parking etc
- Demolition, Construction and phasing impact on Danubius Hotel and Lords Cricket Ground (ours, noise and vibration)

No. in support: 7

- Owner and developer of 30 Lodge Road (adjoining site) welcomes development and has been in collaboration with the applicant.
- Members of Dora House residents association and previous occupiers all support proposal for replacement Dora House

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The site known as Dora House, 60 St John's Wood Road, is owned & operated by Central & Cecil (C & C) as sheltered accommodation for the elderly (over 55's). The part 8/part 4 storey unlisted building extends to frontages on both St John's Wood Road and Lodge Road. Whilst located outside of a conservation area, the St John's Wood and Regent's Park Conservation Areas run along St John's Wood Road and Park Road respectively.

To the north of the site lies Lords Cricket Ground (Nursery end), to the south, the Platinum Medical Centre which is part of Wellington Hospital. To the east is the Danubius Hotel and to the west lie Lords View 1 and the Royal Mail Sorting Office at 30 Lodge Road.

There are Network Rail lines and London Underground lines (Metropolitan and Jubilee) that run beneath the adjacent Danubius Hotel around 25-40m away. In addition there is a Thames Water Sewer beneath (10m) the western corner of the site.

6.2 Recent Relevant History

Dora House, 60 St John's Wood Road & 30 Lodge Road

Under a 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, an Environmental Impact Assessment was not required on 02.12.2013 (13/11559/EIAOP)

30 Lodge Road (Royal Mail Sorting Office)

On 26.01.2015 the Planning Applications Committee granted conditional planning permission, subject to a S106 legal agreement, for the redevelopment of the existing vacant sorting office and associated hard-standing on site and the 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 combined heat and power facility within the basement, public realm works and access to car lifts from Lodge Road (15/08211/FULL)

Lords View 1, St John's Wood Road

Conditional planning permission was granted on 13.02.2012 for the removal of the existing rooftop plant room and erection of two storey roof extension at eleventh and twelfth floor levels to create 4x3 bedroom flats with terraces, living green roof and solar panels. Re-landscaping in connection with the provision of seven additional car parking spaces (11/12325/FULL).

Lords Cricket Ground

The Planning Applications Committee resolved on 27.10.2015 to grant conditional planning permission and listed building consent, subject to a S106 legal agreement for the demolition of the existing Tavern Stand, Allen Stand, Thomas Lord Building, MCC Office Building and Scorers' Box and redevelopment comprising the erection of new stand, new Thomas Lord Building with an expanded basement and relocated public house, new Harris Garden Building, new Scorers' Box, internal and external alterations to the Pavilion, a new shop in the Bowlers' Annexe together with relocation of the floodlight, hard and soft landscaping, servicing facilities and all necessary ancillary and enabling works, plant and equipment.(15/07111/FULL & 15/07112/LBC)

36-44 Lodge Road

On 12.08.2013 the Planning Applications Committee granted planning permission, subject to a S106 legal agreement, 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.

7. THE PROPOSAL

Planning permission is sought for the redevelopment of the existing building (Dora House) to provide two new buildings, one to re-provide the affordable sheltered accommodation in a new Dora House and a second to provide private residential accommodation.

Building 1

The Lodge Road building is to re-provide sheltered accommodation for the over 55's. It is designed by Ryder Architects and is proposed as part 11 and part 12-storeys above a ground and single basement to provide 156 units of accommodation within 15,362 m2 of floor space.

Building 2

The proposed St John's Wood Road building is to provide new private residential accommodation. Designed by Make Architects it is proposed to comprise of 10 storeys above a ground and triple basement to provide 42 private residential flats within 12,494m2 of floor space.

The Applicant & special form of application

C& C were established in the 1930's and are a Housing Trust providing housing and care within sites they own & operate throughout Central London, including Dora House, Edna House and Aida House within Westminster. These 1960's buildings are reaching the end of their lifetime and their size, layout and function are outdated and inconsistent with modern ways of older people living. As such C&C are embarking on a programme of asset redevelopment and improvement within Westminster, the first stage of which is the redevelopment of Dora House.

C&C indicate that the redevelopment and re-provision of Dora House is reliant upon funding from redeveloping part of the site for private residential development and as such are proposing a two phase planning permission. They have indicated that it is their intention to build and occupy the new sheltered accommodation (Building 1) and have already commenced the process to procure a demolition and contractor partner. However in order to maximise funds to build the new Dora House, C&C are proposing to sell the front part of the site (Building 2) with unfettered planning permission (in respect of affordable housing obligations) in order to raise the necessary funds to construct the affordable housing (Building 1).

8. DETAILED CONSIDERATIONS

8.1 Land Use

The principle of redeveloping the site to provide additional residential accommodation in the form of both new private self-contained flats and the re-provision of improved and fit for purpose affordable sheltered accommodation for over 55's currently provided within Dora House, is acceptable in land use terms. The existing and proposed provision is summarised below:-

Tenure	Existing	Proposed	Change
Sheltered Affordable	10,813m2 (204 units)	15,362m2 (156 units)	4,549m2 (-48 units)
Private	None	12,494m2 (42 units)	+12,494m2 (+42 units)
Total	10,813m2	27,856m2	+17,043m2

Given the differing nature of the two types of residential use, located in different buildings, it is considered appropriate to assess them separately.

Affordable Sheltered Accommodation for the elderly (Class C3) - Building 1

Sheltered accommodation for the elderly is residential accommodation falling within Class C3 (Residential) of the Town and Country Planning Use Classes Order 2015. In this case it is considered a type of specialist provision of affordable housing, as charges made to residents are substantially below market levels. This arrangement would be secured through a S106 legal agreement to ensure affordability in perpetuity.

The existing 204 self-contained units of accommodation comprise of 160 studio flats, 41 one bedroom flats and two 3 bedroom flats. The applicant has indicated that both the building and units have become outdated and the substandard size of units particularly the studios, layout and facilities are inconsistent with modern ways of older people living and are no longer fit for purpose. It is therefore proposed to provide significantly better quality accommodation for occupiers within a new purpose built building with ancillary facilities and which is designed to be flexible to meet future requirements of its occupants. As such units are fully interchangeable and designed to be able to be reconfigured to alter the layout to meet potential future needs of occupiers.

However the introduction of significant residential convalescent/nursing home type use where the resident is not able to live independently and relies on significant care, is a use that falls outside of the C3 use class and into the C2 use class and would therefore be a material change of use in planning terms. The City Council's Adult Social Care Commissioning Team support the principle of flexibility, if changing needs support this and the current projection is that there is likely to be a need for additional extra care housing provision. Therefore whilst the design flexibility is welcomed any proposed change in the nature of the use would be subject to assessment in light of proven need at that time and detailed specifications. Furthermore the Adult Social Care Commissioning Team has questioned the need for the three ancillary respite units within the building, but has stated that the local clinical commissioning group are currently reviewing local reablement.

The principle of the re-provision of affordable sheltered housing units for people over 55 years of age, is supported by policies H4 and H6 of the UDP and S15 and S16 of the City Plan and also policy 3.8 of the London Plan.

The new building would provide a significant increase in floor space (4,549m²), but due to a significant improvement in the size and quality of the units and introduction of ancillary communal facilities (cafe and lounge areas, external garden, roof terraces, treatment zones, respite and rehabilitation areas, and a studio for exercise classes/events), the proposal would result in an overall reduction in the number of units on site from 204 to 156. It is however, considered that the overall reduction in the number of such units on site, is justified by virtue of the increase in floor space in order to provide overall good quality and fit for purpose accommodation that meets the need of Westminster's older population. This is notwithstanding that four open plan living/dining/kitchens of four separate flats at first and second floor levels do not quite meet minimum standards for daylight. Whilst regrettable, these units open onto a private balcony and would be a significant improvement on the amenity of existing units. As such this minor shortfall is not considered so severe to warrant withholding permission on this ground.

The distance between buildings 1 and 2 is just under 20m, with the distance between the closest balconies just under 15m. The occupiers of the sheltered accommodation would therefore be provided with sufficient outlook and privacy. The communal garden has been assessed in respect to sunlight and in accordance with the British Research Establishment (BRE) Guidelines, over half of the garden area would receive at least 1-2 hour a day of sunlight. Overall the quality of accommodation proposed is a significant improvement upon that existing and previous occupiers of the existing Dora House, who have or are to be relocated, are to be given the option to return to the new Dora House.

The following table shows the currently proposed type, size and location of units-

Table 1

Type of unit	1 bedroom	2 bedroom	DDA	Rehabilitation/Respite
No of units	129	8	16	3
Location	Floors 1-11	Floors 9-11	Floors 1-8	Ground floor

Given the existing number and size of units within Dora House (204 studio units) and the nature of the proposed replacement sheltered accommodation for the over 55's as a type of affordable housing, the proposed mix of unit sizes of predominantly 1 bedroom units, DDA units, an element of 2 bedroom units and 3 ancillary rehabilitation/respite units, is considered appropriate and justified given the nature of the accommodation and housing need. Consequently it is supported by our Housing Supply Manager and Adult Social Care Commissioning Team. It is therefore considered that the mix of unit sizes is justified in this instance as a departure from policy H5 of our UDP and S14 and S15 of our City Plan.

Private Residential Accommodation (Class C3)- Building 2

A total of 12,494m² new private residential floor space is proposed, comprising 42 self-contained flats (10x1bedroom, 10x2bedoom, 20x3bedroom and 2x 5 bedroom units). All units would benefit from a private balcony or terrace and associated communal facilities (concierge, drawing room, study, gym and swimming pool at ground floor level).

The proposal would provide an appropriate residential mix of unit sizes with 22 of the 42 new private self-contained residential units (over 33%) proposed as family housing in accordance with policy H5 of our UDP and S15 of our City Plan.

All proposed residential units would be of sufficient size ranging between 62m² for a 1 bedroom unit to 591m² for a 5 bedroom duplex penthouse apartment. The largest units are 132m² (1 bedroom), 164m² (2 bedroom), 203m² (3 bedroom) and 591m² (5 bedroom). The Greater London Authority (GLA) has raised concern with respect to the generous size of the private units in light of the requirement to optimise the number of housing units and have requested justification of the current layout. The applicant has sought to address this concern and has provided indicative alternative layouts with increased number of units, which indicate that such an increase in unit numbers would significantly reduce the quality of the units with respect to room shape, aspect, internal bathrooms, daylight and sunlight and also impact on the hierarchy of fenestration to the building. Whilst the units would be larger than the minimum internal floor areas set out in the National Technical Housing Standards, their size is comparable to other units in the locality and are considered to be acceptable.

Overall, over 98% of rooms within residential units would receive satisfactory daylight and sunlight as set out within the BRE Site Layout Planning for Daylight and Sunlight- a guide to good practice 2011 (second edition). However whilst four rooms would not meet minimum standards, two are open plan living/kitchen dining rooms with access to balconies at 2nd and 3rd floor levels of 1 bedroom apartments to the rear, and two are third bedrooms to large dual aspect units at 4th floor level. Whilst regrettable, overall the units would provide for a good living environment for future occupiers.

The applicant has provided an additional document during the course of the application detailing the potential location for accessible apartments (one, two and three bedroom units), with the exact number and location deferred to detailed design stage, although 43% of units will be designed to be wheelchair adaptable. This will need to be secured by condition to ensure provision.

In terms of external amenity space the flats would be provided with private external amenity space in the form of gardens, balconies or terraces. This provision is welcomed in principle, in terms of providing adequate amenity space. However a number of secondary west facing balconies are considered to be unneighbourly (refer to amenity section of report).

The City Council's Environmental Health Officer has raised concerns with respect to a number of rooms within the proposed development being remote rooms in terms of fire escape. This is a matter for Building Regulations and may be addressed through use of a sprinkler system.

Play and open space

The proposal would result in 42 private residential units and 156 sheltered units of accommodation.

Given the nature of the sheltered units of accommodation for people over 55 years of age and the number of private residential units proposed (less than 50 units and less than 25 family homes), there is no requirement to provide play space or open space under policies H10 and SOC6 of our UDP.

Affordable housing

This proposal results in a total uplift of residential floor space on site, of 17,043m² (12,494m² private and 4,549m² affordable). The actual uplift in private residential accommodation is 12,494m², which requires the provision of 35% of floor space (4,372m²) to be affordable housing. For the purpose of calculating the required affordable housing floor space to offset the uplift in residential floor space, the re-provision of the existing affordable housing floor space within Dora House, is not included.

The applicant is seeking to provide the required affordable housing provision in the form of the “bigger and better” new Dora House, providing affordable sheltered housing accommodation for the elderly, which increases affordable housing floorspace on site by 4,549m².

Sheltered residential accommodation for the elderly is considered a specialist provision of affordable housing, where charges made to residents are substantially below market levels (as is existing and proposed here). The nature and type of affordable housing proposed here, is supported by our Housing Manager and also our Adult Social Care Commissioning Team. This is due to the specifics and circumstances of the site, housing need and the acknowledgment of the lack of public subsidy available to bring forward such affordable housing redevelopments.

For the above reasons the affordable housing provision is policy compliant and accords with policy H4 of the UDP and S16 of our City Plan. This floor space will need to be secured in perpetuity as affordable housing through a S106 legal agreement and to ensure that charges made to residents are substantially below market levels.

The GLA has questioned the need for the applicant to provide affordable housing specifically in relation to the private development (Building 2) and has requested that the applicant submit a viability report in support of their proposed affordable housing provision. Although it is accepted that the number of units within the proposed new Dora House (Building 1) is less than the number of units within the existing Dora House, the new Dora House is nearly 5,000m² larger and provides for good size units, when compared to the existing sub-standard units. Therefore the focus is on quality rather than quantity. Given the above and that the affordable housing provision is policy compliant in floor space terms a viability report has not been pursued on this point.

Proposed Mechanism to secure delivery of affordable housing

The applicant has put forward an unorthodox mechanism for seeking to secure the delivery of the proposed affordable housing in Building 1.

They have requested that the City Council's standard S106 delivery mechanism, that is normally applied to ensure the delivery of affordable housing through the prevention of occupation of private flats before the affordable housing is built and made ready for occupation, should not apply to Building 2, in the case of this application.

The applicant has indicated that the delivery of the replacement affordable housing relies on C&C selling part of the site (Building 2) with unfettered planning permission (in respect of affordable housing obligations) in order to raise sufficient funds to construct the affordable housing (Building 1).

As such the applicant is proposing a two phase planning permission, to allow both buildings to be delivered independently of each other, likely by different developers and more specifically to uncouple the affordable housing obligations from Building 2 and link them solely to Building 1. In effect this would mean that the front part of the site (Building 2) would be sold unfettered to a private development to build the 42 private units without any affordable housing obligations or links to the provision/delivery of Building 1. This is in order to optimise the funds from the sale and achieve the necessary cross funding required to build the new affordable housing.

In seeking to justify why our standard occupancy restriction to secure affordable housing should not be applied in this case, the applicant has provided details of risks associated with four delivery options 1) standard occupancy restrictions approach 2) Joint Venture 3) Bond and 4) Charge on the Land.

The applicant has indicated that our standard occupancy restriction to link the delivery of the affordable housing to the private housing would result in considerable and unacceptable financial and associated regulatory intervention risks to C & C to the point where their board will not accept them and the redevelopment of Dora House would not be brought forward. Other risks cited include loss of quality control and control over programme delivery.

Options 2 and 3 (Joint Venture or Bond) have been dismissed as being too risky to both parties. The preferred option of C&C is option 4, Westminster City Council having a charge on the land associated with Building 1. In this scenario, once planning permission is issued, C&C would sell Building 2 with an unfettered planning permission (in respect of affordable housing obligations), demolish the existing Dora House and commence construction of Building 1 (affordable housing). The applicant has stated their commitment to deliver the affordable housing by already starting the procurement process for demolition and construction.

The risk to the City Council in the delivery of the affordable housing (Building 1), surfaces, in the event that problems are encountered after planning permission is issued. In such scenarios as C&C cease to exist, reprioritise their estate development/finances; insufficient funds from the sale of building 2 to fund the cost of construction of Building 1; spiralling build/unforeseen costs/delays, especially given the Network Rail and London Underground tunnels and rail lines, Building 1 (affordable housing) may not be built or completed. With the proposed charge on the land, the City Council could take ownership of the land, but not any finances to fund the build or complete construction.

Whilst another registered provider could potentially take over the development, it too would need to have the finances available for the build. There would be no guarantee that Building 1 would be delivered.

C&C have not sought to provide a viability report to justify this option or to provide any comfort of the cost margins between the sale of building 2 and the cost to construct building 1. A consequence could be that the private flats (building 2) are built and occupied whilst the affordable housing (building 1) is not delivered. As such after significant discussions and careful consideration, whilst officers are sympathetic to C&C's request, are unfortunately for the reasons/risks set out above, not in a position to support this option.

During the course of the application, officer's requested that the applicant reduce the height of Building 2 in order to address significant design and townscape concerns (see design section of this report). However the applicant has intimated that such a reduction in floor space may render the development unviable. This statement has not been substantiated with a viability report and therefore no weight has been given to the applicant's justification.

8.2 Townscape and Design

Dora House is an irregular shaped unlisted building which faces onto both St John's Wood Road and Lodge Road and lies outside a conservation area. The nearest conservation areas to the site are the St John's Wood Conservation Area which lies immediately 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 290m to the west of the application site; the 1930s Strathmore Lodge at the junction with Park Road, which is an unlisted building and lies approximately 70m to the east of the application site; and finally the 1930s former Postal Sorting Office, which lies immediately to the west of the application site. To the north of the site on St John's Wood Road lies Lord's Cricket Ground, which contains three listed buildings/structures comprising the grade II* late nineteenth century Pavilion, the grade II 1920s Grace Gates and the grade II 1930s relief sculpture by Gilbert Bayes on the boundary wall (at corner of Wellington Road and St John's Wood Road). To the west and north-west of the application site lies the grade II* listed Church of St John the Baptist (dated 1813-14 and by Thomas Hardwick); to the east of the church is the grade II listed St John's House, which was built as the curate's house and is contemporary with the church; on the roundabout at junction of Wellington Road, St John's Wood Road etc. there is the grade II war memorial with sculpture of St George and the Dragon (dated 1925-30 by C L Hartwell). There are other listed buildings further to the east and north such as the grade I Nuffield Lodge in Regent's Park; and the grade II listed buildings in Cavendish Avenue / Cavendish Close / Wellington Place on the north side of the cricket ground.

Dora House itself is a post-war building of limited architectural merit, with an irregular plan form. It ranges in height between 8 storeys (facing St John's Wood Road) and 4 storeys (facing onto Lodge Road).

As with other buildings in St John's Wood Road and Lodge Road the building line is set back from the footway and the property boundary, with areas of soft landscaping between the building and its roadside boundary.

The character and townscape contribution of the two sides to the site differs. In the case of Lodge Road, minimal architectural distinction and coherence is a term that could be applied to this road as a 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. In the case of St John's Wood Road, specifically the south side of the street in the immediate context of the application site, while the architectural quality of the buildings is variable and generally of modest distinction, the buildings are more consistent in their function (mainly residential other than the Danubius Hotel) and have a quite consistent height. Indeed at present the existing Dora House is the exception to the street façade being lower than its neighbours (this is readily seen in View 14 of the applicant's 'Heritage, Townscape and Visual Impact Assessment'). While most of the buildings in St John's Wood Road are set back from their property boundary, the existing Dora House building line is forward of its neighbours to the west (Lord's View One and Two) and is also forward of the taller element of the Danubius Hotel.

The proposal is to demolish the current building on the site and to divide the site to provide two replacement residential buildings. Building 1 will face towards Lodge Road and will form the re-provided sheltered accommodation; while Building 2 will face towards St John's Wood Road and will be private residential accommodation. The developments will be independent of each other and different architects have been commissioned for the two sites. It is proposed to address each building in turn and to then consider their merits and impacts both separately and collectively.

Building 1

This building comprises a basement storey, ground floor and part 11 and part 12 upper storeys. It features a main east-west aligned block and two forward projecting pavilion bays. Both the main block and the bays step up in height from west to east. The top floors of the two projecting pavilion bays are set back from the façade. The new building line maintains the existing one and thus allows a landscaped area to the front of the building, which will also feature a vehicle drop off area.

The front, south-facing, Lodge Road façade features a primary grid and frame of reconstituted stone, with a secondary grid of brickwork making up the other principal facing materials. The stone will have a light, white stone colour and it is proposed to use a light grey brick. The set-back storeys to the projecting pavilions will be clad in bronze-coloured anodised aluminium and this same material and finish will be used for most of the other metalwork to the facades. The flanks of the building have a more solid reconstituted stone treatment, although still punctuated by window openings and also featuring a decorative relief treatment to the stone.

The open stone framework to the projecting pavilions contains projecting balconies and planter boxes, all of which will again be finished in bronze-coloured anodised aluminium.

At ground floor level the stone framework comes to the ground and forms a shallow colonnade behind which are spaces used for a café and a treatment/hairdresser unit, both of which are accessed from the street as well as from within the development. The main entrance is clear defined and centrally placed with a projecting bronze canopy. Further interest and animation to the ground floor is provided by public art components, initially conceived as decorative lighting pendants within the colonnade and a decorative sculptural relief panel in front of the servicing bay area at the western end of the façade.

The rear façade broadly follows the same design, with the same restrained material palette, but has a greater degree of informality with bronze-coloured balconies projecting beyond the stone and brick grid. At ground floor to the rear will be a private walled landscaped garden, which will be a communal facility for residents of the new building. There will be further communal garden / terrace areas at high level including one which will be located at 11th floor, which will partly be an external roof terrace and partly an enclosed winter garden; a further small terrace is at 12th floor level. The roofs where there are no terraces will mainly be covered with PV panels, although there will be 2 lift overruns and a plant enclosure to the tallest part of the site.

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 to the east of the redevelopment scheme at 36-44 Lodge Road which is approved to have an 8 storey building (62.30m AOD) and immediately adjacent to 30 Lodge Road, where permission has recently been granted for a 10 storey building (72.78m AOD). Immediately to the east of the application site 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 recent permissions have accepted a larger scale of development, the proposed 11-12 storey building (77.1m - 80.75m AOD) is considered acceptable.

In terms of detailed design and materials, it is considered that the proposal is well resolved with clearly defined components and a visually stimulating design. The materials take their cue from the wider area, but are utilised in a contemporary fashion. In the current townscape of Lodge Road, with its variety of building ages, uses, heights and materials, there is considered to be scope for innovative architecture which can introduce a new point of interest to the street.

The application has included a townscape and visual impact assessment and this has demonstrated that Building 1 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 appear lower than the Danubius Hotel. Finally, because the proposed building is lower than Building 2 and sits behind 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.

Building 2

This building, which will face onto St John's Wood Road, comprises three levels of a basement, a ground floor and ten upper floors. The massing is relieved by a series of steps and set-backs to the facades and at roof level. The building again maintains the same building line as the existing building, thus providing a landscaped area to the front of the building and also providing vehicle drop off.

The front façade, facing towards St John's Wood, is a complex composition which seeks to reflect the different types of residential unit in the differing arrangements of fenestration. It also seeks to establish a defined base, middle and top to the composition, through the articulation of openings, the use of set backs and the choice of materials.

The roofscape of the building, particularly its silhouette is seen by the applicants as a key component of the architecture. The building will have an irregular silhouette with taller and lower elements, intending to reflect the playful and picturesque roofs of some of the mansion blocks and park-facing buildings in the area. This will contrast with the relatively flat and consistent rooflines of the neighbouring buildings in St John's Wood Road. The roof form will feature projecting brick 'gables' which rise above the main brick parapet, but the main rooftop facing material will be cast glass, utilising a scalloped, concave form.

The principal facing-material is proposed to be brick, the colour of which is indicated as ranging "from light grey to dark teal with blue overtones". The accompanying design statement indicates the intention for the brickwork to be a rich and visually stimulating component of the façade, with the intended use of imperial bricks in a Flemish bond, with careful consideration given to setting out, embellishment to the surrounds of windows and the use of special bricks to define edges, parapets and for the high-level dormer structures. The use of textured and lightly glazed brick is also proposed in certain locations to accentuate components of the façade and to provide depth and variation. Within window reveal and recessed balconies a much lighter glazed brick is proposed, again providing accent and contrast, while at the same time having a lighter reflective quality. The use of cast glass is also found in the front façade with two vertical alignments of projecting cast glass bays, again utilising a scalloped form, defining both winter gardens and internal spaces.

Solid cast bronze is proposed as the primary material for all balconies and balustrades, with a bespoke contemporary design, utilising a scalloped form, intended for all of these elements. Garage doors and the central entrance canopy will be designed to complement the detailing of the metal balconies. This central canopy will be a prominent ground floor feature projecting approximately 7m from the main building line.

As with Building 1 there will be landscaped areas to the front entrance, also a small rear courtyard garden, with the two being connected via a central lobby.

The proposal does raise design concerns in terms of its height and bulk. It rises to 83.41 AOD at its highest point, which is approximately 5.5m higher than the main parapet to the tallest part of the Danubius Hotel and approximately 11.5m higher than the main parapet of Lords View One. Also because its building line is forward of these neighbouring buildings, this only makes the building appear larger still within its immediate context. Finally, adding to the concern about its height and massing is the fact that this part of St John's Wood Road is highly visible, due to the low rise of the cricket ground opposite and as such the differing height of this building is clearly apparent within the townscape.

Unquestionably a great deal of attention has been paid to the design quality of the facades and the attention to detail is not at issue. If anything the dynamic and visually stimulating nature of the design, including somewhat innovative (in context of surrounding townscape) facing materials, such as cast glass and glazed bricks will only make the building assume an even more assertive role.

The height and massing of Building 2 are considered to be contrary to policy DES 4 of the Council's UDP. This indicates that the overall height and massing of a new development should preserve or consolidate the prevailing character, where relevant. In this case where the scale of development facing St John's Road is so readily visible and where there is currently a very uniform scale to the buildings, the application of this policy is considered relevant.

In terms of the townscape impact and the impact upon the setting of designated heritage assets, Building 2 will have an impact. In the views from the north, such as views 9, 11 and 14, which are all from within the St John's Wood Conservation Area, the scale of the building allied to its assertive design, will be readily appreciated and introduces a discordant streetscape, which is considered to have a harmful impact on the setting of the conservation area. While it is considered that this harm is certainly less than substantial, there are nevertheless no compelling public benefits to outweigh this harm.

In conclusion, both buildings introduce greater height to the site, but given the scale of neighbouring buildings and the emerging context of taller buildings in this immediate location, it is considered that there is scope for taller buildings on this site, than currently exist. In the case of Building 1, the scope for a building of greater height is considered to be easier to accommodate as the impact of this building on the townscape is more limited and less impactful upon designated heritage assets. However, in the case of Building 2, the case is a harder one to make and is made all the more challenging by a forward building line and a very assertive design. It is considered that the scale and massing of Building 2 would not accord with our relevant design policies or with section 12 of the NPPF.

In terms of density the proposed development provides just over 1000 habitable rooms per hectare (hrph). Policy H11 of our UDP designates this location as an area here a density range of between 250-500 hrph is appropriate, compared to the London Plan which stipulates 650-1100 hrph. Given the specific nature and predominant small units associated with the sheltered accommodation, the density figure is slightly skewed. However it is accepted that the proposed density of the proposed development is high. In such cases it is expected that the proposal meets other complimentary policies including townscape and design, residential amenity etc.

In this case the townscape and design policies are not met for the reasons set out elsewhere in this report and it is clear that building 2 has been designed to maximise potential value, over and above good design principles.

8.3 Residential Amenity

Amenity

Lords View 1

Lords View One, a residential block of 125 flats is located directly west and northwest of the site. Its rear elevation as well as its eastern flank contains a number of windows to individual flats. Whilst none of its rear (south facing) windows would see any significant reduction in daylight, all 12 windows located (1 per floor) within the eastern flank of this building would see a significant reduction in daylight and 1 room at lower ground level within this flank would see a reduction in sunlight (annual and winter) above the tolerances of the BRE guidelines. These windows predominantly serve dual aspect rooms. Whilst regrettable, it is considered likely that any significant development of the site would see a reduction in daylight to these flank windows. Given this and the dual aspect of the rooms which these windows serve, the impact is not considered so severe in which to withhold permission on this ground.

The 10 storey St John's Wood Road Building (Building 2) would be located around 11.5-12.5m away from the side elevation of Lords View I which contains secondary windows (which could be considered unneighbourly in themselves given their side location), and would project further to the rear and front by between 3-7m. The building has been designed with significant fenestration and balconies to all elevations, which is not particularly neighbourly and is disappointing given the footprint and scale of the development. Whilst some windows in the flank of the proposed new building facing the flank of Lords View 1 may be acceptable, the introduction of external terraces is particularly unneighbourly and unacceptable in this location in close proximity to this neighbouring building.

The applicant had been made aware of officer's concerns, but do not accept them, on the basis that the balconies are semi recessed and the flank windows to Lords View 1 are located towards the southern end of the building. Other reasons cited for not omitting these balconies are that they are positive amenity and design features, and their removal would be detrimental to the architectural composition of the building and would have a negative impact on the daylight levels and aspect of the affected rooms. Notwithstanding this justification, officers remain unconvinced by the balconies on the west flank of the building and propose to seek their removal at 2nd to 8th floor levels, through an amending condition. Given that these are secondary balcony/terraces to the proposed flats, this is not considered to significantly compromise their amenity space.

It is likely that any redevelopment of this site, due to its proximity to Lords View I, would result in some loss of daylight to flank windows to Lords View 1, especially given its location close to the application site.

Given the location of the proposed development, its height and scale and the detailed design, subject to the omission of west facing balconies, it is not considered to result in any significant unacceptable amenity implications for occupiers of this adjoining building.

It is recognised that the proposal is the third such recent development in the immediate area (see history section) and that as a consequence the townscape particularly to Lodge Road will change considerably. The particularly low rise townscape will be replaced with higher buildings rising from 8 storeys up to 12 storeys adjacent to the 14-storey Danubius Hotel. Whilst residents outlook will inevitably change, it is not considered that the cumulative impact will be significantly detrimental to the amenities currently enjoyed by occupiers of these residential flats in terms of sense of enclosure, daylight and sunlight or privacy.

Lords View II & Pavilions

These buildings are located a sufficient distance from the application site such that they are not affected by the proposed redevelopment.

Strathmore Court and Beverley House, 133 Park Road and 14 Lodge Road

These buildings are located around 65-70m east of the application site and would see no significant reduction in daylight or sunlight and are sufficiently distant of the application site so as not to impact on sense of enclosure or privacy.

30 Lodge Road

This building is the currently vacant Royal Mail sorting office. It has planning permission for residential redevelopment. As such the potential impact of this proposed development on the future occupiers of this building has been considered. Regal Homes, the owner and developer of this adjacent site has written in support of the proposal and have stated that they have worked collaboratively with C&C throughout the design process to provide a joined up approach to the development. They are consequently satisfied that the proposed development will not cause any daylight or sunlight issues to the building proposed for 30 Lodge Road.

36-44 Lodge Road

This site has planning permission for a residential redevelopment comprising of buildings of between 5-12 storeys located around 20-25m+ west of the application site (beyond the Post office sorting office) with both north and east facing windows. The proposed development would result in a loss of daylight to some of its windows. Five bedroom windows within its rear elevation (set back element) would see a reduction in daylight however these bedrooms are 1 of 3 bedrooms within these flats and due to their location, already receive low levels of daylight. In addition 1 or 2 windows to 7 living/kitchen dining areas within its flank elevation would see a reduction in daylight. However these flank windows are obscure glazed and the room is served by a number of windows, in many cases including 2 rear facing windows, or front facing windows, which are unaffected.

Other affected windows are rear facing living rooms and bedrooms to ground floor level, 3 living rooms at first, second and third floor levels, and 2 bedrooms to 5th floor and a further 2 flank bedroom windows in the other building, all of which have overhangs (projection or balcony above) which already adversely affect the current levels of daylight they receive.

Overall, whilst the loss of daylight is regrettable, it is not considered to be so significant to warrant withholding permission on this ground.

The Danubius Hotel

The hotel lies directly east of the site and as with the application site extends from St John's Wood Road to Lodge Road, with west facing windows. The unusual design of the building is such that its windows face the boundary with this site and from which it relies on light and air, which is not particularly neighbourly. Notwithstanding the Danubius Hotel's request, given the hotel use, the applicant has not undertaken an assessment of the potential impact of the proposal on the daylight and sunlight currently received by windows serving hotels rooms. Notwithstanding this, the applicant's overshadowing assessment indicates a significant increase in overshadowing to the hotel. Given the design of the hotel building, the orientation of its windows and its proximity to the site, it is inevitably also likely to suffer from a significant loss of daylight and sunlight. However, as a commercial use, hotel rooms are not afforded the same protection as residential properties and as such whilst regrettable, the loss of daylight and sunlight and overshadowing, is not considered a sustainable reason in which to withhold permission.

The proposed Building 2 relies on significant fenestration to all of its elevations, including its eastern flank with the Danubius Hotel. As in the case with its flank with Lords View 1, this is disappointing, however given the commercial hotel use, this would be difficult to sustain as unacceptable. However the applicant should be aware that given the location of this fenestration is unlikely to be afforded significant protection in the event of any future redevelopment of the hotel.

Lords Cricket Ground

The Nursery Ground part of Lords Cricket ground, which includes the indoor cricket school and gym, offices, shop and hospitality building, lies directly north of the application site, on the opposite side of St John's Wood Road. The applicant has submitted an assessment of the impact of the proposed development on sunlight/overshadowing to open space within this part of Lords Cricket ground. This assessment indicates that most of the external area (84%) of this part of the grounds will continue to receive 5 hours or more of sunlight, which is acceptable and in accordance with the BRE guidelines. In terms of overshadowing, the proposal will result in a slight increase in overshadowing to the south and south east corner of Lords Cricket grounds (junction of Wellington Road and St John's Wood Road) during the morning. Furthermore it is not considered that the impact of this proposal will significantly impact upon any future proposals for the site. The concern raised by Marylebone Cricket Club is therefore unsustainable.

Overall, despite the limited loss of daylight and sunlight and increase in overshadowing to some surrounding identified sites, the impact is not considered to be so significant to justify withholding permission and the proposal is generally compliant with policy ENV13 of our UDP and S29 of our City Plan.

8.4 Transportation/Parking

Building 1

The vehicular and pedestrian entrance is proposed from Lodge Road. An on-site access road and vehicular drop off /collect area with a separate entrance and exit is proposed for residents and allows space for an ambulance and other vehicles to drop or collect residents at the entrance if required and also enables waste to be collected from within the site. To the eastern part of the building, an internal vehicular access ramp leads to a single basement car park for 33 cars.

The provision of 33 car parking spaces for 156 sheltered housing units for the elderly, generally accords with policy TRANS 10 which applies a standard of 1 space per 10 units (although not as a maximum or minimum). Given this policy and the ratio of spaces associated with the existing building (30 spaces for 204 units) the provision is considered to be acceptable in this case, on the basis that they are associated with sheltered accommodation for the elderly and are offered on an un-allocated basis which would need to be secured through a s106 legal agreement along with lifetime car club membership for occupiers. Furthermore conditions are recommended to secure disabled access spaces and electrical charging points. The City Council's Highways Planning Manager has indicated that a change in the nature of the type of affordable housing from sheltered accommodation for the elderly to general affordable housing would necessitate a reconsideration of the car parking provision. However if planning permission were to be granted, it would be specifically for sheltered accommodation secured through a s106 legal agreement.

Provision is made for 28 cycle parking spaces within the single basement. Given the nature of use, this is considered to be acceptable.

Provision for waste and recycling is provided at basement and ground floor levels, however further details are required to ensure that the provision is satisfactory and meets the requirement of our Cleansing Manager.

Building 2

The vehicular and pedestrian entrance is proposed from St John's Wood Road. An on-site access road and vehicular drop off area with a separate entrance and exit is proposed to provide access to the integral double car lift at ground floor level leading to the level 2 and 3 basement car park for parking of 48 cars.

The access road also provides access to the separate internal loading bay for off street waste collection. The provision of off street servicing of the building is welcomed in accordance with policy TRANS20 of our UDP.

The provision of 48 off street car parking spaces and motor cycle spaces for 42 private flats within basement levels 2 and 3 is considered acceptable in light of policy TRANS23. It is expected that these will be provided on an un-allocated basis and this is proposed to be secured through a s106 legal agreement together with a lift management and maintenance plan. Furthermore conditions are recommended to secure disabled access car parking spaces and access to electrical vehicle charging points.

Provision for 92 cycle parking spaces within the level 1 basement is acceptable in accordance with the London Plan.

Provision for waste and recycling is provided within the level 1 basement with an internal collection point at ground floor level. However as in the case of building 1, further details are required. and is considered to be sufficient to serve the building.

The Highways Planning Manager has raised the issue of pedestrian accessibility through the site, in so far as it is regrettable that the proposal does not incorporate a pedestrian link from building 1 (sheltered accommodation) on Lodge Road, through the site and grounds of building 2 to St John's Wood Road. However there is no policy requirement for such an access arrangement. Consequently residents of Building 1 wanting to get to St John's Wood Road will need to walk via Park Road or Oak Tree Road, which is not unreasonable.

For the reasons set out above the proposed facilities for both buildings 1 and 2 are considered acceptable and satisfy transport policies.

This is subject to conditions to secure the provision of car parking on an unallocated basis, cycle parking and waste and recycling. A s106 legal agreement will also need to secure lifetime car club membership for occupiers of building 1, a management and maintenance plan for the double car lift to building 2, as well as associated highways works to facilitate the development including vehicular access crossovers to both Lodge Road and St John's Wood Road, the latter of which requires consultation with Transport for London, as St John's Wood Road is part of the Transport for London Road Network.

8.5 Economic Considerations

The economic considerations raised by this proposal are set out in the land use section of this report.

8.6 Access

Accessibility considerations are set out throughout the report and specifically within the land use and transportation sections.

8.7 Other UDP/Westminster Policy Considerations

Noise & vibration

London Underground tunnels (Metropolitan and Jubilee) and National Rail overground lines which are used by freight trains, run beneath the adjacent Danubius hotel to the east of the site. However Environmental Health has confirmed that the proposed residential

accommodation at ground floor level and above would not be adversely affected by noise or vibration from these tube and rail lines. The proposed plant associated with the development would be located within the basement and roof of Building 1 and the basement, roof and ground floor (including the car lift) of building 2. In addition UKPN substations are proposed at ground floor level within both buildings. Environmental Health has indicated that insufficient information has been submitted with respect to potential plant noise. Such further details could be required by condition to ensure that any mechanical plant meets the City Council's standard noise conditions to prevent noise disturbance to existing and future residents. Subject to the imposition of conditions the proposal would comply with Policy ENV6 and ENV7 of our UDP and policy S32 of our City Plan

Trees and soft landscaping

All 19 trees within the boundary of the site are proposed to be removed. These are predominantly small trees and evergreen shrubs including cabbage palm, yew and silver birch trees. None of these trees are of sufficient quality to insist on their retention and therefore their loss is acceptable subject to suitable replacements. However, there are also a number of trees outside of but in close proximity of the application site. These are 3 mature London Plane trees directly outside of the site on the pavement, along St John's Wood Road, which are owned and managed by TFL, and a Fastigate Oak on Lodge Road.

Given the triple basement and vehicular access crossovers and construction activity associated with Building 2, concern is raised by the City Council's Arboricultural Manager, as to the potential impact on the mature London Plane street trees to St John's Wood Road. The proposed basement is located around 3m of the London Plane trees which have been evidenced to root within the front curtilage of the existing Dora House. The City Council's tree officer has suggested a reduction in the size of the basement and set back from the boundary to accommodate the Plane trees. Further concern is raised in relation to the proposed reduction in levels to accommodate the vehicular access to the basement, which lacks any detailed tree information. Furthermore insufficient detail has been provided in respect of the impact with the tree canopies.

The principle of significant soft landscaping as part of the development from ground to roof level is encouraged in principle in biodiversity terms. However, unfortunately the proposed soft landscaping scheme lacks any meaningful detail. Together with the limited space given over to soft landscaping, insufficient soil depth and volume over basements, overall inadequate details have been provided in respect of ground and roof level planting. As such it is considered that there is insufficient space or soil volume to replace new trees in mitigation of those 19 trees proposed to be removed as part of the redevelopment.

For the reasons set out above the proposal is considered to fail to minimise the impact on existing street trees which are of significant visual amenity value or to provide suitable space and conditions for new soft landscaping and tree planting within the site.

Given the significant development proposed on site, the protection of street trees and suitability of the site to accommodate adequate and suitable soft landscaping and tree planting is important to the setting of the buildings within the townscape and in views from the adjacent conservation area. In addition, it is important to the quality and biodiversity of the gardens and curtilage areas of the new buildings and their future residential occupiers.

Given these fundamental concerns the applicant has during the course of the application provided additional information with a view to addressing these concerns. However following a review of this information the City Council's Arboricultural Manager maintains her objections. The proposal is therefore contrary to policies DES1, ENV16 and ENV17 of our UPd and policy S38 of our City Plan

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 a Sustainability Statement and Energy Strategy which sets out the sustainability credentials of the building. The applicant proposes a combination of roof mounted Photovoltaic (PV) panels, high efficiency gas fired condensing boilers and air source heat pumps. The applicant has also provided a commitment to ensuring that the development is designed to allow future connection to a district heating network, although is not linking the energy strategy for two proposed buildings.

Through enhanced energy efficiency standards the development is set to achieve an overall reduction of 21.8% (16.52% for building 1, and 31.15% for building 2) in regulated CO2 emissions compared to a 2013 Building Regulations compliant scheme. This falls short of the London Plan target of 40%. The GLA has requested further clarification of energy issues and that the shortfall is mitigated off site. The Council does not have a policy on carbon off setting and it is not considered appropriate to refuse the scheme for this reason.

8.8 London Plan

Given the proposed height of the building (over 30m) and number of residential units proposed (over 150), the application has been referred to the Mayor. The Mayor's Stage 1 letter indicates that whilst the proposal is generally acceptable in strategic terms it does not fully comply with the Further Alterations to the London Plan 2015. Further information/confirmation is required in respect of land use, design, inclusive design, climate change and transport.

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 a refusal, take it over for his own decision to allow the City Council to determine it itself.

The proposal is liable for the Mayoral Community Infrastructure Levy (CIL) in Westminster of £50 per sqm.

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; 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, had the application been considered acceptable a S106 legal agreement would have been required to secure at least the following matters:-

- Provision of 15,362m² (156 units) of affordable housing within Building 1, in the form of sheltered accommodation for the elderly (Class C3), in perpetuity and at charges made to residents substantially below market levels.
- Highways works to Lodge Road and St John's Wood Road to facilitate the proposed development and including vehicular crossovers and paving.
- Provision of car parking spaces on an unallocated basis within both buildings 1 and 2.
- To carry out the development in accordance with a car lift maintenance and management plan to be submitted, in association with building 2.
- Lifetime (25 years) Car club membership for occupiers of building 1.
- Option for previously existing residents of Dora House to return to occupy building 1.
- 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 contributions per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers.

8.11 Environmental Impact Assessment

Environmental Impact issues have been covered throughout the report.

8.12 Other Issues

Construction impact

The applicant has submitted a Construction Management Plan (CMP) by Arup which sets out a preliminary construction methodology, along with assumed construction logistics strategy for the works which estimates a build programme of 36-40 months per building. However the principle contractor is yet to be appointed for either building. As such the submitted plan lacks detail, and a more detailed CMP would be required by condition.

It would be expected that in liaison with those affected adequate provision would be made to minimise the impact on local residents as well as the operation of the Danubius hotel and Lords Cricket ground.

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 contribution to ensure compliance with the Councils Code of Construction Practice, and secure monitoring expertise of the Councils Environmental Sciences Team, the latter of which controls noise, dust, vibration emanating from the site through a site specific site environmental management plan (SEMP), should be secured through a S106 legal agreement.

Network Rail and London Underground have both raised concern with respect to potential impact of the development on their infrastructure of railway lines and tunnels and in respect to other effects of construction (see consultation responses). In both cases they have requested a number of pre-commencement conditions in which to seek further specific details with respect to excavation, earthworks, demolition, foundations, piling, loading, drainage and impact of noise and vibration from tunnels to the new buildings, ground movement, tunnel monitoring and amended basic asset protection agreement (BAPA) to include access for a tunnel survey and monitoring equipment in the tunnel.

Crime and security

The scheme does not raise any significant issues with regard to crime and security.

Community involvement

The applicant has provided a statement of community involvement which indicates that they have engaged with the local community and have undertaken pre-application consultation with the Greater London Authority, Transport for London, Royal Parks, Ward Councillors, the St John's Wood Society and local residents and businesses (including Lords and Danubius Hotel). The design of the new Dora House has been subject to a co design with a residents working group (Dora Designers) and including residents newsletter, design studio and presentations by Central & Cecil).

9. BACKGROUND PAPERS

1. Application form
2. Letter (Stage 1) from the Greater London Authority dated 14.01.2016
3. Response from Historic England (Listed Builds/Con Areas), dated 16 November 2015
4. Responses from Network Rail dated 11.11.2015 and 03.02.2016
5. Response from London Underground Limited dated 25.11.2015
6. Response from Thames Water dated 11.11.2015
7. Response from Environment Agency dated 11.11.2015
8. Response from Housing Supply Manager dated 01.02.2016
9. Response from Adult Social Care Commissioning Team dated 29.01.2016

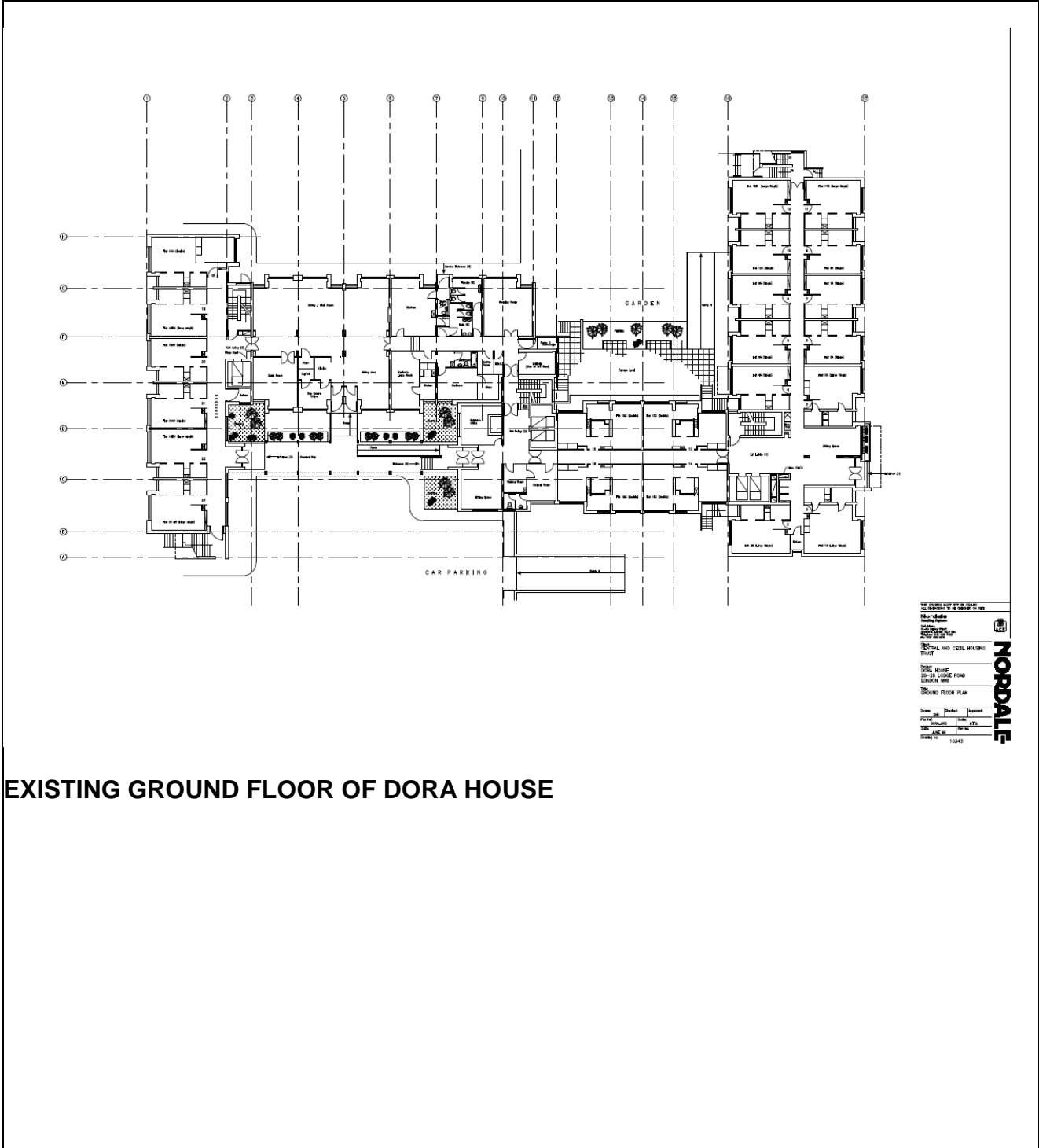
10. Responses from Highways Planning Manager dated 19.01.2016 and 22.01.2016
11. Response from EH Consultation, dated 15 January 2016
12. Response from Building Control - Development Planning, dated 24 November 2015
13. Response from Cleansing - Development Planning, dated 30 November 2015
14. Responses from Arboricultural Manager dated 22.12.2015 and 22.02.2016
15. Response from St John's Wood Society dated 16.12.2015
16. Response from The St Marylebone Society, dated 22 November 2015
17. Letter from Regal Homes, developer of 30 Lodge Road dated 04.01.2016
18. Email and Letter from Rolfe Judd on behalf of owner of Danubius Hotel dated 25.01.2016
19. Letter from occupier of Marylebone Cricket Club,, Lord's Ground dated 14 December 2015
20. Letter from occupier of 106 Lord's View, St John's Wood Road, dated 4 December 2015
21. Letter from occupier of 119 Lords View, St. John's Wood Road, dated 8 January 2016
22. Letter from occupier of Flat 122 Lords View, St. Johns Wood Road, dated 4 December 2015
23. Letter from occupier of 10 Chesterton Court, Eaton Rise. Ealing, dated 30 November 2015 (previous occupier of Dora House)
24. Letter from occupier of Flat 13, Ada Court, 10-16 Maida Vale, dated 2 December 2015 (previous occupier of Dora House)
25. Letter from occupier of 29 Fairhall Court, King Charles Road, Surbiton dated 07.12.2015(previous occupier of Dora House)
26. Letters from two members of the Dora House Residents Association dated 27.01.2016
27. Letter from occupier of 513 Dora House, 60 St John's Wood Terrace, dated 15 December 2015

Selected relevant drawings

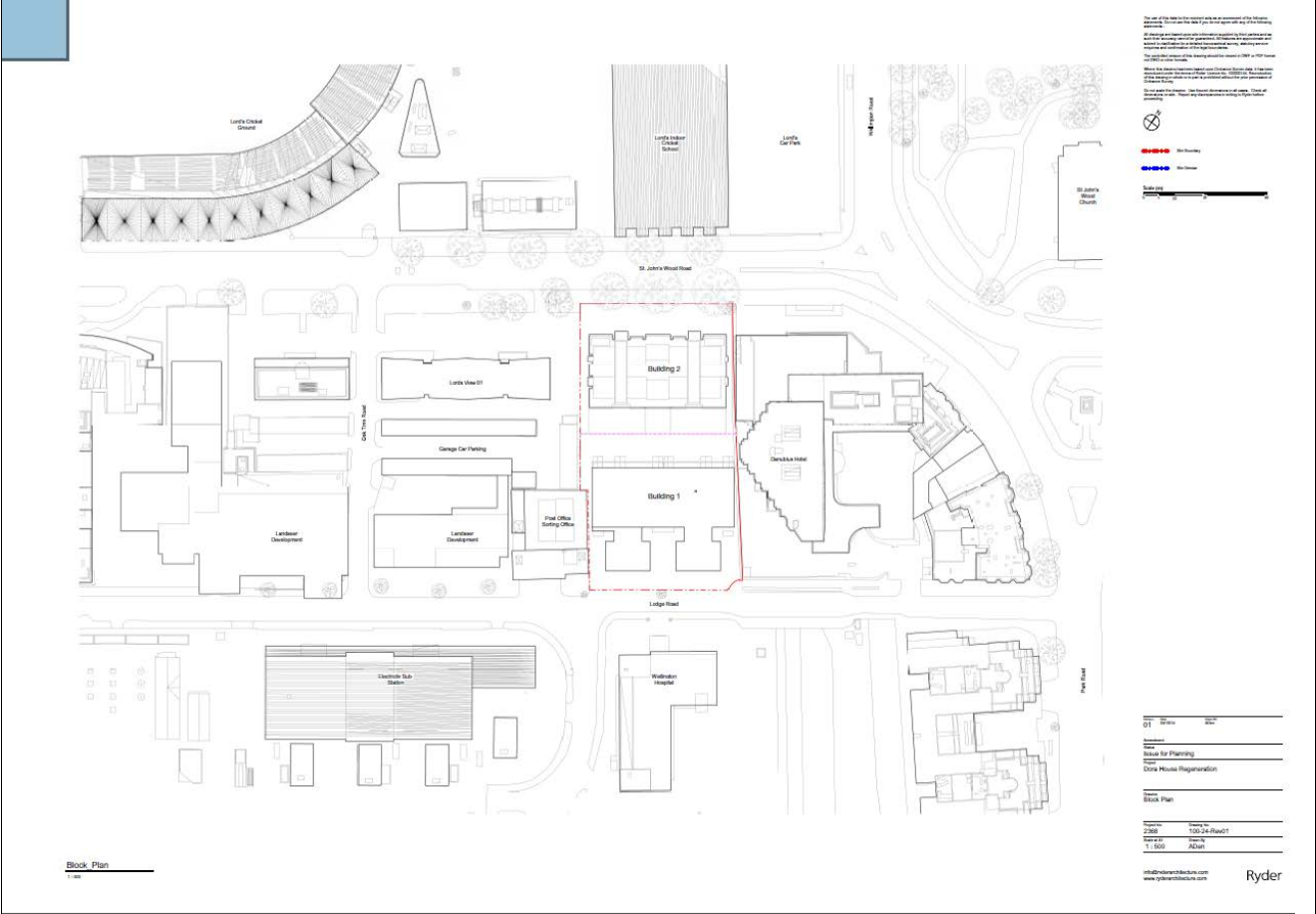
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT SARAH WHITNALL ON 020 7641 2929 OR BY EMAIL AT NorthPlanningTeam@westminster.gov.uk

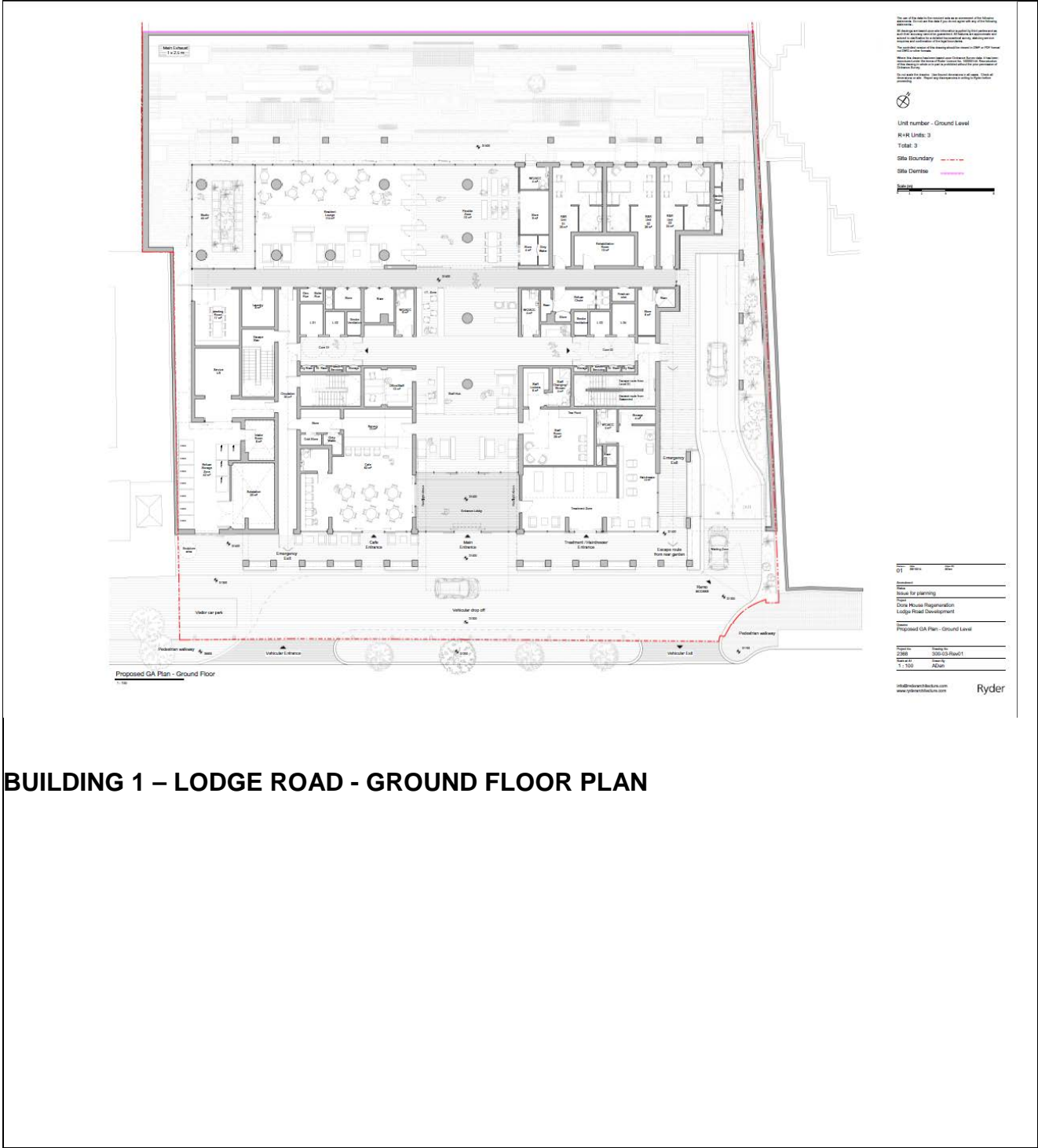
10. KEY DRAWINGS



EXISTING GROUND FLOOR OF DORA HOUSE



PROPOSED BLOCK PLAN



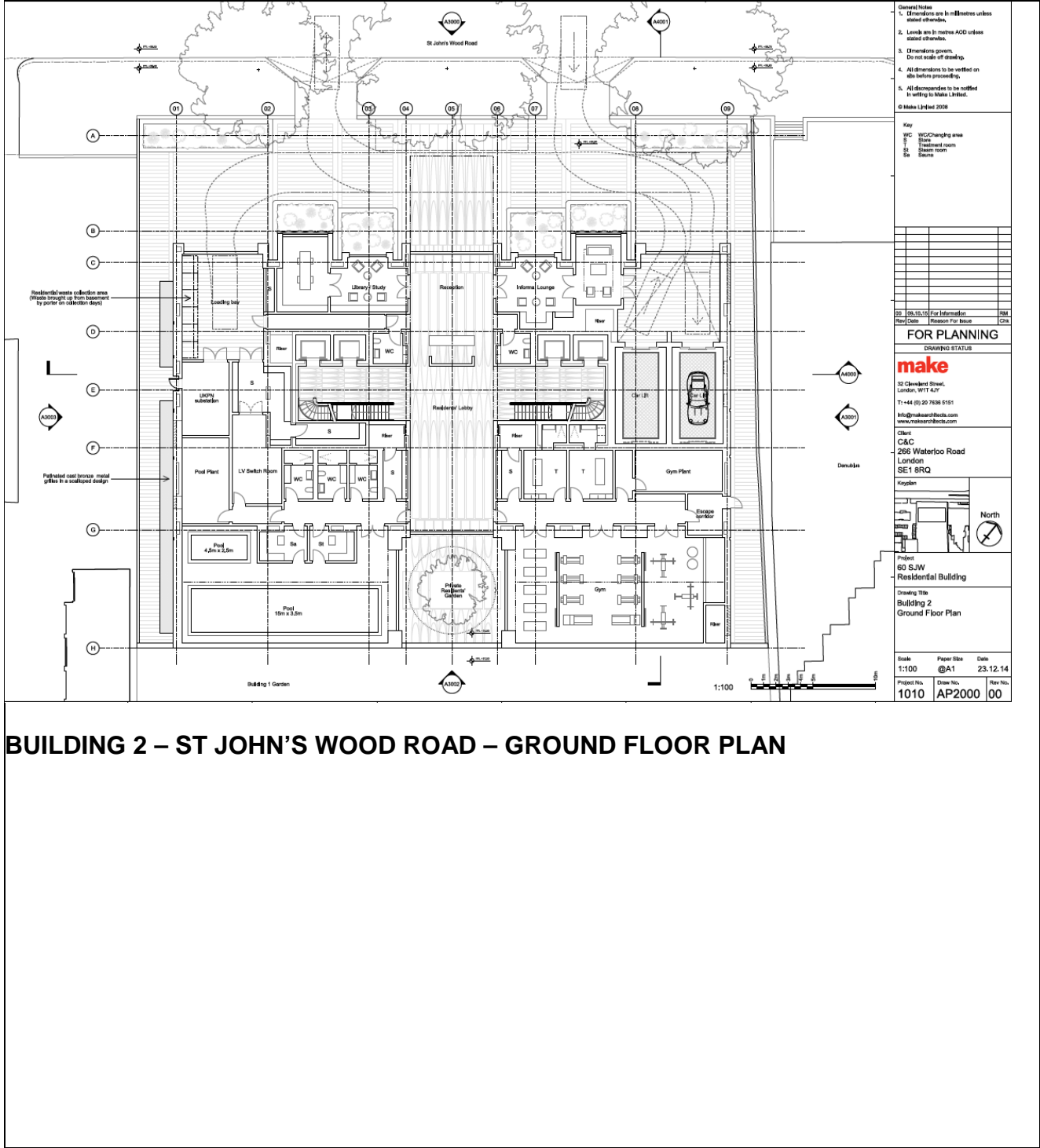
BUILDING 1 – LODGE ROAD - GROUND FLOOR PLAN



BUILDING 1 – LODGE ROAD – FRONT ELEVATION



BUILDING 1 – LODGE ROAD – REAR ELEVATION



General Notes

- Dimensions are in metres unless stated otherwise.
- Levels are to mean AOD unless stated otherwise.
- Dimensions given. Do not scale off drawing.
- All dimensions to be verified on site before proceeding.
- All discrepancies to be notified in writing to Make Limited.

© Make Limited 2009

Key

- WC WC/Changing area
- T Shower
- SR Steam room
- SE Sauna

Rev	Date	Reason For Issue	By
01	09.10.13	For Information	IM
02			Chk

FOR PLANNING

DRAWING STATUS

make
21 Cleveland Street,
London, W1T 4JY
T: +44 (0) 20 7638 5151
info@makearchitects.com
www.makearchitects.com

Client
C&C
266 Waterloo Road
London
SE1 5RQ

Location
Kingsley

Project
60 S/JW
Residential Building

Drawing Title
Building 2
Ground Floor Plan

Scale	Paper Size	Date
1:100	A1	23.12.14

Project No.	Draw No.	Rev No.
1010	AP2000	00

BUILDING 2 – ST JOHN’S WOOD ROAD – GROUND FLOOR PLAN



BUILDING 2 –ST JOHN’S WOOD ROAD – FRONT ELEVATION

Colour and Tone

It is key to select a material that relates to the immediate context to visually locate the building within the townscape. However, given the quality of the existing brick buildings along St John's Wood Road, a balance is required to situate it in the broader area while also maintaining a consideration for its immediate surroundings. A brick will be chosen that respects the dark tone of the site's immediate context while simultaneously injecting a subtle element of colour and variation. The colour of the brickwork will range from light grey to a dark teal with blue overtones.



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Dora House Regeneration

BUILDING 2 – ST JOHN'S WOOD ROAD TOWNSCAPE VIEW WITH ADJACENT DANUBIUS HOTEL AND LORDS VIEW 1.

DRAFT DECISION LETTER

Address: Dora House, 60 St John's Wood Road, London, NW8 7HN,

Proposal: 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.

Reference: 15/09769/FULL

Plan Nos: 10343 (floorplans); LNBS0127_E01, 1 of 3, 2of 3 and 3of 3; 100-02-Rev01; 100-24-Rev01; 120-12-Rev01; 120-11-Rev01; 300-02-Rev01; 300-03-Rev01; 300-18-Rev01; 300-19-Rev01; 300-20-Rev01; 300-21-Rev01; 300-22-Rev01; 300-23-Rev01; 300-24-Rev01; 300-25-Rev01; 300-26-Rev01; 300-27-Rev01; 300-28-Rev01; 300-9-Rev01; 300-30-Rev01; 360-01-Rev01; 360-02-Rev01; 360-03-Rev01; 360-04-Rev01; 365-01-Rev01; 365-02-Rev01; 365-04-Rev01; 365-03-Rev01; 370-01-Rev01; 370-02-Rev01; 375-01-Rev01; 375-02-Rev01; AP1997; AP1998; AP1999; AP2000; AP2001; AP2002; AP2004; AP2008; AP2009; AP2010; AP2011; AP3000; AP3001; AP3002; AP3003; AP3010; AP4000; AP4001; AP6001; AP6002; AP6003. Design and Access Statement; Planning Statement, Transport Statement; Ecology Statement; Noise Impact Assessment; Air Quality Assessment; Arboricultural Report; Archaeology Report; Archaeological Desk Study and Watching Brief; Construction Management Plan; Energy Strategy; Overhaighn Analysis; Structural Methodology Statement; Sustainability Statement; Sustainable Drainage Report; Geotechnical Desk study Report; Geotechnical Study Report; Daylight and Sunlight Report; Site investigation Report; Statement of Community Involvement. Email dated 19.02.2016 and attachments regarding trees; Letter dated 01.02.2016 and appendices in response to consultation representations; Letter dated 24.02.2016 to GLA; GLA considerations and responses dated 19.02.2016; WCC considerations and responses dated 19.02.2016.

Case Officer: Sarah Whitnall

Direct Tel. No. 020 7641 2929

Recommended Condition(s) and Reason(s):

Reason:

- 1 Because of its height and massing, Building 2 would harm the immediate townscape and fail to maintain or improve (preserve or enhance) the setting of the neighbouring St John's Wood Conservation Area. This would not meet S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 4 and DES 9 (F) of our Unitary Development Plan that we adopted in January 2007.

Reason:

- 2 In the absence of a suitable mechanism to secure the delivery of the proposed affordable housing (sheltered accommodation for the elderly) on site, the proposal fails to provide the affordable housing and consequently fails to provide housing for those Westminster residents in housing need, contrary to policy H4 of the Unitary Development Plan (UDP) adopted January 2007 and policy S16 of Westminster's City Plan: Strategic policies which we adopted November 2013.

Reason:

- 3 The development fails to minimise the impact on existing street trees which are of significant visual amenity value, and fails to provide suitable space and conditions for new soft landscaping and tree planting within the site to mitigate for the loss of 19 existing trees and to create a suitable setting for the buildings. This is detrimental to the existing street trees and to the setting of the buildings within the townscape and in views from the adjacent conservation area, and is also detrimental to the overall quality of space and bio diversity of the gardens and curtilage areas of the site, contrary to policy S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007.

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 2

Item No.

2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	15 Henrietta Street, London, WC2E 8QG,		
Proposal	Use of 14 Henrietta Street and the upper floors of 15 Henrietta Street as a hotel with restaurant and bar facilities (sui generis), single storey roof extension at No. 15, installation of plant at rear lower ground floor level and plant within a plant enclosure to the rear of No. 14 at second floor level and associated external works including replacement windows and satellite dishes to both buildings.		
Agent	Mr Gary Brook		
On behalf of	Capital & Counties CG Limited (as general partner for Cap...		
Registered Number	15/08953/FULL	Date amended/ completed	24 September 2015
Date Application Received	24 September 2015		
Historic Building Grade	Unlisted		
Conservation Area	Covent Garden		

1. RECOMMENDATION

- | |
|---|
| 1. Grant conditional planning permission. |
|---|

2. SUMMARY

Nos. 14 and 15 are two separate adjoining unlisted buildings of merit located on the south side of Henrietta Street in the Covent Garden Conservation Area.

Permission is sought for the use of No. 14 and the upper (first to fifth floors) of No. 15 as a hotel with restaurant and bar facilities (sui generis) and external alterations including a single storey roof extension at No. 15, the installation of plant at lower ground floor level and plant within a plant enclosure at second floor level to the rear of No. 14 and replacement windows and satellite dishes to both buildings.

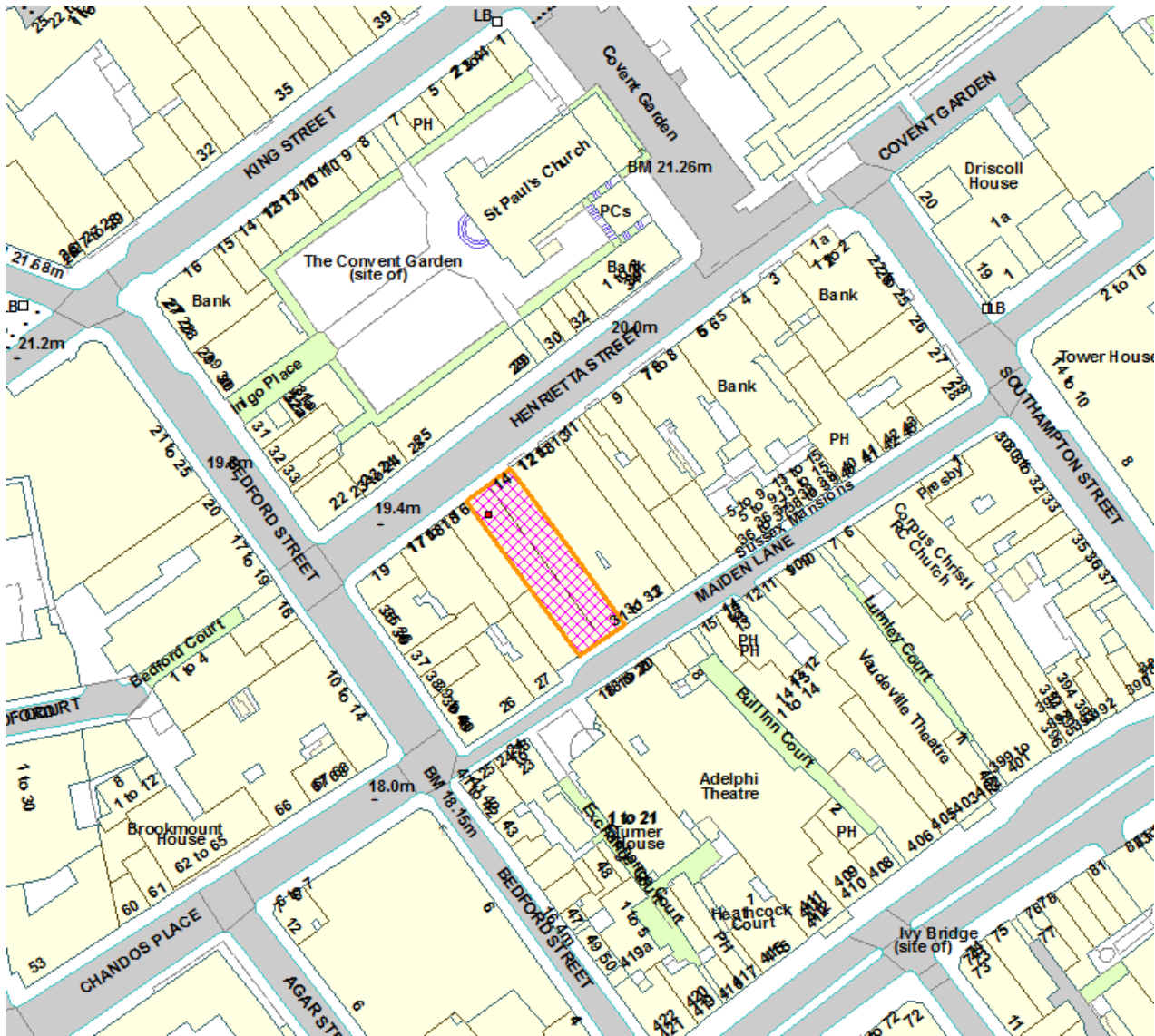
The key issues for consideration are:

- * The impact of the proposals in land use terms.
- * The impact of the external alterations on the character and appearance of the Covent Garden Conservation Area.

* The impact on the amenity of neighbouring residential occupiers.

Subject to conditions, the proposed development is considered acceptable in land use, conservation and design, amenity and highways terms and to comply with relevant policies in Westminster's City Plan: Strategic Policies (the City Plan) and the Unitary Development Plan (UDP).

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

COVENT GARDEN COMMUNITY ASSOCIATION

No objection to hotel use. Strong objection to proposed restaurant and bar. At 120 restaurant covers at 60 in the bar this will be one of the larger restaurants in a highly residential area. Should permission be granted conditions should be applied to control the hours of use of the bar by non-residents, that no music should be audible outside the premises, a servicing and waste management plan should be provided, details of how the queues in front of the building will be managed and that the roof terrace should be used for maintenance only.

COVENT GARDEN AREA TRUST

No comment.

METROPOLITAN POLICE (DESIGNING OUT CRIME)

No objection

HIGHWAYS PLANNING MANAGER

No Servicing Management Plan provided. No cycle parking. No waste store. Gate shown as opening over public highway.

ENVIRONMENTAL HEALTH

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. consulted: 60
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 Site

Nos. 14 and 15 are two separate adjoining unlisted buildings of merit located on the south side of Henrietta Street in the Covent Garden Conservation Area. The site is located in the Core Central Activities Zone (CAZ) and within the West End Stress Area.

6.2 Recent Relevant History

Planning permission was granted in August 2012 for the use of No. 14 as the Angolan Embassy Consulate with ancillary office (sui generis). This permission was subject to a condition restricting the use of the embassy to the applicants only. The upper floors of the premises are currently vacant. The City Council does not consider that this use was implemented. The last known lawful use of the premises is therefore understood to be as offices (Class B1) at basement, ground and first floors and a six bedroom residential unit (Class C3) occupying the second, third, fourth and fifth floors. No. 15 is understood to have a lawful use as offices (Class

B1) on the first and second floors and as a three bedroom residential unit (Class C3) on the third, fourth and fifth floors.

7. THE PROPOSAL

Permission is sought for the use of No. 14 and the upper (first to fifth floors) of No. 15 as a hotel with restaurant and bar facilities (sui generis) and external alterations including a single storey roof extension at No. 15, the installation of plant at lower ground floor level and plant within a plant enclosure at second floor level to the rear of No. 14 and replacement windows and satellite dishes to both buildings.

The prospective hotel operator is understood to be Experimental Group who currently run 16 hospitality operations in Europe and North America including hotels, restaurants and bars. Two of these are in London, a cocktail bar at 13a Gerrard Street and a delicatessen, bistro and wine bar at Neal's Yard. This would be the company's first hotel in London.

In total the hotel comprises 18 hotel bedrooms accessed through the front door of No. 14 where a reception area is provided. The single storey roof extension proposed at the fifth floor of No. 15 creates a bedroom which benefitting from a rear terrace, similar to the one which currently exists at No. 14.

At ground floor level beyond the hotel reception is the restaurant, which would also extend to the mezzanine conservatory. The kitchen is located within the basement. The restaurant, which would be open to members of the public, can be entered through the hotel reception, primarily by overnight guests, or separately through the main door of No. 15. The capacity of the dining area is 120 people which includes the basement kitchen.

Within the basement of No. 14 is a cocktail bar. Access is provided directly from the hotel but it would also be open to members of the public and would be accessed via the existing external staircase to the front of the property. The capacity would be capped at 60 people.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The table below provides a breakdown of existing land use:

	No. 14 Henrietta Street	No. 15 Henrietta Street
Lower Ground	Offices	Outside site demise
Ground	Offices	Outside site demise
First	Offices	Offices
Second	Residential	Offices
Third	Residential	Residential
Fourth	Residential	Residential
Fifth	Residential	residential

The table below provides a breakdown of existing and proposed floorspace:

Use Class	Existing (m2)	Proposed (m2)	Change (m2)
-----------	---------------	---------------	-------------

Office (Class B1)	684	0	-684
Residential (Class C3)	502	0	-502
<i>Sui Generis</i> (Hotel)	0	880	+880
<i>Sui Generis</i> (Restaurant)	0	283.5	+283.5
<i>Sui Generis</i> (Bar)	0	77.5	+77.5
Total	1,186	1,241	+55

Loss of office use

The proposals will result in the loss of 684 sq m of office (Class B1) floorspace. The loss of the offices at the basement to first floor of No. 14 Henrietta Street and first and second floors of No. 15 Henrietta Street to provide hotel accommodation and associated bar and restaurant facilities complies with current policy given that the proposed use is another commercial use.

Loss of residential units

The loss of 502 sq m of residential floorspace (Class C3) is contrary to Policy S14 of Westminster's City Plan which seeks to protect all residential floorspace. It is proposed to overcome this use via a land use swap.

Policy COM3 of the UDP seeks to ensure that land use swaps relating to residential use can only take place at sites within the vicinity of each other. The arrangements will also only be considered acceptable if the mixed use character of the locality is maintained, at the least the equivalent amount of residential floorspace is provided, the residential accommodation is of a higher standard in terms of quality and amenity and the provision of the residential accommodation is secured by conditions and, where necessary, legal agreements. New residential accommodation should be self-contained and have separate access, have improved space standards and result in improved levels of privacy and/or daylighting.

The applicant, Capital and Counties (Covent Garden), is committed to providing a mix of uses across its Estate and realises the importance of the residential population to the vitality of the area. To this end, the applicant has recently been granted a number of residential permissions. The following two permissions were permitted with the understanding that they would contribute to the provision of off-site residential accommodation required under a legal agreement relating to No. 38 King Street, where planning permission (12/08003/FULL) was resolved to be granted on the 20 August 2013 for the use of the Africa Centre at 38 King Street for (Class A1) retail purposes (with ancillary offices at second floor and above) and external works.

However since the grant of these permissions alternative residential provision has been identified to meet the off-site residential requirements at No. 38 King Street, meaning that the residential quantum provided by these permissions can be applied elsewhere.

Planning permission was granted on 24 September 2013 at both Nos. 14 and 15 King Street (13/05622/FULL and 13/05600/FULL) for the use of first, second, third and fourth floors as 4 x 1 bed residential units (Class C3) at each property. These permissions provide a total of 481 sq m of residential accommodation across eight 1-bed residential units.

This will lead to a shortfall of 21 sq m of residential accommodation. However, given that the replacement residential will provide a net uplift of 6 residential units of an appropriate size and configuration and that 21 sq m is not a sufficient size for a replacement unit in its own right, in this instance the shortfall is considered acceptable.

Proposed Hotel/Bar/Restaurant Use

The application site is located within the CAZ and so the introduction of a new hotel use in this location is acceptable in principle. The proposal also seeks to introduce a new bar and restaurant (Class A3/A4) at basement, ground and part first floor of no. 14. Given the composite nature of the proposed use as a combined hotel, restaurant and bar, the use needs to be assessed against our Core Strategy and UDP policies regarding both hotels and new entertainment premises. The proposed use is considered to be sui generis, that is, a use 'on its own' not falling within any one particular use class.

Policy S23 of the Westminster City Plan states that new hotels will be directed to the Core CAZ existing hotels will be protected where they do not have significant adverse effects on residential amenity and proposals to improve the quality and range of hotels will be encouraged.

Policy TACE 9 and TACE 10 of our UDP state that permission may be granted for proposals for entertainment uses between 150 – 500sqm within the CAZ and Stress Areas subject to the City Council being satisfied the proposed use 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 no adverse effect on the character and function of the area. Policy S24 of our City Plan also states new entertainment uses will need to demonstrate they do not adversely impact on residential amenity, health and safety, local environment quality and the character and function of the area.

The majority of 'luxury' hotels within Central Westminster provide bars and restaurants that are also open to members of the public, and it is not considered objectionable in this case. The proposed restaurant and bar area at lower ground and ground floor level will form an integral part of the hotel operation (serving breakfast, lunch and dinner). Given the location of hotel bedrooms directly above, it will be in the interests of the hotel to ensure that these areas are properly managed. Should permission be granted, conditions are recommended restricting hours of opening to members of the public to no later than 01.00 hours to protect the amenity of nearby residents. This closing time will not affect guests of the hotel. It is also recommended conditions are added that restrict the restaurant to sit down, waiter service only and no take away, restrict the covers to 120 within the restaurant and 60 within the bar, and require them to operate in accordance with the submitted operational management plan.

The proposed use is considered an appropriate in this central area of Westminster, close to many of London's top tourist attractions and with good access to public transport. It is not considered that the scale of the hotel proposed would have a significant effect on residential amenity or local environmental quality and as such is appropriate in land use terms subject to the recommended conditions.

Increase in commercial floorspace

Policy S1 of Westminster's City Plan: Strategic Policies relates to mixed use in the Central Activities Zone and requires that, 'where proposals increase the amount of commercial floorspace by 200 sq m or more, or in the case of A1 retail or private educational, health and leisure facilities (D1 or D2), by 400 sq m 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.'

Policy CENT 3 of Westminster's Unitary Development Plan relates to mixed-use development with regard to the provision of self-contained residential accommodation when increases of commercial floorspace are proposed and requires that, 'In appropriate circumstances, where on-site or off site residential provision or appropriate alternative uses cannot be achieved, the City Council will seek a contribution to its affordable housing fund for the provision of affordable housing instead'.

In this case, the applicants have offered to provide off-site residential to offset the loss of existing residential floorspace, but this does not compensate for the residential requirement as a result of the increase in commercial floorspace. The application proposes an increase in commercial floorspace of 557 m² GEA. It is accepted that it would not be appropriate to provide additional residential accommodation on site, and the applicants have not offered any alternative residential provision off site. In terms of a payment in lieu of residential provision, the policy compliant amount in this instance is £916,525. The applicant claims this level of payment renders their scheme unviable and has provided a financial viability assessment to support this claim.

The Council has employed James Brown as an independent consultant to review the applicant's financial viability case for offering no contribution to the affordable housing fund. He agrees that any contribution towards affordable housing would make the scheme unviable. On this basis therefore, it is not considered reasonable to require a payment in lieu on this occasion.

8.2 Townscape and Design

Nos. 14 and 15 are two separate adjoining unlisted buildings of merit located on the south side of Henrietta Street in the Covent Garden Conservation Area.

The application proposes external alterations including a single storey roof extension at No. 15, the installation of plant at lower ground floor level and plant within a plant enclosure at second floor level to the rear of No. 14 and replacement windows and satellite dishes to both buildings.

The roof extension will extend the roof rearward of the existing pitch of the mansard to provide additional accommodation. This will read as a full width, vertical addition projection rearward from the ridge line. A similar arrangement has been implemented at No. 14, for which Certificate of Lawfulness was granted 2008 (ref: 08/07013/CLEUD). Although it should be noted that prior to this, two applications for roof extensions were refused in 1997 and 1998.

It is apparent that No. 15 forms a symmetrical pair with number 16, whereas No. 14 is clearly a separate building which at the rear sits lower than Nos. 15 and 16. Although the roof extension would increase the roof's current ridge height, resulting in a steeper front pitch which unbalances its relationship with No. 16, given that the buildings are not listed the proposed extension is not considered to be sufficiently out of proportion with the host building that it would

result in a detrimental impact on the conservation area so as to justify a refusal of the application on these grounds.

In all other respects, the proposed external works are considered acceptable in design and conservation area terms.

8.3 Residential Amenity

Daylight and Sunlight

The proposed roof extension will increase the ridge height of No. 15 by approximately 1.2m. It is not considered that this minor increase would have any material impact upon residential windows in terms of either loss of light or increased sense of enclosure. In all other regards the external alterations are not considered to give rise to any issues regarding overlooking, sense of enclosure or loss of privacy.

Noise

The Covent Garden Community Association has raised a strong objection to proposed restaurant and bar. They consider that with 120 restaurant covers and 60 in the bar this will be one of the larger restaurants in a highly residential area and have requested that should permission be granted conditions should be applied to control the serving and the operation of the restaurant and bar.

As discussed in Section 8.1, conditions have been recommended to control the hours of use of the bar and restaurant by non-residents, that no music should be audible outside the premises and requiring submission of a servicing management plan as well as restrictions on the number of covers.

With regard to the roof terrace at No. 15 given that this will replace an existing terrace at fourth floor level at No. 14 and will be accessed only by the residents of this room it is not considered necessary to impose conditions on its use .

Environmental Health officers have assessed the acoustic report submitted with the application and consider that the plant proposed at rear lower ground and second floor level will comply with City Council noise policy ENV 7 and will not result in any significant noise to the detriment of neighbouring properties.

8.4 Transportation/Parking

The Highways Planning Manager has noted that the site is located within a Controlled Parking Zone, which means that locations single and double yellow lines in the vicinity allow loading and unloading to occur.

Given the restaurant and bar will be open to members of the public (not just ancillary to the hotel) the servicing requirements of the site are likely to increase over the existing. An Operational Management Strategy (OMS) has been submitted but contains limited information regarding the likely service arrangements or levels. In order for the applicant to demonstrate that the proposal is to be closely managed and serviced with the least possible impact on the

public highway and its users, a Servicing Management Plan (SMP) is recommended by condition.

The London Plan requires 1 cycle parking space per 20 bedrooms and 1 space per 175m² of Class A3. No cycle parking is proposed within the site. A condition is recommended to secure 2 cycle parking spaces within the site.

A waste store is not specifically indicated on the plans however it is mentioned within the OMS. There appears room onsite for the provision of this facility. A condition is recommended to secure waste store within the site.

The application includes a gate which opens over the public highway. This is unacceptable in Highways terms and a condition is recommended requiring all gates and doors opening over the public highway to open inwards..

8.5 Economic Considerations

The economic benefits generated are welcomed.

8.6 Access

The applicants have submitted a Design and Assess statement which sets out the provisions made for inclusive design throughout the premises.

8.7 Other UDP/Westminster Policy Considerations

None relevant.

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

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

8.11 Environmental Impact Assessment

The application is not a sufficient scale to require an Environmental Impact Assessment.

8.12 Other Issues

None relevant.

9. BACKGROUND PAPERS

1. Application form
2. Response from Covent Garden Community Association, dated 30 October 2015
3. Response from Covent Garden Area Trust, dated 10 November 2015
4. Response from Highways Planning - Development Planning, dated 19 October 2015
5. Response from Environmental Health Consultation, dated 30 October 2015
6. Response from Metropolitan Police, dated 27 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)

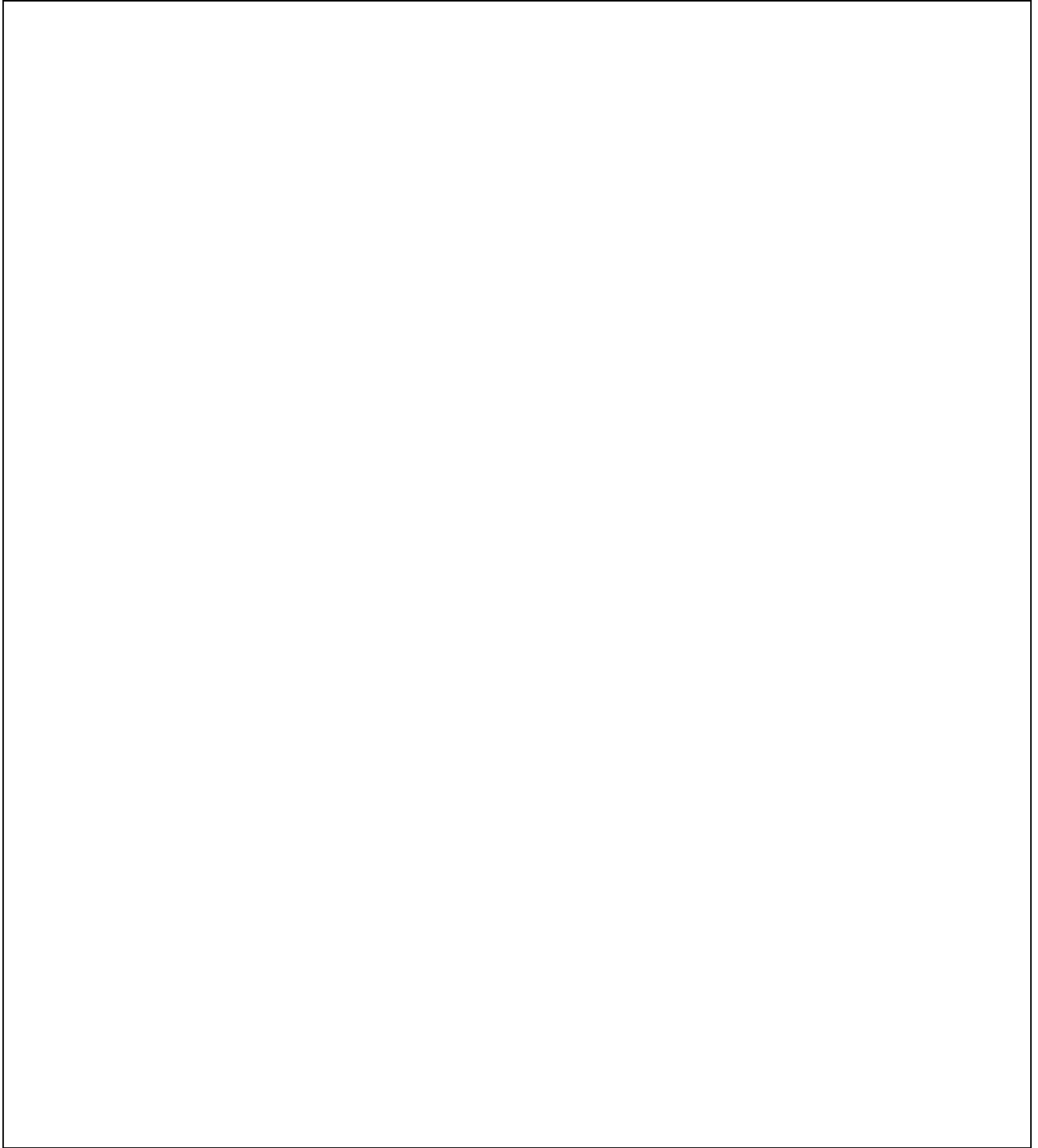
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT SEBASTIAN KNOX ON 020 7641 4208 OR BY EMAIL AT SouthPlanningTeam@westminster.gov.uk

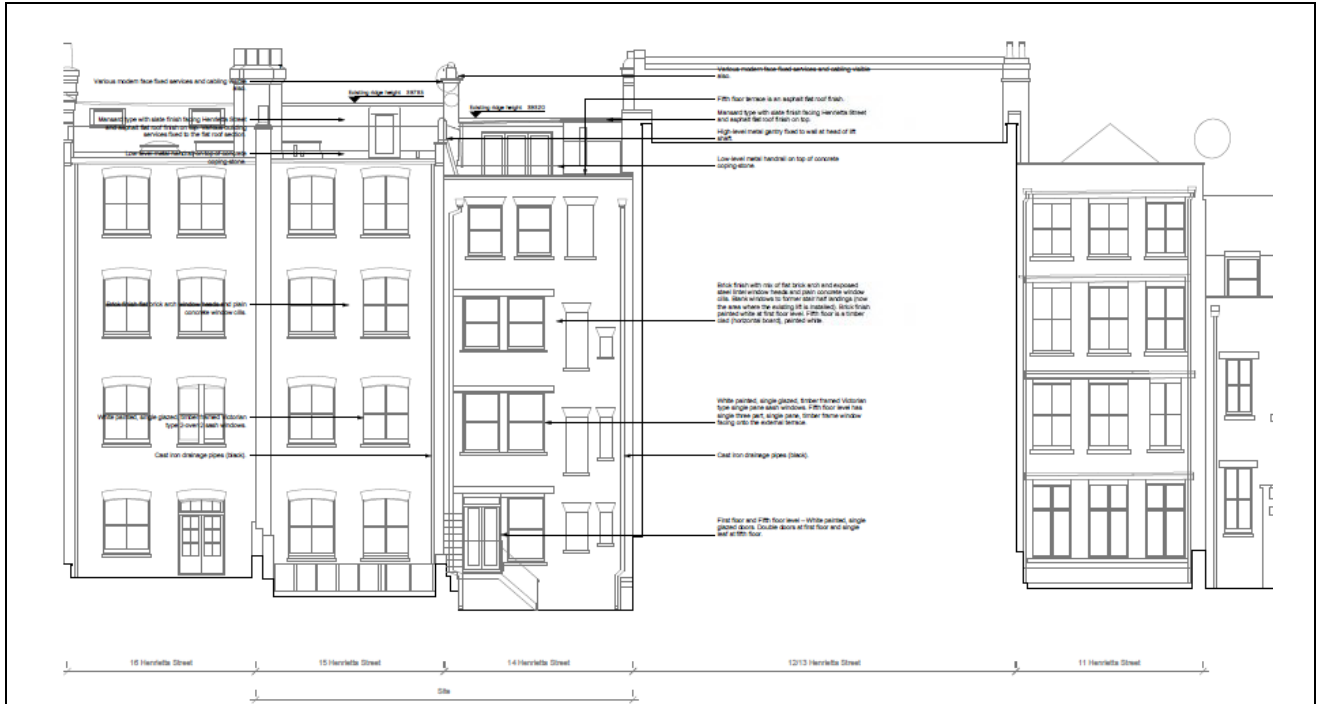
10. KEY DRAWINGS



Item No.

2





paul davis partners
ARCHITECTS URBAN DESIGNERS

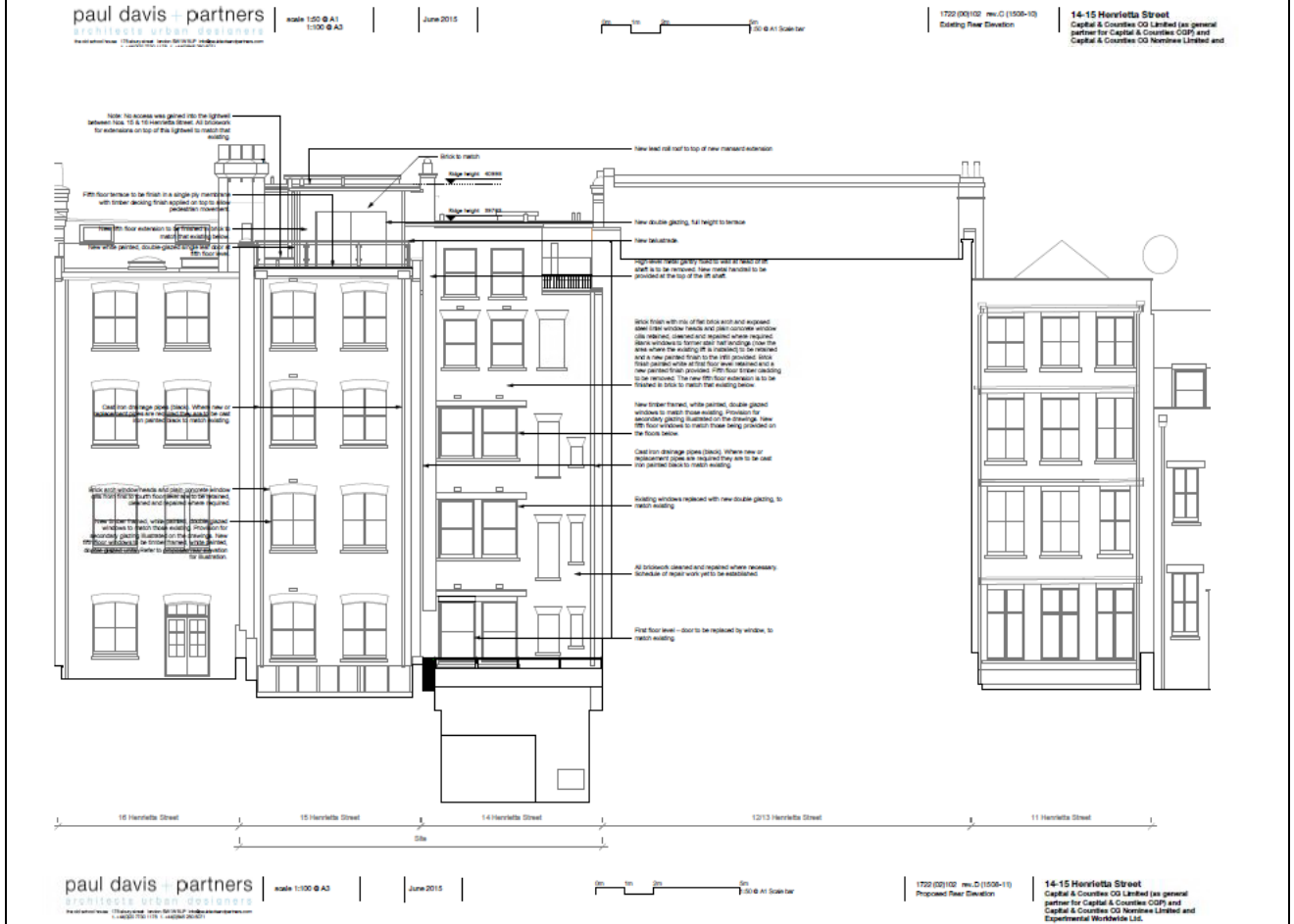
scale 1:50 @ A1
1:100 @ A3

June 2015

1:50 @ A1 Scale bar

1722 (03)102 rev.C (1506-15)
Existing Floor Elevation

14-15 Henrietta Street
Capital & Counties OD Limited (as general partner for Capital & Counties CDP and Capital & Counties OD Northern Limited and



paul davis partners
ARCHITECTS URBAN DESIGNERS

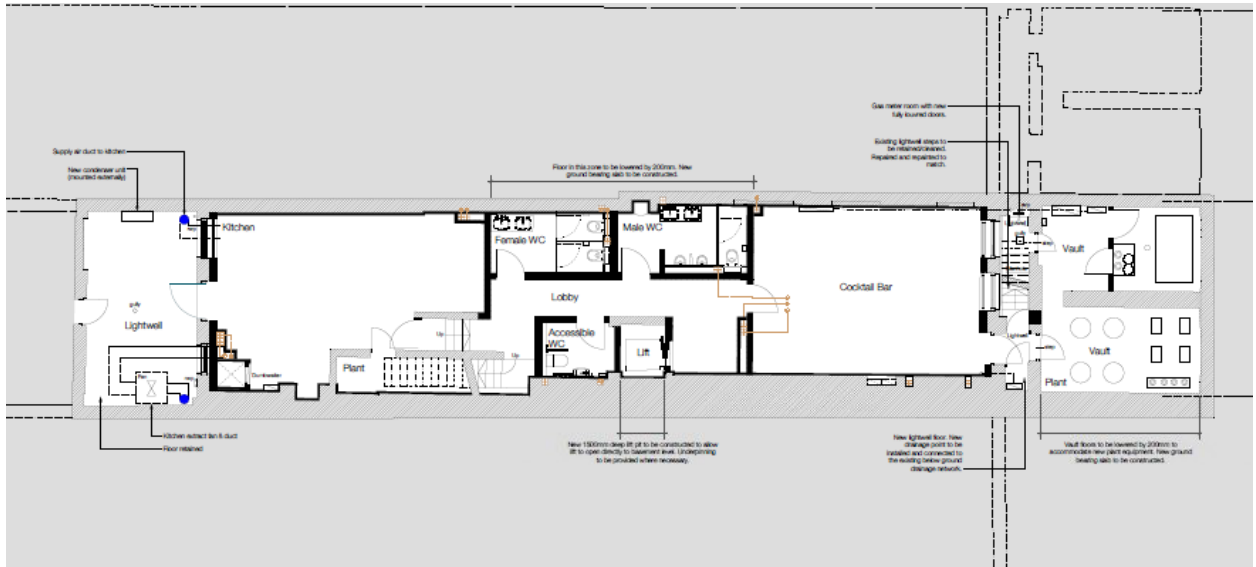
scale 1:50 @ A3

June 2015

1:50 @ A1 Scale bar

1722 (03)102 rev.D (1506-15)
Proposed Floor Elevation

14-15 Henrietta Street
Capital & Counties OD Limited (as general partner for Capital & Counties CDP and Capital & Counties OD Northern Limited and Experimental Workforce Ltd.



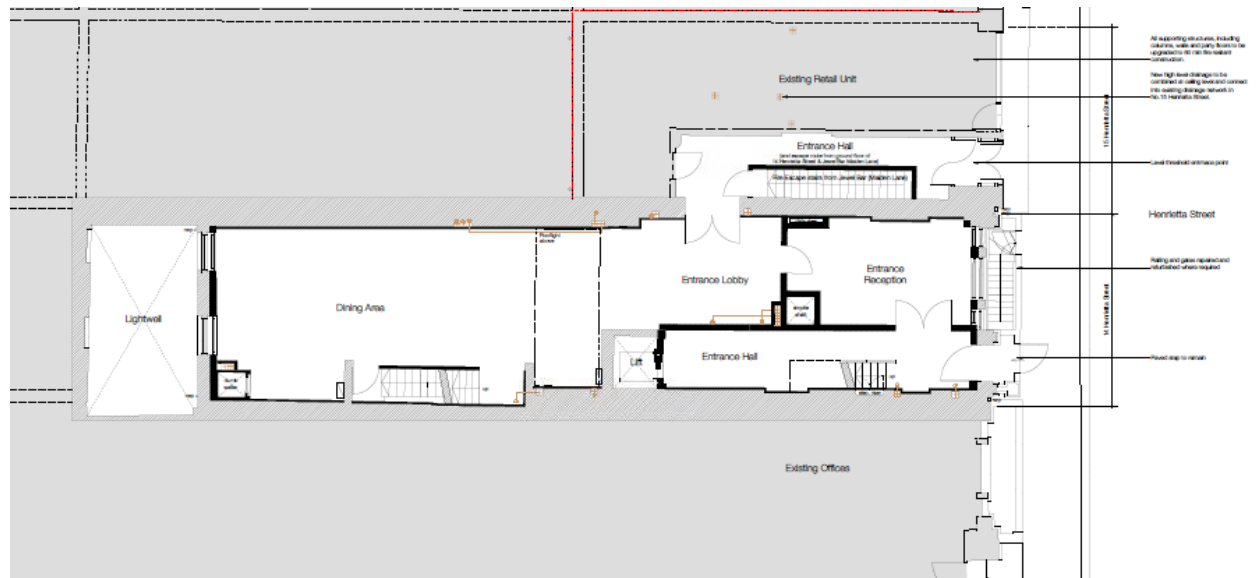
paul davis partners
ARCHITECTS INTERIORS DESIGNERS
14-15 HENRIETTA STREET, BIRMINGHAM, B2 1JN

scale 1:50 @ A1
1:100 @ A2

June 2015

1722 02001 rev. D (1506-11)
Proposed Lower Ground Floor Plan

14-15 Henrietta Street
Capital & Counties CO Limited (as general partner for Capital & Counties CDP) and Capital & Counties CO Nominees Limited and Expermental Worldwide Ltd.



paul davis partners
ARCHITECTS INTERIORS DESIGNERS
14-15 HENRIETTA STREET, BIRMINGHAM, B2 1JN

scale 1:50 @ A1
1:100 @ A2

June 2015

1722 02002 rev. E (1506-28)
Proposed Ground Floor Plan

14-15 Henrietta Street
Capital & Counties CO Limited (as general partner for Capital & Counties CDP) and Capital & Counties CO Nominees Limited and Expermental Worldwide Ltd.

DRAFT DECISION LETTER

Address: 15 Henrietta Street, London, WC2E 8QG,

Proposal: Use of 14 Henrietta Street and the upper floors of 15 Henrietta Street as a hotel with restaurant and bar facilities (sui generis), single storey roof extension at No. 15, installation of plant at rear lower ground floor level and plant within a plant enclosure to the rear of No. 14 at second floor level and associated external works including replacement windows and satellite dishes to both buildings.

Plan Nos: 1722(91)001 rev.B (1507-28); 1722 (00)001 rev.B (1507-24); 1722 (00)002 rev.B (1507-24); 1722 (00)003 rev.B (1507-24); 1722 (00)004 rev.B (1507-24); 1722 (00)005 rev.B (1507-24); 1722 (00)006 rev.B (1507-24); 1722 (00)007 rev.B (1507-24); 1722 (00)008 rev.B (1507-24); 1722 (00)101 rev.C (1508-10); 1722 (00)102 rev.C (1508-10); 1722 (00)103 rev.A (1507-24); 1722 (00)104 rev.A (1507-24); 1722 (00)201 rev.B (1507-24); 1722 (00)202 rev.B (1507-24); 1722 (00)801 rev.A (1507-28); 1722 (00)802 rev.A (1507-28); 1722 (00)803 rev.A (1507-28); 1722 (00)804 rev.A (1507-28); 1722 (00)805 rev.A (1507-28); 1722 (00)806 rev.A (1507-28); 1722 (00)807 rev.A (1507-28); 1722 (02)001 rev.D (1508-11); 1722 (02)002 rev.E (1508-28); 1722 (02)003 rev.F (1508-28); 1722 (02)004 rev.D (1508-11); 1722 (02)005 rev.D (1508-11); 1722 (02)006 rev.D (1508-11); 1722 (02)007 rev.E (1508-17); 1722 (02)008 rev.E (1508-17); 1722 (02)101 rev.E (1508-17); 1722 (02)102 rev.D (1508-11); 1722 (02)103 rev.C (1508-11); 1722 (02)104 rev.B (1508-11); 1722 (02)201 rev.D (1508-11); 1722 (02)202 rev.B (1508-11); 1722 (02)801 rev.C (1508-28); 1722 (02)802 rev.C (1508-28); 1722 (02)803 rev.C (1508-28); 1722 (02)804 rev.C (1508-28); 1722 (02)805 rev.C (1508-28); 1722 (02)806 rev.C (1508-28); 1722(02) 007 rev.D (1508-28); Planning Noise Assessment dated 20 July 2015, prepared by Sandy Brown; Operational Management Statement dated August 2015; Transport Statement dated August 2015, prepared by TTP Consulting.

Case Officer: Sebastian Knox

Direct Tel. No. 020 7641 4208

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 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 Covent Garden 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 detailed drawings at scale 1:10 (including plans to show their locations) and sections at scale 1:5 of the following parts of the development -
- i) New external doors;
 - ii) New windows;
 - iii) New lantern light.

You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these details. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Covent Garden 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 Where new brickwork is to match existing, it must match the existing original work in terms of colour, texture, face bond and pointing.

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 Covent Garden 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 The new mansard roof extension must be clad in lead on the upper slope.

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 Covent Garden 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 No additional areas (other than those shown on the drawings hereby approved) shall be created for the hotel restaurant and hotel bar, unless otherwise agreed in writing by us.

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 TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 8 The restaurant and bar may only be accessible to non-residents between the hours of 0800 to 0100 the next day Monday to Saturday and between the hours of 0800 to 0000 Sundays and public holidays.

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 TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 9 No music shall be played in the bar, restaurant or other public areas of the hotel such as to be audible outside the premises.

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)

- 10 The Class A3 restaurant shown on the approved drawings at ground and basement level shall only be used as sit-down restaurant with waiter service. You must not use any part of this as a separate bar, or for any other purposes, including any within Class A3 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it).

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 11 You must not allow more than 160 customers into the ground floor/basement restaurant, and 60 customers in the basement bar at any one time.

Reason:

We cannot grant planning permission for unrestricted use because it would not meet S24 and S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 9 of our Unitary Development Plan that we adopted in January 2007.

- 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 (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 hotel 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 hotel use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.
- (3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission

of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: 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.

- 14 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.

- 15 You must apply to us for approval of detailed drawings of the acoustic screen to the plant at rear second floor level. You must not start work on this part of the development until we have approved what you have sent us. You must then put up the plant screen before you use the machinery and maintain it in the form shown for as long as the machinery remains in place.

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)

- 16 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 hotel. (C14EC)

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)

- 17 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)

- 18 You must apply to us for approval of a Servicing Management Plan prior to occupation. The plan should identify process, storage locations, scheduling of deliveries and staffing.

You must not commence the hotel use until we have approved what you have sent us.

You must then carry out the servicing according to these details, unless a revised strategy is approved (in writing) by the Local Planning Authority. (C26DB)

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)

- 19 You must carry out the measures included in your Operational Management Statement dated August 2015 at all times that the hotel 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 9 and 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 20 The hotel use allowed by this permission shall not be occupied until the residential units approved under applications 13/05600/FULL and 13/05622/FULL (or as subsequently approved by any permissions which vary these applications) at 15 King Street and 14 King Street respectively have been completed and made ready for occupation.

Reason:

Developing the site without providing replacement residential floorspace would not meet S14 of Westminster's City Plan: Strategic Policies adopted November 2013 and H1 of our Unitary Development Plan that we adopted in January 2007.

- 21 You must paint all new railings black and keep them that colour.

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 Covent Garden 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 details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the 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)

- 23 You must apply to us for approval of details of cycle storage for the hotel use. You must not start 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.

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 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, smells or other types of nuisance. (I06AA)
- 3 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 5 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please 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)
- 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 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 8 We recommend all hoteliers to join the Westminster Considerate Hoteliers scheme and to support the Considerate Hoteliers Environmental Charter. This aims to promote good environmental practice in developing and managing hotels. For more information, please contact:
- John Firrell MHCIMA
Secretary - Considerate Hoteliers Association
C/o Wheelwright's Cottage
Litton Cheney
Dorset DT2 9AR
- E-mail: info@consideratehoteliers.com
Phone: 01308 482313
- (I76AA)
- 9 Conditions 12 and 14 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)
- 10 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.
- 11 The Servicing Management Plan (SMP) required by Condition 19 should demonstrate that the proposal is to be closely managed and serviced with the least possible impact on the public highway and its users. The plan should clearly outline how servicing will occur on a day to day basis, identifying the process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations.

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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 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
Report of Director of Planning		Ward involved Bryanston And Dorset Square	
Subject of Report	Elliott House, 1 Molyneux Street, London, W1H 5HU		
Proposal	Demolition of building, excavation of sub-basement, and erection of replacement building over sub-basement, lower ground, ground and part-four and part-five upper storeys to provide 32 car parking spaces (accessed by car lifts on Cato Street), cycle parking, plant, ancillary gym and refuse store at basement level; plant within lower ground floor vaults; and up to 32 flats (Class C3) over lower ground to fourth floor levels.		
Agent	Savills		
On behalf of	Elliott House Ltd		
Registered Number	15/08836/FULL	Date amended/ completed	22 September 2015
Date Application Received	21 September 2015		
Historic Building Grade	Unlisted		
Conservation Area	Molyneux Street		

1. RECOMMENDATION

<p>1. Grant conditional permission subject to a S106 legal agreement to secure the following:</p> <p>(a) 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 up to £33,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers;</p> <p>(b) Unallocated parking;</p> <p>(c) Management and maintenance of the car lift and valet parking;</p> <p>(d) Cost of the works associated with the creation of two tree pits and the planting of least two new trees within the vicinity of the site.</p> <p>(e) Cost of widening the vehicular crossover on Cato Street and making good;</p> <p>(f) Cost of relocating a lamppost on Cato Street; and</p> <p>(g) Costs of monitoring the S106 agreement.</p> <p>2. If the S106 legal agreement has not been completed within three months of the date of this resolution then:</p> <p>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;</p>

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.

2. SUMMARY

The site comprises an unlisted residential building known as Elliott House that is located at the corner of Molyneux Street and Crawford Place and oversails the entrance to Cato Street. The site is located within the Molyneux Street Conservation Area and is adjacent to Grade II listed buildings to the south.

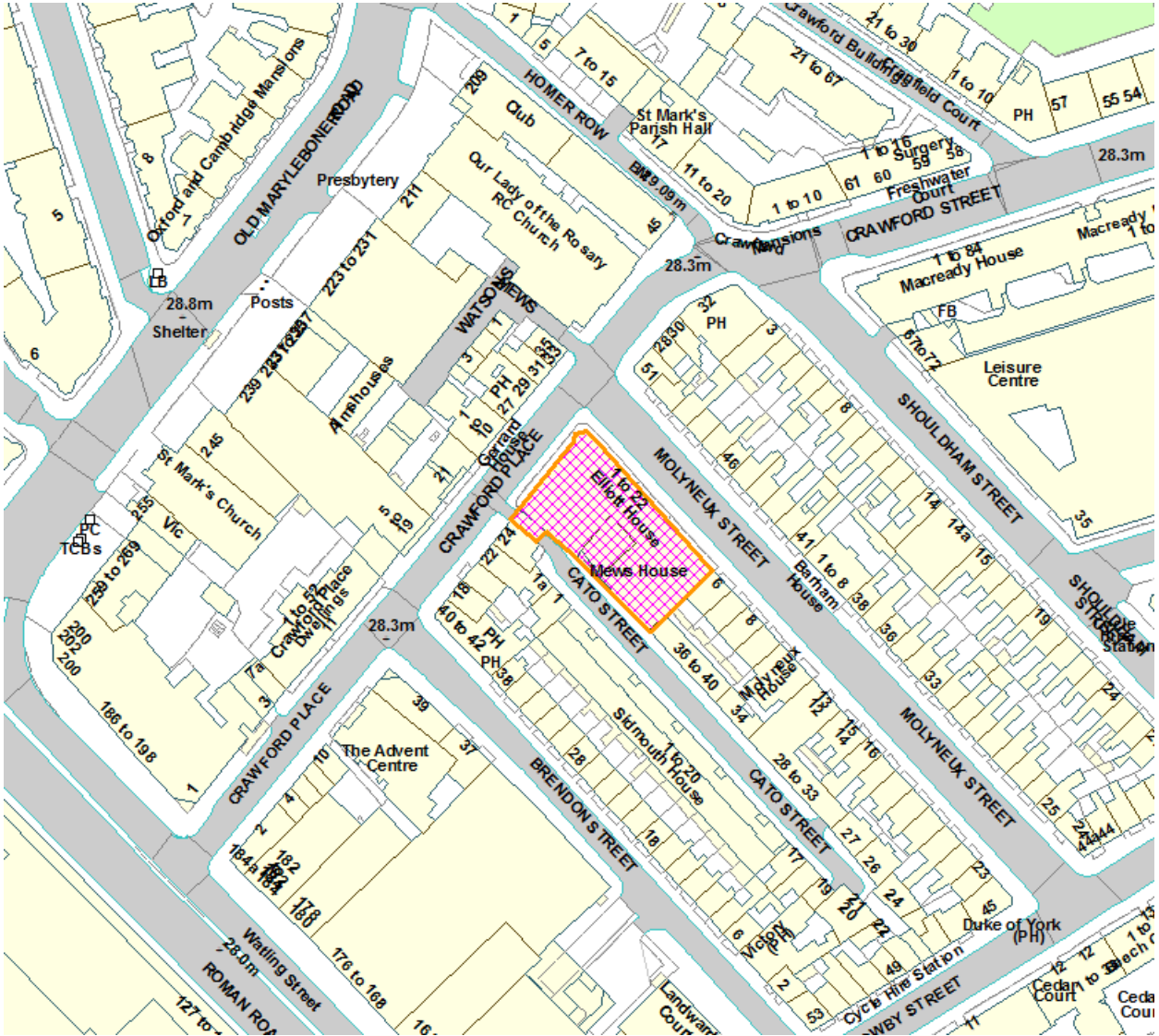
Permission is sought to demolish Elliott House, excavate a sub-basement to provide 32 car parking spaces accessed from Cato Street and to erect a replacement building comprising up to 32 flats.

The key issues for consideration are:

- Whether the replacement building's height, bulk, scale and detailed design would preserve or enhance the character and appearance of the Molyneux Street Conservation Area and preserve the setting of the adjacent listed buildings.
- The impact of the additional bulk and mass on the amenity of local residents.

The proposal is considered acceptable in land use and amenity terms, complying with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan). Furthermore, the proposal is considered to preserve the character and appearance of the Mayfair Conservation Area and not harm the setting of the adjacent listed buildings. For these reasons it is recommended that conditional planning permission be granted subject to a legal agreement securing the items listed within Section 8.10 of this report.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

First round of consultation (October 2015)

MARYLEBONE ASSOCIATION:

Whilst welcomes the redevelopment of this building that has been left vacant for a number of years and is not of high quality, the following points of objection are raised:

- The increase in the number of car parking spaces from five to 32 is not appropriate given the excellent public transport accessibility of this site and will have an unacceptable impact upon local residents on Cato Street due to increased car movements, air pollution and cause highway safety concerns at the junction with Crawford Street
- The deep excavations required to provide the car parking will harm residential amenity during the course of construction and may affect local ground conditions.
- The proposal fails to provide the required affordable housing provision on site.
- The high number of single aspect units is contrary to the Mayor of London's Housing Design Guide and most of the communal areas of the building lack natural light.
- Residents at ground floor level may feel overly overlooked from the street.
- Whilst the design approach is generally welcome, the sandstone framing device is more suitable for a commercial building and does not sit easily within the conservation area setting.
- There is a lack of good quality outdoor amenity space for the family sized flats.
- There is potential for noise nuisance from the mechanical ventilation required for the proposed basement.
- In-principle objection to the use of air conditioning due to energy consumption.
- Questions why the areas of flat roof have not been dedicated as green or brown roofs.
- Would have welcomed individual entrances to the proposed flats from street level and regrets that an activated frontage onto Cato Street has not been secured.
- Also raises a number of points of clarification.

In addition, the following points of support / no objection were raised:

- Supports the proposed materials palette of brick, render and Portland stone, although raises concern about the use of red sandstone.
- Welcomes the breaking up of the form of the building by the use of sections of feature elements which contrast favourably to Elliott House that is out of keeping with the finer grain scale of the rest of the conservation area.

HISTORIC ENGLAND (LISTED BUILDINGS / CONSERVATION AREAS):

- Considers that Elliott House is not without some interest and individual architectural merit that is likely to have been designed by Mackenzie Trench, a police architect and surveyor of the art deco period. Believes that Elliott house make a positive contribution to the special character of the conservation area (although the contribution is modest). Its loss will causes less than substantial harm to the significance of the conservation area and that this harm must be weighed against the public benefits delivered from the scheme.

BUILDING CONTROL MANAGER:

- The structural statement is a feasibility study only and does not detail the method by which the basement will be excavated and the existing structures supported during the process.

ENVIRONMENTAL HEALTH:

- No objection on environmental noise or nuisance grounds subject to the imposition of suitable conditions.

ENVIRONMENTAL SCIENCES TEAM:

- Requests the legal agreement includes provision to secure a contribution of up to £33,000 per annum, compliance with the Code of Construction Practice and the submission of a Site Environmental Management Plan for the City Council's approval.

HIGHWAYS PLANNING MANAGER:

- Welcomes the provision of 32 car parking spaces which is an improvement over the existing situation and the development approved in 2012, the proposed cycle parking provision and the proposed waste store.
- Raises concerns regarding the reduction in the height of the entrance to Cato Street off Crawford Place but subsequently confirmed that this 4.0m height is sufficient for the largest vehicles using Cato Street.
- Request that a Car Park, Lift Management Plan and valet parking is secured.

ARBORICULTURAL MANAGER:

- No objection to the loss of the pear tree on Molyneux Street subject to the applicant demonstrating that at least two trees can be replaced within the vicinity of the site.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 221

Total No. of replies: 33

No. of objections: 30

No. in support: 3

Objecting to the proposed development on the following grounds:

Design and Conservation:

- Objects to the principle of the demolition of Elliott House due to its beauty and through being a unique example of Art Deco architecture.
- The proposed design is of no particular architectural merit, is over massed, bland, unimaginative, commercial looking, competes with its surroundings, fails to reflect the character of the local area and represents a missed opportunity.
- The choice of materials will darken this part of the conservation area.
- Insufficient research has been undertaken to understand the significance of Elliott House, either in relation to its immediate historical period or to the varied streetscape of the conservation area.

Land use:

- There is an oversupply of flats in the area.
- Raises concern that the building may be used as temporary sleeping accommodation.
- Failure to provide on-site affordable housing.

Transportation:

- The increase in car parking will increase car movements.
- The entrance to Cato Street from Crawford Street should be upgraded to provide a pedestrian priority shared surface.
- The car parking spaces may be sub-let and more convenient on-street car parking used instead, adding to on-street parking stress. Requests that no parking permits are issued to the future occupants of this building to prevent parking on neighbouring streets.

Amenity:

- Loss of daylight and sunlight.
- Overlooking from the proposed balconies and roof top terrace.
- The increase in the bulk of the building on the south-east elevation will result in an increased sense of enclosure for users of the adjacent rear residential garden.
- Light pollution from excessive use of glass.
- Noise and air pollution from the increase in car journeys.

Other:

- Disruption during the course of construction and as a result of the basement excavation.
- Inadequate time to respond to consultation letter and inadequate consultation with local residents.
- The relative sustainability benefits of the redevelopment of the site compared to its refurbishment should be investigated.
- The development will change the atmosphere of the area.
- Impact on the water tables from excessive excavation.

Expressing support for the proposed development for the reasons:**Design and Conservation:**

- The existing building is badly built, poor quality and out of keeping with the area. In particular, the ponderous mansard roof jars with the art deco façade.
- The proposed building echoes both the Georgian and Victorian buildings in the street without being a pastiche of either.

Land Use:

- The existing building has been used as a hostel for the homeless then temporary sleeping accommodation and has stood empty for 2-3 years, becoming a meeting place for loud groups. Elliott House is no longer fit for purpose, is of no particular architectural merit and its redevelopment will provide a permanent solution for the site.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

Second round of consultation (January 2016).

MARYLEBONE ASSOCIATION:

- Would have welcomed a more ambitious architectural proposal for the site which is less bland and one that included affordable housing but believes that the latest design iteration is an improvement over the consented scheme and will not adversely affect the character of the conservation area.
- The proposed increase in the number of flats on site from 23 to 32 represents overdevelopment and will place excessive stress on the local area.
- Still objects to the proposed increase in car parking on site which runs contrary to the objectives of achieving good air quality within Marylebone and reducing nuisance to neighbouring residents.
- Withdraws previous objections the following issues:
 - o The introduction of maisonettes at ground and basement levels has reduced the number of single aspect flats (although eight single aspect flats is still a higher proportion than it would like to see).
 - o Lack of affordable housing provision as it is understood that the scheme is no longer liable to provide on-site provision.
 - o The removal of on-street bedrooms overcomes the previous concern about residents feeling overlooked from the street.
 - o The use of brickwork represents a more contextual approach than the previously proposed sandstone.
- Request the following:
 - o Requests a number of measures to reduce the impact of the construction phase on neighbouring residential amenity.
 - o That the City Council secures highways improvement works to the Cato Street / Crawford Place junction to improve pedestrian safety (e.g. a raised table shared surface).
 - o That all parking spaces are equipped with charging points for electric vehicles.

HISTORIC ENGLAND (LISTED BUILDS/CON AREAS):

- Reasserts its belief that Elliott house make a positive contribution to the special character of the conservation area (although the contribution is modest). Its loss will cause less than substantial harm to the significance of the conservation area and that this harm must be weighed against the public benefits delivered from the scheme.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 221

Total No. of replies: 6

No. of objections: 5

No. in partial support: 1

No. in support: 0

Raising the following new / additional comments:

Design and Conservation:

- The revised design is more in scale with the surrounding Georgian houses and the addition of party walls in the roof reflects the grain of the streetscape.
- The additional of entrances to the maisonettes off the street continues the pattern of the street successfully.
- However, the corner feature is weak and is a missed opportunity. A change in design or an imposing sculpture may work instead.

- It would be a tragedy to demolish this fine example of 'Streamline Moderne' architecture.

Transportation:

- Request that the future occupants of the building are not issued with parking permits.

Amenity:

- Noise from the use of the proposed terraces.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The site comprises an unlisted residential building known as Elliott House that is located at the corner of Molyneux Street and Crawford Place and oversails the entrance to Cato Street. Elliott House comprises basement, ground, four upper floors and roof level access staircase and plant. It is made up of 23 flats (16 x two-bed, 6 x three-bed and 1 x five-bed). Basement parking (seven spaces) accessed via a curved ramp from street level in Cato Street is located at rear basement level.

The site is located within the Molyneux Street Conservation Area and the Central Activities Zone (CAZ). The immediate vicinity contains largely residential flats and dwellings with commercial and entertainment uses to the south west along Edgware Road.

6.2 Recent Relevant History

12/06397/FULL

Redevelopment of Elliott House including the partial demolition of the property, excavation of sub-basement and creation of extensions at first to fourth floor levels to allow for an increase in the number of residential units to 31 comprising 6x1, 17x2, 7x3 and 1x4 bedroom units. Creation of terraces at rear ground to fourth floor levels and at main roof level and replacement of windows on retained facades. Installation of plant at basement level.

Application Permitted 2 May 2013

12/06398/CAC

Demolition behind partially retained facades.

Application Permitted 2 May 2013

02/02069/FULL

Use of part of basement to create a new self-contained flat (retrospective application).

Application Permitted 8 July 2002

95/07209/FULL

Amendments during the course of construction to scheme approved 9 March 1995 for the use of whole building for 23 flats and one mews house, basement parking for 12 cars, namely, changes to residential mix, car parking, fenestration, balconies/roof terrace.

Application Permitted 13 June 1996

93/06168/FULL

Rear infill extension and conversion of existing police section house into one mews house and 25 residential flats and basement parking for 12 cars.

Application Permitted 9 March 1995

7. THE PROPOSAL

Permission is sought for the complete demolition of Elliott House, the excavation of a sub-basement, and the erection of a replacement building over sub-basement, basement, ground and four upper storeys to provide up to 32 flats (Class C3) over basement to fourth floor levels, 32 car parking spaces (accessed by two car lifts on Cato Street), cycle parking, plant, ancillary gym and refuse store at basement level; and plant within lower ground floor vaults.

The application was amended in January 2016 and the following alterations made to the proposal:

- Reduction in the number of flats proposed from 36 to 32 (including provision of duplex units at the ground and lower ground floor level).
- Removal of the penthouse level in its entirety.
- Alterations to the proposed Molyneux Street and Crawford Street facades, including the downplaying of the central projecting element on the Molyneux Street frontage and the alterations to the design and materials proposed for the corner element at the junction of Molyneux Street and Crawford Place.
- Introduction of individual residential entrances at the ground floor level on Crawford Place and Molyneux Street.
- The inclusion of an internal electricity substation adjacent to the car lifts at the lower ground floor level.

As set out above, the Marylebone Association, Historic England and all of the owners / occupiers of adjacent properties originally notified of the application were invited to comment on the revised proposal.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Principle of residential

UDP Policy H3 seeks to maximise the amount of land and buildings in housing use in locations outside the Core CAZ, such as the application site. City Plan Policy S14 seeks to achieve and exceeds its borough housing target and optimise housing delivery. The policy adds that residential use is the priority across Westminster, except where specifically stated.

Objections have been raised to the proposed increase in the number of residential units from 23 to 32 (a net increase of nine) on the ground that there is an oversupply of flats in the area. Such an objection is not supported by the priority given to housing delivery within UDP Policy H3 and City Plan Policy S14.

Objections have been raised on the ground that the flats may be used as temporary sleeping accommodation in the future. Planning permission will be required to use the flats as temporary sleeping accommodation (if this use exceeds 90 days per annum). The current application is for residential accommodation. Planning permission cannot be refused on the ground that an application may be submitted at some point in the future to use the flats as temporary sleeping accommodation.

8.1.2 Mix of units

Elliott House currently houses 16 x two-bed (69.6%), 6 x three-bed (26.1%) and 1 x five bed (4.3%). The proposed mix of unit sizes (6 x one-bed (18.8%), 14 x two-bed (43.8%) and 12 x three-bed (37.5%)) is more balanced and provides a good mix of units in terms of size, in compliance with City Plan Policy S15. Furthermore, the normal expectation within UDP Policy H3 that at least one-third of proposed flats should be 'family-sized' is exceeded.

8.1.3 Standard of accommodation

The basement and ground floors are mainly made up of eight maisonettes, each having independent access from Molyneux Street or Crawford Place. Four flats are proposed fronting onto Cato Street at rear basement and ground floor level. 20 flats are proposed at first to fourth floor levels. All of the flats meet the minimum size standards set out within the Technical Housing Standards (March 2015), with:

- One-bedroom flats ranging in size from 57 sq.m to 83 sq.m (both GIA);
- Two-bedroom flats ranging in size from 88 sq.m to 123 sq.m (both GIA); and
- Three-bedroom flats ranging in size from 125 sq.m to 158 sq.m (both GIA).

Despite all of the flats meeting the minimum size standards, 20 of the 32 proposed flats are single aspect. This is contrary to the guidance contained within the Mayor's Housing SPG (2012) that discourages single aspect flats, particularly where they face within 45 degrees of north or have three or more bedrooms.

Whilst the frontage facing Molyneux Street faces north-east and the frontage facing Crawford Place faces north-west, neither of these frontages face within 45 degrees of north. Furthermore, whilst two (Flats G.4 and 3.2) of the 12 family-sized flats are single aspect, the majority are dual aspect and only Flats 3.2 and 3.3 do not enjoy amenity space in the form of terraces or balconies.

The applicant has submitted a daylight assessment demonstrating that all of the habitable rooms meet the minimum light values set out within the Building Research Establishment guidance entitled, '*Site layout planning for daylight and sunlight: a guide to good practice*' (the BRE Guide (2011)). This has partly been achieved by proposing maisonettes at

ground and basement levels which incorporate bedrooms at basement level that require lower minimum light levels.

It is considered that the applicant has balanced the competing demands of not providing excessively large flats in an effort to make them dual aspect (contrary to City Plan Policy S14) and providing flats of a good quality given the constraints of a building with large floorplates. Overall, the quality of residential accommodation is acceptable.

8.1.4 Affordable housing

The initial proposal resulted in an increase in the number of flats on site from 23 to 36, an increase of 13. The result was that 160 sq.m (GEA) of affordable housing should have been provided on-site (the equivalent of two flats) to accord with City Plan Policy S16. However, as a result of the removal of the proposed partial fifth floor and the requirement to add maisonettes over basement and ground floors in order to allow individual access points from the street, the number of flats proposed has dropped from 36 to 32. The increase in the number of flats is now only nine and the increase in gross floorspace is 891 sq.m (GEA). The development therefore falls below the ten or 1,000 sq.m (GEA) threshold set out within City Plan Policy S16 above which affordable housing is required. Despite the concerns raised during the first round of consultation, there is no longer a policy basis for requiring affordable housing provision on the revised scheme.

8.2 Townscape and Design

The building dates from 1939 and has white painted render facades to Molyneux Street and Crawford Place. The secondary rear facades, in Cato Street, are of light yellow brick. A steeply pitched slated mansard roof completes the composition. The windows are mostly of a white painted metal type with some modern replacements at the rear. There are railings at street level, painted black with gilded spikes. The overall effect is restrained Art Deco design, typical of its period, but not in scale or character with its surroundings. A number of comments have been received objecting to the principle of the demolition of Elliott House, arguing that it is a good example of art deco architecture. Others, however, are supportive of its demolition and replacement with a replacement building of high architectural quality.

8.2.1 Principle of demolition.

The Molyneux Street Conservation Area Audit states of the area that it, *"...is defined by the architectural style of the late Georgian terraces found in Shouldham Street, Molyneux Street, Brendon Street and Harrowby Street... Within the conservation area the prevailing height is three storeys (with basement), however some buildings vary between two and four storeys and this variety at roof level is an important element of the townscape... The Georgian terraces, most of which are listed, are typical early nineteenth century terraced properties. They have a strong uniform character and are predominantly... built of stock brick some with stucco detailing at ground floor level."*

In this context, heritage asset terms, the existing building is incongruous in the conservation area because of its detailed design and materials of construction, none of

which suit the small scale domestic character of the area or its palette of construction materials. It has some interest as an example of early twentieth century design, but its architecture is not of great merit and the Molyneux Street Conservation Area Audit accords it no special status other than to designate it unsuitable for a roof extension.

Notwithstanding the conservation area audit, Historic England considers the building makes a positive contribution to the conservation area and believes that its demolition would cause some harm, albeit less than substantial, to the conservation area. It is likely to have been designed by Mackenzie Trench for police use as flats. However, for the reasons set out above the appearance of the existing building is so out of character that its demolition would not harm the conservation area. Therefore, subject to the replacement building being suitable and despite the objections received on this ground, there is no objection in principle to loss of the existing building.

8.2.2 Quality of replacement building.

The proposed development is a brick-faced design which harmonises with the scale and plot-widths of the original buildings in the area and thus reinforces the architectural character of the conservation area. The principal facades have a carefully considered hierarchy of fenestration which reflects that of the neighbouring terraces, as does the chosen palette of materials. The height of the building is the same as existing, except for omission of rooftop clutter (which is beneficial). Railings and reinstated entrances at street level will further enhance the new building's contribution to the character and appearance of the conservation area.

It is not considered that a prominent corner feature, as suggested by some local residents, is appropriate given that the conservation area is not characterised by such features.

At the rear, a more overtly modern design is adopted which suits the more diverse architectural character of Cato Street and provides a subtle richness of detail and massing which is well suited to the location and also an improvement over that of the existing building. The local view looking from Crawford Place, beneath the building, to Cato Street will be maintained, and overall the design is considered successful and fully in accordance with UDP Policies DES 1 and DES 9. The new development will also enhance the setting of nearby listed buildings, especially in Molyneux Street, in accordance with UDP Policy DES 10. This also accords with the City Council's 'Development and Demolition in Conservation Areas' supplementary planning guidance.

8.3 Residential Amenity

The site is surrounded by residential properties on Molyneux Street, Cato Street and Crawford Place and therefore the impact of the proposals need to be carefully considered.

The City Council places high priority on protecting residential amenity, with UDP Policy ENV 13 stating that the City Council will normally resist proposals which result in a material loss of daylight or sunlight to neighbouring properties. Similarly, City Plan Policy S29 seeks to ensure that development proposals safeguard the amenities of neighbouring residents in terms of privacy, outlook and noise. Policy ENV13 also states that regard should be given to the Building Research Establishment guidance entitled, '*Site layout*

planning for daylight and sunlight: a guide to good practice' (the BRE Guide). The second edition of this guidance was published in September 2011.

Objections have been received on loss of daylight and sunlight grounds. The applicant has submitted a Daylight and Sunlight Report that assessing the impact on the proposed development on the amount of daylight and sunlight received by neighbouring residential properties and the sunlight received by the neighbouring rear gardens.

Daylight

The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of sky that is visible from 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 effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to living rooms, kitchens and bedrooms.

The report finds that there are six windows that will see a reduction in daylight in excess of the 20% losses above which the BRE Guide (2011) states will be noticeable and the adverse effect would have to be taken into account in any decision-making. None of the occupiers of these neighbouring residential dwellings have objected to the proposed development.

The fanlight (Window 26) above the front entrance door to No. 1a Cato Street is predicted to see a loss in VSC of 22%. This window serves an open plan ground floor that is also lit by a larger sash window at ground floor level, the windows at the top of the garage door and a window to the rear. In the case of the other windows facing Cato Street, it is predicted that the losses in daylight will not exceed the 20% threshold. Furthermore, the rear window will not be affected by the proposed development. For these reasons, the light levels within this room will not be materially affected by the proposed development.

The glazed access doors to the balconies of two one-bedroom first floor flats within Sidmouth House, 1-20 Cato Street (Windows 46 and 58) are predicted to see a loss in daylight of 30% and 25%, respectively. Not only are the existing daylight values low (2.0% and 0.4% VSC, respectively) which means that any reduction represents a larger loss in percentage terms, these glazed doors provide a secondary course of light to living rooms which are also served by windows facing Cato Street (in this case Windows 43 / 44 and Windows 60 / 61). These windows are predicted to see only small losses of daylight which are well within the 20% threshold. As such, the light levels within these two rooms will not be materially affected.

Two kitchen windows (Window 50 and 56) within the same two first floor flats within Sidmouth House, 1-20 Cato Street are predicted to see a loss in daylight of 67% and 50%, respectively. As these windows are recessed from the Cato Street frontage their existing levels light are very poor (0.3% VSC and 0.2% VSC, respectively) and are both predicted to be reduced by small amounts to 0.1% VSC. Whilst technically in breach of the BRE Guide (2011) as these losses are more than 20%, in reality the losses are very small are

will not be materially harmful to the amenity of the occupiers of these two flats. Furthermore, as suggested within the BRE Guide (2011), the applicant has undertaken an alternative calculation for Window 56 without the overhang in place. This alternative calculation predicts that the loss of VSC without the overhang in place is only 4%, demonstrating that the presence of the overhang, rather than the size of the proposed replacement building, is the main factor in the relative loss of light. A similar result would be expected for Window 50. For these reasons, the amenity of the occupants of these flats will be preserved in daylight terms.

Finally, a rear roof light at first floor level to Nos. 36-40 Cato Street (a residential care home) is predicted to see a loss in daylight of 35%. This rooflight, however, provides a secondary source of light to this room. The other window faces south-east and will be unaffected by the proposed development. As such, the amenity of the occupiers of this care home will not be materially harmed by the proposed development in terms of access to daylight.

Sunlight

With regard to sunlighting, the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values, and the total loss over the whole year is greater than 4%. Only windows facing within 90 degrees of due south of the proposed development need to be tested.

There are no material losses of sunlight to windows within the vicinity of the site or material increase in overshadowing to neighbouring gardens or open spaces.

Sense of Enclosure

Objections have been received from the occupiers of the properties immediately to the south-east of the application site on the ground that the increase in bulk at the boundary of the site will result in an increase sense of enclosure for users of the rear garden. The rear gardens will retain an open aspect to the south-east and therefore the increase in enclosure is not considered to be harmful to the enjoyment of this amenity space. Internally, all of the windows immediately adjacent to the site and therefore most affected all serve non-habitable rooms. As such, there will not be a material increase in the sense of enclosure for the occupants of this property.

Privacy

Balconies are proposed facing Cato Street at rear first to fourth floor levels. There will be no material increase in overlooking, however, as there are already balconies / terraces at rear ground to fourth floor levels. As such, despite the objections received, the proposal will not result in a material increase in overlooking to neighbouring properties.

8.4 Transportation/Parking

At present the building contains 23 flats with basement parking accessed via a curved ramp in from street level in Cato Street. The 1995 permission for the conversion of the building showed 12 parking spaces at basement level but the layout in practice is not workable. Some of the spaces are redundant as they cannot physically be accessed and others at present appear to have been used for storage.

The extant 2013 permission involves the excavation of a basement level under part of the building to provide ten car parking spaces which would be accessible from a car lift on Cato Street for the proposed 31 flats. A legal agreement secures car club provision for the eight additional flats granted permission in order to mitigate the potential for this increased number of flats to add to on-street car parking stress which was found to be above the 80% threshold set out within UDP Policy TRANS 23.

The current application proposes the excavation of a sub-basement to provide 32 car parking spaces for the 32 flats. This ratio compares well with the existing situation and the extant 2013 permission and is within the maximum standards set out within UDP Policy TRANS 23. It is proposed to be secured by legal agreement that these spaces are unallocated in order to maximise their use. Given that the stackers do not work independently, a valet system is proposed and it is proposed that this is secured by legal agreement.

Highways Planning Manager agrees with the applicant's prediction that the uplift in vehicle trips associated by the development proposal will be in the order of 1-2 vehicles during the peak hour which will have a negligible impact up traffic flows within the vicinity of the site. Furthermore, only a short section of Cato Street will be affected as the only access / egress point it to Crawford Place. Whilst the suggestions from the Marylebone Association and some local residents that a raised shared surface table be installed at the junction of Cato Street and Crawford Place are understood in terms of pedestrian safety, such a modest increase in traffic arising from the proposed development does not justify requiring the applicant to make this off-site improvement to the public highway.

The proposed 66 cycle parking spaces at sub-basement level meets the minimum standards set out within the London Plan (2015) and their delivery and retention will be secured by condition.

The proposed development is proposing to reduce the height of the archway to Cato Street from 5.0m to 4.0m. The City Council's waste contractor has confirmed that the height of the vehicle used on Cato Street is 3.54m so the remaining height will be sufficient.

The Highways Planning Manager has raised no objection in principle to the proposed widening of the dropped kerb on Cato Street and associated relocation of the lamppost subject to the cost of this work being secured within the legal agreement.

A number of local residents have raised concerns that the car parking space could be sub-let commercially and occupants would then park on the street, adding to on-street parking stress. It is requested that the occupants of the flats are not permitted resident parking permits. A condition is proposed requiring the car parking spaces to be used by

the residential occupants of the building only. The City Council does not operate a system whereby occupants of new developments are not issued with resident parking permits, if requested.

8.5 Economic Considerations

There are no overriding economic considerations of relevance for a development of this size.

8.6 Access

Level access to all flats will be provided and three lifts will allow access to the upper floors. Four wheelchair accessible car parking spaces are proposed.

8.7 Other UDP/Westminster Policy Considerations

Noise

Subject to conditions securing maximum internal noise levels compliant with UDP Policy ENV 6, there is no objection to the proposed development.

Plant

Plant is proposed at sub-basement and within the pavement vaults. Subject to the imposition of suitable conditions, Environmental Health has no objection from an environmental nuisance perspective agreeing that the plant is capable of complying with the relevant criterion within UDP Policy ENV 7.

Refuse /Recycling

The dedicated waste store proposed at sub-basement level is acceptable.

Trees

The Arboricultural Manager raises no objection in principle to the loss of the pear tree on Molyneux Street and its replacement with two new trees. The pear is a relatively recently planted specimen, and its short term loss of amenity as a result of its removal would be an insufficient reason to refuse planning permission, subject to replacement planting.

The Arboricultural Manager advises that there should be sufficient room above the proposed sub-basement to plant two new trees on Molyneux Street. One will be within a tree pit measuring approximately 3.6m (W) x 3.6m (D) x 3.2m (H) which should provide sufficient soil volume for a tree to grow. Should this not be the case, the legal agreement is proposed to be sufficiently flexible to secure the delivery of at least two trees within the vicinity of the site, even if one or both are not on Molyneux Street. The legal agreement will secure a financial contribution to the provision and planting and maintenance of no less than two new street trees within the vicinity of the site.

Biodiversity

It is recommended that an amending condition is imposed requiring the new flat roof of the building to be a 'living roof', both to add to local biodiversity and to reduce water run-off. This is supported by City Plan Policies S30 and S38 and UDP Policies ENV 4 and ENV 17 and addresses the concerns of the Marylebone Association in this regard. The applicant has agreed to the imposition of this condition.

Sustainability

The building is predicted to achieve in excess of the 35% reduction in carbon dioxide emissions against Part L 2013, in accordance with London Plan (2015) Policy 5.2 through the provision of enhanced air tightness and thermal performance, utilising a low energy building services system (including air source heat pumps) and through the provision of 80 sq.m of photovoltaic panels at main roof level. Furthermore, it is expected that the on-site renewable technology will exceed the 20% reduction of carbon dioxide emissions from the building required by City Plan Policy S40.

The delivery of these environmentally friendly features is secured by condition.

Other

The objections to the proposal on the ground that it may result in noise and disturbance during the course of the construction works does not represent a sustainable ground for refusing permission as this will be adequately mitigated by provision within the legal agreement requiring the submission of a Construction Environmental Management Plan for the City Council's approval and a financial contribution towards environmental monitoring (maximum contribution £33,000 per annum).

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

The draft 'Heads' of agreement are proposed to cover the following issues:

- a) 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 up to £33,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers;
- b) Unallocated parking;
- c) Management and maintenance of the car lift and valet parking;
- d) Cost of the works associated with the creation of two tree pits and the planting of least two new trees within the vicinity of the site.
- e) Cost of widening the vehicular crossover on Cato Street and making good;
- f) Cost of relocating a lamppost on Cato Street; and
- g) Costs of monitoring the S106 agreement.

8.11 Environmental Impact Assessment

The scheme is of insufficient scale to require the submission of an Environmental Statement.

8.12 Other Issues

Basement

The impact of the basement excavation is often at the heart of concerns expressed by objectors. They are often concerned that the excavation of new basements is a risky construction process with potential harm to the property and adjoining buildings.

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 NPPF 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. Whilst the Building Control Manager has raised concerns that the structural statement is a feasibility study only and does not detail the method by which the basement will be excavated and the existing structures supported during the process, this level of detail is acceptable at planning 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. For these reason the concerns of the Building Control Manager that the structural statement is a feasibility study only and does not detail the method by which the basement will be excavated and the existing structures supported during the process, does not represent a sustainable reason for refusing permission. The detailed design will have to be worked up through Building Regulations and the Party Wall Act.

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 professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course. 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. Whilst the City Council is now affording weight in its decision making process to some parts of its emerging basement policy, this relates only to applications submitted after 1 November 2015. As this application was submitted before this date, no weight is not afforded to the basement policy in the determination of the application.

Air Quality

Objections have been received on the ground that the increase in vehicular traffic will result in a degradation of the air quality on Cato Street. Given the highly accessible nature

of the site, the Highways Planning Manager agrees with the applicant's prediction that the uplift in vehicle trips associated by the development proposal will be in the order of 1-2 vehicles during the peak hour. Such an increase in traffic will have a negligible effect on the local air quality surrounding the site.

9 BACKGROUND PAPERS

1. Application form
2. Memorandum from the Marylebone Association, dated 2 November 2015.
3. Memorandum from the Marylebone Association, dated 1 February 2015.
4. Memorandum from Environmental Health, dated 5 October 2015.
5. Memorandum from Environmental Sciences, dated 13 October 2015.
6. Memorandum from the Building Control Manager, dated 13 October 2015.
7. Memorandum from the Highways Planning Manager, dated 2 December 2015.
8. Memorandum from the Arboricultural Manager, dated 12 February 2015.
9. Letter from Historic England, dated 21 October 2015.
10. Letter from Historic England, dated 2 February 2015.
11. Letter from occupier of 13 Cranfield Court, 21 Homer Street, dated 12 October 2015.
12. Letter from occupier of 6 Molyneux Street, London, dated 9 October 2015.
13. Letter from occupier of 32 Brendon Street, London, dated 13 October 2015.
14. Letter from occupier of 3 Barham House, Molyneux Street, dated 13 October 2015.
15. Letter from occupier of 6 Molyneux Street, London, dated 13 October 2015.
16. Letter from the Harrowby & District Residents' Association, dated 14 October 2015.
17. Letter from the Church of Our Lady of the Rosary, 211 Old Marylebone Road dated 16 October 2015.
18. Letter from occupier of 8 Sidmouth House, Cato Street, dated 18 October 2015.
19. Letter from occupier of 8 Sidmouth House, Cato Street, dated 18 October 2015.
20. Letter from occupier of 43 Molyneux Street, London, dated 19 October 2015.
21. Letter from occupier of 21 Crawford Place, London, dated 20 October 2015.
22. Letter from occupier of Flat 2, 30 Cato Street, London, dated 21 October 2015.
23. Letter from occupier of Flat 3, 30 Cato Street, London, dated 21 October 2015.
24. Letter from occupier of Flat 1, 30 Cato Street, London, dated 21 October 2015.
25. Letter from occupier of 14/15 Molyneux Street, London, dated 22 October 2015.
26. Letter from occupier of 14 Princess Court, Bryanston Place, dated 22 October 2015.
27. Letter from occupier of 3 Barham House, Molyneux Street, dated 22 October 2015.
28. Anonymous letter, dated 23 October 2015.
29. Letter from occupier of 26 Brendon Street, London, dated 22 October 2015.
30. Letter from occupier of 49 Molyneux Street, London, dated 23 October 2015.
31. Letter from occupier of Flat 2m 14-15 Molyneux Street, London, dated 23 October 2015.
32. Letter from occupier of 28 Molyneux Street, London, dated 23 October 2015.
33. Letter from occupier of Flat 9, 14-15 Molyneux Street, dated 24 October 2015.
34. Letter from occupier of 21 Crawford Place, London, dated 25 October 2015.
35. Letter from Part Estates Ltd dated 26 October 2015.
36. Letter from the occupier of Flat 2, Christian Union Almshouse, dated 27 November 2015.
37. Letter from occupier of 47 Molyneux Street, London, dated 27 October 2015.
38. Letter from occupier of 3 Barham House, Molyneux Street London, dated 28 October 2015.
39. Letter from the occupier of 301 Bunyan Court, London, dated 29 October 2015.
40. Letter from occupier of 31 Molyneux Street, London, dated 29 October 2015.

41. Letter from occupier of 6 Molyneux Street, London, dated 30 October 2015.
42. Letter from occupier of 7 Molyneux Street, London, dated 30 October 2015.
43. Letter from occupier of 13 Lansdowne Road, London, dated 30 October 2015.
44. Letter from occupier of 44 Molyneux Street, London, dated 31 October 2015.
45. Letter from occupier of 41 Molyneux Street, London, dated 1 November 2015.
46. Letter from occupier of 41, Molyneux Street, Marylebone, dated 1 November 2015.
47. Letter from occupier of 45 Molyneux Street, London, dated 2 November 2015.
48. Letter from occupier of 127 Chelsea Cloisters, Sloane Avenue, dated 6 November 2015.
49. Letter from occupier of 10 Westbourne Park Villas, London, dated 29 November 2015.
50. Letter from the Harrowby & District Residents' Association, dated 2 December 2015.
51. Letter from occupier of 27 Molyneux Street, London, dated 26 December 2015.
52. Letter from occupier of 10-11 Molyneux Street, London, dated 18 January 2016.
53. Letter from occupier of 8 Sidmouth House, Cato Street, dated 19 January 2016.
54. Letter from occupier of 6 Molyneux Street, London, dated 21 January 2016.
55. Letter from occupier of Flat 3, 30 Cato Street, dated 25 January 2016.
56. Letter from occupier of 3 Barham House, Molyneux Street London, dated 26 January 2016.
57. Letter from occupier of 6 Molyneux Street, London, dated 26 January 2016.
58. Letter from occupier of 7 Molyneux Street, London, dated 2 February 2016.

(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 JOSEPHINE PALMER ON 020 7641 2723 OR BY EMAIL AT CentralPlanningTeam@westminster.gov.uk

10 KEY DRAWINGS

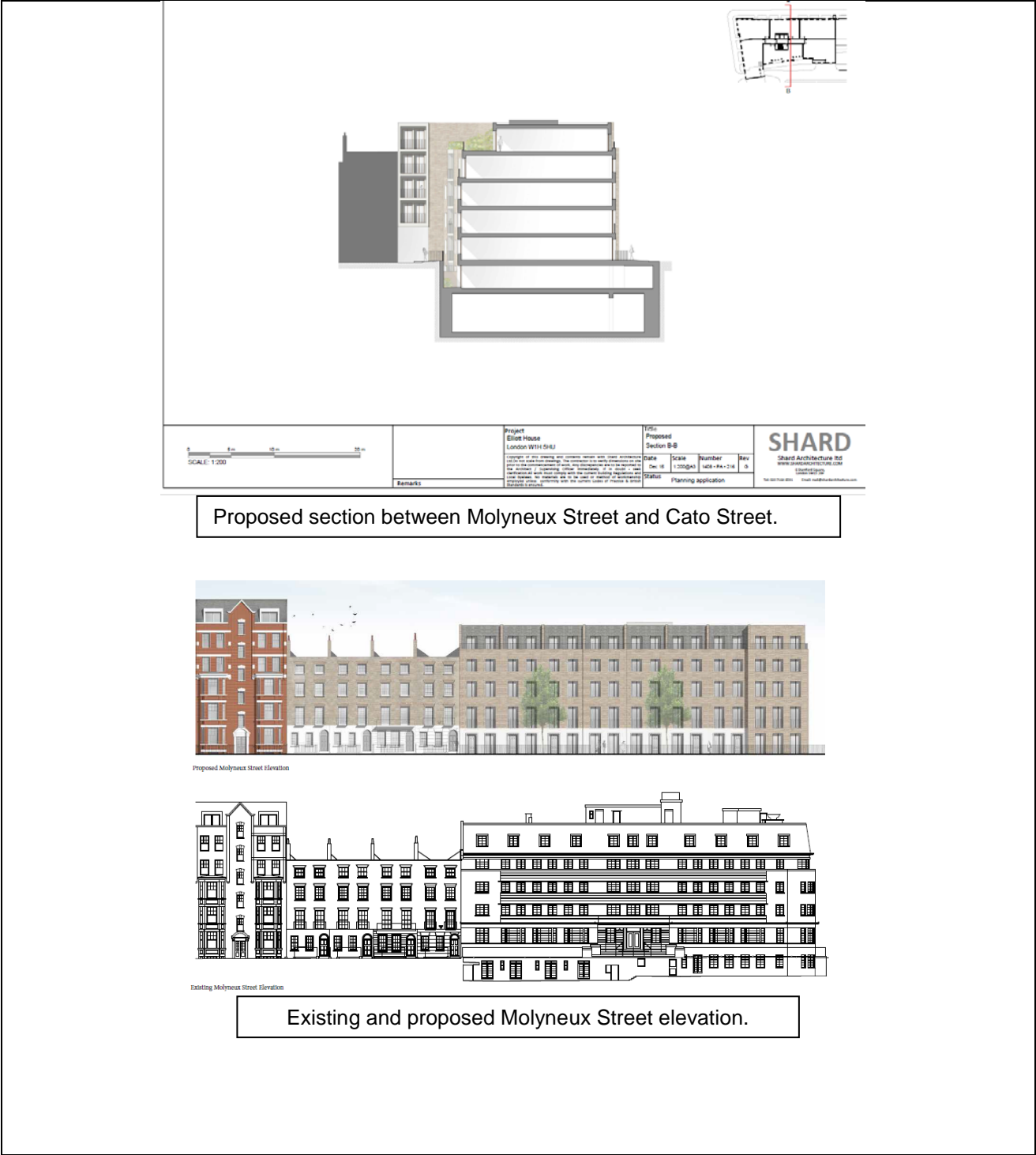
	<p>Project Eldest House London W1H 9HJ</p> <p><small>Copyright of this drawing, and contents herein, shall remain the property of SHARD Architecture Ltd. No part of this drawing may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of SHARD Architecture Ltd. This drawing is intended for use in connection with the project described above and is not to be used for any other purpose. It is the responsibility of the client to ensure that the drawing is used in accordance with the current order of tender & bills of material.</small></p>	<p>TITLE Proposed Basement Plan</p> <p>Date: 14/01/18 Scale: 1:200 Number: 1401-PA-201 Rev: 01</p>	<p>SHARD Shard Architecture Ltd www.shardarchitecture.co.uk 11th Floor, 11th Avenue, London W1H 9HJ Tel: 020 7611 8111 Email: info@shardarchitecture.co.uk</p>
	<p>Remarks</p>		

Proposed sub-basement.

	<p>Project Eldest House London W1H 9HJ</p> <p><small>Copyright of this drawing, and contents herein, shall remain the property of SHARD Architecture Ltd. No part of this drawing may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of SHARD Architecture Ltd. This drawing is intended for use in connection with the project described above and is not to be used for any other purpose. It is the responsibility of the client to ensure that the drawing is used in accordance with the current order of tender & bills of material.</small></p>	<p>TITLE Proposed Lower Ground Floor Plan</p> <p>Date: 14/01/18 Scale: 1:200 Number: 1401-PA-201 Rev: 01</p>	<p>SHARD Shard Architecture Ltd www.shardarchitecture.co.uk 11th Floor, 11th Avenue, London W1H 9HJ Tel: 020 7611 8111 Email: info@shardarchitecture.co.uk</p>
	<p>Remarks</p>		

Proposed basement.





Proposed section between Molyneux Street and Cato Street.

Existing and proposed Molyneux Street elevation.



Proposed Crawford Place Elevation



Existing Crawford Place Elevation

Existing and proposed Crawford Place elevation.



Proposed Cato Street Elevation



Existing Cato Street Elevation

Existing and proposed Cato Street elevation.



Proposed visual looking south-west from Crawford Street.



Proposed visual looking north-east from Crawford Street



Proposed visual looking north from Crawford Street.

DRAFT DECISION LETTER

Address: Elliott House, 1 Molyneux Street, London, W1H 5HU,

Proposal: Demolition of building, excavation of sub-basement, and erection of replacement building over sub-basement, lower ground, ground and part-four and part-five upper storeys to provide 32 car parking spaces (accessed by car lifts on Cato Street), cycle parking, plant, ancillary gym and refuse store at basement level; plant within lower ground floor vaults; and up to 32 flats (Class C3) over lower ground to fifth floor levels.

Reference: 15/08836/FULL

Plan Nos: Demolition drawings: 1408-PA-101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112 and 113.

Proposed drawings: 1408-PA-201 Rev. H, 202 Rev. N, 203 Rev. N, 204 Rev. L, 205 Rev. L, 206 Rev. K, 207 Rev. K, 208 Rev. J, 210 Rev. H, 211 Rev. H, 212 Rev. H, 215 Rev. G, 216 Rev. G, 217 Rev. G, 222 and 213.

Case Officer: Mark Hollington

Direct Tel. No. 020 7641 2523

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 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 Molyneux Street 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 detailed drawings at a scale of 1:10 of the following parts of the development:
- (i) Typical example of each window and external door.
 - (ii) New railings.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved 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 Molyneux Street 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 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 Molyneux Street 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 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

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 Molyneux Street 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 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 Molyneux Street 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)

- 8 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terraces or balconies hereby approved. (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 Molyneux Street 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)

- 9 (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.

- 10 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 9 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.

- 11 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.

- 12 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.

- 13 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)

- 14 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 using the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22AB)

- 15 The cycle parking area shown on approved drawing 1408-PA-201 Rev. H shall be fitted so that it is capable of storing at least 38 bicycles prior to the occupation of any of the flats hereby approved. Thereafter the cycle spaces must be retained, access provided to all of the occupants of the flats hereby approved 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.

- 16 Other than the area shown as balconies or roof terraces on the approved drawings, you must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out 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. (R21AC)

- 17 The three bedroom residential units shown on the approved drawings 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 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)

- 18 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1408-PA-201 Rev. H. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

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)

- 19 You must apply to us for approval of detailed plans and sections showing the following alteration(s) to the scheme:
- (i) The replacement of the flat roof of the building with a 'living roof'.
 - (ii) Manufacturer's specification and species list for the living roof.

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 in its entirety prior to the occupation of any of the flats hereby approved and in accordance with the approved drawings, manufacturer's specification and species list. (C26UB)

Reason:

To increase the biodiversity of the environment and to reduce surface water run-off, as set out in S30 and S38 of Westminster's City Plan: Strategic Policies adopted November 2013, ENV 4, ENV 17 of our Unitary Development Plan that we adopted in January 2007 and Policies 5.10, 5.13, 7.19 of the London Plan (adopted March 2015). (R43FB)

- 20 Prior to occupation of any of the flats hereby approved a minimum of seven of the car parking spaces shall be provided with charging points (for electric vehicles) and at least seven of the car parking spaces shall be fitted with the necessary underlying infrastructure (e.g. capacity in the connection to the local electricity distribution network and electricity distribution board, as well as cabling to parking spaces) to enable simple installation and activation of a charge point at a future date. These charging points shall not be removed.

Reason:

To ensure that adequate recharging points are made available within the development hereby approved in accordance with Policy 6.13 of the London Plan adopted in March 2015.

21 **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)

22 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:

- (i) Combined heat and power unit (energy centre).
- (ii) 2 x photovoltaics arrays at roof level, in accordance with the approved drawings.
- (iii) Mechanical ventilation with heat recovery.
- (iv) Air source heat pumps.

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 You will need to speak to our Tree Section about the proposal to remove a tree from the public footway in Molyneux Street. You will have to pay for the removal of the tree by the Council's own contractors.
- 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. (I54AA)

- 4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 5 The term 'clearly mark' in condition 18 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 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 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) 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 up to £33,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers;
 - (b) Unallocated parking;
 - (c) Management and maintenance of the car lift and valet parking;
 - (d) Cost of the works associated with the creation of two tree pits and the planting of least two new trees within the vicinity of the site.
 - (e) Cost of widening the vehicular crossover on Cato Street and making good;
 - (f) Cost of relocating a lamppost on Cato Street; and
 - (g) Costs of monitoring the S106 agreement.

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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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CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
Report of Director of Planning	Ward(s) involved West End		
Subject of Report	21 - 23 Farm Street, London, W1J 5RG,		
Proposal	Demolition of the existing four storey building, retention of existing basement level and erection of new four storey building comprising a street cleansing depot at ground and part first floor levels and 14 affordable residential units at part first, second and third floor levels.		
Agent	DP9		
On behalf of	Caudwell Properties (109) Ltd		
Registered Number	15/11056/FULL	Date amended/ completed	24 November 2015
Date Application Received	24 November 2015		
Historic Building Grade	Unlisted		
Conservation Area	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"> i) Highway works (All highway works immediately surrounding the site required for the development to occur, including changes to on-street restrictions, reinstatement of footway, alterations to the vehicle access, creation of an additional on-street parking bay and adjoining footway and associated work); ii) Lifetime Car Club Membership for residential occupiers from first occupation of the development. Car Club operator must be a CarPlus member; iii) Site Environmental Management Plan; and iv) Environmental Inspectorate Contribution (£28,000 per annum). <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"> (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 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. <p>3. 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 required to enable the development to take place.</p> <p>4. That the City Commissioner for Transportation be authorised to take all necessary procedural</p>
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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

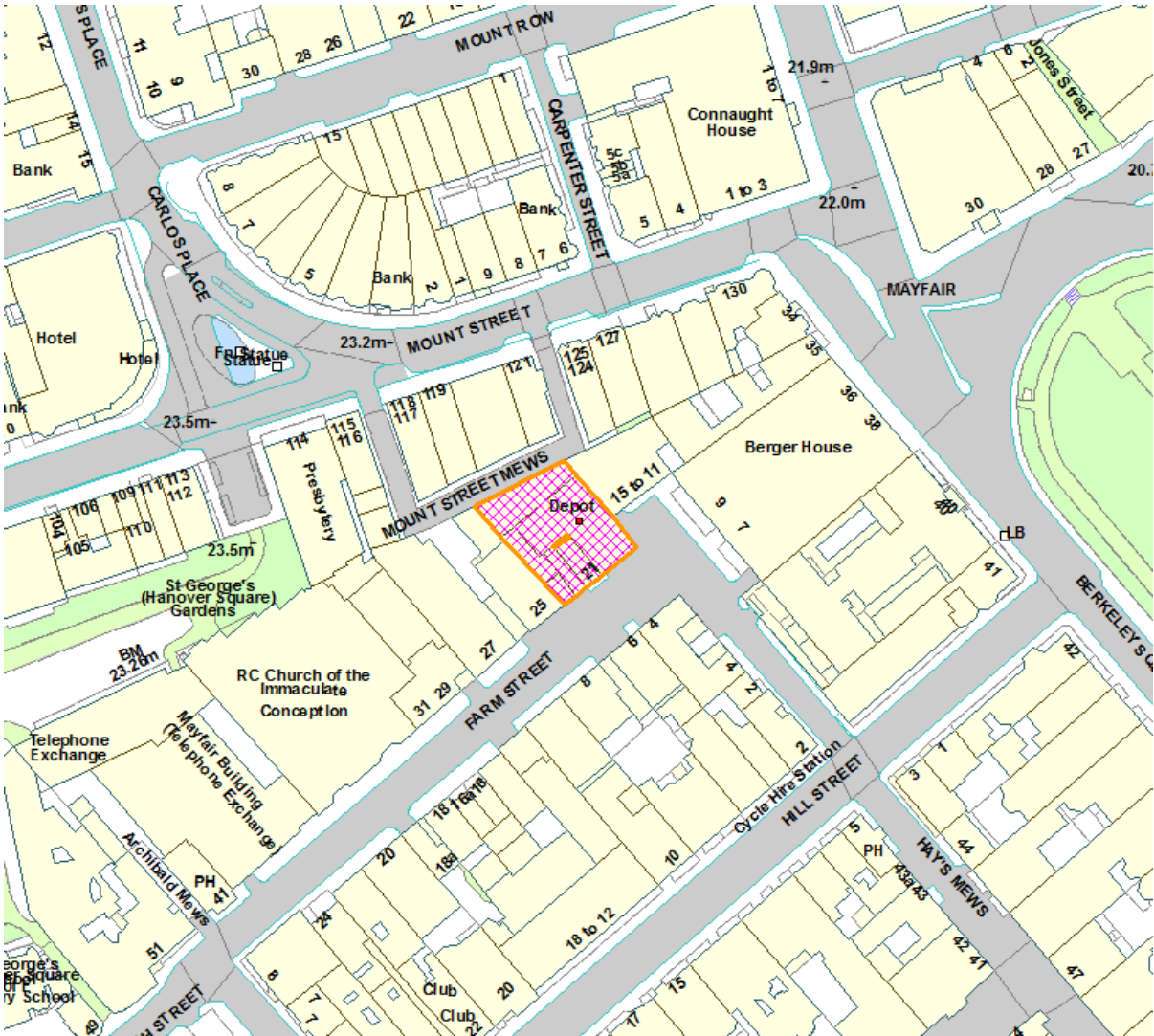
This Council-owned site is located at the eastern end of Farm Street and is currently in use as a street sweeping depot over ground and first floor levels with four residential units on the upper floors. The building extends the full depth of the site at ground floor level, and the upper floors are then set back from the rear boundary. Permission is sought for the demolition of the existing building and its replacement with a new building comprising a part basement level, ground floor and three upper floors. A new street sweeping depot will occupy the ground and part first floor levels of the new building and the remainder will contain 14 affordable housing units.

The key issues for consideration are:

- The impact of the new building on the Mayfair Conservation Area; and
- The re-provision of the proposed depot and housing uses.

It is considered that the proposed new building would enhance and preserve the Mayfair Conservation Area, whilst it would be acceptable to re-provide the existing uses in the new development including affordable housing. The proposals comply with the policies of the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan).

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

HISTORIC ENGLAND

No comment

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Provide the following comments:

- The colour of the brickwork is strikingly red and should be toned down;
- Does the mix of accommodation meet with City Council criteria; and
- The sheer wall to the front elevation might be better as a mansard.
-

CLEANSING

No objection.

HIGHWAYS PLANNING

Objection to lack of off-street parking provision.

ENVIRONMENTAL HEALTH

No objection.

ENVIRONMENTAL INSPECTORATE

No objection.

AFFORDABLE HOUSING SUPPLY MANAGER

No objection.

DESIGNING OUT CRIME

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 344

Total No. of replies: 7

No. of objections: 7

No. in support: 0

7 letters of objection raising the following:

Land use

- Number of flats disproportionate to the rest of the street
- Site is wrong for affordable housing

Design

- Architecture is out of keeping with the street
- Design is poor
- Height and materials will have a detrimental impact on the Mayfair Conservation Area
- Ground floor dominated by refuse and recycling stores which are not in keeping with the street
- Proposals do not preserve or enhance the conservation area

Amenity

- Impact of the street cleansing depot on Farm Street
- Loss of daylight and sunlight to garden

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Parking

- No off-street parking for the residential flats.

Other

- Impact of construction on nearby residential properties.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is located towards the eastern end of Farm Street where the street turns a corner to form an L-shape and contains a single unlisted building comprising part basement, ground and three upper floors plus roof top plant room. The basement is a plant/boiler room, the ground and first floors are used as a Council street-sweeping depot, and the second and third floors are used as four Council flats (three 2-bed and one 3-bed).

The building sits appreciably forward of the neighbouring building to the west, which is nos.11-15 Farm Street, and at ground floor level covers the whole plot up to the rear boundary with Mount Street Mews from which it is separated by a high boundary wall. The first, second and third floor levels are however set back from the rear boundary and there is a lantern roof light on the rear ground floor flat roof.

There are residential properties opposite, to the rear and adjacent to the site.

The site is located within the Mayfair Conservation Area and the Core Central Activities Zone.

Recent Relevant History

Planning permission was granted 12 May 2004 for the demolition of the buildings and the construction of 14 flats with roof terrace and basement parking. This permission was linked to a second permission nearby at Audley Square car park/Waverton Street petrol filling station which proposed the demolition of the car park and filling station and their replacement with a new 217-space public car park, Council street-sweeping depot and 90-unit apartment hotel. These permissions have not been implemented and the proposal to relocate the Farm Street depot to the Audley Square/Waverton Street site has been abandoned.

7. THE PROPOSAL

Permission is sought for the replacement of the existing four storey building (plus basement) with a new building of the same number of storeys but with a pitched roof instead of flat. The existing uses will be retained with a new depot occupying part ground and part first floor levels, and the remainder used as 14 affordable housing units (four studios, eight 1-bed and two 2-bed).

Repeating the existing situation, the new ground floor will occupy the full plot area, whilst the upper floors are set back from the rear boundary and in line with the rear elevation of 11-15 Farm Street.

This affordable housing provision at this site is linked to another application at Audley Square car park/Waverton fuel filling station (which was initially reported to Planning Applications

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Committee on 8 December 2015 but is brought back to the committee elsewhere on this agenda). On the 8 December 2015, it was resolved to grant planning permission at the Audley Square/Waverton Street site subject to a S106 legal agreement to secure either of the following:

i) The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street-sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing

Or

ii) if planning permission is not granted for i. above, the refurbishment/rebuilding of the existing depot at 21-23 Farm Street together with a contribution of £9.4M towards the City Council's affordable housing fund.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Street Sweeping Depot

The proposed depot would be marginally larger than the existing by 21sqm. The City Council is committed to tackling waste needs by having an adequate network of local depots and Policy S44 of the City Plan therefore protects all existing waste management sites.

Objections have been received stating that the depot should be relocated to Audley Square as previously proposed. However, there is no fundamental reason, logistical or otherwise, which demands that the depot should be moved out of Farm Street. Most of the vehicles used are hand carts which are pushed manually by a single operative and the depot functions to serve the local streets as there is a limit as to how far a hand-pushed cart can reasonably be taken. Since it serves these local streets, Farm Street is the ideal location for the depot. Although the previous proposal to relocate the depot Audley Square would have been a perfectly good alternative it would have been no better and no worse than keeping it a Farm Street.

The specification for the new depot have been agreed by the Cleansing officers, with the operational equipment stored at ground floor level with the first floor comprising staff changing rooms, offices and meeting room space. The ground floor also includes a community recycling facility which will be open to members of the public and is separate from the main depot.

The depot will need to be relocated while the works are taking place at Farm Street, should permission be granted and implemented. The exact location of the depot is not known at this stage, but will need to be nearby for the operational reasons previously stated.

Given that the existing site contains a depot and that the Council's policies are to protect such uses, it would be difficult to withhold planning permission for a new depot at the site.

Residential

The existing residential accommodation at the site comprises 383m² and the proposal would result in an increase of 726m² to provide 1109m². This increase in residential floorspace is welcomed, and the unit sizes are given in the table below.

Table 1: 21-23 Farm Street, Residential Mix, July 2015

Unit Type	Size Range (sqm)	Number	% of Units
Studio	37	4	28
1 Bed	53-67	8	58
2 Bed	77	2	14
TOTAL		14	100

All the homes would meet the Mayor of London’s Housing Standards Policy Transitional Statement and the Draft Interim Housing SPG.

Objections have been received that the proposed density of housing units is greater than in comparison to the rest of Farm Street and its therefore not in character. Whilst it is accepted that the majority of properties on Farm Street are single family dwellings, it is not considered that the type and density of devolvement proposed at the application site would be so significantly different to the existing building that a case could reasonably be made that it would be materially harmful to local character or amenity.

Affordable housing

The 14 proposed flats would all be intermediate affordable housing units. Intermediate housing is defined as homes available for sale or rent at a cost above social rent, but below market levels. These can include shared ownership but not affordable rent. The Housing Planning Manager welcomes the provision of all these flats as intermediate housing. Westminster currently has a list of over 4,400 households waiting for intermediate housing opportunities in the City, and the overwhelming majority of these (95%) require studio, 1 bed or 2 bed accommodation. In view of this demand profile, it is recommended that the usual requirement under UDP policy H5 for family-sized (3 bed or more) units should be set aside, as this is a policy more relevant to market housing..

Objections have been received to the provision and number of affordable residential units on this site and that more could be achieved by providing it outside of Mayfair on cheaper land. Available land for housing is scare throughout Westminster and this site provides an opportunity for affordable housing as it is already in the Council’s ownership and there are no acquisition costs. There is no good reason not to provide much needed affordable housing on this land.

8.2 Townscape and Design

Farm Street is a predominantly residential street in the Mayfair Conservation Area, the south side of which is characterised by buildings of typically two sheer storeys with mansard roofs, the exception being a mock-Tudor house which is an unusual and jolly historic exception to the prevailing design of buildings in the area. The north side is more mixed and includes a grade II listed pub, the Mayfair Telephone Exchange, a grade II-star listed gothic revival church, the application site, and some commercial office premises. There is a relatively consistent palette of materials used in the street comprising brick, stone, white render, and grey slate. Most buildings have some form of multi-pane sash windows. In these respects the street is typical of its kind in the Mayfair Conservation Area.

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Unlike many of its neighbours, the existing building makes a neutral contribution to the street and surrounding conservation area. Its detailed design is of little interest and there is no objection to the principle of redeveloping this site in design and heritage asset terms, which presents a welcome opportunity to improve this part of the street and the Mayfair Conservation Area. Of the existing building, only the City Council's crest should be retained as part of the redevelopment proposals.

Objections have been received to the height and detailed design stating that the new building will dominate the surrounding buildings. Objections have also been received to the materials proposed. It is considered that the scale and massing of the proposed building is well handled and the facades are carefully detailed. The diaper pattern orange-red brick with prominent gables are attractive and well suited to the site and its immediate context. The building's raised parapet line and gables reinforce the end of the terrace and create an attractive feature in the street particularly when seen in longer views and from the south. For that reason the change in scale in comparison to its neighbours is acceptable in this case, and the new building would make a positive contribution to the street and surrounding Mayfair Conservation Area. The objections to the design are therefore not considered sustainable to justify refusal of the application. The proposal accords with UDP policies DES1 and DES 9, and Westminster City Plan: Strategic Policies S25 and S28.

8.3 Residential Amenity

The new building comprises the same number of floor levels, but where the existing roof is flat, the proposed roof is pitched, therefore increasing the overall height of the building. To the rear, the building will extend further to the rear over the upper floors than existing and will bring the rear elevation in line with 11-15 Farm Street, but the building will extend further to the rear than the building line of the single family dwelling at 25 Farm Street.

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.

The residential properties on the opposite side of the street (nos.6, 8 and 10) are largely unaffected by the proposals. There are some losses of VSC, but these are all under 20% and the rooms will remain well lit. In terms of sunlight, the windows face north and therefore do not need to be tested for sunlight.

There are residential properties to the north on Mount Street which have windows that face south towards the rear of the application site. There are no losses of daylight or sunlight above 20% and therefore the rooms will remain well lit.

11-15 Farm Street is currently used as offices, but planning permission was granted in January 2016 for the demolition of the building and rebuilding to for use as a single family dwelling. This permission has not been implemented, but the daylight/sunlight report has taken into account this permission. This indicates that two of the 40 windows tested will lose between 20% and 23% VSC. Both these windows will serve bedrooms and there are other windows providing a secondary source of light to these rooms - therefore it is not considered that the proposal will have any serious adverse impact on amenity.

25 Farm Street

This property has recently been redeveloped as a single family dwelling following planning permission granted in 2011. An objection has been received from the residents to the loss of daylight/sunlight to their rear garden. However, this garden is to the south-west of the application site and therefore any overshadowing will be minimal, and not sufficient to justify refusing planning permission.

One window at basement level in 25 Farm Street, which serves a family room, would 43% VSC, but this window currently receives very poor levels of light due to its position below ground level, it is considered that this loss is acceptable. Three windows at ground, second and third floor will lose over 20%, but in all these circumstances these rooms are served by other, unaffected windows and would therefore remain adequately lit. The impact on this house is therefore not considered to be materially harmful in overall terms.

Privacy

New projecting windows are proposed on the east elevation at first to third floor levels. They will be angled away from 11-15 Farm Street and would only include glazing facing the front, having a solid element to the rear thereby overcoming any possibility of overlooking.

The proposed building will extend further to the rear than existing and therefore the rear windows will be closer to the residential windows in Mount Street/Mount Street Mews. Mount Street Mews is angled slightly away from the rear of the application site therefore there will be no direct overlooking. Furthermore a distance of 13m will still exist between the windows and on this basis it is not considered that there will be a serious loss of privacy.

Street Sweeping Depot

Objections have been received to the retention of the street sweeping depot in Farm Street on amenity grounds, stating that this site is not a suitable location due to the amount of traffic it generates.

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An operational method statement has been submitted in support of the application. This shows anticipated activity levels based on the current operations at Farm Street which are not expected to change significantly. The operators work in two shifts each day- 06.00 to 15.00 and 13.00 to 22.00). There may be instances when the depot could be used on a 24 hour basis (snow clearing/gritting etc.) but such occasions will be rare.

In detail, between 06.00 and 12.00 six vehicles will leave the depot and then between 06.30 and 11.30 one or two per hour will return to receive new work instructions. Two dustcart vehicles will also arrive to empty the depot waste bins/public recycling bins. Between 13.00 and 15.00, the dayshift vehicles return (6) and five vehicles will leave. At the end of the shift (22.00) all vehicles will return and all staff will leave the depot.

As stated above, given that this is generally the same as how the existing depot operates, the impact on local residential amenity will hardly change in the new depot and therefore there is no justifiable reason to withhold permission on these grounds.

New residential amenity

The majority of the proposed units would be single aspect, with some having only north facing windows, which is normally to be avoided if possible. However, it is on constrained sites such as this, in order to achieve the optimum number of units and make full use of scarce land resources this is considered to be acceptable.

Environmental Health officers are satisfied that noise levels within the new residential units will comply with the standard noise conditions, and modern soundproofing measures will ensure that the residents will not be unacceptably disturbed by the operations of the depot below them.

Environmental Health officers has raised concerns over the means of escape for some of the units. Planning permission cannot be withheld on these grounds as means of escape is dealt with under separate legislation. An informative is recommended advising the applicant of these issues.

8.4 Transportation/Parking

No off street car parking is proposed for the new residential accommodation. 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 would normally require one parking space per residential flat, as there are four existing residential flats on-site this would amount to 10 spaces. 'Stress levels' are considered to have occurred where the occupancy of on-street legal parking bays exceeds 80%. Objections have been received to the impact that the new residential units will have on on-street parking pressures.

Within a 200m radius of the site, parking occupancy at night-time is 45%. During the day, the uptake is 80% meaning that on-street parking is already at 'stress levels'. The Highways Planning Manager has objected to the scheme on the basis that the absence of any off-street parking provision would exacerbate existing parking stress levels in the vicinity of the site. However, it is acknowledged that the site has a high level of public transport accessibility. Households with one or more car in the West End is 29% and in applying a proportional figure to the application site it could reasonably be expected that four of the new flats would contain car-owners.

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In order to address the lack of car parking provision in the new development, the applicant has offered to provide free lifetime car club membership (25 years) for all 14 flats. The Highways Planning Manager has confirmed that lifetime car club membership is the strongest mechanism that it likely to reduce car ownership of the future residential occupiers. It is considered on this basis, and subject to a condition requiring car club membership the proposal is acceptable in highways grounds.

Cycle parking is proposed for the street sweeping depot and the residential flats and this will be secured by condition.

8.5 Economic Considerations

The positive benefits of the regeneration of this outdated depot site and its replacement with a modern facility are accepted.

8.6 Access

Pedestrian access to the Street Cleansing Depot will be 800mm wide and lead to an ambulant disabled stair and platform lift. The platform lift leads to the office/break out/meeting space area at first floor level.

The residential entrance will be level and will lead to an ambulant disable stair and a lift. Each of the residential units will be accessed off a shard circulation lobby with adequate wheelchair turning space.

8.7 Other UDP/Westminster Policy Considerations

Plant

New plant is proposed at basement level, at rear ground floor flat roof level and at roof level. The final plant specification has not been selected and Environmental Health officers recommend that that a supplementary noise report is submitted once the plant is known. On this basis, the plant is likely to comply with the City Council’s standard noise conditions.

Sustainability

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture. Policy S40 requires all major development to maximise on-site renewable energy generation to achieve at leave 20% reduction of carbon dioxide emissions. 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 include the installation of photovoltaic panels at roof level and this will meet the 20% target as set out in Policy S40.

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.

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);
- Car Club Membership for 25 years for all the flats;
- Highways alterations required for the development to occur (at no cost to the City Council); and
- Costs of monitoring the legal agreement.

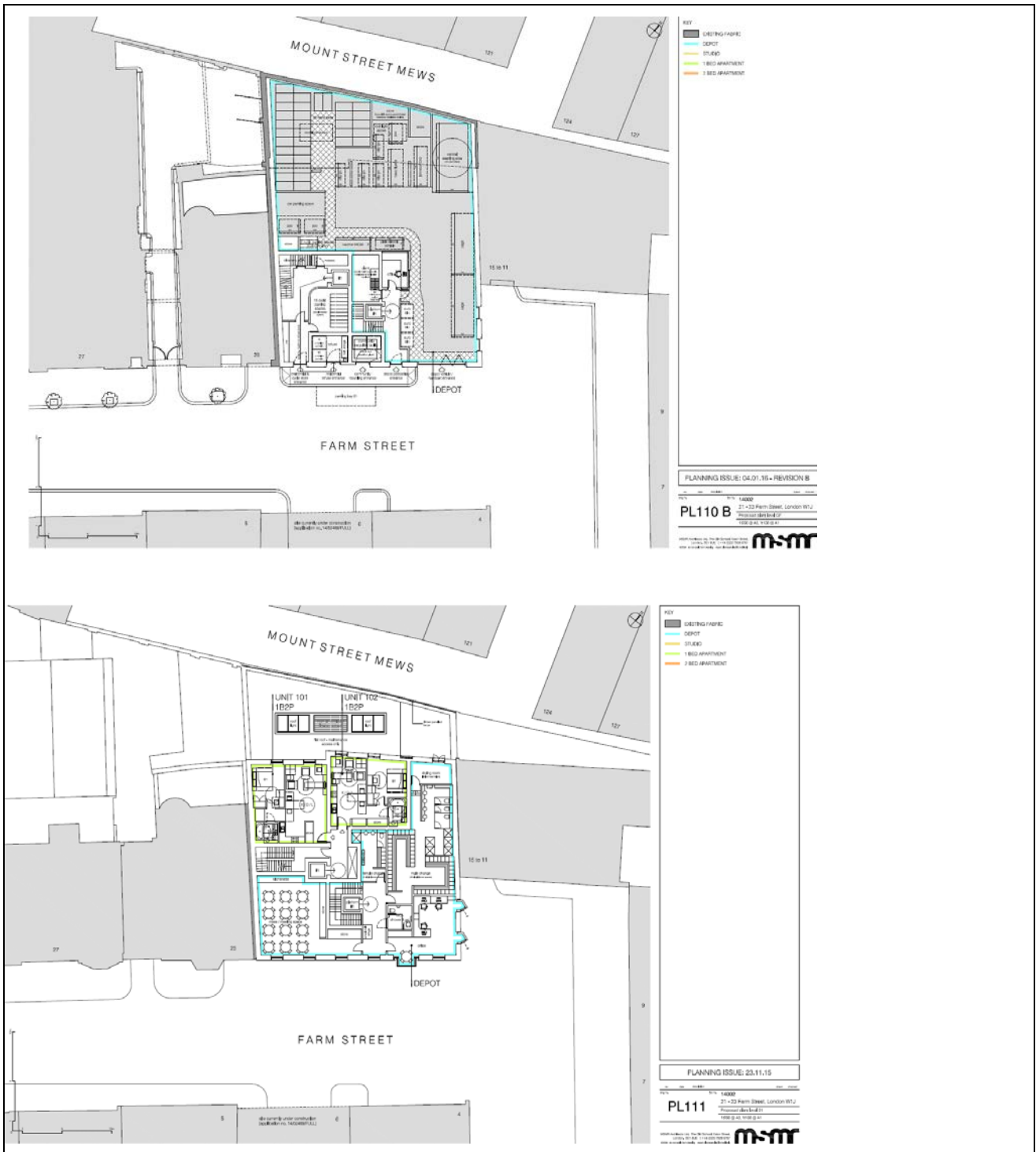
9. BACKGROUND PAPERS

1. Application form
2. Response from Historic England (Listed Builds/Con Areas), dated 8 December 2015
3. Response from The Residents' Society of Mayfair and St James's dated, 3 January 2016
4. Response from Cleansing, dated 8 December 2015
5. Operational statement of the Street Cleansing Depot, dated 20 October 2015
6. Response from Environmental Health, dated 4 January 2016
7. Response from Environmental Inspectorate, dated 14 December 2015
8. Response from Highways Planning, dated 12 January 2016
9. Response from Housing Manager, dated 15 February 2016
10. Letter from occupier of 3 Courtyard House, 27A Farm Street, dated 14 December 2015
11. Letter from occupier of 38 Berkeley Square, (7 Farm Street), dated 14 December 2015
12. Letter from occupier of Flat A, 21-23 Farm Street, dated 17 December 2015
13. Letter from occupier of 6 Farm Street, London, dated 17 December 2015
14. Letter from occupier of 25 Farm Street , London, dated 22 December 2015
15. Letter from occupier of 14 Farm Street, London, dated 21 December 2015
16. Letter from occupier of 24 Farm Street, London, dated 23 December 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 BY EMAIL AT hmackenzie@westminster.gov.uk

10. KEY DRAWINGS







DRAFT DECISION LETTER

Address: 21 - 23 Farm Street, London, W1J 5RG,

Proposal: Demolition of the existing four storey building, retention of existing basement level and erection of new four storey building comprising a street cleansing depot at ground and part first floor levels and 14 affordable residential units at part first, second and third floor levels.

Plan Nos: PL029, PL030, PL031, PL032, PL033, PL034, PL050, PL051, PL052, PL053, PL080, PL081, PL082, PL083, PL109, PL110 B, PL112, PL113, PL114, PL140, PL141, PL142, PL143, PL170 A, PL171, PL172, PL173, PL270,

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 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 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)

- 4 You must apply to us for approval of detailed drawings of the following parts of the development - a typical example of each different type of window and external door at a scale of 1:10. 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)

- 5 You must apply to us for details showing the salvage of the City Council's coat of arms and its reinstatement on the new building. You must not remove the coat of arms until we have approved what you have sent us and you must reinstate the coat of arms in the location we have approved before the building is occupied.

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 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)

- 7 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)

- 8 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)

- 9 **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)

- 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 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number PL110 B. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

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)

- 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 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.

- 16 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.

- 17 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)

- 18 You must not use the roof at rear first floor level for sitting out or for any other purpose. You can however use the roof to escape in an emergency or for maintenance purposes. (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)

- 19 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 at roof level

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)

- 20 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)

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 As this development involves demolishing the buildings on the site, we recommend that you survey the buildings thoroughly before demolition begins, to see if asbestos materials or other contaminated materials are present - for example, hydrocarbon tanks associated with heating systems. If you find any unexpected contamination while developing the site, you must contact:

Contaminated Land Officer
 Environmental Health Consultation Team
 Westminster City Council
 Westminster City Hall
 64 Victoria Street
 London SW1E 6QP

Phone: 020 7641 3153
 (I73CA)

- 4 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: 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. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit 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

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.

- 5 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. (I54AA)
- 6 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 7 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)

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 5

Item No.

5

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2015	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	St Giles House, 49 - 50 Poland Street, London, W1F 7NB,		
Proposal	[DEVELOPMENT SITE AT 47, 48 AND 49-50 POLAND STREET & REAR OF 54 & 55-57 GREAT MARLBOROUGH STREET] Demolition of 47, 48 (behind part reconstructed facade) and 49-50 Poland Street and part rear of 54 and 55-57 Great Marlborough Street and redevelopment to provide a new building comprising basement, lower ground floor, ground floor and first to sixth floor levels. Use of the part ground floor as restaurant/bar (Class A3/A4). Use of the basement, lower ground, part ground floor and first to sixth floors as hotel (Class C1) with roof garden and associated works.		
Agent	DP9		
On behalf of	48 Poland Street Ltd		
Registered Number	15/08350/FULL	Date amended/ completed	26 August 2015
Date Application Received	26 August 2015		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission subject to a S106 legal agreement to secure:

- i) a contribution of £3,474,000 towards the City Council's affordable housing fund (index linked and payable upon commencement of development)
- ii) compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £28,000
- iii) a Crossrail contribution
- iv) monitoring costs

2. 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 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

The application involves 47, 48 and 49-50 Poland Street and part of the rear facades of 54-57 Great Marlborough Street. Permission is sought for the demolition of the existing buildings, and the redevelopment of the site to provide a 135 bedroom hotel, with a restaurant and bar area at ground floor level.

The key issues in this case are:

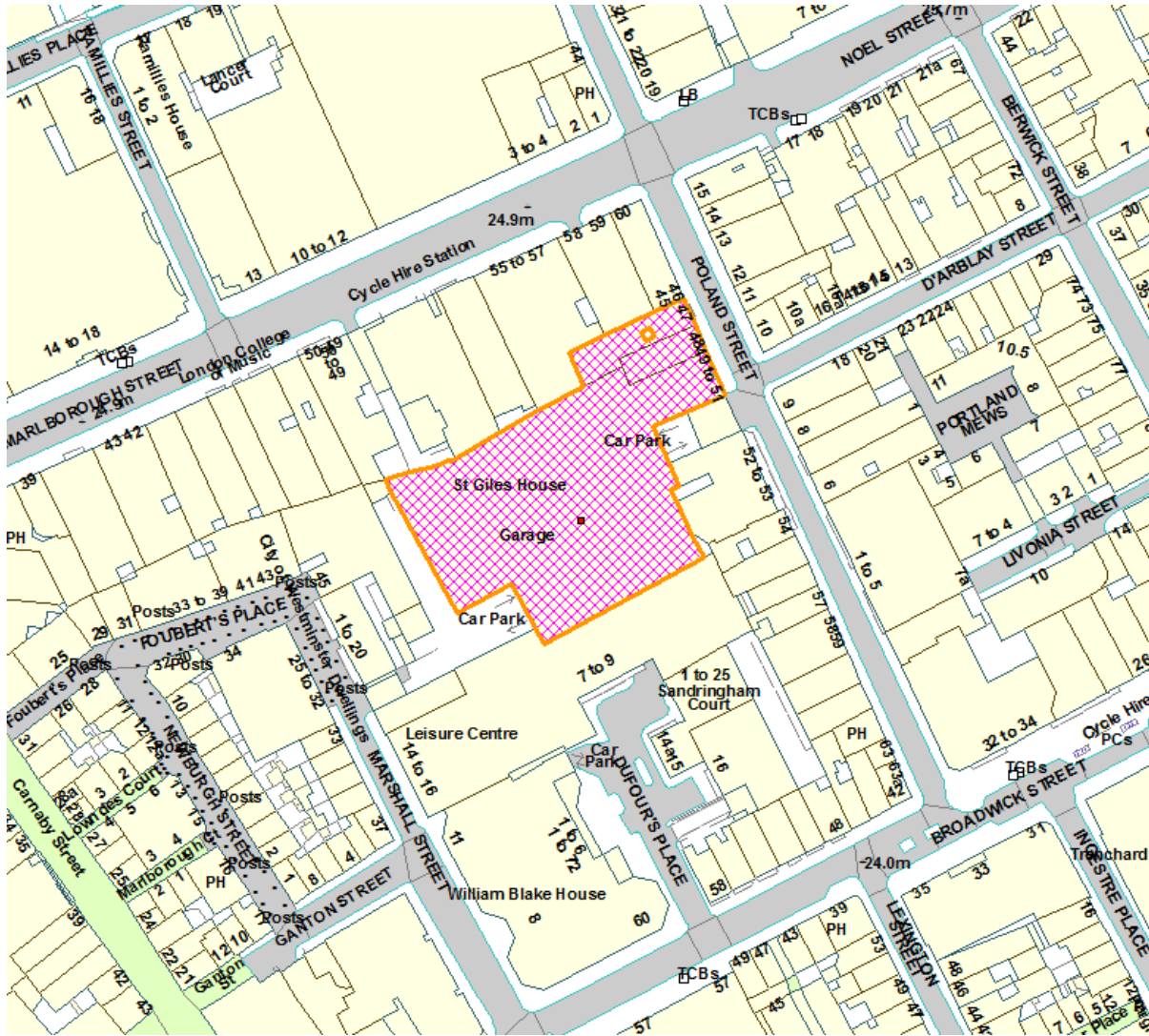
- * The impact of the scheme on the character and appearance of the conservation area.
- * The principle of a hotel in this location.
- * The offer of a commuted sum towards the City Council's affordable housing fund in lieu of on-site residential.
- * The impact of the scheme on the amenity of neighbouring occupiers.
- * Servicing arrangements

The proposals involve total demolition of all of the buildings, with the exception of 48 Poland Street which is to be rebuilt albeit without the later extensions, and with new extensions above. The remainder of the site incorporates a part brick clad facade, with a high degree of modelling, and a part aluminium clad façade which is similar to the previously approved scheme. Whilst objections have been raised to the loss of the existing buildings, it is considered that this is an acceptable design approach, which maintains the architectural variety in the terrace which is an essential characteristic of this part of Soho.

The principle of hotel use is acceptable in land use terms and subject to appropriate conditions controlling the hotel operation it is considered that the use would be neither harmful to residential amenity nor the character and function of the area.

The increase in commercial floorspace generates a requirement to provide an equivalent amount of housing on site. The applicant's argument that it is not practical or appropriate to provide this on site is accepted. A policy compliant financial payment towards affordable housing is offered, which is considered acceptable. In other respects the scheme is considered to comply with policies set out in the City Plan and in the Unitary Development Plan (UDP).

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

HISTORIC ENGLAND

47 and 48 Poland Street are considered to make a positive contribution to the conservation area and their demolition would only generally be justified if the new building contributes to the significance of the conservation area to an equal or greater degree. The new buildings proposed are a storey taller than those existing and the retained section of 48 Poland Street appears unbalanced by the large two-storey extension above it. The consistent floor plate, matching shop fronts and continuous mansard proposed across No's 47 and 48 reduces the distinction between these plots. Questions whether the development enhances or betters their significance.

SOHO SOCIETY

Objects to the proposed facade retention scheme and the resultant loss of an existing heritage feature and considers that more could be done to vary the roofline heights. Regrets the loss of small office space and considers that servicing from Poland Street will present problems in terms of noise and the practicalities of using this narrow street. Suggests that planning conditions must be included to restrict the use of the bar/restaurant to non-residents outside of Core Hours policy and that appropriate limits should be put on servicing and hours of operation.

HIGHWAYS PLANNING MANAGER

Considers that the use will have minimal impact on car parking and trip generation and that sufficient cycle parking and waste storage is provided.

ENVIRONMENTAL HEALTH

No objections subject to conditions

BUILDING CONTROL

Any response to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 385

Total No. of replies: 10

No. of objections: 9; No. in support: 1

Objections received on the following grounds:

Land Use

*Principle of additional entertainment space within the stress area

*No need for another hotel in Soho

*Loss of offices/impact on the Creative Industries Special Policy Area

*Applicant has failed to demonstrate that the benefits of the scheme outweigh the loss of office space

*The proposed hotel use neither preserves nor enhances the character of the Soho conservation area

Amenity

- *Noise nuisance from roof garden, hotel and bar
- *Noise from collection of glass bottles
- *Noise and vibration to party walls with the Marshall Street residential buildings
- *Noise from plant
- *Potential smells from roof level extract/ventilation ducts
- *Daylight report is not supported by layout drawings for the adjoining flats and fails to assess the apartments within Marshall Street at its western end
- *Figures submitted in the daylight report are lower than those used in the previous permission which demonstrates that the base modelling is inaccurate
- *Loss of daylight of between 26-44%
- *Cumulative losses of light when combined with those as a result of the redevelopment of 54-57 Great Marlborough Street
- *Loss of light to adjacent office windows which have not been assessed in the daylight report
- *Increased sense of enclosure and loss of outlook to neighbouring office windows
- *Noise and vibration during construction will be picked up by the steel structure of the south party wall of the neighbouring residential flats
- *Noise impact during construction on neighbouring recording studios.
- *Noise concerns raised due to the operational impact of the proposed development
- *Noisy construction should only take place outside of office hours in order to minimise disruption to local businesses and to protect the local economy

Design

- *47 and 48 Poland Street are unlisted buildings of merit and their loss will have a negative impact on the conservation area
- *No convincing case has been put forward for the loss of the existing heritage assets
- *Insufficient detail on the proposed design and context of the proposed buildings into the existing fabric of the neighbouring buildings
- *Roof level plant will harm the appearance of the building

Highways

- *Congestion caused by people outside smoking and pavement drinking
- *Waste strategy is insufficiently detailed and will result in rubbish being left on street
- *Conflict with construction traffic and cars entering/exiting from Poland Street car park

Other Issues

- *Littering
- *Noise, vibration and dust during demolition and redevelopment
- *Vibration and dust will have a material impact on the record players and recording equipment used in the adjoining record shop
- *The construction management plan shows the closure of the footpath on the west side of Poland Street with gantry scaffolding immediately above and an on-street construction compound which will impact on the flow of pedestrians and the potential loss of another small creative Soho business
- *Drawings are ambiguous and lack in detail

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site lies on the western site of Poland Street and comprises Nos. 47 and 48 Poland Street and 49-50 Poland Street (excluding the basement and ground floor levels). The site also includes the partial demolition of the rear of Nos. 54 and 55-57 Great Marlborough Street located to the immediate north of the site.

49-50 Poland Street is a six-storey office building, access to which is adjacent to a ground and basement retail unit fronting onto Poland Street (which falls outside the application site). Part of this building also lies directly above the entrance to the Soho Car Park at 49-51 Poland Street (which is also not part of the application site).

47 Poland Street is currently vacant but was last in use for restaurant purposes at basement and ground floors with three floors of office accommodation on the upper floors. 48 Poland Street is in Class A2 use as a betting shop at basement and ground floor levels with office use also on the upper floors.

The entire site lies within the Soho conservation area and No's 47 and 48 are identified as unlisted buildings of merit.

The site lies within the Core Central Activities Zone (CAZ) and the surrounding area has a mixture of mainly commercial uses, although the rear of the site lies directly adjacent to the recently redeveloped Soho car park, now known as the Marshall Street development, a residential redevelopment scheme. There are also other residential properties at 1B and 58-59 Poland Street and permission has also recently been granted for the residential conversion of the building to the immediate south of the site at 52-53 Poland Street.

6.2 Recent Relevant History

47 Poland Street

8.06.1982 – planning permission granted for the use of first and second floors of rear annexe as photographic studios (subject to a condition limiting the use to light industrial use only).

8.06.1999 – planning permission granted for the use of ground and basement floors for restaurant purposes with full height extract duct to the rear.

48 Poland Street

10.02.1989 - established use certificate issued for office use

20.03.2001 – planning permission granted for the erection of a two storey extension at rear and associated terraces third and fourth floor level for Class B1- office purposes

49-50 Poland Street

10.10.1986 - permission granted for the use of basement and part ground floor as a motor servicing and repair garage with ancillary offices and showroom to 49-50 Poland Street.

14.01.2003 – permission granted for the use of part basement and part ground floors as a gallery (Class D1) with ancillary retail, cafe and office space.

47, 49-50 Poland Street and 54-57 Great Marlborough Street

17.02.12 - planning permission granted for the demolition and redevelopment of 54 and 55-57 Great Marlborough Street to provide a seven storey building for offices (Class B1), retail (Class A1) and restaurant purposes at rear ground floor level (Class A3); new facade to upper floors of 49-50 Poland Street and use of first to fourth floors for offices (Class B1), fifth floor as residential and erection of new sixth floor for residential purposes (1 x 1 bed and 2 x 3 bed flats) and use of rear ground floor for studio/workshop use (Class B1c); refurbishment of 47 Poland Street for use as retail (Class A1) at basement and ground floor level and residential on the upper floors (1 x 1 bed, 1 x 2 bed and 1 x 3 bed flats), together with associated works and plant.

54-57 Great Marlborough Street (Adjoining Site)

17.11.15 - a resolution to grant planning permission was made (subject to the completion of a legal agreement) for the demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual/alternative retail or restaurant (Class A1/A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level.

7. THE PROPOSAL

Permission is sought for the demolition of the existing buildings, with the exception of part of the façade of 48 Poland Street, which is to be rebuilt, and redevelopment of the site to provide a 135 bedroom hotel, with a restaurant and bar area at ground floor level. Shiva Hotels are the intended hotel operator and have submitted a draft Operational Management Statement (OMS).

A new sub-basement level is proposed to provide an area for plant, and additional excavation is proposed at basement level providing back of house facilities including kitchens, stores, offices and wc accommodation.

The entrance to the hotel is on Poland Street providing direct access to a proposed restaurant area with 96 covers and bar area that leads onto a central courtyard area. The upper levels contain the hotel bedrooms designed as two separate wings around the central courtyard.

The hotel bar and restaurant would be open to the general public.

The extensions would result in an increase in commercial floorspace at the site of 2,111 m². The applicant argues that it would be neither practical nor viable to provide on-site residential to match the commercial increase. A financial payment of £ 3,474,000 is offered towards the City Council's affordable housing fund in lieu of on-site provision.

8. DETAILED CONSIDERATIONS

8.1 Land Use

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

Use	Existing (m ²)	Proposed (m ²)	Change (+ or -m ²)
Office (Class B1)	4,867	0	- 4,867
Restaurant (Class A3)	319	492	+173
Betting shop (Class A2)	233	0	-233
Showroom	206	0	-206
Retail	161	0	-161
Nil use	106	0	-106
Hotel	0	7,511	+ 7,511
Overall commercial	5,892	8,003	+2,111

Loss of office use

The proposal will result in the loss of all the office floorspace (4,867m²) on the site. 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. 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. From 1 September 2015, any such applications are determined under a 'presumption in favour of sustainable development' in line with national policy. 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 received to the loss of office accommodation and on the grounds that the applicant has failed to demonstrate that the benefits of the scheme outweigh the loss of office space. However, the current application results in a substantial commercial uplift on the site (2,111m²) in the form of hotel accommodation and in these circumstances the loss of the B1 office accommodation is considered acceptable in principle.

New hotel use

Hotels are important to support the visitor and business economy, and they have strong links with other activities in central London such as shopping, theatre and other cultural and entertainment activities. In addition to providing 135 rooms, the hotel will provide a restaurant and bar which would also open to the public. The restaurant and bar area are located on the ground floor with a capacity of up to 96 in the restaurant and 45 in the bar area.

Policy S23 of Westminster's City Plan: Strategic Policies (the City Plan) directs new hotels to the CAZ and to those streets which do not have a predominantly residential character. Policy TACE 2 of the UDP is also permissive towards new hotels in the CAZ that do not have a predominantly residential character where (i) no adverse environmental and traffic effects would be generated and (ii) adequate on-site facilities are incorporated within developments proposing significant amounts of new visitor accommodation, including spaces for the setting down and picking up of visitors by coaches and for taxis serving the hotel.

Notwithstanding recent permission for developments incorporating new residential floorspace, Poland Street is still predominantly commercial in character. In these circumstances, the introduction of a new hotel on this site is considered acceptable in principle in land use terms.

The application is supported by an Operational Management Statement which includes measures designed to ameliorate the impact of the hotel and entertainment uses on residents' amenities and local environment quality and this is discussed below. The impact of the proposals on traffic and parking is set out in section 8.3.

Objections have been received on the grounds that there is no need for another hotel in Soho, however, the application could not be refused on these grounds.

Operational Details

The intention is that Shiva Hotels would be the hotel operator. The applicant's stated aim is to create a boutique hotel with a very high standard of internal design and décor. The hotel will comprise 135 bedrooms with a restaurant and bar occupying a large part of the ground floor.

The hotel would be open to guests 24 hours a day seven days a week. It is proposed that the restaurant would be open to non-residents from 06.30 to 23.30 Mondays to Thursday, 06.30 to 00.00 Friday to Saturday and 06.30 to 23.00 on Sundays and Bank Holidays. The bar would be open until midnight daily.

New restaurant and bar use

Although the restaurant and bar would be an integral part of the hotel and under the same management, as is typical of a hotel of the nature proposed, the restaurant would be open to non-residents. Although the restaurant would not be operated as a stand-alone facility and would be ancillary to the primary hotel use (Class C1), the impact of the restaurant needs to be assessed against the City Council's entertainment policies.

In this instance, the proposal involves the relocation of an existing restaurant from 47 Poland Street involving an increase of 173m² compared to the lawful restaurant use. UDP Policy TACE 9 states that within Stress Areas permission will only be granted for restaurant uses (between 150m² and 500m²) where the City Council is satisfied that permission for such uses will only be granted where the City Council is satisfied that there is no adverse effect on residential amenity or local environmental quality, and no adverse effect on the character or function of the area. In reaching decisions, the City Council will have particular regard to factors including the number of people on the premises, the opening hours, servicing and arrangements to safeguard amenity (such as means of extraction/ventilation etc). Policy S24 is similarly worded.

Despite the location of the proposed restaurant within the West End Stress Area (WESA) and that objections have been received on the principle of entertainment space in the stress area, given that the proposal involves the relocation of an existing restaurant from within the same site it is not considered that the proposed Class A3 use would have an adverse effect on the character or function of the area.

In terms of the impact of the use on residential amenity, the restaurant is located within relatively close proximity to residential properties on the upper floors of the Marshall Street development, and objectors are concerned with the effects of noise from late night activities, noise from bottle collection, noise nuisance from the proposed roof garden, hotel and bar and smells from extract and ventilation equipment. In response to these concerns the application has been amended to include a bottle crusher, to reduce the size of the roof top terrace and to restrict its use to occupants of the sixth floor suite, and to reduce the size of the roof level ventilation ducting.

Given the location of hotel bedrooms directly above, it will be in the interests of the hotel to ensure that these areas are properly managed. Furthermore, the restaurant is intended as a sit-down facility with waiter service and no take away facilities, and the total capacity of all entertainment areas would be restricted to 141.

The application is accompanied by an Operational Management Statement (OMS). The key elements of the OMS are as follows:

- The entrance will be attended at all times by door staff.
- There will be a designated hotline to residents and neighbours and management of the hotel will arrange quarterly meetings with local residents and businesses.
- Pre-booking of taxis and monitoring of taxi activity to ensure that the highway remains clear
- Hours that non-resident guests may use the restaurant and bar areas
- A restriction of 96 diners within the restaurant area and 45 in the bar area
- The only public entrance to the hotel will be from Poland Street. Management of evening guests would be strictly controlled to ensure minimal disturbance to neighbouring residents.

- The hotel would not be marketed for coach parties.

Poland Street is mixed use in character including some residential. The OMS is considered to be robust and it will ensure that activity associated with the hotel and restaurant would not be harmful to the character of the area and more specifically to residential amenity. As concerns have been raised about smoking and outside drinking, and as these issues are not covered in the submitted OMS, a revised OMS is secured by condition.

Light Industrial Use

Concerns have been raised on the grounds of loss of Soho's traditional light industries.

The site lies within the Creative Industries Special Policy Area (CISPA) within the UDP wherein light industrial uses are protected. Policy COM8 states that 'proposals for redevelopment, rehabilitation or other development affecting premises containing light industrial floorspace will not be granted planning permission where:

1. the site is located within the Creative Industries Special Policy Area
2. this would result in the loss of industrial activities which contribute to the character and function of the area.

Although the site is located within the CISPA as defined in the UDP, this SPA designation has not been included within the City Plan. The City Plan recognises that protecting and enhancing the Creative Industries is a priority, however, it also acknowledges that such uses do not fall within a specific use class and they therefore require a customised approach. Further, the City Plan defines Creative Industries as both light industrial (Class B1(c)) and Creative Services (architects, advertising agencies, graphic design and media design) (Class B1) and recognises that a significant amount (63%) of Creative Industries operate from B1 use class units. The relevant office policy (Policy S20) states that new office development will be directed to the Core Central Activities Zone and refers to, where appropriate, the provision of a range of business floorspace including workshops and studios, however, it does not specifically protect light industrial uses.

In this instance, whilst 47 Poland Street includes an element of restricted light industrial use within the rear annex, these areas have been in an office use for over 10 years and therefore the office use is considered to be lawful. As such no light industrial space would be lost from that building as a result of the application. In these circumstances, objections to the loss of the light industrial use/floorspace cannot be supported.

Loss of Showroom and Retail Uses

The application involves the loss of the existing betting shop (Class A2) at 48 Poland Street. Policy S21 protects existing non-A1 uses, however, in this instance the existing betting shop is to be replaced with a restaurant, which as it will be open to the public, is considered an acceptable alternative use.

The proposals also involve the loss of ancillary retail and showroom space which is all located at the rear of 54-57 Great Marlborough Street. These losses are a consequence of two separate land ownerships coming forward for redevelopment independently. Whilst an element of retail floorspace is lost, the redevelopment of 54-57 Great Marlborough Street preserves the A1 use and maintains a retail function.

With regard to the loss of showroom space, as the site lies outside the East Marylebone Special Policy Area, and the former occupiers of the showroom, Steilmann, have now vacated No.54 it is not considered that the former showroom use makes a significant contribution to the character and function of the area and its loss is considered acceptable.

Mixed Use Policy

UDP Policies CENT3 and Westminster's City Plan Policy S1 aim to encourage mixed use developments within Central Westminster, requiring any increase in commercial development to be matched by residential provision. These policies require, where appropriate and practical, the provision of self-contained residential accommodation with separate access when increases in commercial floorspace are proposed. The residential floorspace should comprise an amount of floorspace equivalent to the increase in commercial floorspace, where it is over 200m². Where it is clearly not practical to provide residential accommodation on site, the City Council will seek the provision of the required residential accommodation on another site within the vicinity, other uses which contribute to the CAZ, or a contribution to the Council's affordable housing fund for the provision of affordable housing. Policy S1 is similarly worded.

The increase of 2,111m² of hotel floorspace triggers the mixed use policies. It is recognised that it is sometimes impractical or inappropriate to provide housing on-site in certain circumstances. In this case, given the constraints of the site, particularly with the difficulties of providing a separate residential core, and the nature of the proposed use, it is recognised that on-site provision would not be practical. The applicant advises that they do not own any alternative available sites in the vicinity and are unable to provide the requisite residential accommodation off-site. The applicant has offered £3,474,000 in accordance with the current formula used to calculate payments in lieu of residential and is therefore acceptable.

8.1 Townscape and Design

The proposals involve the demolition of all the buildings on Poland Street. Permission has been granted for the demolition of two of these, those at the southern end of the site. The other two buildings are unlisted buildings of merit in the Soho Conservation Area Audit. The Georgian building (no.48) is of greatest significance, although this has been much altered and extended. Only the first and second floors appear in something like their original form. The other building at the northern end (no.47) is an early twentieth century building of lesser interest; it is both architecturally and historically less significant than the Georgian building. If demolition is to be permitted it is essential that the variety in the terrace is maintained and the new buildings are of high architectural quality and preserve and enhance the character and appearance of the Soho Conservation Area. Given the contribution made by the Georgian building to the character and appearance of the terrace and the conservation area, it is considered important that it be retained.

The proposals involve total demolition of all of the buildings, and replacing them with four new facades, behind which is one hotel building. The geo façade is rebuilt albeit without the later extensions, and with new extensions above. Three other new facades are proposed. The southern one is clad in aluminium, and is similar to the one previously approved. The façade immediately north of this is a brick clad, with a high

degree of modelling, giving it considerable depth and interest. Next is the rebuilt Georgian facade, and at the north end of the site (no. 47) is another new brick façade, in a modern neo-Georgian style, to compliment that at no.48. This new facade relates better to the Georgian facade and improves its setting in the terrace. It is considered that this is an acceptable design approach, which maintains the architectural variety in the terrace which is an essential characteristic of so much of Soho.

There are increases in the massing, with set back roof storeys. These have been designed to reduce their visual impact especially in views from the north. This massing is considered acceptable. The proposed plant at roof level is relatively discrete and despite the concerns raised is considered acceptable in design terms.

Objections have been received on urban design and conservation grounds. These state that the loss of the two unlisted buildings of merit would have a negative impact on the character and appearance of the conservation area and that there is no justification for their demolition. However, in considering whether or not demolition should be permitted, the qualities of the proposed buildings must be considered. It is accepted that demolition of the two buildings causes some harm to the conservation area, but it is concluded that the proposed replacement buildings overcome that harm, by reason of their high quality design and appropriateness to the character and appearance of the conservation area.

It is concluded that this is a high quality development which will contribute positively to the character and appearance of the Soho Conservation Area. The scheme complies with the City Council's urban design and conservation policies, including strategic policies S25 and S28, and Unitary Development Plan policies including DES 1, DES 4, DES 9 and DES 10.

8.2 Residential Amenity

The closest affected residential properties are within the Marshall Street development (St Giles House) to the immediate west of the site. There are also residential flats on the upper floors of 58-59 Great Marlborough Street.

A daylight and sunlight report has been commissioned by Point 2 Surveyors which examines the impact on daylight and sunlight conditions to the adjacent residential properties. It includes layout drawings of the adjoining flats and assesses all windows within the Marshall Street development facing the application site. An addendum cumulative impact sunlight/daylight report has also been submitted which calculates the impact of the application site when combined with the impact of the redevelopment site at 54-47 Great Marlborough Street (the site immediately to the north). The addendum report has also been produced following an on-site assessment to one of the flats in St Giles House.

One of the objectors questions the reliability of the base modelling used in the reports on the grounds that the figures submitted in the report are lower than those used in the previous permission. The applicants daylight consultants state that they have not had access to the base information used in the previous permissions and in any event the current assessment has been undertaken based on the most update and available information which further considers access into flat 32.

Daylighting

The report considers the Vertical Sky Component (VSC) and No Sky Line (NSL) in accordance with the BRE guidance. 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 advise that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The NSL assesses daylight distribution by measuring the area of the room from which there is visible sky. If there are reductions from existing NSL values of more than 20% then the change is likely to be noticeable.

The sunlight/daylight assessment submitted with the application demonstrates that only one window would be adversely affected by more than the 20% recommended in the BRE guidelines. This is a bedroom window at fifth floor level within the Marshall Street development which would experience a VSC reduction from 9.43% to 5.81% i.e. 38%. The VSC value for this window is only a change of 3.6%, but the overall percentage loss is relatively high due to the fact that the existing level of light is relatively low and any loss is therefore proportionately higher when expressed as a percentage of the original value.

In the cumulative assessment, this same bedroom window would experience the same losses in VSC, and two bedroom windows at fourth floor level within Marshall Street residential development would experience NSL losses of 20.4 and 43%. Objections have been received to these losses. These rooms would however retain good levels of VSC of between 26.63 and 27.48%. Whilst these losses would be over 20%, the windows affected serve bedroom accommodation which the BRE guidelines state as being less important in relation to daylighting distribution than main living rooms. These are also north facing windows which are particularly small compared to the size of the rooms and as a result this does impact on light penetration and partially explains why it is only NSL that is adversely affected to these rooms. Larger windows would have allowed light to penetrate more deeply than the windows that have been installed. The losses would be similar to those deemed acceptable under the previous approval for this site.

It is considered that within this urban built up location, the levels of daylighting retained are acceptable and the impact is not considered sufficient to justify a refusal. Given this, it is considered unreasonable to refuse this scheme given the losses involved.

The residential accommodation at 58-59 Great Marlborough Street retains satisfactory daylighting levels.

Sunlighting

With regard to impact on levels of sunlight, the BRE guidance state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours (APSH), including at least 5% of annual winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former value. The habitable windows to the flats within the Marshall Street development facing the application site do not face within 90 degrees of due south and therefore are not required to be analysed for the purposes of loss of sunlight under the BRE guidelines. With regard to the residential flats at 58-59 Great

Marlborough Street all windows will retain satisfactory values in terms of annual sunlight hours.

Sense of Enclosure

Policy ENV13(F) states that where developments result in an unacceptable increase in the sense of enclosure, planning permission will be refused. Policy S29 states that the Council will resist proposals that result in an unacceptable loss of residential amenity.

The building would be one storey higher than the existing at 49-50 Poland Street and would be directly opposite the east facing windows within the Marshall Street development. However, the new sixth floor is set back from the rear façade and chamfered back to reduce its apparent bulk. Whilst it is acknowledged that the occupants of the flats on the fourth floor of the Marshall Street development will feel more 'closed in' than at present, given the set-backs proposed it is not considered that the impact on sense of enclosure would be so significant as to warrant refusal.

The bulk and massing of the sixth floor remains the same as that consented in the previous permission.

Overlooking

Part (F) of Policy ENV13 seeks to resist development which would result in an unacceptable degree of overlooking. The proposal results in new hotel windows less than 8m from existing residential windows in the Marshall Street development. However, there are windows within the existing office building in the same location and the proposed new windows serve either corridor accommodation or have been recessed from the façade of the building such that any overlooking would be from an oblique angle. The corridor windows will also be obscure glazed to prevent overlooking. On this basis, it is not considered that the proposal would result in any harmful impact on increased overlooking to neighbouring properties.

Roof Terraces

Roof terraces are proposed at sixth floor level at 48 and 49-50 Poland Street. Both terraces serve the hotel suite at this level and would not be accessible to other residents of the hotel. The terrace at 49-50 faces commercial premises on the opposite side of Poland Street and the terrace at 48 is set behind the new sixth floor. It is not considered that in these locations that use of these terraces by residents of one suite would result in unacceptable noise, disturbance or overlooking. The flat roofed area adjacent to the north facing windows in the Marshall Street development is to be used for maintenance purposes only and not for use by hotel guests. This will be controlled by condition to protect the amenity of the adjoining residential.

Other Adjoining Properties

An office occupier at 51 Great Marlborough Street has raised a number of concerns including the fact that the report fails to address the impacts on their property, the reduction in sunlight and daylight and on the grounds that the proposal would result in an increased sense of enclosure. Whilst the report has not addressed the impact of light issues on 51 Great Marlborough Street, the City Council's policy for protecting daylight and sunlight is primarily aimed at protecting the living standards of residents, and it is not considered that a reason for refusal could be sustained on the grounds of loss of light or increased sense of enclosure to existing commercial windows.

Other issues

Residents of the Marlborough Street development have raised concerns to the proposed ventilation ducting on the rear flat roof at the rear of 49-50 Poland Street. The applicant has confirmed that this ducting is for air intake and air extract only and will not emit fumes. The Council's standard condition relating to plant noise is to be imposed and this is set out in more detail below in section 8.6.

8.3 Transportation/Parking

A Transport Assessment produced on behalf of the applicant identifies the site as being within a highly accessible location in terms of public transport. Trip generation modelling, which is considered to be robust, concludes that the majority of trips associated with the site will be via public transport or other sustainable modes (e.g. walking, cycling) and indicates that the proposal will not have a significantly adverse effect on the safety or operation of the highway network.

Whilst the proposal will result in an increase in vehicle trips to the site, the Highways Planning Manager concludes that this will have no significant impact on the operation of the wider highway network.

Site servicing

In terms of servicing, Policy TRANS 20 states that the City Council will require convenient access to premises for service vehicles and will normally require that "vehicular servicing needs of developments are fully accommodated on-site and off-street ... sufficient to cater for the size, type and frequency of arrival of the vehicles likely to be servicing the development".

The applicant has submitted a Transport Statement in support of the application. The applicant estimates that the proposed development will be serviced on average by 9 service vehicles daily. The vehicles are likely to be larger than those associated with the existing use (eg laundry and food delivery vehicles). All servicing is proposed on-street and the submitted a Servicing Management Plan (SMP) demonstrates how servicing will be managed. All deliveries will be pre-booked outside of peak periods where possible, and scheduled to avoid conflict with waste / recycling collections. Whilst the Soho Society believe that servicing would be problematic on Poland Street, however, the Highways Planning Manager has confirmed that the approach set out in the SMP is acceptable. This will be secured by condition.

No car parking is provided on site and due to the limited size of the proposed hotel, it is not considered that there is a need to provide facilities for coach parking and the Operational Management Plan sets out measures to discourage coach travel. Most guests are likely to arrive and depart by public transport (underground or bus) and a short walk or taxis, which can stop directly outside the site.

Existing Public Car Park Access

The proposals retain access to the Poland Street car park. Any reduction in height (or other change to the structure) may affect the long term functionality of the operation of the car park. However, as no changes are indicated, the proposal will not affect the functionality of the existing public car park.

Cycle parking and waste storage

The proposal incorporates secure cycle parking at ground floor level which would be secured by condition.

Waste/recycling storage for the development will be located at basement level and ground floor level and will be transferred, by on-site management to the ground level collection point. This arrangement and the level of storage provision are considered acceptable and the concerns raised on these grounds are not considered sustainable.

Other issues

Concerns have also been raised on the grounds that the proposal will create congestion on the pavement due to pavement drinking and outside smoking. These issues would be covered by the OMS however in any event given that the entrance to the hotel is recessed and is set back 5m from the edge of the highway it is not considered that the likely activity associated with a hotel in this location would cause conflict with other pedestrians at this point.

8.4 Economic Considerations

The economic benefits generated are welcomed.

8.5 Access

The proposed building has been designed to meet the relevant access requirements of the Building Regulations and relevant British Standards and 10% of all rooms will be accessible in line with the London Plan.

The building entrances onto Poland Street are level with the public pavement and the main core is fitted with wheelchair accessible lifts that provide level access to all floors.

8.6 Other UDP/Westminster Policy Considerations**Plant noise**

Plant is proposed at basement levels 1 and 2 and at rear roof level. To ventilate the restaurant at ground and basement floor level a full height duct is proposed rising internally through the building. The detailed design of the precise plant required and as details of the duct have yet to be finalised full details of the duct would be reserved by condition. 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 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. On this basis, despite the concerns raised, it is not considered that the plant operation would adversely affect the amenities of existing, or future, residents.

Noise disturbance during the course of construction

An objection has been received on behalf of the operators of the post-production sound studios in 51-53 Great Marlborough Street on noise grounds, primarily on the basis that

the extent of demolition and construction works would result in significant disturbance in respect of noise, vibration and dust generation affecting the objectors' ability to carry out their business. The objector refers to a policy requirement to reduce noise generated, so far as it is practical, to the Lowest Observed Adverse Effect Level (LOAEL) and notes that this requirement also applies during the construction phase.

A neighbouring residential occupier raises similar concerns and the occupiers of the adjoining businesses and the owner of the Marshall Street apartments raise concerns relating to dust and vibration during demolition.

National Planning Policy Guidance on Noise (6 March 2014), to which the objectors refer, requires local planning authorities to take account of the acoustic environment and, in doing so, to consider whether or not a significant adverse effect, or an adverse effect, is likely to occur and whether or not a good standard of amenity can be achieved. The guidance refers to the Explanatory Note of the Noise Policy Statement for England, which states that the assessment of noise disturbance would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the Significant Observed Adverse Effect Level (SOAEL – the level above which significant adverse effects on health and quality of life occur) and the Lowest Observed Adverse Effect Level (LOAEL – the level above which adverse effects on health and quality of life can be detected) for the given situation. The Explanatory Note acknowledges that it is not possible to establish a single objective noise-based measure that defines SOAEL, as this is likely to be different for different noise sources, for different receptors and at different times.

The sound recording studio contend that, due to the nature of their business, LOAEL is the level at which they can operate without any material effect on their business, and that SOAEL is the level at which they could no longer use their studios. The adjoining residents contend that SOAEL is the level where they would not be able to occupy their home. In the absence of any assessment of the construction or operational impacts in relation to LOAEL or SOAEL, the objectors contend that it is not possible to ascertain whether or not the proposal complies with national planning policy. Furthermore, even if it can be demonstrated that the impact of the development process, or the completed development, falls between LOAEL and SOAEL, unless it has been shown that all possible mitigation will be employed to reduce the noise impact to the LOAEL, the development is contrary to national noise policy and should be refused.

However, the stated vision set down in the Explanatory Note is to “promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development”, with the aim to “avoid significant adverse effects on health and quality of life”, to “mitigate and minimise adverse impacts on health and quality of life” (and to, “where possible, contribute to the improvement on health and quality of life”). The Note addresses the impact of “neighbour noise” including construction noise, and human reactions to it including sleep deprivation etc. It is primarily weighted towards the consideration of the impact of noise upon residential amenity rather than with the impact of noise upon commercial activity.

The Note sets out a requirement for developers to avoid significant adverse impact on health and quality of life and, where the impact lies somewhere between LOAEL and SOAEL, “to take all reasonable steps to mitigate and minimise adverse effects on health

and quality of life whilst also taking into account the guiding principles of sustainable development”. However, the Note is clear that “this does not mean that such adverse effects cannot occur”. It also sets out the “need to integrate consideration of the economic and social benefit of the activity or policy under examination with proper consideration of the adverse environmental effects, including the impact of noise on health and quality of life. This should avoid noise being treated in isolation in any particular situation i.e. not focussing entirely on the noise impact without taking into account other related factors”.

The applicant has submitted a revised Construction Management Plan that sets out measures that deal with the control dust during demolition, and the issue of construction noise, including the provision of vertical protection blankets between existing properties, acoustic crash-decks, and sets out that sensitive sections of the existing building will be demolished by small plant located on each floor slab in a “top-down” method with wire cutting to isolate retained and demolished structures. This report has been assessed by officers from the Council’s Environmental Sciences Team.

The CMP also sets out that before works commence a set of initial baseline readings will be collected in order to determine a baseline to report against. In addition, the applicant has confirmed that a commitment has been made to enter into a S61 agreement (Control of Pollution Act), ensuring that the quietest machinery is used, with silencers, and that acoustic screening is employed wherever possible. Noise and vibration monitoring will also take place continuously. The Council also expects the developer to do everything possible to engage and liaise with the neighbouring residents and businesses. A Site Environmental Management Plan (SEMP) is also to be secured which requires the applicant to provide details of noise and vibration (including predictions, managing risks and reducing impacts) and details of monitoring (including details of receptors, threshold values and analysis methods, procedures for recording and reporting monitoring results and remedial action in the event of any non-compliance). In addition, the applicant has also agreed to an annual contribution of £28,000 towards the Council’s Code of Construction Practice and towards monitoring of the SEMP. In these circumstances, it is considered that the issue of construction noise has been satisfactorily addressed.

Noise disturbance from the operation of the hotel

Adjoining occupiers are also concerned about noise generated from the operational impact of the proposed hotel. The application includes proposed uses which could have noise generated from entertainment type activity (music, performance etc) and the Council’s standard noise conditions relating to internal activity is imposed.

Noise generated within the development (including plant and machinery and entertainment noise) will need to comply with the Council’s standard requirements relating to proposed and existing adjoining residential uses. Objections have been raised on these grounds and this is considered to be addressed by condition.

Conditions are also imposed controlling ground borne noise from the transmission of underground trains.

8.7 London Plan

The London Plan contains hotel-related objectives. These include the provision of 40,000 additional hotel bedrooms by 2031, to improve the quality, variety and distribution of visitor accommodation and facilities (Policy 4.5). The need to accommodate a wide range of provision is highlighted. The proposed 135 hotel bedrooms will help meet London Plan targets.

8.8 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.

8.9 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. A payment of £3,474,000 towards the Council's affordable housing fund (payable on commencement of development and index linked)
- ii. Compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £28,000.
- iii. a financial contribution towards Crossrail;
- iv. 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 Community Infrastructure Levy Regulations (2010 as amended).

8.10 Environmental Impact Assessment

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 and Sustainability Report which sets out the sustainability credentials of the building. The energy efficiency and sustainability initiatives of the site have been optimised to address the Mayor's Energy Hierarchy and to address the requirements of policies in Chapter 5 of the London Plan and Westminster's City Plan Policy S28. The applicant's Energy Statement states that with the installation of a CHP engine, air source heat pumps, the installation of roof mounted Photovoltaic (PV) panels, passive design measures and energy efficiency measures that the building's total CO₂ emissions are predicted to show a reduction of 35% over Building Regulations Part L 2013 baseline emissions.

A BREEAM pre-assessment has been carried out on the proposed development and it is predicted that, if enhancement measures are introduced, the proposed development could achieve a BREEAM Excellent rating.

To encourage biodiversity a green roofs are proposed which would be in accordance with Policy S38 of the City Plan and UDP Policy ENV 17.

8.11 Other Issues

Construction impact

In addition to the concerns set out above relating to noise during construction, objectors are also concerned about hours of construction, conflict with construction traffic and the Poland Street car park, and the fact that the proposed closure of the footpath during construction would impact on the flow of pedestrians and on the ability of adjoining commercial occupiers to operate successfully.

A revised CMP has been submitted that demonstrates that access to the adjoining properties (Phonica and Vinyl Factory) will be maintained throughout the construction period with uninterrupted pedestrian access via the existing footpaths in Poland Street. To address the concerns raised regarding conflict with traffic accessing the Poland Street car park the CMP also sets out that a security gatehouse is to be located at main gate to control contractor vehicle movements.

Whilst the office occupiers of 51 Great Marlborough Street have requested that noisy construction should only take place outside of office hours, the standard hours of working are imposed, as is the Council's normal practice, to protect the environment of neighbouring residents.

Other issues

An objection has also been received relating to littering. This is a matter that can be addressed in the revised OMS.

9. BACKGROUND PAPERS

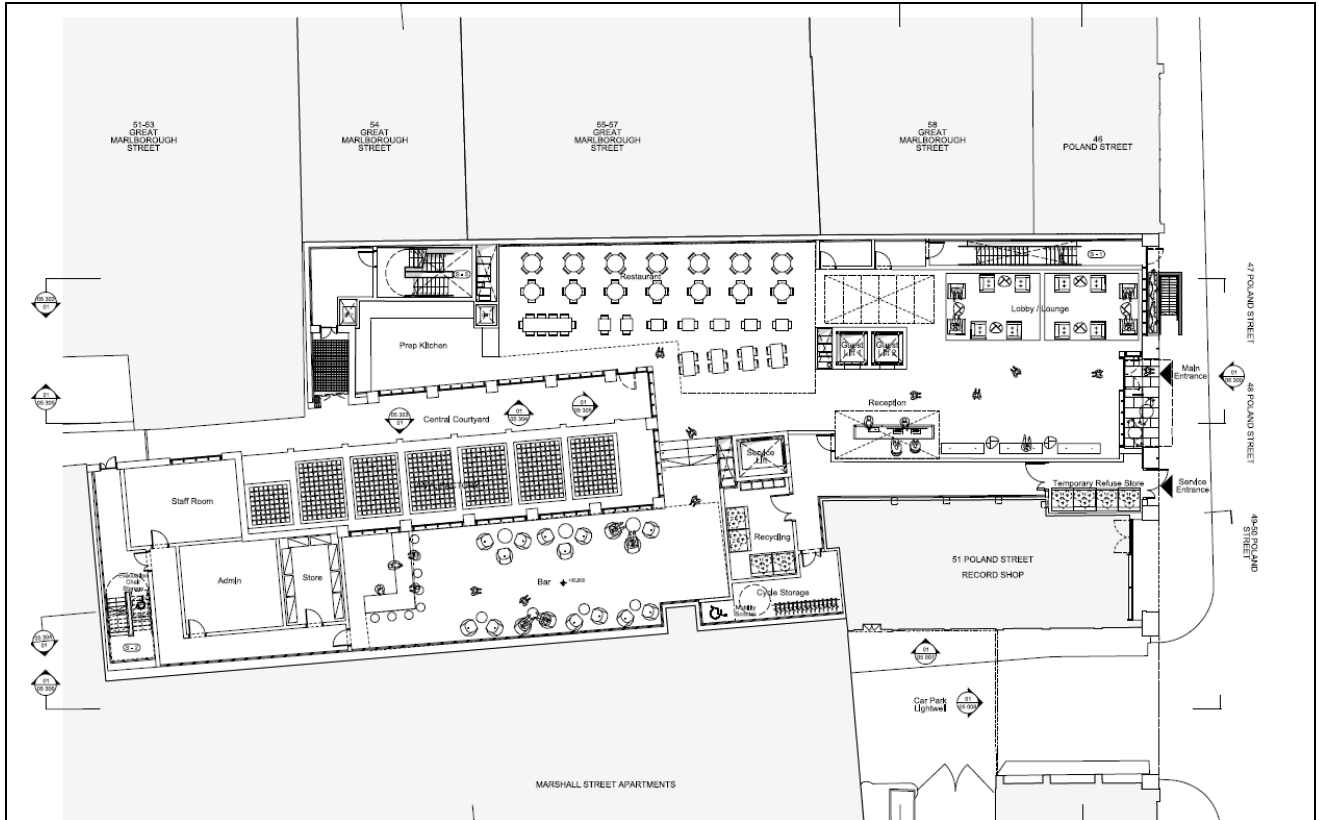
1. Application form
2. Response from Soho Society, dated 6 October 2015
3. Response from Historic England (Listed Builds/Con Areas), dated 14 October 2015
4. Memorandum from Highways Planning Manager dated 12 February 2016
5. Memorandum from Environmental Health dated 17 February 2016
6. Letter from occupier of 11 Sandringham Court, Dufours Place, dated 26 September 2015
7. Letter from occupier of Flat 9, 7 Dufour's Place, dated 25 September 2015
8. Letter from occupier of Flat 26, 16 Marshall Street, dated 14 October 2015
9. Letter from occupier of 51 Poland Street, London W1F 7IZ, dated 22 October 2015
10. Letter from occupier of 16 -18 Marshall Street, London W1F 7BE, dated 19 October 2015
11. Letter from occupier of 15 Newland , Lincoln , dated 19 October 2015
12. Letter from occupier of 45 to 46 Poland Street, London, dated 9 October 2015
13. Letter from occupier of Apt 32, 16, Marshall Street, dated 18 January 2016
14. Letter from occupier of 51 Great Marlborough Street dated 13 November 2015
15. Letter sent on behalf of the occupier of 51-53 Great Marlborough Street dated 19 October 2015

Selected relevant drawings

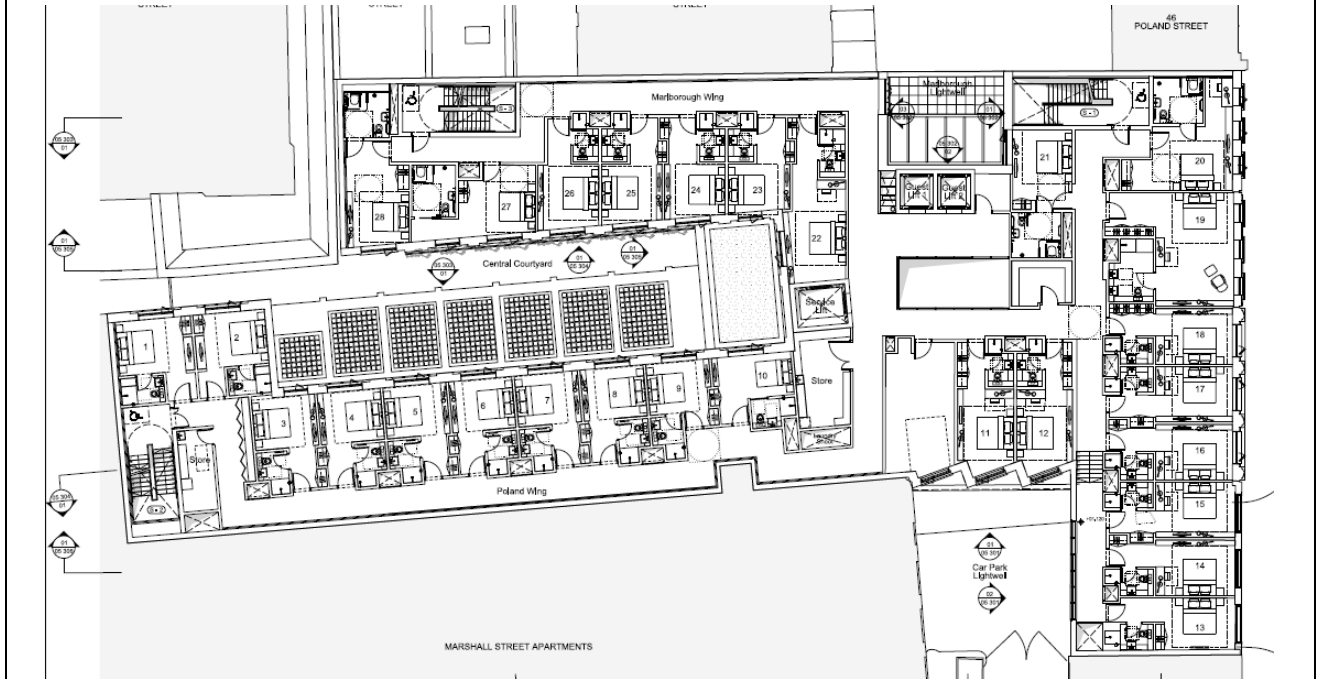
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT JOSEPHINE PALMER
ON 020 7641 2723 OR BY EMAIL AT CentralPlanningTeam@westminster.gov.uk

10. KEY DRAWINGS



Proposed ground floor plan



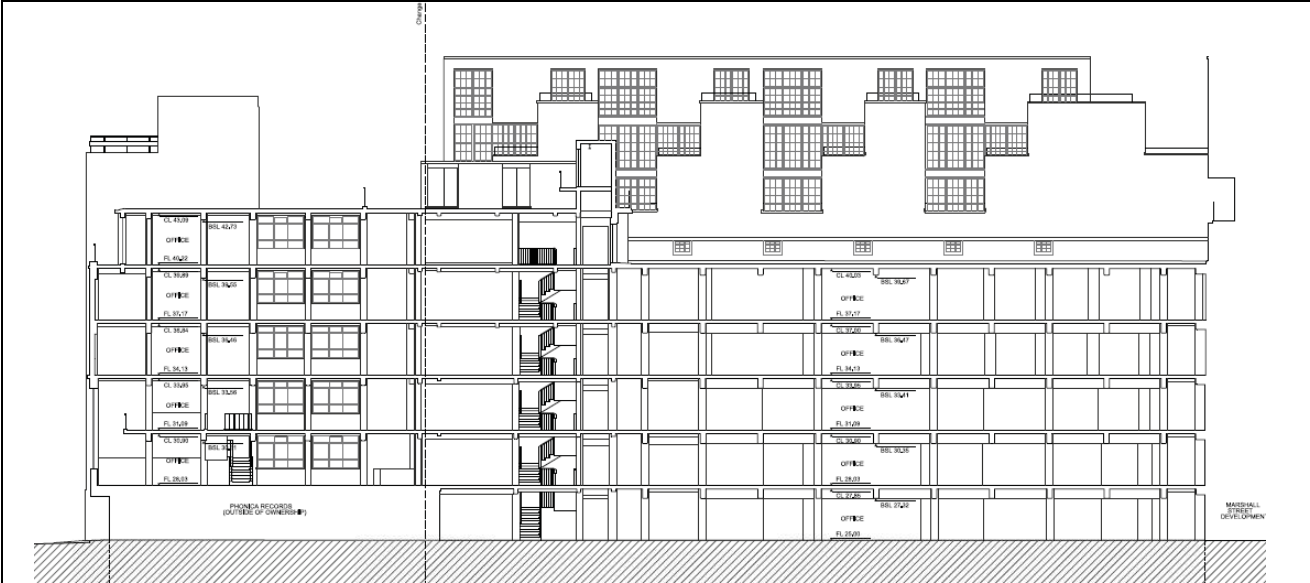
Proposed first floor plan



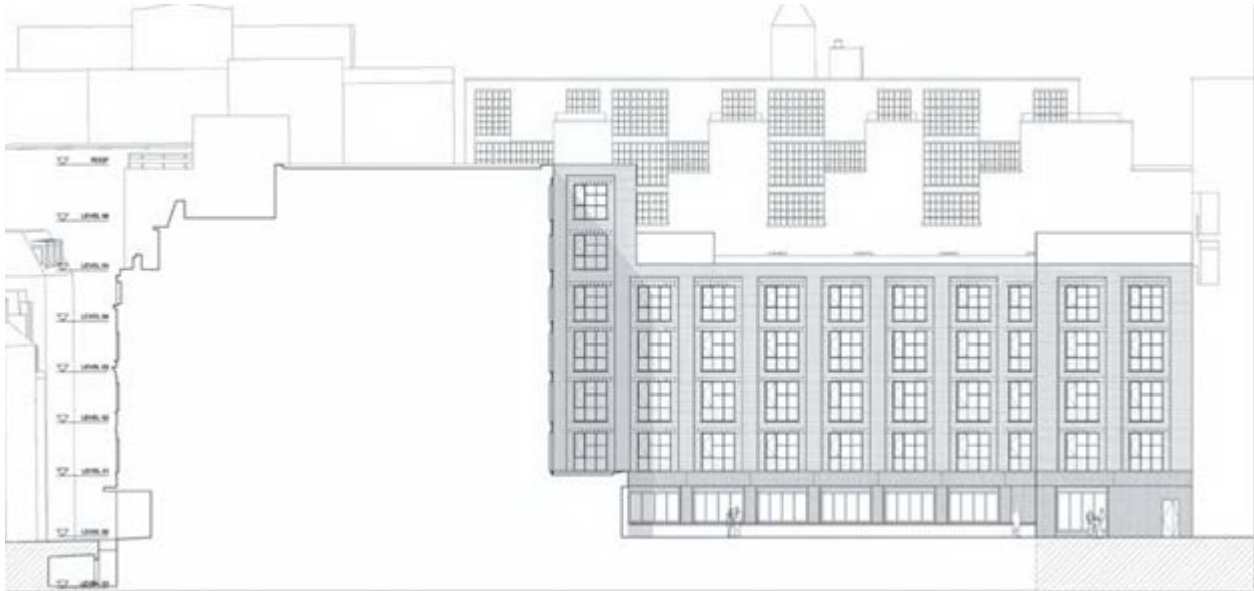
Existing front elevation



Proposed front elevation



Existing Section A-A



Proposed central courtyard

DRAFT DECISION LETTER

Address: St Giles House, 49 - 50 Poland Street, London, W1F 7NB,

Proposal: [DEVELOPMENT SITE AT 47, 48 AND 49-50 POLAND STREET & REAR OF 54 & 55-57 GREAT MARLBOROUGH STREET] Demolition of 47, 48 (behind part retained facade) and 49-50 Poland Street and part rear of 54 and 55-57 Great Marlborough Street and redevelopment to provide a new building comprising basement, lower ground floor, ground floor and first to sixth floor levels. Use of the part ground floor as restaurant/bar (Class A3/A4). Use of the basement, lower ground, part ground floor and first to sixth floors as hotel (Class C1) with roof garden and associated works.

Reference: 15/08350/FULL

Plan Nos: EPA PSH 05 PLN 199 Rev P2, 200 Rev P2, 201 Rev P2, 202 Rev P1, 203 Rev P2, 204 Rev P2, 205 Rev P2, 206 Rev P2, 298 Rev P0, 299 Rev P2, 300 Rev P2, 301 Rev P2, 302 Rev P2, 303 Rev P2, 304 Rev P2, 305 Rev P2, 306 Rev P2, 307 Rev P2;

ELE 200 Rev P2, 300 Rev P2, 301 Rev P0, 302 Rev P2, 303 Rev P2, 304 Rev P2, 305 Rev P0, 306 Rev P0;

SEC 200 Rev P2, 201 Rev P2, 202 Rev P2, 203 Rev P2, 204 Rev P2; PLN 210 Rev P1, 211 Rev P1, 212 Rev P1, 300 Rev P2, 301 Rev P2, 302 Rev P2, 303 Rev P2, 304 Rev P2, 305 Rev P2;

DTL 001 Rev P3, 002 Rev P2, 003 Rev P2, 004 Rev P2, 005 Rev P0, 006 Rev P0, 007 Rev P2, 008 Rev P0, 009 Rev P2, 010 Rev P2, 011 Rev P0, 012 Rev P0

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 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)

- 3 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)

- 4 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 and bank 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 and bank holidays.

Noisy work must not take place outside these hours unless we have agreed that there are very special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (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)

- 5 Non-residents hotel guests shall not be permitted to access, or remain within the hotel restaurant except between 06.30 to 23.30 Mondays to Thursday, 06.30 to 00.00 Monday to Saturday and 06.30 to 23.00 on Sundays and Bank Holidays.

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 TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 6 Non-residents hotel guests shall not be permitted to access, or remain within the hotel bar or lobby/lounge except between: 06.30 to midnight.

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

TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 7 The courtyard area shall not be used for outside dining/ancillary drinking between the following times: 22:00 and 09:00. Outside of these hours the courtyard area may only be used for emergency access.

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 TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 8 You must apply to us for approval of an operational management plan to show how you will prevent customers of the hotel, restaurant and bar from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the hotel, restaurant or bar use until we have approved what you have sent us. You must then carry out the measures included in the operational management plan at all times that the hotel is in use. (C05JB)

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 TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 9 You must apply to us for approval of detailed drawings of the design, construction and insulation of the whole ventilation system, including the system for the extraction of cooking smells, and any associated equipment. 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 the approved drawings. You must not change it without our permission.

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 (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.

- 11 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.

- 12 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.

- 13 You must provide the waste store shown on drawing PLN 300 Rev P2 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 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)

- 14 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.

- 15 All servicing must take place between 07:00 and 20:00 on Monday to Saturday and 08:00 and 18:00 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)

- 16 All servicing must be carried out in accordance with your Servicing Management Plan (dated January 2016) at all times.

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)

- 17 You must not put planters, tubs, tables, chairs or adverts on the road or pavement. (C24BA)

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)

- 18 You must not allow more than 96 customers in the restaurant and 45 customers in the bar at any one time.

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 TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 19 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 S29 and 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. (R13AC)

- 20 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 10 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 21 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)

- 22 You must provide the following bio-diversity features before you start to use any part of the development, as set out in your application.

- i) green roofs at fifth and sixth floors
- ii) planters to terraces

You must not remove any of these features. (C43FA)

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)

- 23 (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.

- 24 **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 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)

- 25 (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 hotel, restaurant and bar 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 hotel, restaurant and bar 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:
- The location of most affected noise sensitive receptor location and the most affected window of it;
 - 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;
 - Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;

- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: 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.

- 26 The design and structure of the development shall be of such a standard that it will protect noise sensitive dwellings within the development and adjoining residential dwellings from ground borne noise from the transmission of underground train operations so that they are not exposed to levels indoors of more than 35 dB LASMax within habitable rooms during the day and night.

Reason:

In order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for adjoining residents of the development from the intrusion of external noise.

- 27 The design and structure of the development shall be of such a standard, that it will not increase existing noise and vibration levels in adjacent properties from re-radiated ground borne noise and vibration from the transmission of underground train operations, where historical data is available to demonstrate the noise and vibration baseline conditions prior to the development.

Reason:

In order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for adjoining occupiers of the development from the intrusion of external noise.

- 28 The sixth floor terrace hereby approved shall only be used by hotel residents of suite 7 and/or for means of escape purposes.

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)

- 29 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.

PV 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)

- 30 The glass that you put in the corridor windows in the west elevation of the hotel rooms above 49-50 Poland Street must not be clear glass, and you must fix them permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

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)

- 31 You must not use the roofs marked 'Marlborough Wing' and 'Poland Wing' on the approved drawings for sitting out or for any other purpose. You can however use the roof to escape in 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)

- 32 All windows to the restaurant and bar are to remain fixed shut.

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. (R21AC)

- 33 You must only use the restaurant as a sit-down restaurant with waiter service.

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 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 34 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 Soho 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)

- 35 **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 Soho 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)

- 36 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 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)

- 37 You must apply to us for approval of detailed drawings (scales 1:20 and 1:5) of the following parts of the development -

Typical details of all new facades at all levels.

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 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)

- 38 The new brick facades on Poland Street shall be built using Flemish bond.

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)

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 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.
- 3 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)

- 4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 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 or visit www.ccscheme.org.uk.
- 7 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make

changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)

- 8 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 a financial contribution towards the Council's Code of Construction Practice, the Affordable Housing Fund and Crossrail.
- 9 Conditions 10 and 11 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)
- 10 Please make sure that the lighting is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance (under section 102 of the Clean Neighbourhoods and Environment Act 2005). (I39AA)
- 11 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 12 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)

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.
5

Agenda Item 6

Item No.

6

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
ADDENDUM REPORT OF Director of Planning		Ward(s) involved West End	
Subject of Report	Fenton House, 55-57 Great Marlborough Street, London, W1F 7JX		
Proposal	Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual/alternative retail or restaurant (Class A1/A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (Site includes 54 Great Marlborough Street)		
Agent	Turley		
On behalf of	Marlborough House Ltd		
Registered Number	15/03432/FULL	Date amended/ completed	20 April 2015
Date Application Received	20 April 2015		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission subject to a S106 legal agreement to secure:

- i) a contribution of £4,499,000 towards the City Council's affordable housing fund (index linked and payable upon commencement of development)
- ii) compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £33,000.
- iii) Lifetime car club membership (25 years) for the occupants of each new dwelling.
- iv) monitoring costs

2. 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 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.

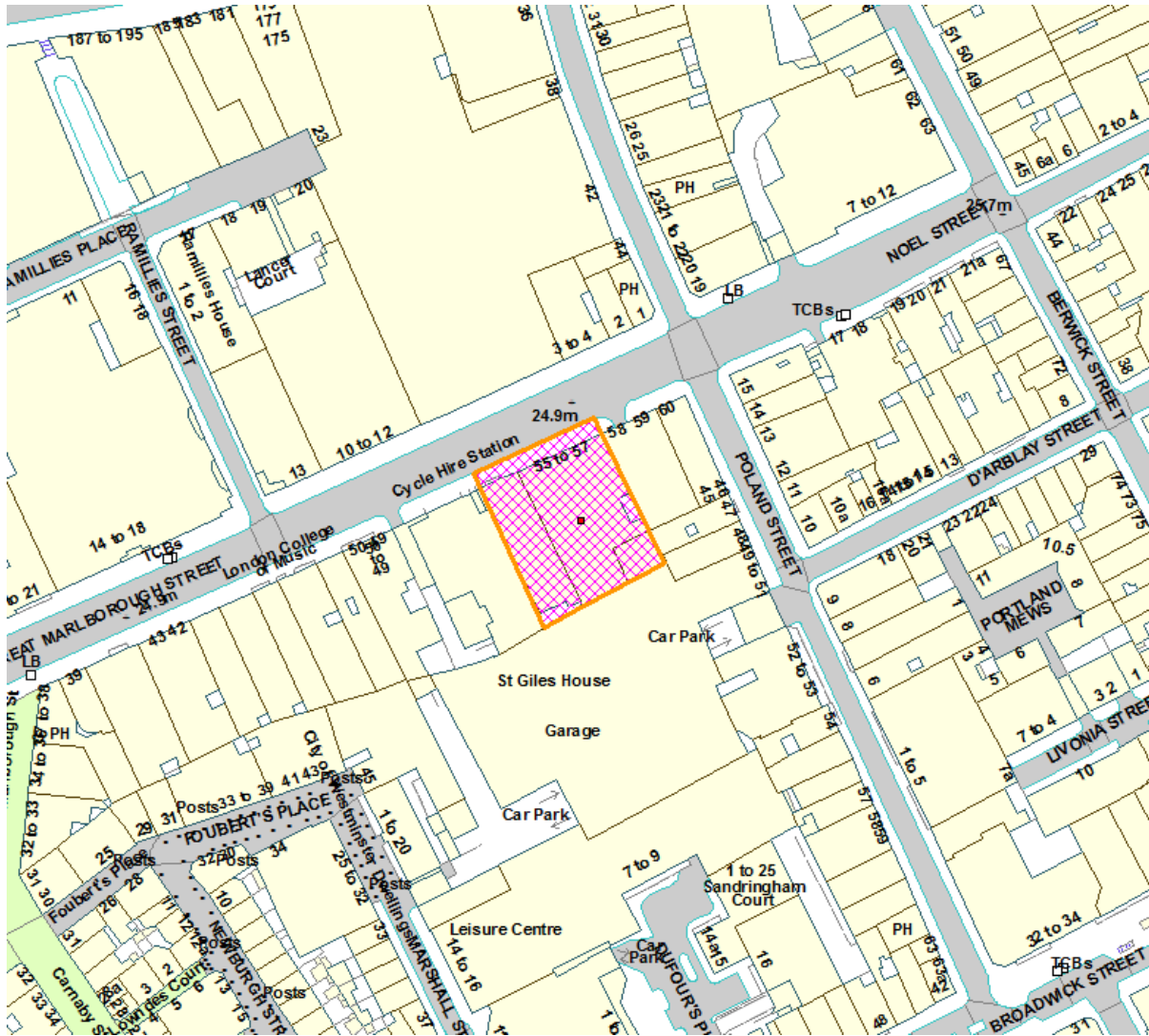
2. SUMMARY

This scheme which seeks permission demolish Nos. 54-57 Great Marlborough Street behind their retained facades and for the erection of a new eight storey building (with single basement) for use as retail, restaurant and residential accommodation was presented to Committee on 17 November 2015. Committee resolved to grant conditional permission subject to the completion of a S106 agreement to secure a contribution towards affordable housing, submission of a Site Environmental Management Plan with an annual cap of £33,000 and lifetime car club membership for the occupants of each new flat. Prior to completing the legal agreement, a letter from one of the occupants of St Giles House (the adjoining site) was received, stating that planning permission should not be granted as they had produced their own daylight study which showed different impacts on their adjoining property compared to the daylight report submitted by the applicant. A further letter sent on behalf of the adjoining sound recording studio has also been received that submits that the noise and vibration impacts of the development upon the adjoining business has not been robustly assessed. The application is therefore being reported back to Committee for reconsideration of these issues.

With regard to the daylight losses, the report submitted by the occupier of Flat 32 (by UBS) submits that the existing No Sky Line (NSL) contours have been significantly underestimated. The applicant has recalculated NSL losses using the information submitted by UBS and concludes that No Sky Line losses would be less than 20% and in compliance with BRE guidance.

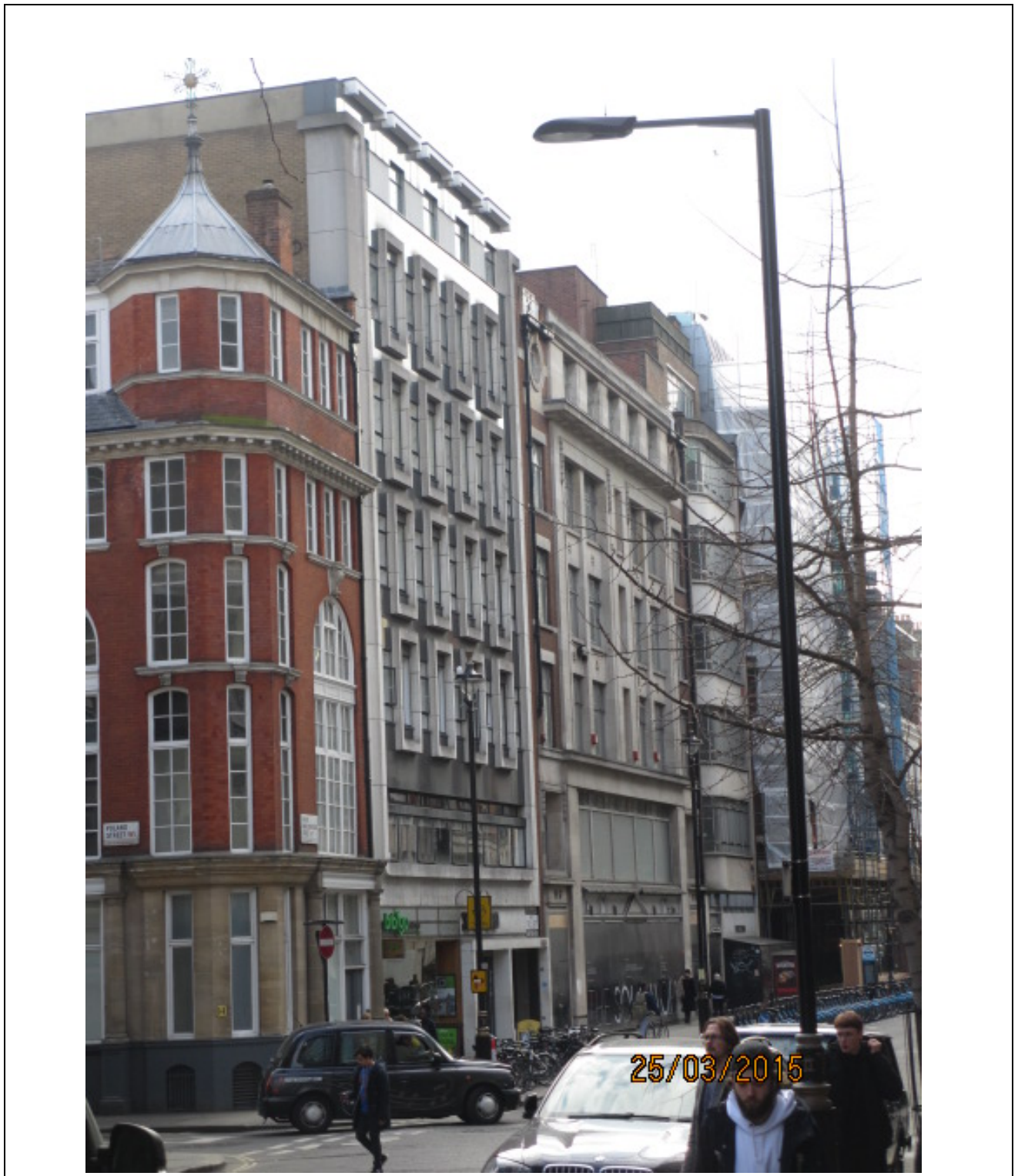
With regard to noise during construction, this issue was fully set out in the original report to Committee (appended to this report) and is discussed again in further detail in the main body of this report. Approval is recommended subject to conditions and a S106 agreement to secure a contribution towards affordable housing, submission of a Site Environmental Management Plan with an annual cap of £33,000 and lifetime car club membership for the occupants of each new flat.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

ADDITIONAL AND LATE REPRESENTATIONS RECEIVED AFTER THE PREVIOUS REPORT WAS WRITTEN (BUT REPORTED VERBALLY AT THE COMMITTEE ON 17 NOVEMBER 2015)

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

One letter of objection on the grounds that the proposal is detrimental to the conservation area, would result in loss of office space and is contrary to planning policy that resists office to residential.

ADDITIONAL REPRESENTATIONS RECEIVED AFTER THE APPLICATION WAS CONSIDERED AT THE COMMITTEE ON 17 NOVEMBER 2015

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

Two letters of objections on the following grounds:

- * Daylight and Sunlight reports underestimate the likely loss of light
- * Impact of noise and vibration impacts of the development on the adjoining sound recording studio have not been robustly assessed.

6. BACKGROUND INFORMATION

This application for the demolition of 54-57 Great Marlborough Street behind their retained facades and for the erection of a new eight storey building (with single basement) for use as retail, restaurant and residential accommodation was presented to Committee on 17 November 2015. Committee resolved to grant conditional permission subject to the completion of a S106 agreement to secure a contribution towards affordable housing, submission of a Site Environmental Management Plan with an annual cap of £33,000 and lifetime car club membership for the occupants of each new flat.

Prior to completing the legal agreement, a letter from one of the occupiers of St Giles House (the adjoining site) was received, stating that planning permission should not be granted as they had produced their own daylight study which showed different impacts on their adjoining property compared to the daylight report submitted by the applicant. A further letter sent on behalf of the adjoining sound recording studio has also been received that submits that the noise and vibration impacts of the development upon the adjoining business has not been robustly assessed. The application is therefore being reported back to Committee for reconsideration of these issues.

These issues are set out in further detail below.

7. DETAILED CONSIDERATIONS

Sunlight/Daylight

When the application was last considered, the report submitted with the application by Point 2 Surveyors indicated that only two windows would have been adversely affected

by more than the 20% recommended in the BRE guidelines. The windows were both at fourth floor level within the adjoining St Giles House. One window was shown to experience a 40.6% loss in No Sky Line (NSL) and the other was shown to experience a loss of 65.1% in NSL. Good levels of VSC however of between 22.78 and 27.46% were to be retained. The original report to Sub-Committee, appended to this report, states that whilst these losses would have been over 20%, as the windows affected serve bedroom accommodation (which the BRE guidelines state as being less important in relation to daylighting distribution than main living rooms), and are served by north facing windows which are particularly small compared to the size of the rooms they serve, it was considered that within this urban built-up location, the levels of daylighting retained were acceptable and the impact was not considered sufficient to justify a refusal. Given this, it was considered unreasonable to refuse this scheme given the losses involved.

Since the application was last considered the developer of the adjoining site has produced their own sunlight/daylight study by UBS which shows that these bedrooms would experience losses of between 57% and 59% NSL. UBS believe that this is because existing NSL levels have been inaccurately plotted and have re-calculated NSL values using a light meter.

The applicant's daylight consultants argue that a light meter is not the appropriate method of calculating NSL values as the NSL contour is merely a point at which the sky can or cannot be seen. Point 2 also argue that use of a light meter is not referred to in current BRE guidance but nevertheless have re-calculated NSL losses using the information submitted by UBS. Point 2 contend that if existing NSL levels penetrate deeper into a room (as suggested by UBS), then the proposed NSL results would also need to be altered proportionally in accordance with this. Using the existing NSL values provided by UBS, Point 2 subsequently concludes that No Sky Line losses would be less than 20% and in compliance with BRE guidance.

The NSL values used by the applicant's daylight consultants are almost identical to those that have been calculated in the adjoining Poland Street hotel scheme (by the same daylight consultants) which has been subject to an on-site assessment. This application is considered elsewhere on this agenda.

The residents of Flat 32 have been re-consulted following receipt of the revised sunlight/daylight study and any comments will be reported verbally at the Committee.

Noise disturbance during the course of construction

A further objection has been received on behalf of the operators of the post-production sound studios in 51-53 Great Marlborough Street on noise grounds, primarily on the basis that the extent of demolition and construction works would result in significant disturbance in respect of noise, vibration and dust generation affecting the objectors' ability to carry out their business. The sound recording studio has specifically requested clarification on the following points:

1. Whether the Council accepted the Environmental Sciences Officer's view that the proposed vibration levels (within the submitted CMP) would not be acceptable for a noise sensitive business; and

2. If so, whether the Council decided that the SEMP could in practice achieve lower levels of noise and vibration that would be sufficient to protect GCRS and upon what evidence it reached that conclusion.

On point 1, the original report to committee sets out that *“The Environmental Sciences Officer has advised that whilst the proposed vibration level are **not appropriate** for a noise sensitive business, **lower levels will be imposed through the SEMP.**”*

On Point 2, officers are of the view that Environmental Sciences have sufficient recourse through the S61 (Control of Pollution Act) and SEMP process to ensure that appropriate levels will be met and that the developer will be required to reduce noise and vibration impact to reasonable levels taking into consideration Best Practicable Means, and this may include specific action in relation to GCRS. It is likely such mitigation could be delivered through a number of mitigation methods; not just by controlling noise and vibration absolute levels e.g. working times, ‘quiet periods’, stakeholder engagement, working time agreements amongst other methods.

The letter from GCRS also refers to the matter of the issue of the ‘Soundproofing’ of their premises, and that the reference to this within the committee report has misled the committee. The original committee report does draw a conclusion that, as a result of the likely GCRS sound proofing, the internal noise levels within GCRS will be lower than what will be expected within the adjacent residential. As the Council’s main remit under NPPF is to protect residential and other noise-sensitive receptors (schools, hospitals etc...) and that this relates to “Health and Quality of Life” it is expected that GCRS will receive a better internal noise level than the residential dwellings beside it and in terms of noise levels the Council will find it very difficult to go beyond the UK standards and typical levels associated with protection of “Health and Quality of Life”. However, as stated above, this is not to say that the possible impact upon GCRS is ignored and the Council will seek reasonable mitigation for noise sensitive businesses taking into consideration Best Practicable Means.

It is considered that the approach set out in the original committee report is robust, and subject to the requirement for an SEMP and with the applicant’s commitment to entering into a S61 agreement, it is considered that the issue of construction noise has been satisfactorily addressed.

8. BACKGROUND PAPERS

1. Application form and letter from applicant’s daylight and sunlight surveyors dated 5 February 2016
2. Letters from occupier of 51-53 Great Marlborough Street dated 17 November and 17 December 2015
3. Letter from occupier of Apt 32, 16, Marshall Street, dated 25 January 2016

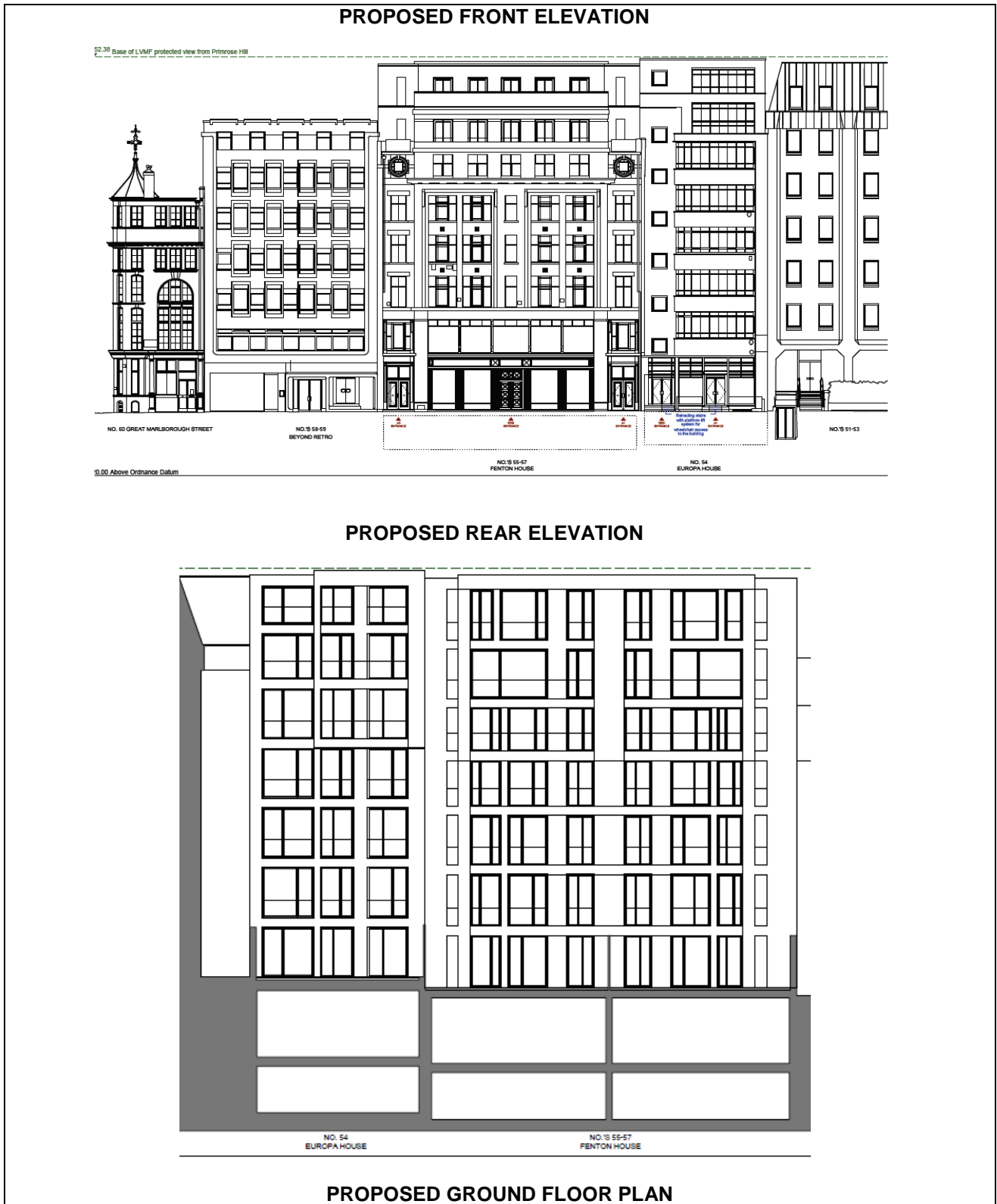
Selected relevant drawings

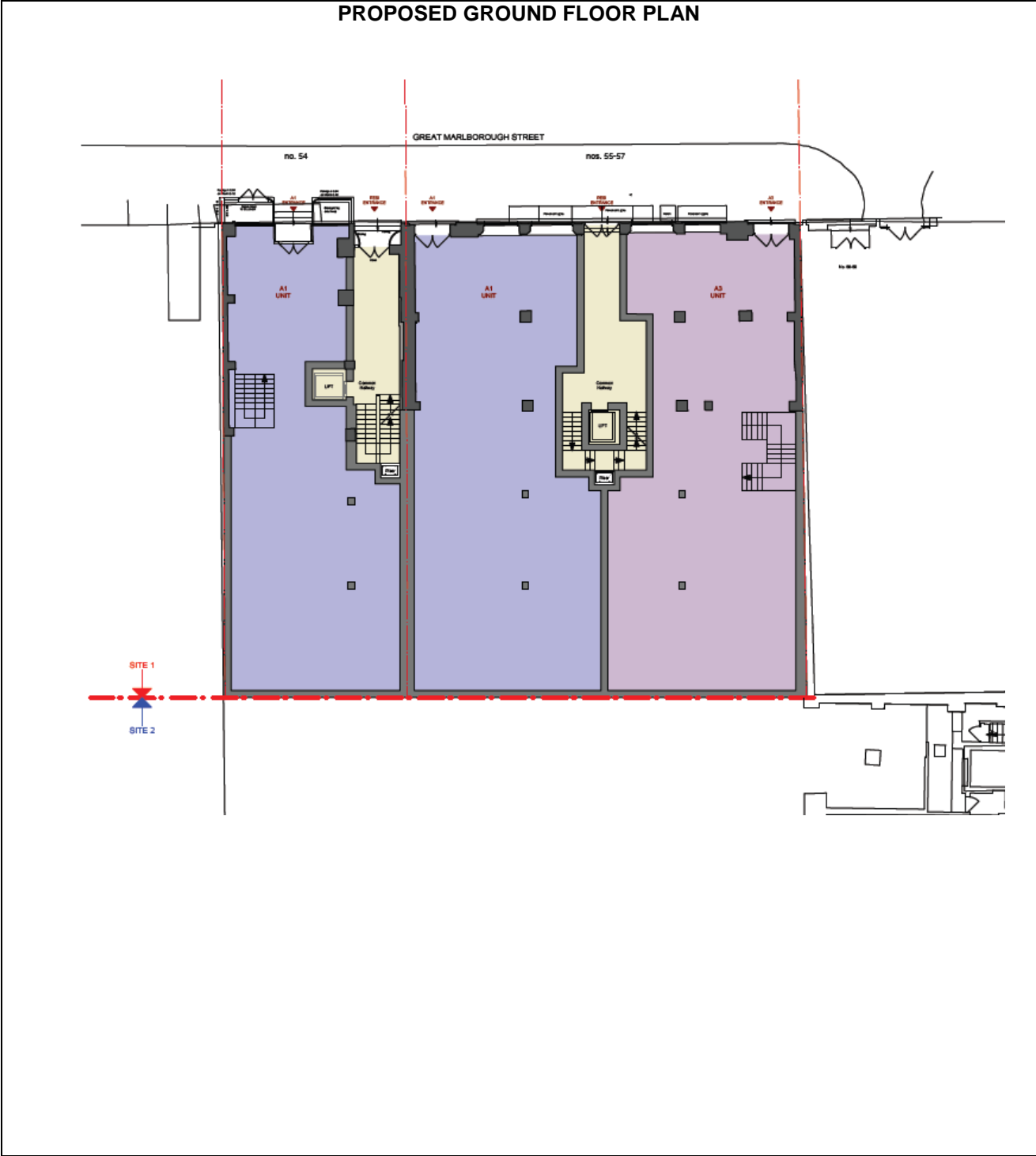
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council’s website)

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6

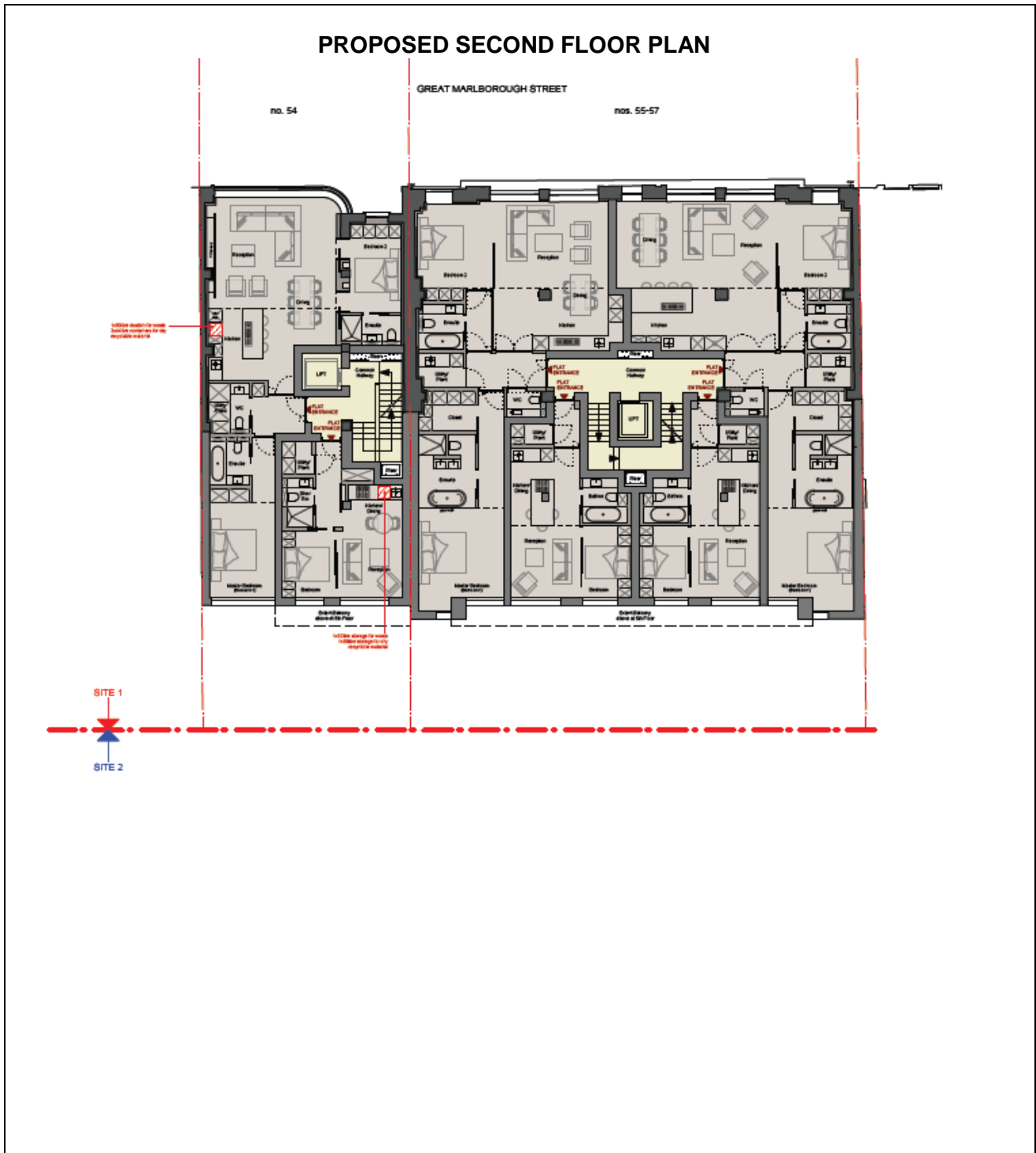
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT JOSEPHINE PALMER
ON 020 7641 2723 OR BY EMAIL AT CentralPlanningTeam@westminster.gov.uk

9. KEY DRAWINGS





PROPOSED SECOND FLOOR PLAN



DRAFT DECISION LETTER

Address: Fenton House, 55-57 Great Marlborough Street, London, W1F 7JX,

Proposal: Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual/alternative retail or restaurant (Class A1/A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (Site includes 54 Great Marlborough Street)

Reference: 15/03432/FULL

Plan Nos: DM.001, 002, 003, 004, 005, 006, 007, 008, 009, 201, 202, 203; PR.001, GA.100, PR.002, 003, 004, 005, 006, 007, 008, 009, 010 Rev B, 011 Rev B, 201.1 Rev A, 201.2, 202.1, 202.2, 203, 204, 205.1, 300.1, 300.2, 301.1, 301.2

Case Officer: Josephine 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 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 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)

- 4 You must apply to us for approval of detailed drawings of the following parts of the development:

1. Typical details of extensions, 2. New windows , 3. Alterations to street entrances,

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 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)

- 5 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)

- 6 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 facing the street unless they are shown on drawings we have approved. (C26MA)

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)

- 7 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on any of the terraces on the Great Marlborough facade of the building. (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 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)

- 8 (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.

- 9 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.

- 10 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.

- 11 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.

- 12 The three and four bedroom residential units shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides at least three separate rooms capable of being occupied as bedrooms.

Reason:

To make sure that the development is completed and used as agreed, and to make sure that it meets H5 of our Unitary Development Plan that we adopted in January 2007. (R07AB)

- 13 You must apply to us for approval of a revised basement plan showing a minimum of 45 cycle parking spaces. The cycle spaces must be provided prior to occupation and thereafter 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.

- 14 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number GA.100. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

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 and a bio-diversity management plan in relation to the living roof hereby approved 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 protect and 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. (R43CB)

- 16 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., , photovoltaic panels at main roof level, , 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)

- 17 You must apply to us for approval of details of a servicing management plan for the retail units and dual use retail/restaurant use (if implemented) identifying the process, storage locations, scheduling of deliveries and staffing for servicing purposes. The uses must not commence until we have approved what you have sent us.

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 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it) the Class A1 retail accommodation hereby approved shall not be used as a food retail supermarket, outlet or similar.

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)

- 19 In the event that the dual use unit is used for Class A3 restaurant purposes, no more than 15% of the floor area shall consist of a bar or bar seating. You must use the bar to serve restaurant customers only, before, during or after their meals.

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)

- 20 In the event that the dual use unit is used for Class A3 restaurant purposes, you must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours 08.00 to midnight Monday to Sunday.

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)

- 21 In the event that the dual use unit is used for Class A3 restaurant purposes, you must provide detailed drawings showing a lobby with a self-closing entrance door. These details must be provided before the restaurant use commences and the approved lobby and doors shall installed and thereafter be permanently retained for as long as 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)

- 22 You must apply to us for approval of details of the following parts of the development - the treatment of the boundaries to the rear of the site, including any fencing. You must not start any work on these parts of the development until we have approved what you have sent us. You

must then carry out the work according to these details. (C26DB)

Reason:

To 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. (R21AC)

- 23 In the event that the dual use unit is used for Class A3 restaurant purposes, you must not allow more than 125 customers into the restaurant at any one time (including any customers waiting at a bar, if provided).

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)

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 to contact Richard McEllistrum (Transport for London) on 0203 054 8966 to discuss whether construction works require the suspension of the Cycle Hire Station on Great Marlborough Street. You will need the consent of Transport for London for such a suspension.
- 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 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)
- 5 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 6 Conditions 8_9 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)
- 7 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)
- 8 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)
- 9 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 an affordable housing contribution, compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £33,000, Lifetime car club membership (25 years) for the occupants of each new dwelling.

, 1. Application form , 2. Letter from Historic England dated 21 May 2015, 3. Email from Historic England (Archaeology) dated 1 June 2015 , 4. Email from Transport for London dated 7 May 2015, 5. Email from Crossrail dated 18 May 2015, 6. Email from the Soho Society dated 12 May 2015, 7. Memorandum from Highways Planning Manager dated 22 May 2015, 8. Memoranda from Environmental Health dated 1 June 2015 and email dated 2 November 2015, 9. Letters on behalf of the occupiers of 51-53 Great Marlborough Street dated 26 May, 8 and 30 September and 22 October 2015, 10. Letter from Marshall Street Regeneration Ltd, 18 Marshall Street dated 19 June 2015, 11. Letter on behalf of the occupier of 51 Great Marlborough Street dated 3 June 2015, ,

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.

MINUTES 17 NOVEMBER 2015

1 FENTON HOUSE, 54 & 57 GREAT MARLBOROUGH STREET, W1

Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual / alternative retail or restaurant (Class A1 / A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (SITE INCLUDES 54 GREAT MARLBOROUGH STREET) and should include 57 Great Marlborough Street.

Late representations from Turleys, DP9 and Carole Humphreys were circulated.

RESOLVED:

1. That conditional permission be granted subject to a S106 legal agreement to secure:
 - i) a contribution of £4,499,000 towards the City Council's affordable housing fund (index linked and payable upon commencement of development)
 - ii) compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £33,000, the SEMP to avoid a negative impact on the recording studio.
 - iii) Lifetime car club membership (25 years) for the occupants of each new dwelling.
 - iv) monitoring costs
2. That 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 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

Item No.
1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 17 November 2015	Classification For General Release	
Report of Director of Planning		Wards involved West End	
Subject of Report	Fenton House, 55-57 Great Marlborough Street, London, W1F 7JX		
Proposal	Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual/alternative retail or restaurant (Class A1/A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (Site includes 54 Great Marlborough Street)		
Agent	Turley		
On behalf of	Marlborough House Ltd		
Registered Number	15/03432/FULL	TP / PP No	TP/10098/8908/ 12038
Date of Application	20.04.2015	Date amended/ completed	20.04.2015
Category of Application	Major		
Historic Building Grade	Unlisted		
Conservation Area	Soho		
Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Within Central Activities Zone		
Stress Area	Within Stress Area		
Current Licensing Position	Not Applicable		

1. RECOMMENDATION

Refuse permission - affordable housing grounds.





**FENTON HOUSE, 55-57 GREAT MARLBOROUGH STREET, W1
(includes 54 GREAT MARLBOROUGH STREET)**

2. SUMMARY

Permission is sought to demolish Nos. 54-57 Great Marlborough Street behind their retained facades and for the erection of a new eight storey building (with single basement) for use as retail, restaurant and residential accommodation. In 2012 permission was granted for the demolition of these buildings and the erection of a seven storey building for office, retail and restaurant purposes. That scheme also involved buildings at the rear on Poland Street but these buildings no longer form part of the current proposals.

The key issues are:

- The scale, massing and detailed design of the new buildings;
- The acceptability of the proposal in land use terms.
- The introduction of a new restaurant within the West End Stress Area;
- The impact on neighbours in terms of daylight, overlooking and sense of enclosure.

Objections have been received on land use (specifically the loss of showroom, light industrial and retail uses, the lack of on-site affordable housing and the introduction of a new restaurant use), design and amenity grounds.

The proposed development provides a mixed use development of good architectural quality that will contribute to the character and function of the area. However, the proposed financial contribution in lieu of affordable housing on site is inadequate, and is not supported by the City Council's independent viability consultants. The application is therefore recommended for refusal on these grounds.

3. CONSULTATIONS

HISTORIC ENGLAND

Do not wish to offer any comments.

HISTORIC ENGLAND (ARCHAEOLOGY)

No objections raised.

SOHO SOCIETY

Objection - loss of office space and changing policy position noted. Development provides no on-site affordable housing despite retaining two building cores. Object also to a large new A3 use in the West End Stress Area because of the threat to residential amenity, including the prospective residents of the proposed development.

CROSSRAIL

No objections raised.

TRANSPORT FOR LONDON

Requests that consultation is carried out with TfL if the Cycle Hire station on Great Marlborough Street is to be affected during construction.

ENVIRONMENTAL HEALTH

No objection subject to conditions relating to plant operation and noise levels within the new flats, including a requirement for supplementary noise reports.

Separate objection to the creation of remote rooms.

HIGHWAYS PLANNING MANAGER

Recommends refusal on the grounds of lack of car parking.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 227; Total No. of Replies: 6 (from three respondents)

Objections received on the following grounds:

Design

- Proposal seeks the demolition of unlisted buildings of merit.
- The Council's emerging office policy cannot justify or support the demolition of the buildings for a residential use.
- The previous permission was considered to bring a number of economic benefits to justify the harm caused by the demolition of the buildings.
- The additional two storeys to 55-57 and the additional storey to 54 is out of keeping with the scale and massing, character and scale of buildings within the vicinity.

Land Use

- Loss of offices and light industrial uses and impact on the Creative Industries Special Policy Area.
- The redevelopment of the Poland Street buildings at the rear of the site do not form part of this application and should not be used to off-set the loss of office space on this site.
- The application should be refused in accordance with paragraph 14 of the NPPF because the harm arising from the loss of office space demonstrably outweighs any benefit of granting planning permission.

Amenity

- Daylight report is not based on figures previously agreed for neighbouring developments; no layout drawings and NSL contours for rooms assessed and not possible to ascertain whether results are based on correct details.
- Daylight report only assesses the impacts of loss of light on residential buildings and not neighbouring commercial buildings.
- Loss of light to adjoining terraces and recording studios.
- Loss of rights to light.
- Proposal should not take into account any future increase in height of the Poland Street flank wall (Site 2) as no details have been submitted for this part of the site.
- Noise impact during construction on neighbouring recording studios.
- The Addendum Noise Report identifies that the construction of the proposed development would have a significant adverse impact on the use of the adjoining sound recording studios.
- Noise levels during construction should accord with the levels agreed during construction of Crossrail

Other Issues

- Insufficient detail has been submitted to assess the impact of the height of boundary walls/screens on the adjoining building. Details of this should be reserved by condition.
- The developer should adopt 'Considerate Contractor' guidelines.

ADVERTISEMENT/SITE NOTICE: Yes

4. BACKGROUND INFORMATION

4.1 The Application Site

The application site comprises two buildings, Nos. 54 and 55-57 Great Marlborough Street which are located on the south side of Great Marlborough Street close to the junction with Poland Street. Both buildings are identified as unlisted buildings of merit within the Soho Conservation Area. No. 54, known as Europa House, is seven storeys in height, with a recessed plant room whilst 55-57 (Fenton House) is six storeys in height, also with a recessed plant room. Both buildings are currently vacant. No.54 was formerly in use as showroom accommodation at basement and ground floor levels and office accommodation above and No. 55-57 was in retail use at basement and ground floor levels with office and light industrial (sound recording and post-production studio uses) on the upper levels.

The surrounding area has a mixture of mainly commercial uses, although the rear of the site lies close to the recently redeveloped Soho car park, now known as the Marshall Street development, a residential redevelopment scheme. There are also other residential properties at 1, 2 and 58-59 Great Marlborough Street and 9 Poland Street. In 2014 permission was granted for four flats at 3-4 Great Marlborough Street and permission has also recently been granted, subject to the completion of a S106 legal agreement, for the residential conversion of 52-53 Poland Street.

Immediately to the rear of the site lies 49-50 Poland Street, a six storey office building, and an application has recently been submitted for the demolition of this building for hotel use.

The site is within the Core Central Activities Zone. It is also located within the Creative Industries Special Policy Area (SPA) as defined in the Unitary Development Plan (UDP). This SPA designation is not included within the City Plan.

4.2 Relevant History

54 Great Marlborough Street

4.06.1951 – planning permission granted for the erection of a new building for use as shop, workrooms and offices.

55-57 Great Marlborough Street

03.09.1980 – planning permission granted for the use of ground floor as shop, showrooms, storage and ancillary offices.

14.10.1983 – planning permission granted for the use of basement and ground floors as emergency medical and dental clinic.

2.10.1987 – planning permission granted for the use of first floor as sound recording studio (subject to a condition limiting the use to sound recording studio purposes only and to a personal condition for the Bridge Facilities Company).

30.03.1988 – planning permission granted for the use of fifth floor as office accommodation (Class B1).

54-57 Great Marlborough Street, 47 and 49-50 Poland Street

In February 2012 permission was granted for the demolition and redevelopment of 54 and 55-57 Great Marlborough Street to provide a seven storey building for offices, retail and restaurant purposes at rear ground floor level; new facade to upper floors of 49-50 Poland Street and use of first to fourth floors for offices, fifth floor as residential and erection of new

sixth floor for residential purposes and use of rear ground floor for studio/workshop use; refurbishment of 47 Poland Street for use as retail at basement and ground floor level and residential on the upper floors.

That permission was subject to a legal challenge, subsequently dismissed, and as a result remains extant until February 2016.

5. THE PROPOSAL

The proposals seek the demolition of the existing buildings on Great Marlborough Street, behind their retained facades, and the erection of a new eight storey building (with single basement) for use as retail, restaurant and residential accommodation. Two retail units are proposed at ground and basement floors with a single restaurant also at these levels. A mix of 27 one, two, three and four-bedroom flats is proposed over the upper floors with rear terraces at first floor and balconies at fifth and sixth floors.

6. DETAILED CONSIDERATIONS

6.1 Land Use

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

Use	Existing (m2)	Proposed (m2)	Change (+ or - m2)
Class B1	2,975	0	-2,975
Nil use	344	0	-344
Showroom	466	0	-466
Residential	0	3,762	+3,762
Retail (Class A1)	713	586 (if the A3 use is implemented)	-127
		1,085 (if all 3 units are occupied for A1 retail purposes)	+372
Restaurant (Class A3)	0	499	+499
Total (m2 gross)	4,498	4,847	+349

6.1.1 Loss of Offices

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 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.

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, 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.

6.1.2 Retail Use

Three retail units are proposed at basement and ground floor levels onto Great Marlborough Street. If all three units were to be occupied for Class A1 retail purposes the proposals would provide a net increase of 372m² of retail floorspace. This is welcomed. However, the applicant has applied for the dual/alternative use of the one of these units for restaurant purposes and therefore potentially only two of the units would be occupied for retail purposes. In this scenario, only 586m² of retail floorspace would be provided representing a reduction of 127m² compared to that existing.

Both the UDP and City Plan seek to protect the retail role and function of CAZ. Policy SS4 states that 'development schemes should provide at least the same amount of retail floorspace as was there before, and should provide for at least the same amount of A1 use as was there before. The size and type of units must be appropriate to the character and function of the street.'

Whilst the loss of retail floorspace would be strictly contrary to Policy SS4 the new retail floorspace would be better configured than the existing retail unit on the site. The existing accommodation is a relatively long linear ground floor retail space which contains a large amount of storage at basement level. The newly configured units would, however, be superior in qualitative terms consisting of more open floorplates. In addition, there will be an increase to the amount of retail frontage to Great Marlborough Street and an overall net increase of two retail units (as currently only one retail unit exists at 55-57 Great Marlborough Street exists).

6.1.3 Loss of Showroom Use

The proposals also involve the loss of 466m² of showroom accommodation (located at basement and ground floor levels at 54 Great Marlborough Street). Policy COM12 of the UDP states that, outside the East Marylebone Special Policy Area the loss of wholesale showrooms at ground floor will not normally be granted where the showroom contributes to the character and function of the area. The Policy further states that 'in other cases, planning permission will be granted where the proposed use is as a retail shop, or a use appropriate for a street level location, generating passing trade and providing a direct service to customers, if the proposed use is within an area which would benefit from its introduction.' Whilst some 240m² of showroom use is being lost at ground floor level, the area is not one that is characterised by other showroom uses, and the former occupiers of the showroom, Steilmann, have now vacated No.54 and are now understood to operate from a property in Bolsover Street. Given that the proposals relate to an isolated unit, it is not considered that the showroom use makes a significant contribution to the character and function of the area.

In these circumstances, and given that the entire ground floor of No.54 is to be replaced with an 'active' retail frontage, it is considered that the loss of the former showroom use is acceptable in this instance.

6.1.4 Restaurant Use

The proposal also involves the potential introduction of a new restaurant providing 499m² of entertainment floorspace.

UDP Policy TACE 9 states that within Stress Areas permission will only be granted for restaurant uses (between 150m² and 500m²) where the City Council is satisfied that the proposed development has:

1. No adverse effect, (nor, taking into account the number and distribution of entertainment uses in the vicinity, any cumulatively adverse effect) upon residential amenity or local environmental quality as a result of:
 - a) noise
 - b) vibration
 - c) smells
 - d) increased late night activity, or
 - e) increased parking and traffic; and
2. No adverse effect on the character or function of its area.

Policy S24 is similarly worded.

The site is within a predominantly commercial location close to Oxford Circus and the major shopping areas of Regent Street and Oxford Street. There is some residential accommodation in the vicinity, the nearest being on the upper floors of the adjacent building at 58-59 Great Marlborough Street and opposite the site at 1 and 2 Great Marlborough Street. Permission has been granted for the use of 3-4 Great Marlborough Street as four residential flats, and this permission is currently being implemented.

The Soho Society has objected to the new restaurant floorspace commenting that a large entertainment space within the West End Stress Area would have an adverse impact on residential amenity.

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, had the application been considered acceptable, conditions would have been used to control the opening times and activity to limit the impact. Conditions could have been imposed to ensure that the use would essentially be a sit-down restaurant (limited to 125 covers) with any ancillary bar limited to a small part of the premises (i.e. 15%) and these bars could be used only by diners before and after meals. The hours of opening would also have been restricted to the terminal hour of midnight with breakfast opening at 08.00hrs. The main entrance doors at ground floor level would also have been required to be self-closing within an enclosed lobby to minimise noise escape.

Notwithstanding the size of the premises, the number of covers is relatively modest and in this location, and given the proposed hours of use, it is not considered that the proposals would have a material impact on the living conditions of neighbouring residents nor local environmental quality. In these circumstances, the objection from the Soho Society cannot be supported.

A full height duct is proposed to service the kitchen area, which would be routed through the building, which Environmental Health consider acceptable, and is discussed in further detail below.

It is accepted that the proposed restaurant use will help to enliven the street frontage which, along this part of Great Marlborough Street, which is characterised by a number of non-public uses. In addition, the introduction of a new restaurant facility on the fringes of London's prime shopping streets, would serve to support the wider retail function of the area as set out in Policy S7 of the City Plan. Although there are other restaurants in the vicinity, it is not considered that the proposal will create an adverse cumulative impact, given the dispersed nature of these premises along the street

6.1.5 Mixed Use Policy

Given that there would be an overall net reduction in commercial floorspace on this site, the Council's mixed use policies do not apply in this instance. However, the applicant has requested that the increase of residential floorspace on this site (3,762m²) is used as a 'credit' for the recent hotel application submitted on the rear part of the site (47-50 Poland Street).

However, there is no policy basis to accept this and had the application been considered acceptable Committee's views would have been sought on this issue.

6.1.6 Light Industrial Use

Concerns have been raised on the grounds of loss of Soho's traditional light industries, including sound recording and post-production studios, a number of which previously operated from the Great Marlborough Street buildings.

The site lies within the Creative Industries Special Policy Area (CISPA) within the UDP wherein light industrial uses are protected. Policy COM8 states that 'proposals for redevelopment, rehabilitation or other development affecting premises containing light industrial floorspace will not be granted planning permission where:

1. the site is located within the Creative Industries Special Policy Area
2. this would result in the loss of industrial activities which contribute to the character and function of the area.

Although the site is located within the CISPA as defined in the UDP, this SPA designation has not been included within the City Plan. The City Plan recognises that protecting and enhancing the Creative Industries is a priority, however, it also acknowledges that such uses do not fall within a specific use class and they therefore require a customised approach. Further, the City Plan defines Creative Industries as both light industrial (Class B1(c)) and Creative Services (architects, advertising agencies, graphic design and media design) (Class B1) and recognises that a significant amount (63%) of Creative Industries operate from B1 use class units. The relevant office policy (Policy S20) states that new office development will be directed to the Core Central Activities Zone and refers to, where appropriate, the provision of a range of business floorspace including workshops and studios, however, it does not specifically protect light industrial uses.

The buildings are now vacant. However, there were a number of sound recording and production uses within 55-57 Great Marlborough Street, but only the first floor of this building was subject to a restrictive condition that protected those former uses (some 344m²). This floor is subject to a personal planning permission to a sound recording studio use, The Bridge, but they have vacated the premises. As such, the first floor is considered to have a 'nil' planning use and again no protected light industrial use would be lost from this building. As such there is no protected light industrial floorspace on the site to which Policy COM 8 would apply. In these circumstances, objections to the loss of the light industrial use/floorspace cannot be supported.

6.1.7 Proposed Residential

The residential element of the scheme is contained within the upper floors of the buildings accessed from two entrances from Great Marlborough Street. In total 27 flats are provided (nine x 1-bedroom, nine x 2-bedroom flats, seven x 3-bedroom and two x 4-bedroom flats), resulting in a mix of unit sizes complying with the 33% threshold of the UDP. The proposed flats are, with the exception of the four bed duplex apartments, 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.

The new flats would generally provide a good standard of accommodation in terms of unit size and layout and some would benefit from private amenity space in the form of balconies or larger terraces. All the units meet the space standards set out within the London Plan. The majority of the flats (18) are dual aspect however all the 1-bedroom flats are single aspect. These flats are however south-east facing and would benefit from good levels of lighting. Each flat would also be provided with a heat recovery unit to provide fresh air and ensure that each apartment would not become overheated.

All residential units are compliant to lifetime homes standards in line with London Plan policy, and all are wheelchair accessible, provided through a level entrance into the residential building with lift access to all floors. This exceeds the 10% of units policy requirement.

Policy ENV 6 of the UDP states that the City Council will require residential developments to provide adequate protection from existing background noise. The need to insulate the new residential properties from existing background noise to the daytime and night time levels required by ENV 6 has been identified in the submitted Noise Assessment report. Environmental Health officers recommend that the City Council's standard internal noise conditions are imposed to ensure an adequate protection against external noise. The report also proposes mitigation measures including the upgrading of windows, installation of secondary glazing, and other measures in order to provide an acceptable residential environment. The applicant intends to provide an alternative source of ventilation to enable residents to close windows if they so chose. There is no objection to their provision, but had the application been recommended for approval, a condition would have been recommended requiring the residential windows to remain openable. Residents would then be able to decide for themselves whether to rely on the acoustic ventilation or to open their windows for ventilation.

Environmental Health officers also raise concerns relating to 'remote rooms' however this is a matter for the Building Regulations and the remote room escape issue can be addressed at the detailed design stage of the Building Regulations submission.

6.1.8 Affordable Housing

Policy S16 relates to affordable housing. It requires that proposals of 10 or more new residential units, or over 1000m² of additional residential floorspace will be expected to provide a proportion of the floorspace as affordable housing. The proportion required will be determined by the City Management Plan which is unlikely to be adopted for some time and the draft is not sufficiently advanced to use for development management purposes. In the meantime we have published an Interim Guidance Note, originally for the purposes of the public inquiry into the Core Strategy.

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 3,762m² (GEA). Applying the Interim Guidance, a scheme of this size is expected to provide 25% of its floorspace as affordable housing, which equates to 941m². If this were to be met by a financial payment in lieu, this would generate a requirement for £4,498,516.

The applicant has submitted a viability report in support of their proposals and initially argued that the scheme could not viably provide either on or off-site affordable housing or a payment in lieu. This report has been assessed by Cluttons, the consultants acting on behalf of the City Council. They agree that it would not be practical or viable to provide the affordable housing units on site, however, they conclude that the scheme can support the full PIL contribution of £4.49m whilst remaining viable. In this regard, the comments made by the Soho Society are not supported.

There has been considerable discussion between the two consultants and there remains a significant difference in opinion between the two parties most notably on values and fit-out costs. The applicant is convinced that the advice put forward by Cluttons is not supported by sufficient evidence, that the comparable scheme that Cluttons refer to has only been based on brochure photographs and that they have taken an unrealistic position on fit-out costs.

The applicant also believes that if the permission given to the DCLG to appeal against the High Court's decision on Vacant Building Credit (VBC) is successful and the VBC is reinstated, given that the buildings have been vacant for a number of years, it is unlikely that the uplift in floorspace would trigger any substantial payment in lieu. However, the VBC did not apply (as in this case) to buildings made vacant for the sole purpose of redevelopment and to buildings covered by an extant or recently expired planning permission for the same or substantially the same development. Whilst it is not clear at this stage whether the VBC will be re-introduced, there is no reason to believe that the previous exclusions would not apply.

The applicant is of the view that if the full payment in lieu is applicable, that the site may not be redeveloped and the benefits of their restoration will not be seen. They argue that they are able to offer a payment of £1.5m towards affordable housing, and this is made on the basis that they would not seek to review this offer under a Section 106 appeal procedure. They have also asked that a second opinion on Cluttons work is sought.

In defence of their advice, Cluttons have argued that their opinion is robust and their judgement is fair and based on current evidence and values. It is not considered that a review of their work is considered necessary.

Given the advice from the Council's valuation consultants, the applicant's offer of £1.5 million which is £2.99 million short of the full PIL contribution is not considered to be compliant with policy and therefore the application is recommended for refusal on affordable housing grounds.

6.2 Design and Conservation

The proposal retains the existing street facades, which make a positive contribution to the character and appearance of this part of the Soho Conservation Area. Although planning permission has been granted for the replacement of these buildings with a high quality modern building, the retention of the facades is welcomed and acceptable. Their retention will preserve and enhance the character and appearance of the conservation area. The existing windows will be replaced and the detailed design of the new windows should be controlled by condition.

The key issue is the proposed roof level extensions. Objections have been received with respect to the proposed height and bulk. At no. 54 it is proposed to replace the existing roof level plant areas with a new floor of accommodation, with only a slight increase in height and bulk. This is considered acceptable.

At No. 57 two extra floors are proposed. This is a significant increase in height and bulk but the floors are set back progressively from the street frontage to reduce their visual impact. The total height will be very similar to that proposed at No. 54, and slightly lower than the building to the west, No. 51-53.

The buildings to the east, at the junction with Poland Street, are lower and there is a longer view along Great Marlborough Street from the east where the proposed top floor of No. 57 will be visible above the roof line of these buildings. However, the visual impact is relatively small and not considered to be harmful to the conservation area. The new floors are design in a style compatible with the existing facades, which is appropriate and compliant with Policies DES 5 and DES 6.

The buildings lie within the London View Management Framework (LVMF) Protected Vista from Primrose Hill to the Palace of Westminster. However, the proposed extensions lie just below the level of the development plane of the strategic view (LVMF View 4 A.2). Therefore there is no impact on this view.

It is considered that given the above, the proposals are acceptable in terms of the impact on the appearance of the retained facades of the buildings, and on the character and appearance of the Soho Conservation Area. The proposals will not harm that character and appearance. They comply with the urban design and conservation policies set out in the Unitary Development Plan, including DES 1, DES 5, DES 6, DES 9 and DES 14.

6.3 Amenity

The closest affected residential properties are within the Marshall Street development to the immediate south of the site. There are also residential flats on the upper floors of 1 and 58-59 Great Marlborough Street. New flats are also under construction at 3-4 Great Marlborough Street.

6.3.1 Daylighting/Sunlighting

A daylight and sunlight report has been commissioned by Point 2 Surveyors which examines the impact on daylight and sunlight conditions to the adjacent residential properties. An addendum sunlight/daylight report has also been submitted which identifies the room layouts and windows within the neighbouring property.

6.3.1.i Daylighting

The report considers the Vertical Sky Component (VSC) and No Sky Line (NSL) in accordance with the BRE guidance. 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 advise that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The NSL assesses daylight distribution by measuring the area of the room from which there is visible sky. If there are reductions from existing NSL values of more than 20% then the change is likely to be noticeable.

The sunlight/daylight assessment submitted with the application demonstrates that five windows would be adversely affected by more than the 20% recommended in the BRE

guidelines. These are all windows at fourth floor level within the Marshall Street development. These windows would experience NSL losses of between 40.6% and 65.1%. They would however retain good levels of VSC of between 22.78 and 27.46%. Whilst these losses would be over 20%, the windows affected serve bedroom accommodation which the BRE guidelines state as being less important in relation to daylighting distribution than main living rooms. These are also north facing windows which are particularly small compared to the size of the rooms and as a result this does impact on light penetration and partially explains why it is only NSL that is adversely affected to these rooms. Larger windows would have allowed light to penetrate more deeply than the windows that have been installed. The losses would be similar to those deemed acceptable under the extant scheme for this site.

It is considered that within this urban built-up location, the levels of daylighting retained are acceptable and the impact is not considered sufficient to justify a refusal. Given this, it is considered unreasonable to refuse this scheme given the losses involved.

The residential accommodation at 1, 3-4 and 58-59 Great Marlborough Street all retain satisfactory daylighting levels.

6.3.1.ii Sunlighting

With regard to impact on levels of sunlight, the BRE guidance state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours (APSH), including at least 5% of annual winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former value. The habitable windows to the flats within the Marshall Street development facing the application site do not face within 90 degrees of due south and therefore are not required to be analysed for the purposes of loss of sunlight under the BRE guidelines.

With regard to the residential flats at 1, 3-4 and 58-59 Great Marlborough Street, one kitchen/living/dining area at first floor within 3-4 Great Marlborough Street would experience a 25% loss of winter sunlight hours (from 4% to 3%). This room would however retain excellent overall annual probable sunlight hours of 55% and it is not considered that the loss of winter hours would adversely impact on the quality of sunlight to this property to warrant refusal. All other windows within these properties will retain satisfactory values in terms of annual sunlight hours.

6.3.1.iii Other Adjoining Properties

The adjoining sound recording studios at 51-53 58-59 Great Marlborough Street has raised a number of concerns including the fact that the report fails to address the impacts on their property, the reduction in sunlight and daylight to their terraces and on the grounds that the proposal would impact on Rights to Light. Whilst the report has not addressed the impact of light issues on 51-53 Great Marlborough Street, the City Council's policy for protecting daylight and sunlight is primarily aimed at protecting the living standards of residents, and it is not considered that a reason for refusal could be sustained on the grounds of loss of light or increased sense of enclosure to existing commercial windows. The concerns raised on the grounds of loss of established Rights to Light is a private matter between the two parties.

6.3.2 Sense of Enclosure/Overlooking

Policy ENV13(F) states that where developments result in an unacceptable increase in the sense of enclosure, planning permission will be refused. Policy S29 states that the Council will resist proposals that result in an unacceptable loss of residential amenity.

The proposed new building where it fronts Great Marlborough Street will be approximately the same height as the existing plant room at 54 Great Marlborough Street but the new building

will project further at the rear than the existing buildings. Whilst the proposed new building would clearly be of a greater bulk than that existing, it is not considered that given the relationship with adjoining and adjacent residential flats that there would be any adverse increased sense of enclosure or increased overlooking.

6.3.3 Roof Terraces

Roof terraces are proposed at first floor and balconies at fifth and sixth floor levels. It is not considered that in these locations that use of these terraces and balconies by residents would result in unacceptable noise, disturbance or overlooking.

An adjoining office occupier at 51 Great Marlborough Street has raised concerns on the grounds that details of the boundary screens have not been provided and that this information is required to determine the impact on their property. The office occupier has windows at first floor level which currently face the rear wing of 54 Great Marlborough Street. These windows would face onto the terrace areas of the first floor flats and whilst no details of the boundary treatment have been submitted, it is not considered that the relationship with the adjoining office building would be materially different to the existing situation. Details of the boundary treatment would have been reserved by condition had the application been acceptable.

6.3.4 Noise

UDP Policies ENV6 and ENV7 deal with the subject of noise pollution and vibration both from new uses, internal activity and the operation of plant. The policies require the potential for any disturbance to be ameliorated through operational controls and/or attenuation measures. Policy S32 requires disturbance from noise and vibration to be contained.

Under Policy ENV6, new developments are expected to incorporate design features and operational measures to minimise and contain noise levels in order to protect noise sensitive properties. Where developments adjoin other buildings, the applicant is required to demonstrate that, as far as reasonably practicable, schemes will be designed and operated to prevent the transmission of audible noise or vibration through the fabric of the building. The application is supported by an acoustic report.

6.3.4.1 Noise from the development

6.3.4.1 Plant noise

Plant is proposed at basement level and within existing vaults for the new ground and basement floor commercial uses. To ventilate the restaurant at ground and basement floor level a full height duct is proposed rising internally through the building. The detailed design of the precise plant required and details of the duct have yet to be finalised. 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 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. On this basis, it is not considered that the plant operation would adversely affect the amenities of existing, or future, residents.

6.3.4.2 Noise disturbance during the course of construction

An objection has been received on behalf of the operators of the post-production sound studios in 51-53 Great Marlborough Street on noise grounds, primarily on the basis that the extent of demolition and construction works would result in significant disturbance in respect

of noise, vibration and dust generation affecting the objectors' ability to carry out their business. The objector refers to a policy requirement to reduce noise generated, so far as it is practical, to the Lowest Observed Adverse Effect Level (LOAEL) and notes that this requirement also applies during the construction phase.

National Planning Policy Guidance on Noise (6 March 2014), to which the objector refers, requires local planning authorities to take account of the acoustic environment and, in doing so, to consider whether or not a significant adverse effect, or an adverse effect, is likely to occur and whether or not a good standard of amenity can be achieved. The guidance refers to the Explanatory Note of the Noise Policy Statement for England, which states that the assessment of noise disturbance would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the Significant Observed Adverse Effect Level (SOAEL – the level above which significant adverse effects on health and quality of life occur) and the Lowest Observed Adverse Effect Level (LOAEL – the level above which adverse effects on health and quality of life can be detected) for the given situation. The Explanatory Note acknowledges that it is not possible to establish a single objective noise-based measure that defines SOAEL, as this is likely to be different for different noise sources, for different receptors and at different times.

The objector contends that, due to the nature of their business, LOAEL is the level at which they can operate without any material effect on their business, and that SOAEL is the level at which they could no longer use their studios. In the absence of any assessment of the construction or operational impacts in relation to LOAEL or SOAEL, the objector contends that it is not possible to ascertain whether or not the proposal complies with national planning policy. Furthermore, even if it can be demonstrated that the impact of the development process, or the completed development, falls between LOAEL and SOAEL, unless it has been shown that all possible mitigation will be employed to reduce the noise impact to the LOAEL, the development is contrary to national noise policy and should be refused.

However, the stated vision set down in the Explanatory Note is to “promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development”, with the aim to “avoid significant adverse effects on health and quality of life”, to “mitigate and minimise adverse impacts on health and quality of life” (and to, “where possible, contribute to the improvement on health and quality of life”). The Note addresses the impact of “neighbour noise” including construction noise, and human reactions to it including sleep deprivation etc. It is primarily weighted towards the consideration of the impact of noise upon residential amenity rather than with the impact of noise upon commercial activity.

Nevertheless, the application building is adjacent to a flat at sixth floor at 58-59 Great Marlborough Street and in close proximity to flats in Marshall Street. The Note sets out a requirement for developers to avoid significant adverse impact on health and quality of life and, where the impact lies somewhere between LOAEL and SOAEL, “to take all reasonable steps to mitigate and minimise adverse effects on health and quality of life whilst also taking into account the guiding principles of sustainable development”. However, the Note is clear that “this does not mean that such adverse effects cannot occur”. It also sets out the “need to integrate consideration of the economic and social benefit of the activity or policy under examination with proper consideration of the adverse environmental effects, including the impact of noise on health and quality of life. This should avoid noise being treated in isolation in any particular situation i.e. not focussing entirely on the noise impact without taking into account other related factors”.

The applicant's Acoustic Consultants have submitted an updated report dealing with the issue of construction noise. This report has been assessed by officers from the Council's

Environmental Sciences Team. The report refers to the noise impact in relation to the relevant British Standard, which is the code of practice for noise and vibration from open sites.

Limits have been suggested, in relation to noise from demolition and construction activities in accordance with British Standard Guidance. As these limits would be applicable to the flats immediately adjacent to the site, it is considered likely that the received noise level at the sound studio, which is likely to be soundproofed to protect the use from external noise sources, would be significantly lower. In addition, the applicant has confirmed that a commitment has been made to enter into a S61 agreement (Control of Pollution Act), ensuring that the quietest machinery is used, with silencers, and that acoustic screening is employed wherever possible. Noise and vibration monitoring will also take place continuously. The Environmental Sciences Officer has advised that whilst the proposed vibration levels are not appropriate for a noise sensitive business, lower levels will be imposed through the SEMP. The SEMP will also need to show how impacts on the studio are being reduced. The Council also expects the developer to do everything possible to engage and liaise with the neighbouring residents and businesses. Had the application been recommended for approval, a Site Environmental Management Plan (SEMP) would have been required which would have required the applicant to provide details of noise and vibration (including predictions, managing risks and reducing impacts) and details of monitoring (including details of receptors, threshold values and analysis methods, procedures for recording and reporting monitoring results and remedial action in the event of any non-compliance). In addition, the applicant has also agreed to an annual contribution of £33,000 towards the Council's Code of Construction Practice and towards monitoring of the SEMP. In these circumstances, it is considered that the issue of construction noise has been satisfactorily addressed.

6.4 Transportation/Parking

In terms of servicing, Policy TRANS 20 states that the City Council will require convenient access to premises for service vehicles and will normally require that "vehicular servicing needs of developments are fully accommodated on-site and off-street ... sufficient to cater for the size, type and frequency of arrival of the vehicles likely to be servicing the development". Policy CS41 is similarly worded.

The applicant has submitted a Transport Statement in support of the application. The applicant estimates that the proposed retail and restaurant elements of the development will be serviced on average by 10 service vehicles daily. The Highways Planning Manager believes these figures to be robust and considers that the impact of servicing from Great Marlborough Street will not be significantly worse than the existing situation. In order to ensure that servicing of the development is effectively managed, had approval been recommended a Servicing Management Plan would have been secured. The plan should identify process, storage locations, scheduling of deliveries and staffing arrangements, as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. The plan would clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants.

The Highways Planning Manager is concerned that the proposed shopping floorspace could be used as a foodstore or supermarket since such uses have particular servicing requirements dependent on deliveries by very large articulated vehicles which would be difficult to accommodate on street. These uses could be precluded by planning condition.

Parking/Cycle Storage

No off-street parking is provided on site. Policy TRANS23 (B) states that for new residential developments the City Council may take into account the additional demand for on-street parking arising from the development and will normally consider there to be a serious deficiency where additional demand would result in 80% or more of available legal on-street parking places being occupied during the day. In these circumstances the City Council would

normally seek to resist the proposal unless the potential impact of the additional cars being parked on the street in the vicinity can be mitigated.

The evidence of the Council's most recent daytime parking survey (Buchanan's 2006) indicates that the parking occupancy of Resident's Bays and Shared Use Bays within a 200m radius of the main site is 78%. Overnight the pressure reduces to 26%.

It is acknowledged that the site has a high level of public transport accessibility, though it is important to note that households within the West End ward with one or more cars is 29% (2011 Census figures). Whilst this is lower than the city average, the above figures indicate that residents in the area do own cars, along with the fact that during the day residential bays have a high level of occupancy.

Overall, parking pressures in this location remain below stress levels but it is likely that the parking situation will deteriorate as a result of the proposed development and parking mitigation measures would therefore be necessary if approval had been recommended. The applicant has agreed to provide lifetime car club membership (25 years) for each of the proposed flats. These measures are considered acceptable and could be secured by legal agreement.

Cycle parking is provided in two separate areas at basement level providing a total of 33 spaces. The Highways Planning Manager calculates that the proposed residential flats would require a total of 45 cycle parking spaces and considers that, if there were some alteration to the two cycle stores, these spaces could be provided at basement level. An additional 6 cycle spaces are required for the retail and restaurant uses, and these could be provided within the basement vaults.

6.5 Economic Considerations

The economic benefits generated are welcomed.

6.6 Access

Level access from street level is restricted as the existing entrances have steps above pavement level, the steps are original and form part of the original fabric of the building. The applicant had addressed this through the provision of a platform lift. These measures comply with Document M of the Building Regulations. There is full level access within the building and in all other respects the residential units will meet Lifetime Homes Standards. Accessible wc facilities will be provided within the new restaurant.

6.7 Other UDP/Westminster Policy Considerations

Waste and recycling storage areas are located at basement floor level. These arrangements are considered to be acceptable in principle under UDP Policy ENV11.

6.8 London Plan

The proposal does not raise strategic issues and does not have significant implications for the London Plan.

6.9 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.

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 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, the principal 'Heads of Terms' of the legal agreement would, if approval had been recommended, have sought to secure the following:

- i) a financial contribution towards the City Council's affordable housing fund (index linked and payable upon commencement of development)
- ii) compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £33,000.
- iii) Lifetime car club membership (25 years) for the occupants of each new dwelling.
- iv) monitoring costs

6.10 Environmental Assessment including Sustainability and Biodiversity Issues

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture. 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 NPPF establishes a presumption in favour of sustainable development. London Plan Policy 5.3 also requires developments to achieve the highest standards of sustainable design, with Policy 5.2 seeking to minimise carbon emissions through a 'Be Lean, Be Clean and Be Green' energy hierarchy.

A BREEAM pre-assessment has been carried out on the proposed flats in the building and it is predicted that, if enhancement measures are introduced, the proposed flats could achieve a BREEAM Excellent rating.

The energy efficiency and sustainability initiatives of the site have been optimised to address the Mayor's Energy Hierarchy and to address the requirements of policies in Chapter 5 of the London Plan and Westminster's City Plan Policy S28. The applicant's Energy Statement states that with the installation of a CHP engine, passive design measures and energy efficiency measures that the building's total CO2 emissions are predicted to show a reduction of 23% over Building Regulations Part L 2013 baseline emissions, which is welcomed. It is also proposed to introduce PV panels on the roof.

To encourage biodiversity a green roof is proposed which would be in accordance with Policy S38 of the City Plan and UDP Policy ENV 17.

6.11 Other Issues

TfL advise that it may be problematic to construct the development without impacting on the cycle hire station on Great Marlborough Street in front of the site. This is dealt with by informative.

One of the objectors also raises concerns on the grounds that the proposal should not take into account of any future increase in height of the Poland Street flank wall (Site2). Site 2 however does not form part of these proposals.

6.12 Conclusion

The proposed development provides a mixed use development of good architectural quality that will contribute to the character and function of the area. However, the proposed financial contribution in lieu of affordable housing on site is inadequate, and is not supported by the City Council's independent viability consultants. The application is therefore recommended for refusal on these grounds.

BACKGROUND PAPERS

1. Application form
2. Letter from Historic England dated 21 May 2015
3. Email from Historic England (Archaeology) dated 1 June 2015
4. Email from Transport for London dated 7 May 2015
5. Email from Crossrail dated 18 May 2015
6. Email from the Soho Society dated 12 May 2015
7. Memorandum from Highways Planning Manager dated 22 May 2015

8. Memoranda from Environmental Health dated 1 June 2015 and email dated 2 November 2015
9. Letters on behalf of the occupiers of 51-53 Great Marlborough Street dated 26 May, 8 and 30 September and 22 October 2015
10. Letter from Marshall Street Regeneration Ltd, 18 Marshall Street dated 19 June 2015
11. Letter on behalf of the occupier of 51 Great Marlborough Street dated 3 June 2015

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT PAUL QUAYLE ON 020 7641 2547 OR BY E-MAIL pquayle@westminster.gov.uk

DRAFT DECISION LETTER

Address: Fenton House, 55-57 Great Marlborough Street, London, W1F 7JX

Proposal: Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual / alternative retail or restaurant (Class A1 / A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (SITE INCLUDES 54 GREAT MARLBOROUGH STREET)

Plan Nos: DM.001, 002, 003, 004, 005, 006, 007, 008, 009, 201, 202, 203; PR.001, GA.100, PR.002, 003, 004, 005, 006, 007, 008, 009, 010 Rev B, 011 Rev B, 201.1 Rev A, 201.2, 202.1, 202.2, 203, 204, 205.1, 300.1, 300.2, 301.1, 301.2

Case Officer: Josephine Palmer

Direct Tel. No. 020 7641 2723

Recommended Reason for Refusal:**Reason:**

- 1 The proposal fails to make adequate provision for affordable housing which would not meet S16 of Westminster's City Plan: Strategic Policies adopted November 2013 which seeks a proportion of new residential floorspace as affordable housing, and policy H4 of our Unitary Development Plan that we adopted in January 2007. We do not consider that the circumstances of your case justify an exception to our policy.

Informative(s):

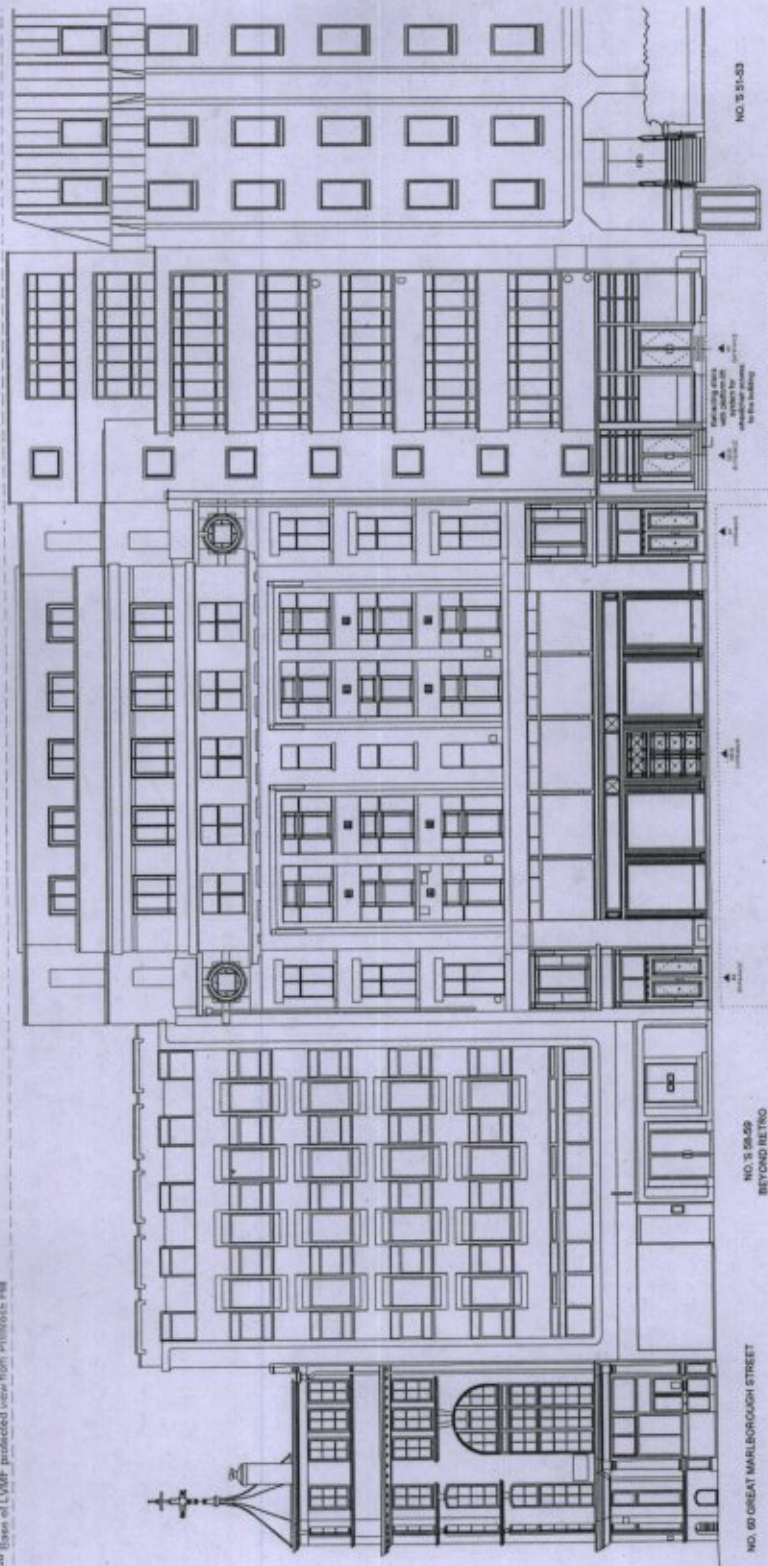
- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's 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, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition further guidance was offered to the applicant at the validation stage and by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable.

Required amendments: A revised affordable housing offer

- 2 In the event that you resubmit a revised application for this site, you are advised to contact Richard McEllistrum (Transport for London) on 0203 054 8966 to discuss whether construction works require the suspension of the Cycle Hire Station on Great Marlborough Street. You will need the consent of Transport for London for such a suspension



52.38 East of LVMF produced view from Plumrose Hill



NO. 51-53

NO. 54
EUROPA HOUSE

NO. 55-57
FENTON HOUSE

NO. 58-59
BEYOND RETRO

NO. 60 GREAT MARLBOROUGH STREET

20.00 Above Ordnance Datum

<p>TF ARCHITECTURE 2-3 WOODSTOCK STREET LONDON W1C 2AB T. 020 7052 0796 F. 020 7052 0757 E. info@tfarchitecture.com</p>		<p>CLIENT MARLBOROUGH HOUSE LTD</p>
<p>PROJECT NOS. 54 & 55-57 GREAT MARLBOROUGH ST</p>		<p>DRAWING TITLE FRONT ELEVATION_PROPOSED</p>
<p>DATE 01.2015</p>		<p>PLANNING 150410</p>
<p>SCALE 1:200 @ A3</p>		<p>JOB NO. 452</p>
<p>REV. A</p>		<p>DRWNG NO. PR.201.1</p>

NOTES:
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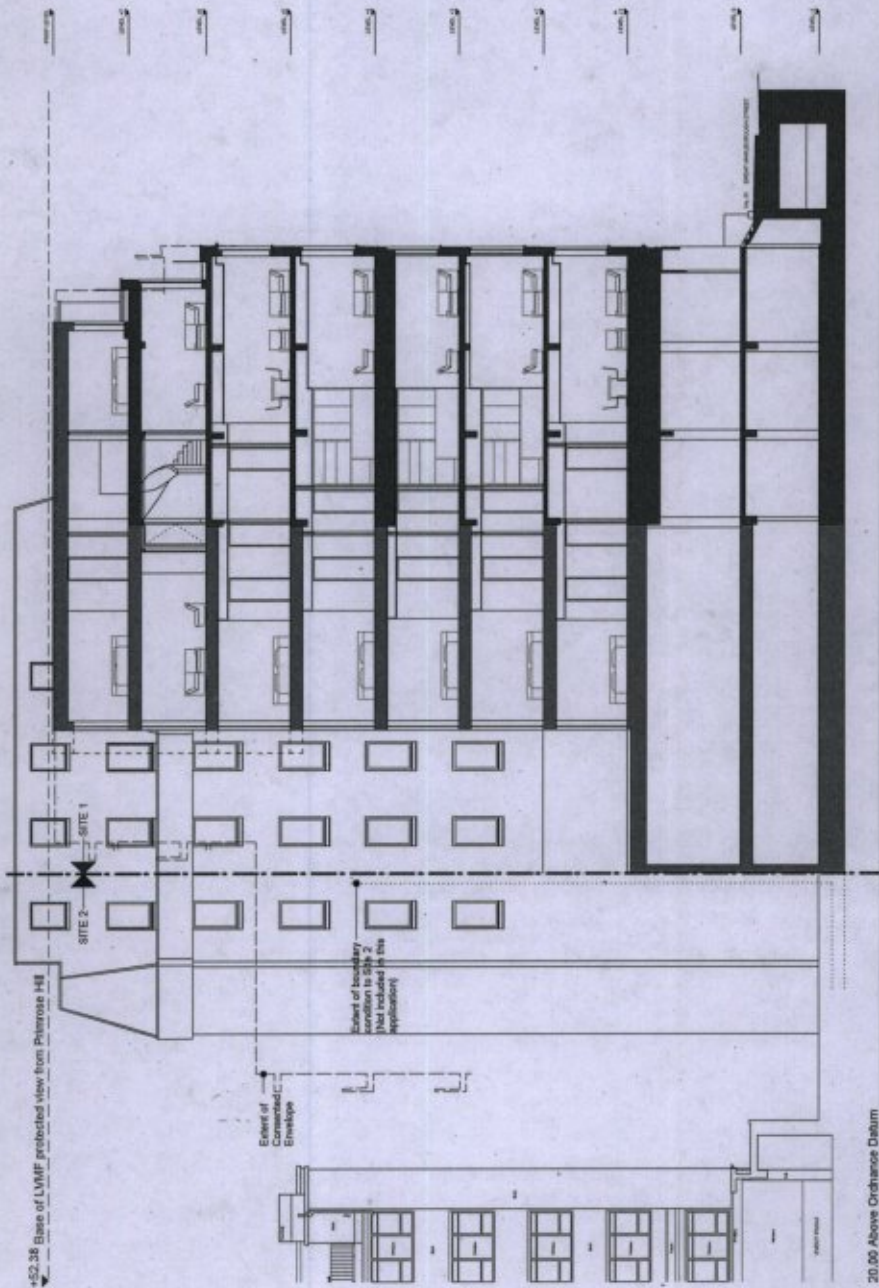
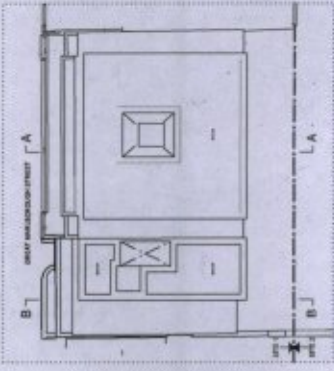
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PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	REAR ELEVATION_ARTIST'S IMPRESSION_PROPOSED
DATE	01.2015
JOB NO.	452
DRWG NO.	PR.202.2
REV.	

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SITE PLAN



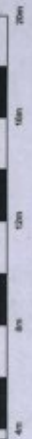
+52.38 Base of LVMP protected view from Primrose Hill

SITE 1
SITE 2

Extent of Committed Envelope

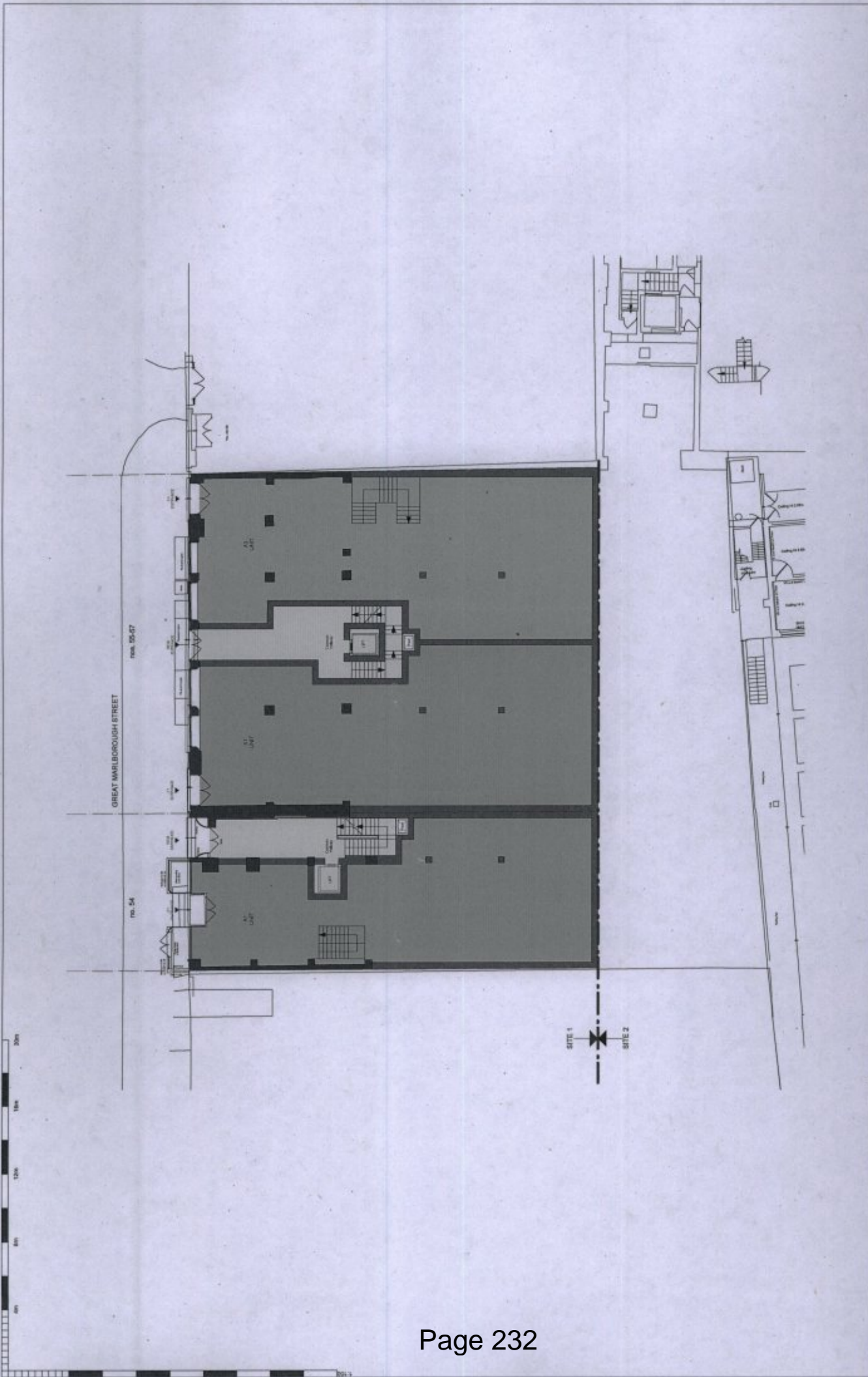
Extent of boundary condition in Site 2 (not included in this application)

20.00 Above Ordnance Datum

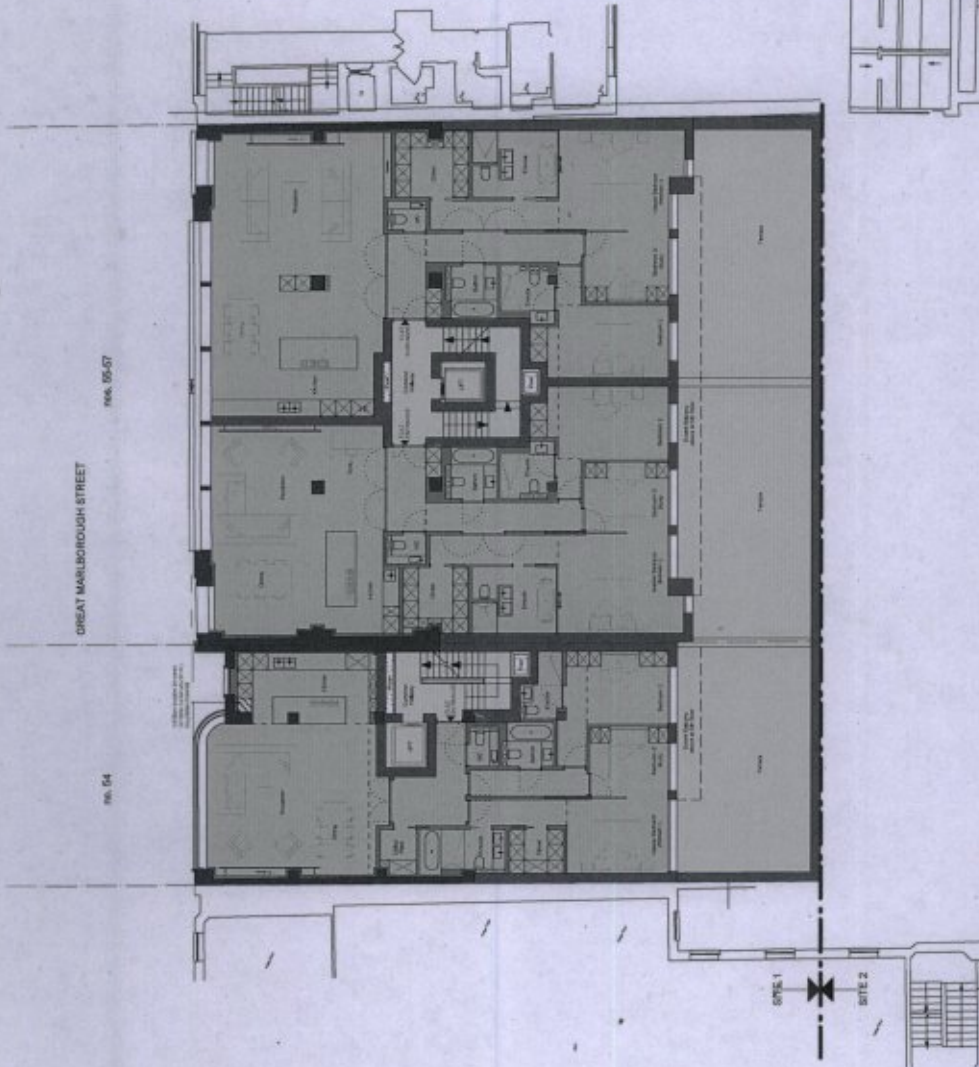


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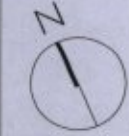
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2-3 WOODSTOCK STREET LONDON W1C 2AB		PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
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		DATE	01.2015
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			<p>PROJECT</p>	<p>NOS. 54 & 55-57 GREAT MARLBOROUGH ST</p>
			<p>DRAWING TITLE</p>	<p>PLANNING: 150410</p>
			<p>DATE</p>	<p>01.2015</p>
			<p>SCALE</p>	<p>1:200 @ A3</p>
			<p>JOB NO.</p>	<p>452</p>
			<p>DRWG NO.</p>	<p>PPR.003</p>
			<p>REV.</p>	<p>LEVEL 0, PROPOSED</p>



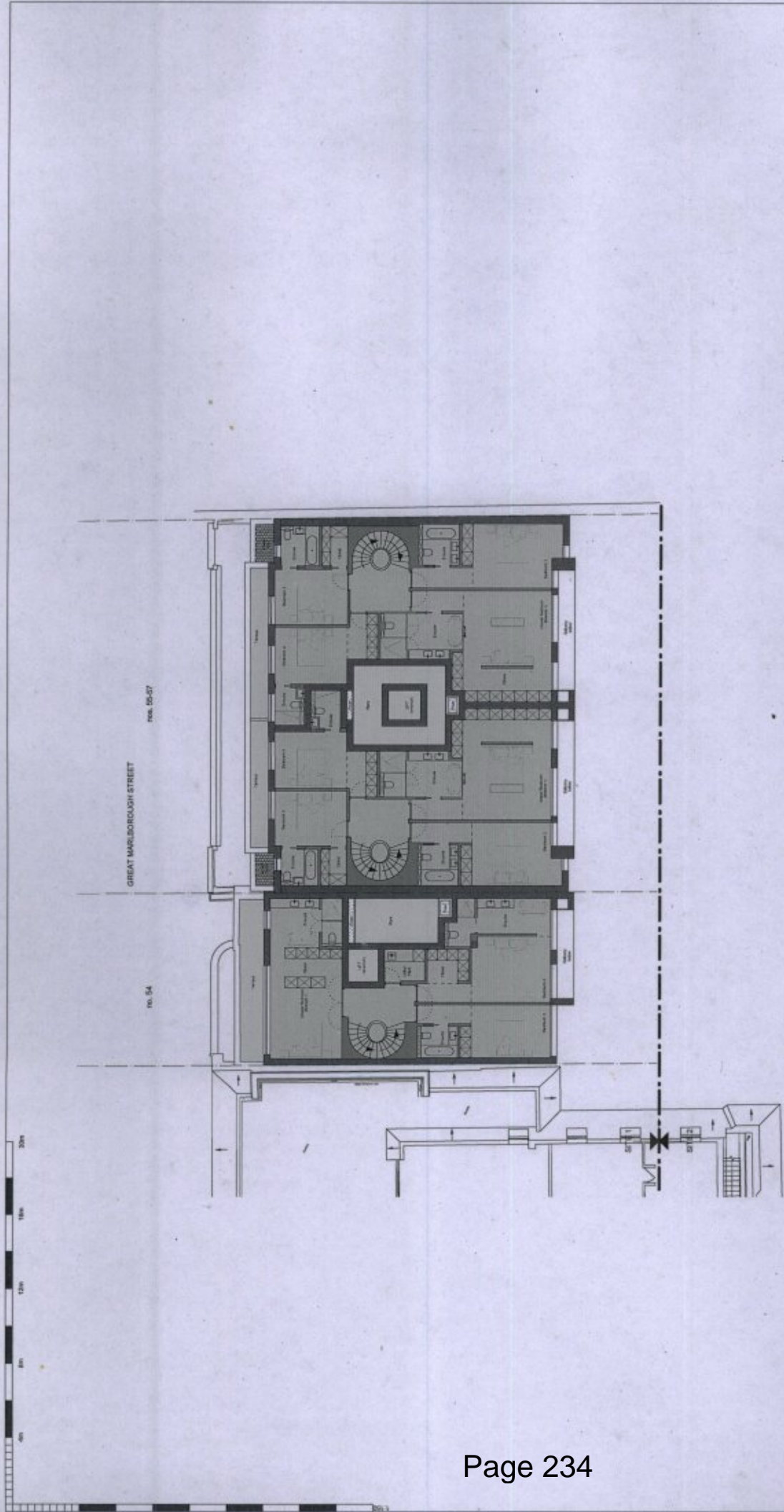
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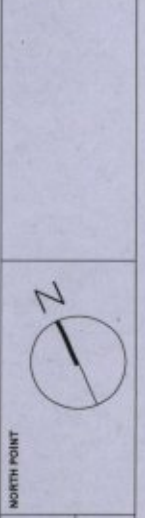
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CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410 LEVEL +1, PROPOSED
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	PR.004
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CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
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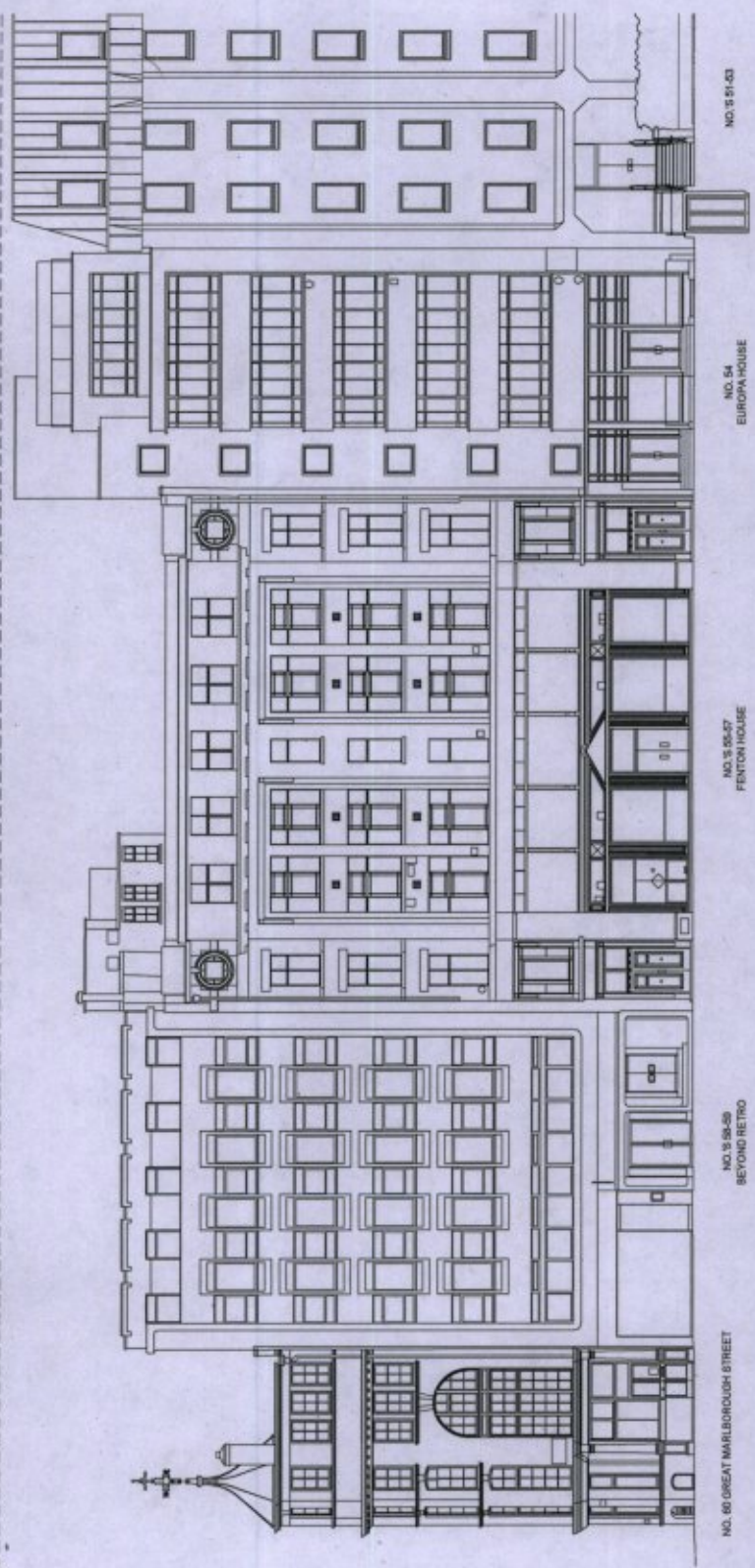
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1:50 2/8 Base of LVMF protected view from Princess Hill



20.00 Above Ordnance Datum

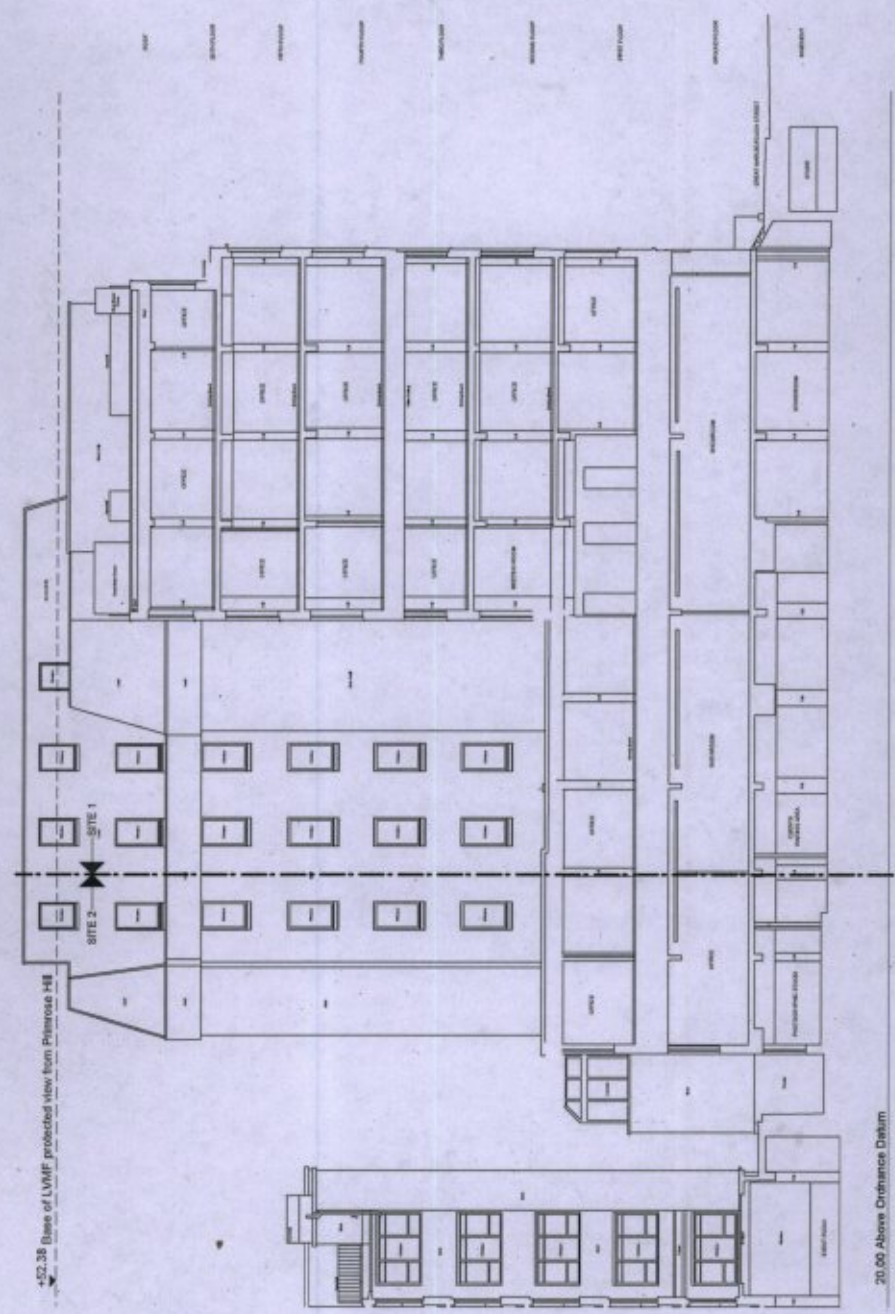
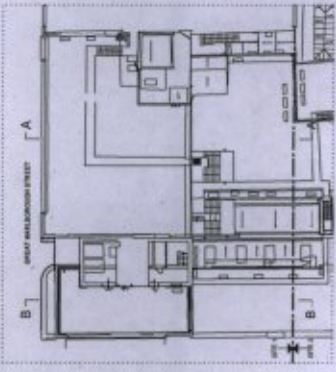
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CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	FRONT ELEVATION_EXISTING
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	EX.201.1
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SITE PLAN



+52.38 Base of LVME protected view from Pinecroft Hill

SITE 1
SITE 2

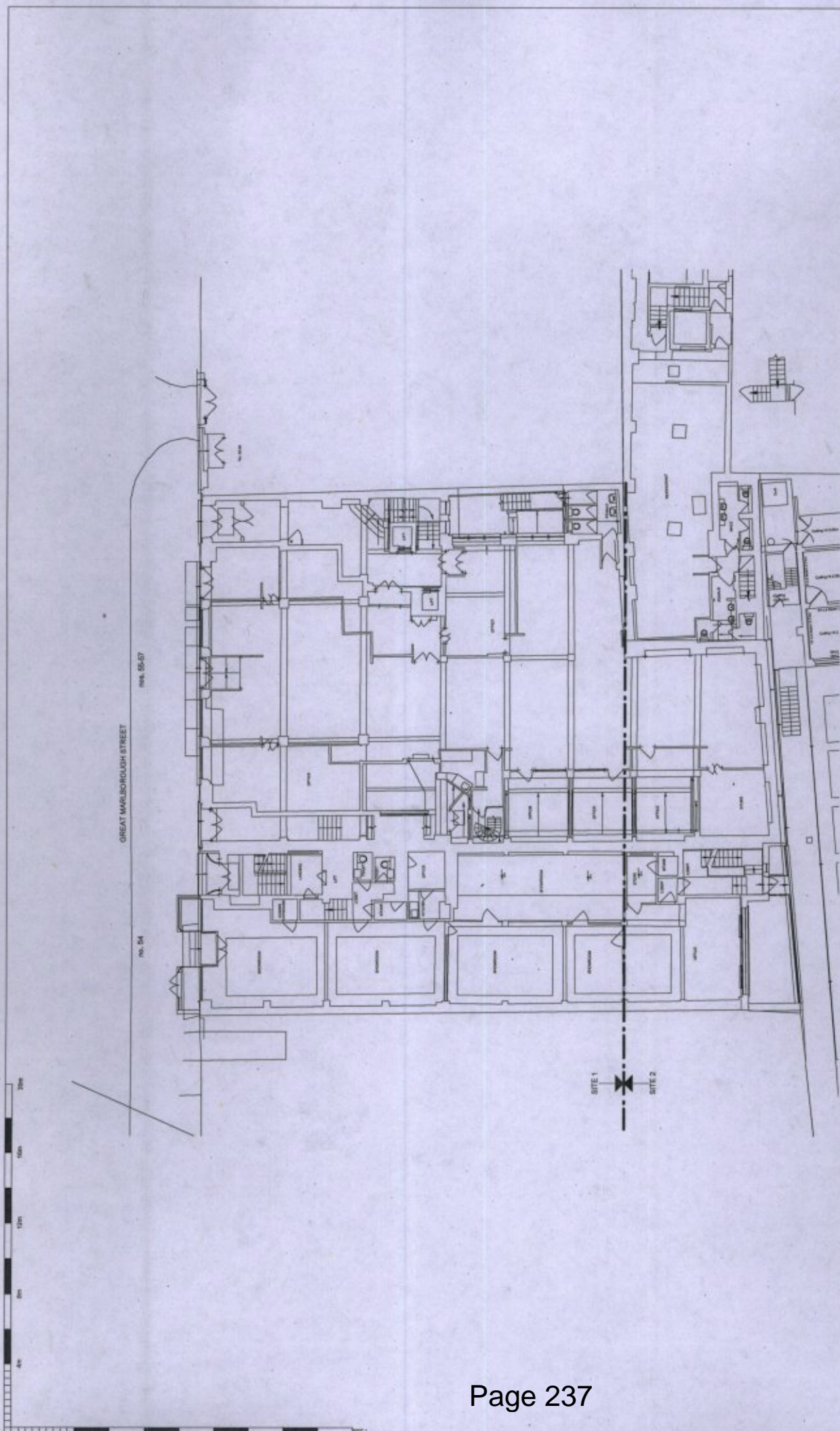
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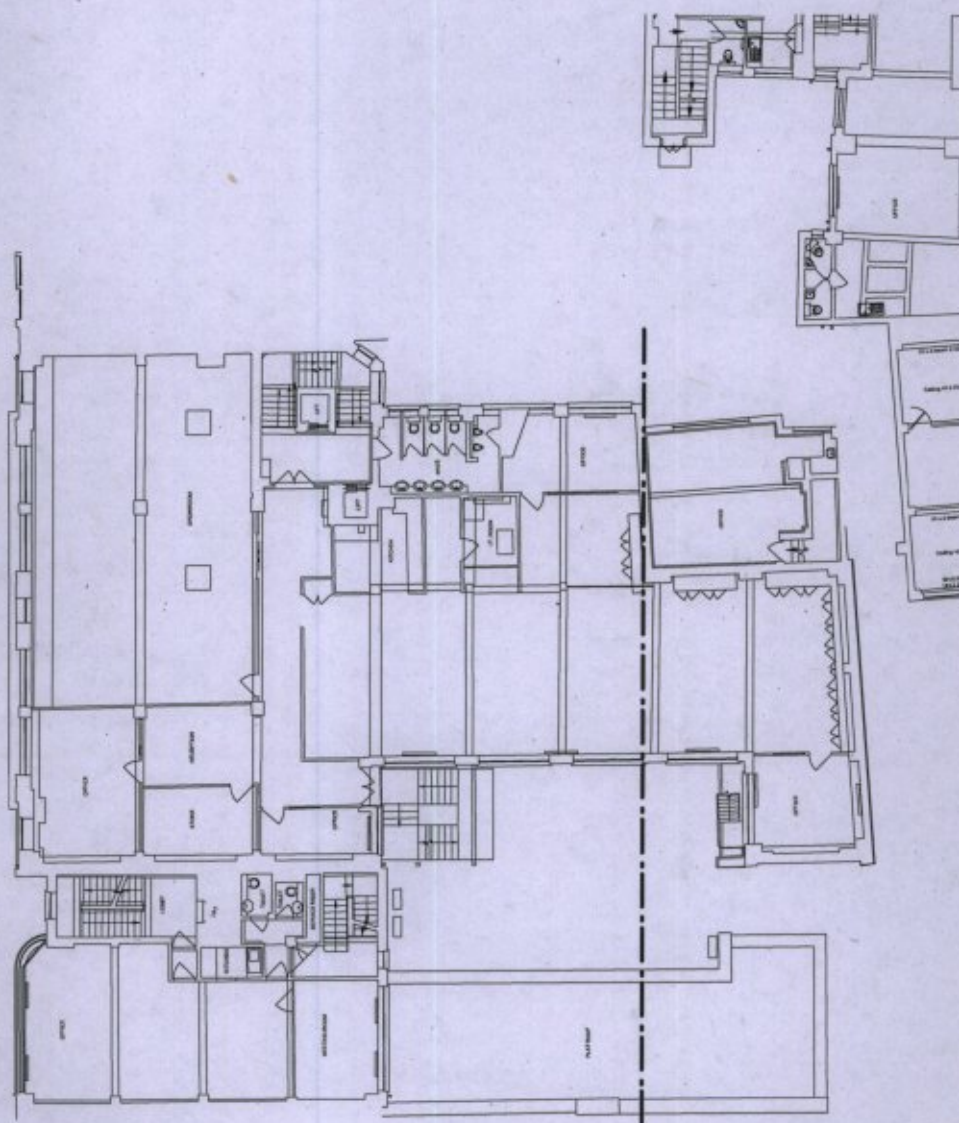


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CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410
DATE	01.2015
JOB NO.	452
SCALE	1:200 @ A3
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GREAT MARLBOROUGH STREET

nos. 54 & 55-57

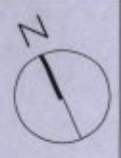
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SITE 1
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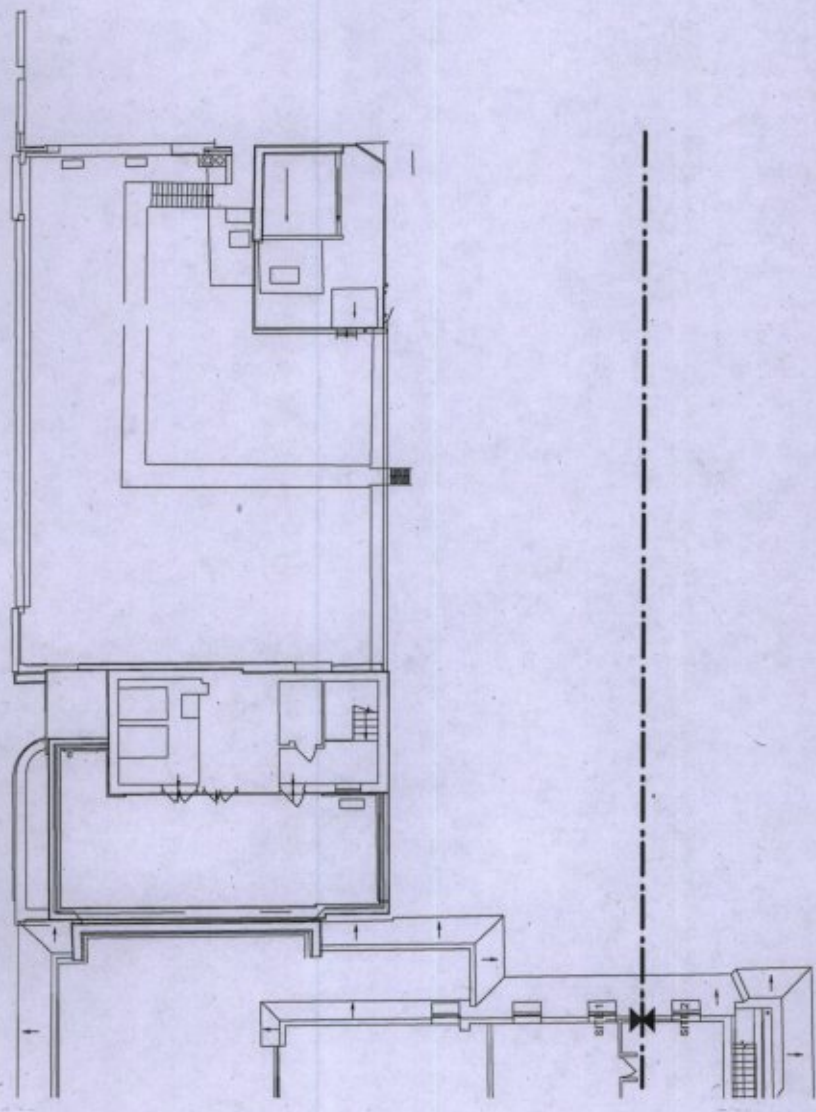
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PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	EX.005
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GREAT MARLBOROUGH STREET

nos. 54

nos. 55-57



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NORTH POINT



TF ARCHITECTURE
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CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	EX.010
REV.	LEVEL +7_EXISTING

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Agenda Item 7

Item No.

7

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	29-30 Soho Square, London, W1D 3QS,		
Proposal	Use of part of the building at lower ground to second floor fronting Soho Square and all of the third and fourth floors for Class B1a office purposes.		
Agent	Savills		
On behalf of	NHS Property Services		
Registered Number	15/11340/FULL	Date amended/ completed	5 January 2016
Date Application Received	4 December 2015		
Historic Building Grade	Grade II		
Conservation Area	Soho		

1. RECOMMENDATION

1. Refuse permission - loss of Class D1 social and community use.
2. Do Members agree that had the Class D1 floorspace been marketed and not taken up, the principle of Class B1 might have been acceptable?

2. SUMMARY

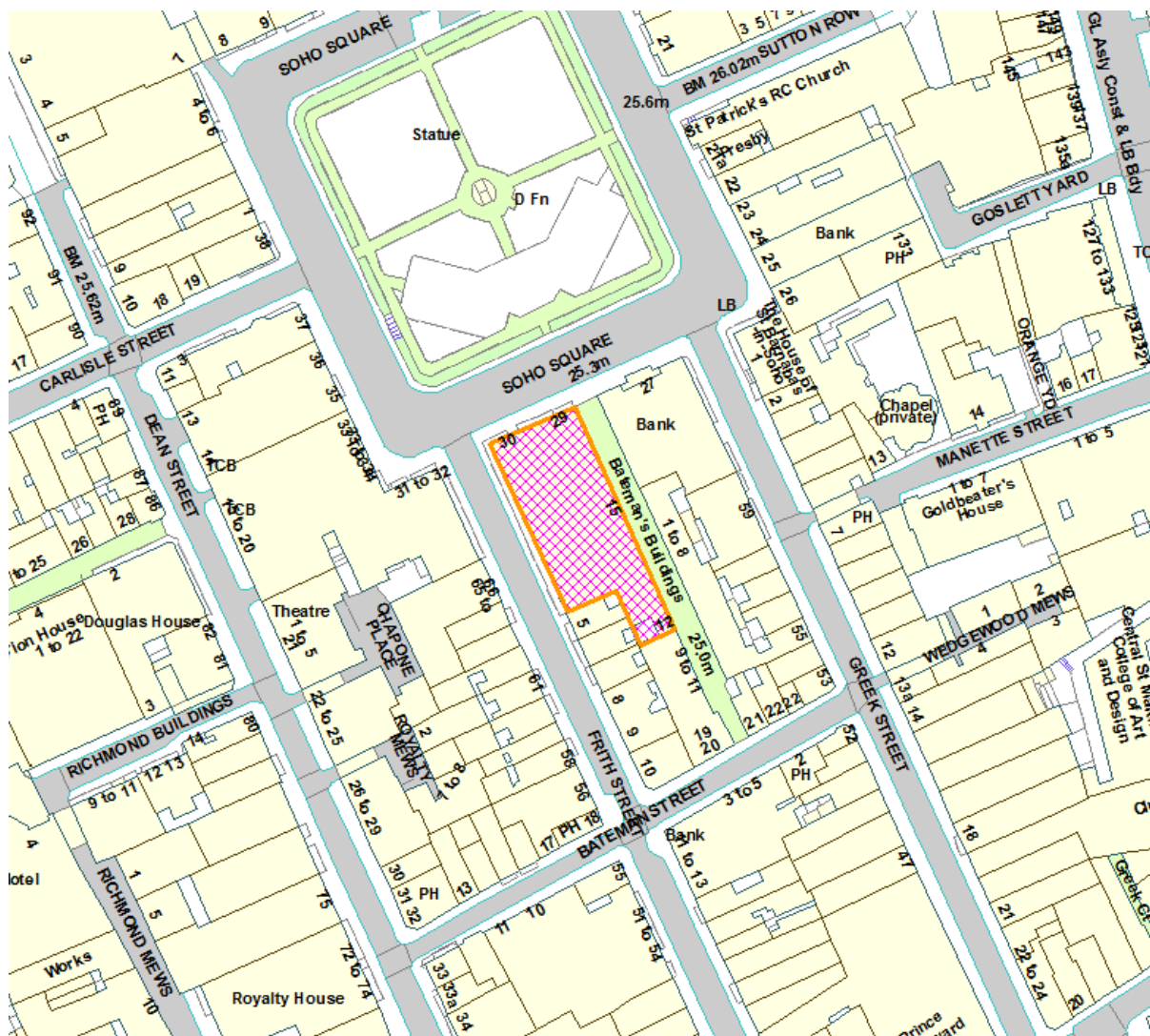
The application concerns a prominent listed building on the south side of Soho Square that has a long history of medical use. Planning permission is sought to convert the front part of the property (which faces Soho Square), including the whole of the third and fourth floors, from largely vacant Class D1 health/community use to Class B1a office use (2,809 sqm). The health uses in the rear part of the building (including the Soho Centre for Health and NHS Walk-In Centre), accessed from its own entrance on Frith Street, would remain (2,409 sqm).

The applicant has argued that the relevant space, parts of which have been vacant for some time, has been used as ancillary office/meeting room accommodation. Nevertheless, its lawful use is Class D1 social and community floorspace, and the policy presumption is to protect this use. It is accepted that the applicant has satisfactorily demonstrated that the accommodation is surplus to its own requirements, as part of a rationalisation strategy. However, Council policy requires that the space is marketed for alternative social and community uses, which the applicant has resisted. Its own

marketing 'analysis' is not an acceptable alternative and therefore the proposal is considered to be contrary to policy and is accordingly recommended for refusal on these grounds.

The existing policy presumption would be the accommodation to be converted to residential use. It is accepted that this might be difficult, given the listed building constraints. It is also noted that the Council's emerging policy position is to reverse the recently trend in losing office accommodation to residential use, and therefore members are asked to consider whether conversion to B1 office use would have been acceptable in principle, had the loss of the social and community use been satisfactorily addressed and tested.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

CROSS LONDON RAIL LINKS LTD

Do not wish to comment

SOHO SOCIETY

Do not object to the application but initially sought clarification about two current consulting rooms within the proposed office area that the Society suggested should be excluded from the application [the applicant has confirmed that these are to be relocated to the retained health use accommodation at the rear], and queried the provision of disabled toilets;

The Society subsequently met a representative from the applicants and asked if one room in the application site could be made available for evening community meetings, and whether improvements could be made to Bateman's Buildings (eg lighting, the surface, provision of public cycle parking);

The Society has since also queried the potential need for clinical activities to expand in the future and what scope there is for some of the office space (if approved) being surrendered for this use.

CLEANSING

The proposal does not indicate any storage for waste and recyclable material, which should be secured by condition.

HIGHWAYS PLANNING MANAGER

No objection in principle but express concern about the lack of cycle parking provision (the amount of offices proposed would require 32 cycle parking spaces).

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 31; Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is located on the south side of Soho Square with frontages that extend along Frith Street and the alleyway known as Bateman Buildings. Comprising lower ground, ground and part-3/part-4 upper floors, the building is listed Grade II and is within the Soho Conservation Area, as well as the Core Central Activities Zone.

Although it is listed Grade II, the scheme approved in 1995 (see below) was for substantial works that included retention of the façade on Frith Street with a modern structure behind - this was the main location of the clinical accommodation with its own entrance and public waiting/reception area, now occupied by the Soho NHS Walk-In Centre. The applicant advises that substantial parts of the building have historically been used as office/administrative accommodation, and these were mainly located in the historic part of the building fronting Soho Square.

The surrounding area is characterised by a mix of uses, mainly commercial and residential on upper floors and retail and restaurants at ground level. There are a number of uses associated with creative industries also within the immediate vicinity.

6.2 Recent Relevant History

December 1995 - Planning permission and listed building consent granted partial redevelopment, refurbishment & adaptation to form a new community care centre on basement, ground and five upper levels. The scheme included the retention of the main building facades but the rebuilding of the southern core of the site.

Other recent NHS site history

September 2015 - permission granted to Central and North West London NHS Foundation Trust (CNWL) for the use of 17 Paddington Green as five residential units, erection of a single storey roof extension to existing side addition, excavation of the floor level to part of existing basement floor, replacement of the existing front boundary and associated external alterations and landscaping to the front and rear (14/12015/FULL).

The Committee resolved to grant conditional permission, subject to a legal agreement to secure a financial contribution of £96,240 towards social and community uses in the vicinity of the application site in lieu of the loss of social and community floorspace from the site itself. The application formed part of the NHS Foundation Trust's site rationalisation strategy.

October 2015 - The Planning Applications Committee considered proposals by Central and North West London NHS Foundation Trust (CNWL) for the demolition of 15-19 Blenheim Terrace and the erection of 3 x 5 bedroom five storey townhouses; the Committee agreed that the proposed amalgamation of the Central and North West London NHS Foundation Trust's Child and Adolescent Mental Health Services on to a single alternative site as part of their site rationalisation strategy and the provision of a financial contribution of £186,713 towards alternative Social and Community Use provision in the vicinity of the site justified the loss of the existing social and community floorspace on this site.

This is subject to a legal agreement to secure the financial contribution (and highways works as part of the proposed development) which has yet to be completed.

7. THE PROPOSAL

Planning permission is sought to convert the front part of the property (which faces Soho Square), including the whole of the third and fourth floors, from largely vacant Class D1 health/community use to Class B1a office use (2,809 sqm). The health uses in the rear part of the building, accessed from its own entrance on Frith Street, would remain (2,409 sqm).

There are no physical alterations proposed at this stage and so a separate listed building consent would be required in the future for any works to the building, internally or externally.

The applicant's agent has advised that the proposals are integral to the overall business plan for the site and as a revenue generator will fund the enhancement works for the retained health use (described in more detail below), which, it is alleged, might not otherwise occur.

The applicant has also been asked to consider locating the retained health uses into the part of the building fronting Soho Square, given its historical association with this use (as clearly expressed by the wording on the front façade). The applicant has emphasized that the 1995 scheme was designed to locate the clinical accommodation within the modern part of the structure, with the Soho Square section retained for the historical functions of ancillary office accommodation and meeting/function rooms. The health clinic to the rear is well established with modern layouts, disabled access and up to date fixtures and fittings. The applicant advises that there are strong financial reasons against any relocation within the building, given the amount of upheaval, realignment of layouts etc that would be involved in moving the clinic. There would also potentially be a significant impact on the retained heritage character of the front part of the property by adapting it for the clinic use. These arguments are noted and it is accepted that moving the clinic from one part of the site to another would be problematic.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The change in land use is the sole consideration arising from this application. There are two elements to this, namely the loss of the existing community use and the proposed increase in commercial use. However, the applicant's rationalisation strategy for the provision of its services provides important background information.

Site Rationalisation Strategy Overview

The lawful use of the building is as a Class D1 healthcare use that is defined by the City Council's adopted development plan policies as being a social and community use. The building currently comprises a health centre in the southern-most part of the building and vacant areas in the northern section. The applicant advises that the vacant areas were last used as ancillary office accommodation, meeting/function rooms and some consulting/counselling rooms.

The Central London Clinical Commissioning Group (CCG) is the main commissioner of community health services in the area. It is one of eight covering north west London which has prepared a draft five year strategic plan 'Transforming the NHS in North West London'. This sets out how they will work collaboratively to transform health and care provision across north west London whilst ensuring a financially sustainable system and meeting the expectations of patients and the public: this promotes the use of 'hub' buildings that will offer a range of out of hospital services and/or host more than one GP practice. A supplementary document 'Healthier North West London (NHS)' focuses on transforming the model of primary care and sets out proposed investment in improving the buildings from which GPs and other community care services operate.

The Central London CCG has been working to shift care out of hospitals and into the community, bringing together different services so that care for patients is better integrated and different services work better together from shared 'hubs'. The health services that previously occupied some of the now vacant parts of the building include the following:

- Central and North West London (CNWL) National Problem Gambling Clinic – occupied the majority of the fourth floor, now relocated to Crowther Market, North End Road (now called Hammersmith & Fulham Community Drug and Alcohol Service (CDAS));
- CNWL for drug and alcohol treatment services – occupied the whole of the third floor, now also located at Crowther Market, North End Road Hammersmith;
- Westminster Joint Homelessness Service – occupied part of the lower ground floor and relocated to 190 Vauxhall Bridge Road;
- Westminster City Council Substance Misuse Team – occupied part of the second floor, also relocated to 190 Vauxhall Bridge Road.

The existing on-site health services will continue to be provided from the Soho Centre for Health/Walk-In Centre. However, the CCG advises that the property has been discounted as a suitable option for the delivery of additional health services. The vacant space is therefore surplus to its requirements and they wish to convert it to B1a office space to generate income.

Loss of Class D1 community use

The existing use of the building as a Class D1 health centre is a use that is defined by the City Council's adopted development plan policies as being a social and community use. Policy SOC1 in the Unitary Development Plan (January 2007) (UDP) and Policy S34 in Westminster's City Plan: Strategic Policies (November 2013) both seek to protect existing social and community uses. (Policy SOC 4 of the UDP also states that "the retention, improvement and redevelopment of facilities for health service uses that meet local needs will be supported").

Policy SOC1(E) in the UDP adopted in 2007 states,

Proposals which involve the redevelopment or change of use of community facilities will be required to include adequate replacement facilities. Where the facility is surplus to the needs of the existing provider, any new development on the site should include an alternative community facility. Where adequate replacement facilities are not proposed then the City Council will refuse planning permission for this type of proposal.

Policy S34 in the City Plan was more recently adopted in November 2013 and expands upon Policy SOC1. Therefore, where there is conflict between the two policies, the requirements of Policy S34 in the City Plan must take precedence. Policy S34 begins with

'All social and community floorspace 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'.

In the context of Policy S34, the applicant has provided the draft strategy for NHS North West London, 'Transforming the NHS in North West London', which effectively addresses this aspect of Policy S34.

However, policy S34 continues with

In all such cases the council will need to be satisfied that the overall level of social and community provision is improved and there is no demand for an alternative social and community use for that floorspace. In those cases where the council accepts a loss or reduction of social and community floorspace the priority replacement use will be residential.

It is therefore necessary for it to be demonstrated that there is no demand for an alternative social and community use of the vacant floorspace in the building. In the first instance it is expected that the presence of alternative social and community use demand would be ascertained by a period of marketing of the premises for their lawful planning use at a reasonable market rent/ sale value.

The applicant has resisted this, stating that it is concerned with the potential delay this will cause in implementing the office use, which it states is required to fund the enhancement works to improve the D1 function at the clinic, as well as starting to recover some of the costs of keeping part of the building vacant.

The applicant's agent has also willfully misinterpreted the pre-application advice that was given, to carry out a proper marketing exercise, by focusing on an alternative option of going through a marketing 'analysis'. This has sought to demonstrate that there would be no demand for use of these premises by alternative social and community uses. The applicant's planning agent has undertaken its own marketing analysis, based on its experience in letting social and community-type premises, which evaluates the potential interest in these properties by other social and community uses. This analysis looks at potential uses such as other healthcare uses (including GP surgeries and dentists), children's day nurseries, schools and other educational establishments.

This analysis sets out why such uses might be discouraged from showing an interest in the building, such as the building's listed status, its layout, location and size. For example, emphasis is given to the central core being characterized by a large staircase with landing and lift core, the floor plate limiting the useable area and creating a poor gross to net ratio. This apparently would be restrictive for a social and community occupier (though presumably no more so than to a B1a office occupier).

The analysis undertaken by the applicant's agent is noted. However, without actually putting the property out to the market, it is unclear whether there would be real demand from other parts of the social and community use sector for reuse of the relevant part of the building. What is clear, however, is the applicant's primary aim is to secure a commercial office occupier.

It is clear from the Soho Society's comments that there is some local demand for community accommodation, as they have asked whether one of the meeting rooms could be made available for evening community meetings. The applicant argues that there would be practical difficulties with this, as the accommodation is likely to be leased to a tenant, and it would be unreasonable to require them to make this space available to a third party, such as a community group.

With regard to the Soho Society's concerns that there may be future demand for the clinic to expand, the applicant advises that the NHS and CCG have confirmed there will be no requirement for the space from the clinic.

Unlike the two schemes referred to above, the applicant has not offered to provide a financial contribution towards alternative social and community use provision in the vicinity of the application site to seek to mitigate the loss of the existing m2 (GIA) of social and community floorspace from the site. Whilst noting the other two sites referred to above, the applicant in this case considers that the proposal meets the requirements of policy S34 and as a result it should not be necessary to provide such financial contributions. Furthermore, those sites were examples of where the NHS was disposing of property, which is not the case in this instance.

The applicant has recently indicated that the proposal will lead to improvements to the retained health use within the building. The Chinese Healthy Living Centre, currently occupying a small area in the front part of the building, with outdated technology, would be relocated to improved accommodation at first floor level. This would be at an estimated cost of £151,000, as well as a reduction of £35,000 in their accommodation costs in their first year. The clinic itself is also to be refurbished and enhanced at an estimated cost of £371,000. Total reduction in accommodation costs of just over £60,000 from NHS assistance would apply to the Chinese Healthy Living Centre and Watsons Pharmacy and Healthshare, who also operate from the Health Centre.

These investments in the retained health use are noted, but it is debatable as to whether they constitute sufficient mitigation to address the substantial loss of social and community floorspace.

Should a suitable social and community use (or uses) that could benefit from the proposed financial contribution not be found to mitigate the loss of the existing social and community use, the financial contribution could alternatively be allocated to the Council's affordable housing fund given that Policy S34 in the City Plan identifies that *'In those cases where the Council accepts a loss or reduction of social and community floorspace the priority replacement use will be residential'*. It would therefore be reasonable to seek to maximise the benefits of the development in terms of increasing the housing stock in the City if the social and community use is to be lost without the full justification for that loss that is required by Policy S34.

In summary, whilst it is accepted that the applicant has demonstrated their case for site rationalisation, the current application is clearly deficient in terms of its response to the normal policy expectation for the site to be reprovided for alternative social and community use in the first instance. Officers are sympathetic to the applicant's wish to generate income for investment for its services, but the priority in planning policy terms is to ensure

that there are no alternative social and community uses that might occupy the accommodation, and this can only be demonstrated by a full and proper marketing exercise. For this reason, the proposal is recommended for refusal on the grounds of being contrary to policy SOC 1 and S34.

Proposed office use and mixed use policy

Policy S34 identifies that should the loss of the existing social and community use be considered acceptable, the appropriate alternative use would be as residential accommodation. It is noted however that the Council's position with regard to the balance of residential and office use within the area has shifted in recognition of the adverse economic consequences of historically allowing changes from the latter use to the former use. The site is located within the Core Central Activities Zone and therefore under the terms of policies COM 2 of the UDP and S1 of the City Plan, office use in this location might be acceptable in principle, instead of the policy presumption under S34 of residential. (Policy S20 of the City Plan also encourages B1 office development in certain locations, including the Core Central Activities Zone.)

However, these policies also state that where office floorspace is being increased by more than 200 sqm, an equivalent amount of residential floorspace should also be introduced. The proposed increase in office floorspace is substantial (2,809 sqm). The applicant is not proposing the provision of any residential accommodation nor is it offering a commuted sum towards affordable housing. It's justification for this is to emphasise the recent Council recognition that significant amounts of office accommodation have been lost in recent years to residential floorspace, even though the relevant policy statements emphasise the protection of office space, rather than its new introduction.

The applicant considers that the office proposals accord with the 'current direction of travel' with emerging policy as evidenced within the Council's draft emerging policy, where there a number of policy changes that strengthen the promotion of the commercial function of the CAZ and office uses being encouraged.

On-site provision of residential accommodation is described as neither practical or feasible (because, for example of the shared entrance and service core) and off site provision is not possible as there is no donor site. Regarding the possibility of a payment in lieu for residential floorspace, the applicant has again referred to emerging policy to argue that the increase in office would not trigger the provisions within the Council's Interim Affordable Housing Note. It is therefore suggested that a payment is not triggered under the current Council guidelines, though the relevance of this is debatable, given the limited status of the emerging policy.

In the context of the in principle support for new offices in the Core CAZ based on the current policy (alongside the substantial financial benefits to enhance the existing D1 clinic and its users' operation as a result of the office proposal) the applicant considers that the application is acceptable in land use terms and in accordance with current guidelines set out in "Submission" Policy S1.

Officers agree that the site would be suitable for office use but consider that the situation is complicated by the emerging policy position. The Committee is therefore asked to

consider whether the principle of B1 office use might have been acceptable, if the Class D1 floorspace had been marketed and not taken up.

8.2 Transportation/Parking

The site is in a highly accessible location and it is not considered that the proposed use is likely to generate significant amounts of traffic. Whilst there would be some servicing this is not expected to be substantial, given the limited servicing requirements for the proposed office use. The comments from the Highways Planning Manager about lack of cycle parking are noted; there is a separate access from the pavement to lower ground level, where cycle storage might be provided, and had the proposal been acceptable, a condition would have been added requiring details of cycle storage to be provided.

8.3 Economic Considerations

The economic benefits for the applicant are noted, as well as the stated investment to the retained health uses. However, these are not considered to be sufficient in themselves to warrant an exception being made to the relevant policies as set out above.

8.4 Access

The main access to the accommodation fronting Soho Square is via steps. Given the narrowness of the lightwell, the difference in height between the ground floor and pavement, and the listed status of the building, it is considered that it would be difficult to provide level access.

8.5 Other UDP/Westminster Policy Considerations

The application is seeking to establish the principle of the change of use and therefore does not provide details of waste storage. Had the application been acceptable, this matter would have been conditioned.

8.6 London Plan

This application raises no strategic issues.

8.7 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.

8.8 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 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.

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 to be introduced 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.

It is noted that following discussions with the Soho Society the applicant has offered £20,000 towards public realm enhancements within the vicinity of the property, for example, to Bateman's Buildings. However, there is no policy basis for accepting a financial contribution towards public realm improvements. Nor is this offer considered to constitute adequate mitigation for the substantial loss of social and community floorspace.

8.9 Environmental Impact Assessment

Not applicable in this case.

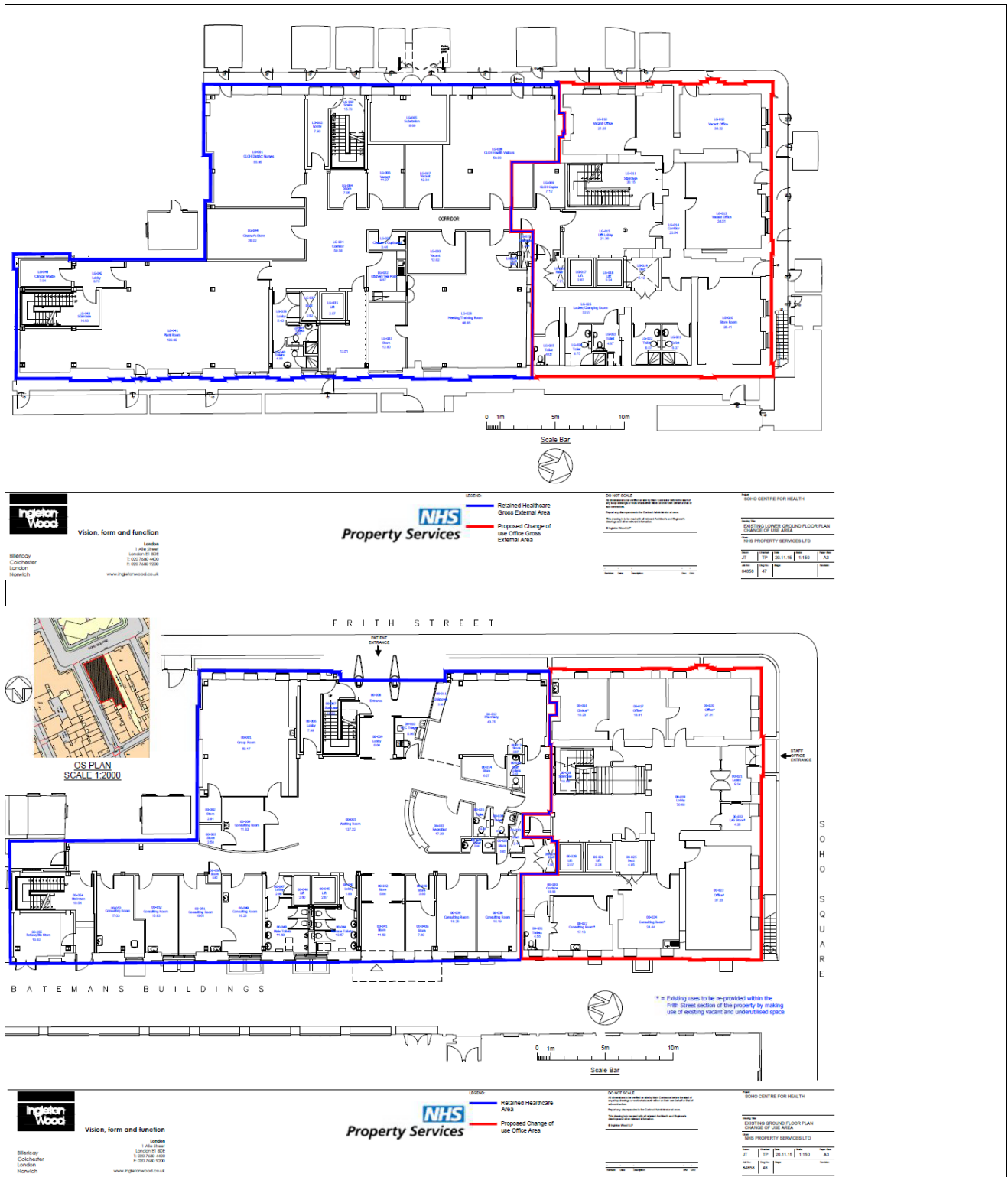
9. BACKGROUND PAPERS

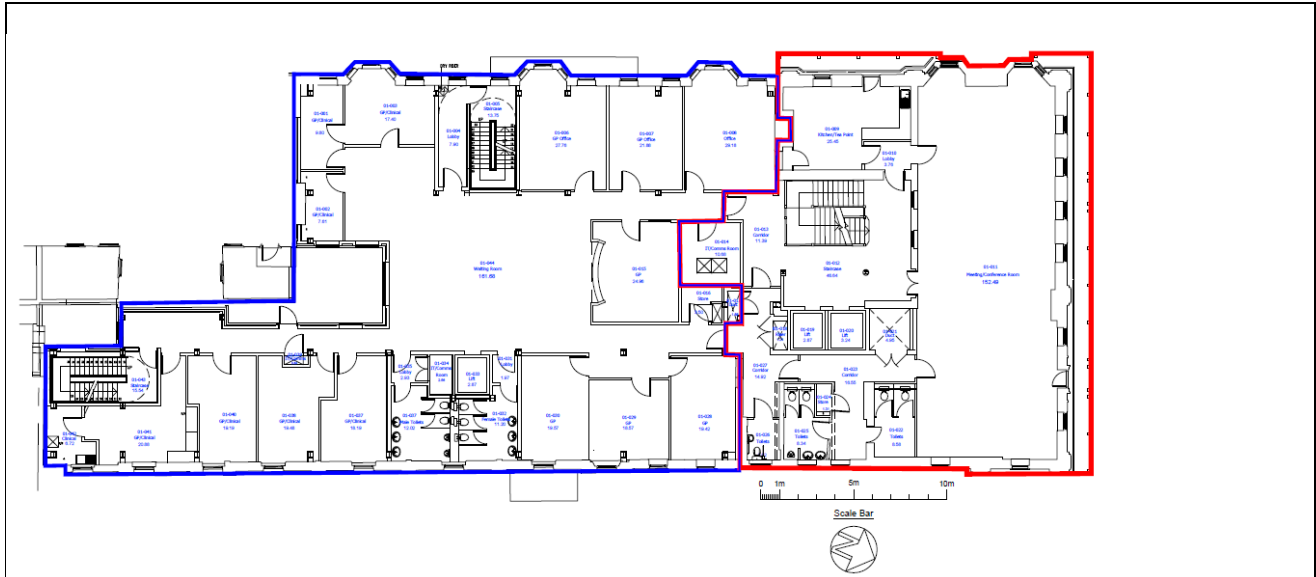
1. Application form
2. Response from Soho Society, dated 10 and 27 January 2016, and email exchange between Matthew Bennett (Soho Society) and Alan Howard (NHS Property Services)
3. Memorandum from Projects Officer (Waste) dated 6 January 2016
4. Email from Crossrail.co.uk dated 24 December 2015
5. Memorandum from the Highways Planning Manager dated 4 January 2016

(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

10. KEY DRAWINGS





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LEGEND
— Retained Healthcare Gross External Area
— Proposed Change of use Office Gross External Area

DO NOT SCALE
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 It is the responsibility of the client to ensure that the drawing is used for the intended purpose.

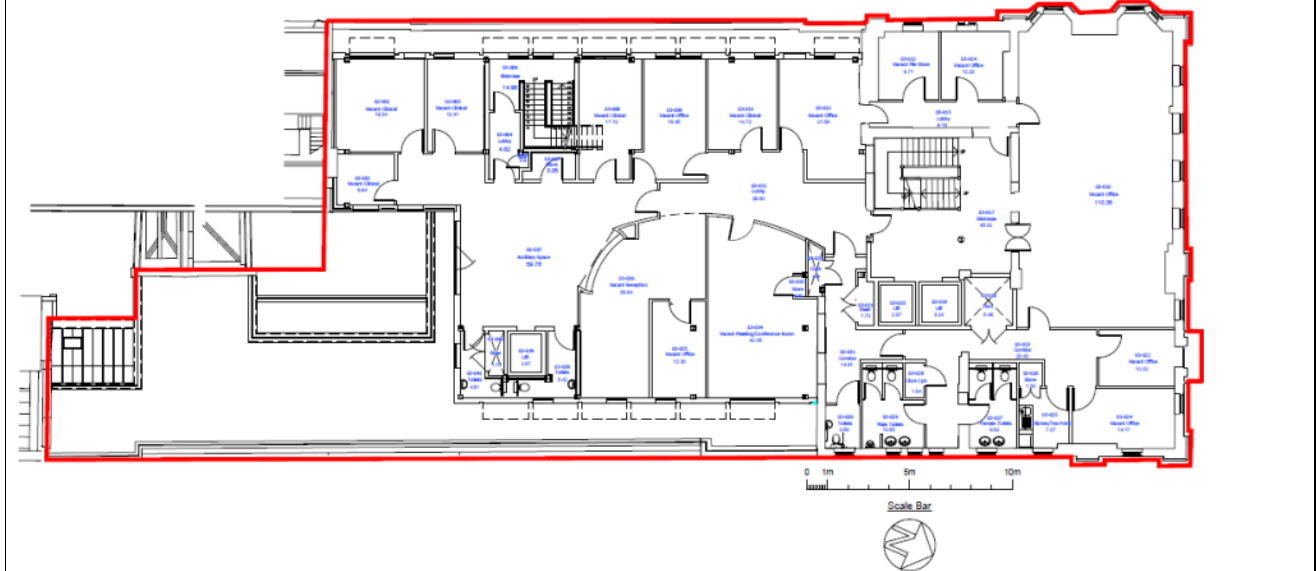
8040 CENTRE FOR HEALTH

Scale: 1:500

Project No: 8040

Client: NHS PROPERTY SERVICES LTD

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Checked by			
8456	01		



Vision, form and function



LEGEND
— Proposed Change of use Office Area

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 It is the responsibility of the client to ensure that the drawing is used for the intended purpose.

8040 CENTRE FOR HEALTH

Scale: 1:500

Project No: 8040

Client: NHS PROPERTY SERVICES LTD

Drawn by			
Checked by			

DRAFT DECISION LETTER

Address: 29-30 Soho Square, London, W1D 3QS,

Proposal: Use of part of the building at lower ground to second floor fronting Soho Square and all of the third and fourth floors for Class B1a office purposes.

Reference: 15/11340/FULL

Plan Nos: Site Location Plan; 47-52 inclusive.

Case Officer: Paul Quayle

Direct Tel. No. 020 7641 2547

Recommended Condition(s) and Reason(s):

Reason:

- 1 The proposal would result in the loss of a substantial amount of social and community accommodation without adequate replacement facilities or any other acceptable mitigation to offset that loss. The proposal is therefore contrary to policies S34 of Westminster's City Plan: Strategic Policies adopted November 2013 and SOC 1 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, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition further guidance was offered to the applicant at the validation stage and by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. However, the necessary amendments to make the application acceptable are substantial and would materially change the development proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable.

Required amendments:

- Submission of a full and proper marketing assessment for the Class D1 floorspace.

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Agenda Item 8

Item No.

8

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
Report of Director of Planning		Ward involved West End	
Subject of Report	79 - 81 Grosvenor Street, London, W1K 3JU		
Proposal	Demolition of all existing buildings (with the exception of the first and second facades of No. 80) and erection of the new building over basement, ground, and five upper storeys including a roof top plant enclosure for dual / alternative use of part basement and part ground floor levels as either a retail unit (Class A1) and / or as a gallery (Class D1) and use of part basement, part ground, first, second, third, fourth and fifth floor levels for office purposes (Class B1), with associated terraces at fourth and fifth floor level.		
Agent	DP9		
On behalf of	Forextra Developments Ltd		
Registered Number	13/12738/FULL	Date amended/ completed	27 May 2014
Date Application Received	17 December 2013		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

1. Grant conditional permission, subject to a legal agreement to secure the following:

- (a) A payment towards the City Council's Affordable Housing Fund of £1,702,000 (index linked and payable prior to commencement of development) in lieu of providing residential provision on site in order to fund the provision of affordable housing elsewhere in the City;
- (b) Submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring (maximum contribution £30,000 per annum);
- (c) The dedication of the area in front of the proposed building line on the east side of Bourdon Street as public highway (prior to the occupation of the building); and
- (d) The costs of monitoring the S106 legal agreement.

2. If the S106 legal agreement has not been completed within six weeks of the date of this 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 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

Nos.79-81 Grosvenor Street is a group of unlisted buildings on the south side of the street at its junction with Bourdon Street which passes beneath No.79. The site is located within the Mayfair Conservation Area and the Core CAZ.

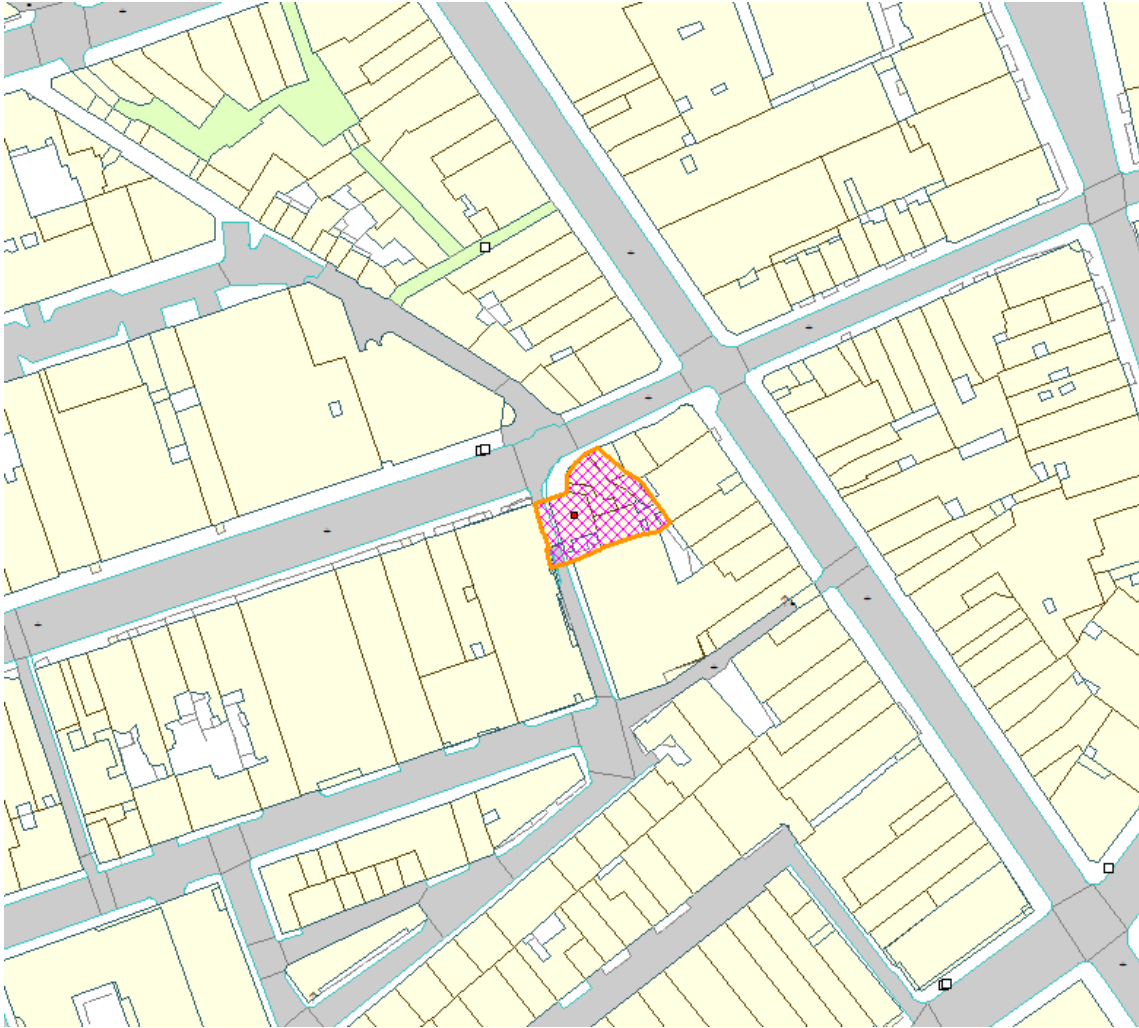
With the exception of a section of the front elevation of No. 80 at first and second floor levels, all of the buildings on site are proposed to be demolished. A replacement building over basement, ground and five upper storeys is proposed to be erected in its place for use as a gallery (Class D1) and / or a shop (Class A1) at ground floor level, ancillary plant, waste / refuse store, showers and a cycle store at basement level and offices over part ground and first to fifth floor levels.

The key issues for consideration are:

- Whether the demolition of the majority of the buildings on site and replacement building preserves or enhances the character and appearance of the Mayfair Conservation Area.
- Whether the loss of 'town centre' floorspace at basement level is acceptable.

The proposal is considered acceptable in land use and amenity terms, complying with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan). Furthermore, the proposal is considered to preserve the character and appearance of the Mayfair Conservation Area and not harm the setting of St. George's Church (Grade I listed) in long views looking east along Grosvenor Street. For these reasons it is recommended that conditional planning permission be granted subject to a legal agreement being agreed securing the items listed within Section 8.10 of this report.

3. LOCATION PLAN



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4. PHOTOGRAPHS



View to the rear on Bourdon Street



5. CONSULTATIONS

First round of consultation (June 2014)

HISTORIC ENGLAND:

The proposed increase in height and bulk and the erosion of the existing plot widths is harmful to the character and appearance of the Mayfair Conservation Area.

HISTORIC ENGLAND (ARCHAEOLOGY):

No objection subject to condition securing archaeological evaluation and investigation.

RESIDENTS' SOCIETY OF MAYFAIR AND ST. JAMES'S:

No objection but states that some suggested that a residential component should be included within the scheme as it is unfortunate that Grosvenor Street's character has passed from residential to full office and commercial.

HIGHWAYS PLANNING:

Some concern expressed regarding the servicing to the retail use / art gallery but generally no objection.

CLEANSING:

No objection subject to a condition securing the provision and retention of the store for waste / recyclable material.

ENVIRONMENTAL HEALTH:

Holding objection on the ground that, whilst the submitted acoustic report measures the background noise level, it does not ascertain the nearest noise sensitive receptor.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. consulted - 151.

Total no. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes.

Second round of consultation following amendments to the proposal (September 2015).

RESIDENTS' SOCIETY OF MAYFAIR AND ST. JAMES'S

No objection

HISTORIC ENGLAND

The amended scheme has addressed previous concerns so objection withdrawn.

ADJOINING OWNERS / OCCUPIERS:

No. consulted - 151.

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 Site

Nos.79-81 Grosvenor Street is a group of unlisted buildings on the south side of the street at its junction with Bourdon Street which passes beneath No.79. The site is located within the Mayfair Conservation Area and the Core CAZ.

Grosvenor Street narrows at this point reflecting the boundary of the Grosvenor Estate which follows the line of the Tyburn which is now in a sewer beneath No.81.

The basement and ground floors of No. 80 were until recently occupied by the 'Chalet Bar' (probably a composite use comprising elements of retail, cafe, restaurant and bar). The basement and ground floors of No. 81 was until recently occupied by the 'Chalet Restaurant' (Class A3). The upper floors of all three buildings are lawfully in office (Class B1) use.

The nearest residential properties to the application site are on the opposite side of Grosvenor Street.

6.2 Recent Relevant History

None relevant

7. THE PROPOSAL

With the exception of a section of the front elevation of No. 80 at first and second floor levels, all of the buildings on site are proposed to be demolished. A replacement building over basement, ground and five upper storeys is proposed to be erected in its place, including a larger depth of building oversailing Bourdon Street. The basement is proposed to be used for accommodating ancillary plant, waste / refuse store, showers, a cycle store and a UKPN substation. At ground floor, Nos. 80 and 81 are proposed to form a shop (Class A1) and / or an art gallery (Class D1), whilst No. 79 will form the reception to the proposed offices over first to fifth floor levels across all three of the buildings. The rest of the UKPN substation will be accommodated at ground floor level.

The building line is proposed to be pulled back slightly at ground floor level on the Bourdon Street elevation to increase the width of Bourdon Street by approximately 0.8m. A recessed area in the party wall on the eastern side of Bourdon Street is proposed to accommodate public art (although no details of this public art have been submitted).

In essence, the proposal seeks to provide more efficient and larger office floorplates across the three buildings by reducing the access cores from three to one and to provide

two additional floors of office accommodation within the proposed new dual-pitched mansard roof.

The scheme has been subject to extensive negotiation with officers and a number of amendments to the proposed replacement building have been made. These include:

- The first and second floor facades of No. 80 Grosvenor Street are now proposed to be retained.
- The reduction in the height of the rebuilt No. 81 Grosvenor Street by one storey and replacement of the initially proposed sheer storey with a mansard roof.
- Alterations to the detailed design of the rear of the proposed replacement building. It is now proposed to be all brickwork rather than the top storey being glazed.
- The height of the rebuilt third floor has been reduced.
- The height of the proposed mansard storey has been reduced, the domer windows realigned and a double-pitched mansard roof proposed rather than a mono-pitched mansard roof.
- The detailed design of the ground floor elevation has been amended to add more solidity to the structure.
- The proposed fifth floor has been pulled back from the front elevation.
- New chimney stacks are now proposed.

As a result of these amendments the owners / occupiers of adjoining properties were re-consulted, as were Historic England and the Residents' Society of Mayfair and St. James's.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Offices

When the communal floorspace is attributed to the office and shop / gallery components of the scheme proportionately, the proposal sees an increase in office floorspace from 1,424 sq.m to 2,199 sqm (an increase of 775 sqm).

The proposed increase in office floorspace is acceptable given the location within the Core CAZ, in accordance with City Plan Policies S6 and S20.

Retail – town centre floorspace

The proposal results in a reduction in Class 'A' floorspace from 463 sqm to 257 sqm.

Whilst the proposal will see the reduction in town centre floorspace from 463 sq.m (of which 266 sq.m is at basement level) to 257 sq.m, there is actually a small increase in ground floor floorspace from 197 sq.m to 223 sq.m. The retained presence of uses that serve visiting members of the public at ground floor level and the increase in more useable ground floor floorspace means the loss of town centre floorspace at basement level is acceptable. There is no objection to the replacement of the retail / cafe / restaurant / bar floorspace with a gallery and / or retail floorspace given the support for such uses within the Core CAZ and the benefits that a gallery would provide to the character of Mayfair; an area characterised by such uses.

A condition is recommended to be imposed preventing the ground floor being used for other purposes within Class D1 (such as a school) that may have unacceptable amenity and / or transportation impacts.

The proposed increase in office floorspace exceeds the 200 sq.m threshold to trigger the City Council's mixed policies (City Plan Policy S1 and UDP Policy COM 2) whereby the increase in office floorspace should be matched by on-site residential provision with separate access, where this is practicable and deemed to be appropriate. Off-site residential provision is the next most desirable option, followed by a financial contribution towards the City Council's Affordable Housing Fund.

The introduction of on-site residential provision would require the addition of another access core within the building, a separate and additional lift, and a separate entrance from street level. It is accepted that Bourdon Street is not a suitable location for a residential entrance as it would mean that occupants would step out into a shared surface thoroughfare that would raise safety concerns. Adding another entrance to Grosvenor Street would compromise the presence and size of the gallery or shop proposed at ground floor level. Furthermore, providing residential floorspace at fifth floor level (which would be most suitable as the floorplate is less deep, it benefits from the best light and amenity space could be provided in the form of a terrace) would see the loss of approximately 150 sq.m of office / shop / gallery floorspace to provide the required additional access core. For these reasons, it is concluded that the introduction of the required on-site residential floorspace is not appropriate or practicable in this instance. In the absence of any alternative sites owned by the application to provide off-site residential provision, a contribution towards the City Council's Affordable Housing Fund of £1.7m is deemed to be an acceptable alternative to this sum and this is recommended to be secured by legal agreement.

The comments from some from the Residents' Society of Mayfair and St. James's that a residential component should be included within the scheme as it is unfortunate that Grosvenor Street's character has passed from residential to full office and commercial are noted. However, for the reasons set out above it is not considered that the lack of on-site residential provision represents a sustainable reason for refusing permission.

8.2 Townscape and Design

Nos.79-81 Grosvenor Street is a group of buildings on the south side of the street at its junction with Bourdon Street which passes beneath No.79. Grosvenor Street narrows at this point reflecting the boundary of the Grosvenor Estate which follows the line of the Tyburn which is now in a sewer beneath No.81. Given the proximity of the site to this ancient watercourse, and archaeological recording condition is considered appropriate (and as recommended by Historic England).

Nos. 79 and 80 were built to a design by Sydney Smirke, circa 1852, and the original facade drawings are in the Grosvenor Estate Archive. No.81 is an unusually small building on account of its position above the Tyburn, it is likely to be of mid-nineteenth century date. The group makes a positive contribution to the appearance of the street. They are important reminders of the historic character and scale of development in this part of Mayfair and they are an unusually clear reflection of a historic land ownership boundary.

Since the application was submitted, revisions have been made to ensure the partial retention of No. 80 with alterations to match the original architecture and, likewise, the rebuilding of No. 79 with brickwork to match the original design except for a modestly increased third floor. No. 81, which is in poor structural condition is to be rebuilt to a new design but retaining its small scale which is important in views from Avery Row and the junction of New Bond Street.

The overall height and bulk of the revised design is acceptable in terms of the new building's impact on the surrounding streetscape and longer views towards St. George's Church (Grade I listed) from the east. The revised roof design, with a primary and secondary pitch and historically detailed dormers to suit the design of the retained façade at No.80, is acceptable in principle and the new upper floors are designed to suit the roofscape of the conservation area thus ensuring the appearance of the development is suitable when seen from street level and from the upper floors of surrounding properties. This accords with UDP Policies DES 6, DES 9 and DES 10

The modest increase in the height of the existing attic floor of Nos. 79 and 80 is acceptable, subject to the new brickwork being the same as that of the floors below and the detailed design of cornices, windows etc., matching the existing original features in all respects. Similarly, at ground floor level the introduction of solid brickwork on the corner has helped to make the building relate better to the street and is therefore acceptable. Details of the materials may be dealt with by condition.

Demolition of No.81 is acceptable given the quality of the new building and the frailty of the existing structure. The new building is subordinate to No.80 and it presents a clear, visually independent façade to that of No.80, thus ensuring that the historic plot widths are not destroyed and that the comparatively modest scale of historic development on this site is maintained because these are important contributors to the historic character and appearance of this part of the Mayfair Conservation Area.

The simple architectural treatment of the new rear facades sits well in its context, and overall the proposal will maintain the character and appearance of the Mayfair Conservation Area and the setting of the Grade I listed St George's Church.

8.3 Residential Amenity

The City Council places high priority on protecting residential amenity, with UDP Policy ENV 13 stating that the City Council will normally resist proposals which result in a material loss of daylight or sunlight to neighbouring properties. Similarly, City Plan Policy S29 seeks to ensure that development proposals safeguard the amenities of neighbouring residents in terms of privacy, outlook and noise.

Sunlight and Daylight

Policy ENV13 also states that regard should be given to the Building Research Establishment guidance entitled, '*Site layout planning for daylight and sunlight: a guide to good practice*' (the BRE Guide). The second edition of this guidance was published in September 2011.

The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of sky that is visible from 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 effect 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 habitable rooms), whilst bedrooms are protected to a lesser extent.

With regard to sunlighting, the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values, and the total loss over the whole year is greater than 4%. Only windows within 90 degrees of due south of the proposed extension need to be tested.

The applicant has submitted a daylight and sunlight report which assesses the impact of the proposed extension on all affected residential windows in the vicinity of the site. As set out above, the nearest residential properties are located to the north of the site at Nos. 2-3 Grosvenor Street at third floor level.

Given the high level of these two flats, the majority of the windows enjoy high VSC levels with all but two being above the 27% threshold within the BRE Guide (2011). The two that will fall below this level as a result of the proposed development will only reduce by 9.0% and 2.5% VSC; well within the 20% threshold within the BRE Guide (2011). As such, the proposal will not have a material impact upon the amenity of the occupants of these two flats in terms of daylight.

As the flats are located at third floor level with good access to sunlight, all of the windows benefit from annual probable sunlight hours in excess of 25% and from winter sunlight hours in excess of 5% even following the proposed development. The amenity of the occupants of these two flats will therefore not be harmed as a result of the proposed development in respect to loss of sunlight.

Privacy

Terraces for use in association with the proposed office accommodation are proposed at front fourth and fifth floor level. Whilst there will be some overlooking from these terraces to the flats opposite, the distance from the affected windows means that the privacy of the occupants of these flats will not be materially harmed.

Noise

The plant has not yet been specified but an acoustic report submitted that assesses the background noise level and sets design criteria for the plant's adherence. A condition is recommended to be imposed requiring the submission of a supplementary acoustic report prior to the installation of the replacement plant demonstrating that it will comply with the criteria with UDP Policy ENV 7 (i.e. 10 dB below the lowest background noise level if the plant is not tonal or 15 dB below the lowest background noise level if the plant is tonal).

Subject to the imposition of this condition there is no objection to the proposed plant in terms of its impact upon residential amenity, despite the holding objection raised by Environmental Health to the failure to identify the nearest noise sensitive receptor.

8.4 Transportation/Parking

The applicant is proposing to set the building line back on Bourdon Street. Given the narrow nature of Bourdon Street, this realignment is a welcomed improvement to the highway and consistent with City Plan Policy S41 and UDP Policy TRANS 3. The dedication of this area of public highway will ensure the highway boundary in the area is consistent. This dedication is proposed to be secured by legal agreement.

It is noted that reference is made in the submission to a Highway Works/Public Realm improvement scheme – known as “Grosvenor Hill Public Realm Improvements” – already being developed by the Council in conjunction with and fully funded by Grosvenor West End Properties. The proposals include Bourdon Street. The proposed development at the subject site does not adversely affect the public realm scheme and any change to the building line can be incorporated into the public realm works.

The proposal indicates an extension of the building oversailing the highway. The proposed extension will maintain the clearance of the existing building over the highway. While lower than modern standards, the increase in depth of this building over the highway does not itself raise a highways concern. An oversailing license will be required under the Highways Act (1980) prior to construction of the structure.

It is not considered that the change in use of the ground floor from café / restaurant / bar to a shop and / or gallery will result in a material change in servicing requirements.

The provision of cycle storage is compliant with the City Council’s standards and secured by condition.

8.5 Economic Considerations

Any economic benefits from the increase in the size of the office are welcome.

8.6 Access

The existing buildings do not offer level access to the ground floor. Whilst two of the three buildings have internal lifts these are not DDA compliant and serve only parts of the floors (the rear of the building is accessed off a half landing which is not served by a lift).

The new building will provide full level access to all areas of all floors.

8.7 Other UDP/Westminster Policy Considerations

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 scheme includes the installation of photovoltaic panels, these will be secured by condition.

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.

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

- (a) A payment towards the City Council's Affordable Housing Fund of £1,702,000 (index linked and payable prior to commencement of development);
- (b) Submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring (maximum contribution £30,000 per annum);
- (c) The dedication of the area in front of the proposed building line on the east side of Bourdon Street as public highway (prior to the occupation of the building); and
- (d) The costs of monitoring the S106 legal agreement.

8.11 Environmental Impact Assessment

The scheme is of insufficient scale to require the submission of an Environmental Statement.

8.12 Other Issues

In order to ensure that the demolition and reconstruction of this building is undertaken in a manner that minimises disruption, the submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring (maximum contribution £30,000 per annum) is proposed to be secured by legal agreement.

9. BACKGROUND PAPERS

1. Application form.
2. Memoranda from the Residents' Society of Mayfair and St. James's, dated 16 June 2014 and 21 September 2015.
3. Memorandum from the Highways Planning Manager, dated 3 June 2014.
4. Response from the Cleansing Manager, dated 10 June 2014.
5. Responses from Historic England (Listed Builds/Con Areas), dated 11 August 2014 and 6 October 2015.
6. Response from Historic England (Archaeology), dated 18 June 2014
7. Response from Environmental Health, dated 19 June 2014.

(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

10. KEY DRAWINGS



Visual of existing building as seen from Grosvenor Street.



Visual of proposed building as seen from Grosvenor Street.



Existing and proposed view from Bourdon Street at junction with Grosvenor Hill



Existing section through building.



Proposed section through building.

DRAFT DECISION LETTER

Address: 79 - 81 Grosvenor Street, London, W1K 3JU,

Proposal: Demolition of all existing buildings (with the exception of the first and second facades of No. 80) and erection of the new building over basement, ground, and five upper storeys including a roof top plant enclosure for dual / alternative use of part basement and part ground floor levels as either a retail unit (Class A1) and / or as a gallery (Class D1) and use of part basement, part ground, first, second, third, fourth and fifth floor levels for office purposes (Class B1), with associated terraces at fourth and fifth floor level.

Plan Nos: 1873 PL 12b, 13b, 14b, 15b, 20e, 21e, 22d, 23e, 24e, 25e, 26e, 27e, 28e, 29d, 30d, 31d, and 32d.

Case Officer: Mark Hollington

Direct Tel. No. 020 7641 2523

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 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 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 sample 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)

- 5 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)

- 6 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)

- 7 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)

- 8 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)

- 9 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)

- 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.

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 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1872 PL 20 Rev. E. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

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 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)

13 (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.

- 14 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.

- 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 13 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.

- 16 You must apply to us for approval of detailed drawings of the following parts of the development - windows, cornices, shopfronts and external 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 **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)

- 18 You must apply to us for approval of a scheme of public art in the location shown on approved drawings 1873 PL 21 Rev. E and 1873 PL 32 Rev. D.

You must not start work on the public art until we have approved what you have sent us. Before anyone moves into the building you must carry out the scheme according to the approved details.

You must maintain the approved public art and keep it on this site. You must not move or remove it. (C37AB)

Reason:

To make sure the art is provided for the public and to make sure that the appearance of the building is suitable. This is as set out in DES 7 (A) of our Unitary Development Plan that we adopted in January 2007. (R37AB)

- 19 If the gallery use is implemented you must use the property only as a gallery. You must not use it for any other purpose, including any within Class D1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it).

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TRANS 2, TRANS 3, ENV 13 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 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.

- The photovoltaic panels and the solar tubes

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)

- 21 **Pre Commencement Condition.** You must apply to us for approval of detailed drawings showing how you will support and protect the parts of the building which are to be kept during building work. You must not start work until we have approved what you have sent us. You must then carry out the work according to these drawings. (C28AB)

Reason:

To protect the parts of the building which are to be preserved during building work. (R28AA)

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 be advised that you liaise with the City Council in its capacity as Highways Authority for agreement on the works and materials used to finish the new area of public highway on the east side of Bourdon Street.
- 3 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: 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. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit 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

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. (154AA)
- 5 You need an oversailing licence for the structure above Bourdon Street.
- 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 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the ground floor can change between the Class A1 (shops) and Class D1 (non-residential institution) 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. (162A)
- 8 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) A payment towards the City Council's Affordable Housing Fund of £1,702,000.
 - (b) Submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring (maximum contribution £30,000 per annum).
 - (c) The dedication of the area in front of the proposed building line on the east side of Bourdon Street as public highway.

Agenda Item 9

Item No.

9

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 th March 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	35 - 50 Rathbone Place, London, W1T 1AA,		
Proposal	Variation of Condition 1 of planning permission dated 15 October 2013 (RN : 13/04844) for 'Substantial demolition of existing buildings and redevelopment of the site to provide a mixed use scheme accommodated in two L-shaped buildings rising to nine storeys plus basements and rooftop plant with frontages to Rathbone Place and Newman Street set around a central open space; use of new buildings for up to 162 residential dwellings (Class C3) with communal garden, offices (Class B1), shops (Class A1), flexible space for use as shops (Class A1) and/or restaurant (Class A3) and/or bar (Class A4); provision within basement of plant rooms and car/cycle parking with vehicular access via lifts from Newman Street; ground floor loading bay with access from Newman Street; new pedestrian routes through the site from Newman Street and Rathbone Place; and associated works.'; namely the submission of substitute drawings showing re-distribution of floorspace areas at ground and basement levels having the effect of increasing the amount of offices (Class B1) and decreasing shops (Class A1/A3); associated changes to street elevations including new retail frontage with full height glazing, louvres and signage zones on Rathbone Place; change to rooflight arrangement to a linear pattern along southern side of the central garden; levels changes in central garden; additional louvres along the central garden elevation and south facing retail elevations; changes to parapet details; and alterations to office entrance doors on Newman Street.		
Agent	Mr James Wickham		
On behalf of	The Rathbone Place Ltd Partnership		
Registered Number	15/10824/FULL	Date amended/ completed	10 November 2015
Date Application Received	10 November 2015		
Historic Building Grade	Unlisted		
Conservation Area			

1. RECOMMENDATION

1. Grant conditional permission subject to a deed of variation to the S106 legal agreement pertaining to planning permission 13/04844/FULL to secure the following additional matter:

i. A payment of £1,026,771 towards the Council's affordable housing fund.

2. If the deed of variation has not been completed within three months of the date of the Committee resolution, 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

The application site formerly contained a 1950's-built Royal Mail regional office and mail distribution centre, comprising a six storey building on Rathbone Place and an open parking/servicing area fronting Newman Street. Identified as a Strategic Site in the Tottenham Court Road Opportunity Area, it is currently being redeveloped for mixed residential, shopping and office purposes following planning permission granted in 2013.

The design concept of the permitted scheme is of new buildings surrounding a privately managed central open space. New buildings would face east and west onto Newman Street and Rathbone Place, and another (mainly residential) block would form the northern boundary of the site. The open space between the blocks would include a new pedestrian route through the site linking Newman Street and Rathbone Place. Both street elevations and the internal elevations within the site overlooking the open space would, at basement and ground floor level, include frontages containing shops, restaurants and bars. 20 of the 162 proposed dwellings would be provided as affordable housing accommodation (supplemented by a further 18 affordable housing units provided off-site).

The commercial floorspace delivered by the planning permission would equate to 32,972sqm offices and 6,371sqm shops. The shopping floorspace would include two large units of 1,343sqm and 870sqm (totalling 2,213sqm) with the potential to accommodate entertainment uses. Both would front Rathbone Place and would back onto the open space, and the larger unit could be used for either retail or restaurant purposes and the smaller for either retail, restaurant or bar.

Although the development was conceived as a speculative proposal, the international social media network Facebook intends to occupy the entire office floorspace as their European headquarters. However, the amount of office floorspace currently approved falls marginally short of Facebook's requirements, and the current proposal is to reassign some of the shopping floorspace for office purposes. This would mainly be achieved by the redesignation of the larger of the potential entertainment units to offices, which would result in an additional 1,343sqm of offices. However, during negotiations with the applicant officers were concerned that there would be too much loss of retail street frontage on Rathbone Place and due to this the applicant proposes to reassign the currently approved office entrance and lobby on Newman Street as a retail shop of 124sqm. To 'compensate' for the loss of the approved office entrance and lobby, which amounts to 124sqm, the

applicant proposes changing to offices part of the approved retail floorspace (192sqm) situated at the rear of the shops Newman Street and which fronts onto the open space. This would not affect the shopping frontage on Newman Street.

In total therefore the proposals would result in a net increase in office floorspace of 1,275sqm and a reduction of approved retail floorspace by the same amount. Clearly such a reduction in shopping is regrettable as one of the merits of the approved scheme is the creation of enlivening ground floor uses in the form of publicly accessible shops, bars and restaurants. However, even with the loss such accommodation as now proposed, the vast majority of the ground floor would still be used for such purposes, including most of the external street frontages and the internal frontages to the public open space. In considering this loss it is relevant to weigh in the balance the benefits of the new office occupier, Facebook, which is an internationally renowned company with a modern, forward-thinking iconic image and whose presence at the site would bring prestige and wider economic benefits to the area through its relocation to the site. It is considered that its presence in the Opportunity Area would be influential and positive, and on balance it is therefore considered that the advantages of the proposed reordering of the uses at the site would outweigh the disadvantages.

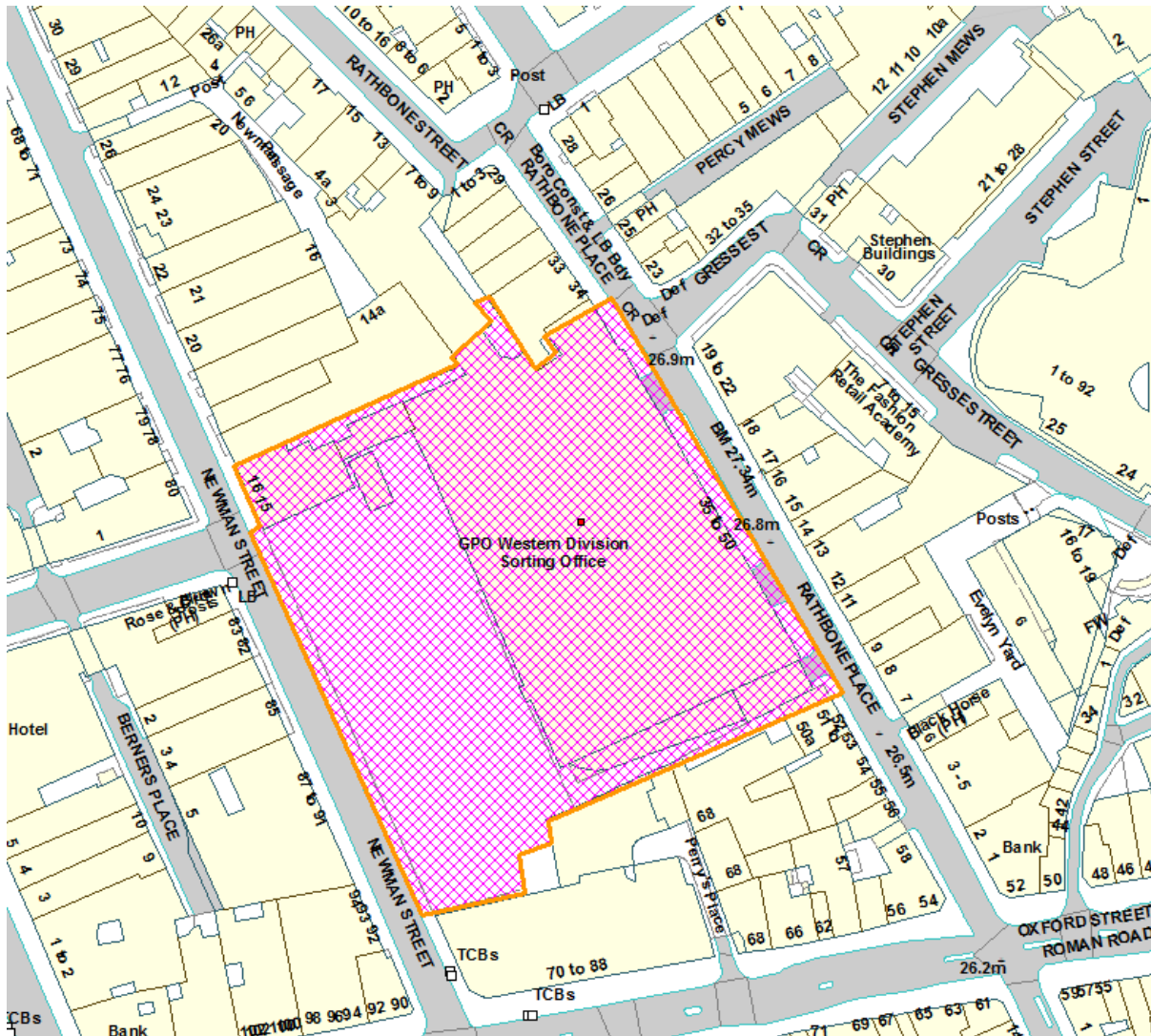
As there would be an increase in office floorspace, under UDP policy COM2 and City Plan policy S1 there should be an equivalent residential provision. It is not possible to provide this on site and therefore the applicant is offering a payment in lieu of £1,026,771 towards the City Council's affordable housing fund, which has been calculated in accordance with the Council's formula and this is considered to be acceptable.

The current proposals also include some physical alterations to the approved scheme, the most significant of which involves the replacement of the method for bringing natural light to the basement office level, which in the approved scheme was an oculus and is now proposed to be in the more traditional form of roof lights. Both the approved oculus and the proposed rooflights would be within the public open space. This proposed change is considered to be acceptable. Allied to this, it is proposed to close of one of the routes through the site which in the approved scheme follows the L-shape rear building line of the southern part of the Rathbone Place block. This is partly to prevent excessive walking on the rooflights previously described but also to allow external tables and chairs to be placed outside the remaining restaurant/bar unit in the scheme. This would not affect the main route through the site which is the curved pathway around the northern edge of the open space directly linking Newman Street to Rathbone Place. The provision of al fresco facilities was always likely be required by the operator of the entertainment uses, which is why the extant planning permission includes a condition limiting the hours that outside tables and chairs external. This proposal therefore confirms what was already anticipated and it is considered that this would add another dimension to the entertainment uses and is acceptable.

The proposals require some elevational changes to the building elevations to reflect the amendments described above - such as the removal of entrances and introduction of new entrances. Wherever changes are proposed they accord with the approved architectural styling and would blend with the overall design.

Overall the proposed changes are considered acceptable.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

Fitzrovia Neighbourhood Association
Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 319
Total No. of replies: 0
No. of objections: 0
No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND PAPERS

1. Application form

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 CentralPlanningTeam@westminster.gov.uk

7. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 35 - 50 Rathbone Place, London, W1T 1AA,

Proposal: Variation of Condition 1 of planning permission dated 15 October 2013 (RN : 13/04844) for 'Substantial demolition of existing buildings and redevelopment of the site to provide a mixed use scheme accommodated in two L-shaped buildings rising to nine storeys plus basements and rooftop plant with frontages to Rathbone Place and Newman Street set around a central open space; use of new buildings for up to 162 residential dwellings (Class C3) with communal garden, offices (Class B1), shops (Class A1), flexible space for use as shops (Class A1) and/or restaurant (Class A3) and/or bar (Class A4); provision within basement of plant rooms and car/cycle parking with vehicular access via lifts from Newman Street; ground floor loading bay with access from Newman Street; new pedestrian routes through the site from Newman Street and Rathbone Place; and associated works.'; namely the submission of substitute drawings showing re-distribution of floorspace areas at ground and basement levels having the effect of increasing the amount of offices (Class B1) and decreasing shops (Class A1/A3); associated changes to street elevations including new retail frontage with full height glazing, louvres and signage zones on Rathbone Place; change to rooflight arrangement to a linear pattern along southern side of the central garden; levels changes in central garden; additional louvres along the central garden elevation and south facing retail elevations; changes to parapet details; and alterations to office entrance doors on Newman Street.

Reference: 15/10824/FULL

Plan Nos: 0816/P0500Rev00, P2000Rev00 and Rev01, P2006Rev00, P2007Rev00, P2008Rev00, P2009Rev00 and Rev01, P2010Rev00 and Rev01, P2011Rev00, P2012Rev00, P2013Rev00, P2014Rev00, P2015Rev00, P2016Rev00, P2017Rev00, P2018Rev00, P2019Rev00, PP2021Rev00. P2110Rev00 and Rev01, P2111Rev00 and Rev01, P2112Rev00 and Rev01, P2113Rev00 and Rev01, P2210Rev00; Environmental Statement Volumes I, II and III and Non-technical Summary by URS dated May 2013; Energy Strategy by Hilson Moran revision no.1.4 dated 8 August 2013; Sustainability Statement by Hilson Moran dated May 2013.

Case Officer: Steve Brandon

Direct Tel. No. 020 7641 8541

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 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)

- 4 The A3 floorspace hereby approved shall not extend beyond the areas annotated on the approved drawings 'Retail A1/A3', 'Retail A1/A3/A4', 'Dual Use A1/A3 and B1' or 'Dual Use A1/A3/A4 and B1'.

Reason:

To ensure that the site does not provide an imbalance of floorspace dedicated to entertainment uses which would be harmful to the local environment and neighbouring residential amenity contrary to S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE10 of our Unitary Development Plan adopted in January 2007

- 5 The A4 floorspace hereby approved shall not extend beyond the areas annotated on the approved drawings 'Retail A1/A3/A4' or 'Dual Use A1/A3/A4 and B1'.

Reason:

To ensure that the site does not provide an imbalance of floorspace dedicated to entertainment uses which would be harmful to the local environment and neighbouring residential amenity contrary to S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE10 of our Unitary Development Plan adopted in January 2007

- 6 No A3 or A4 use (or any combination of these uses forming a composite use with another use(s)) shall allow customers on the premises later than 23.30hrs.

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 TACE10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 7 If you provide an A3 use or composite A1/A3 use, 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 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 TACE10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 8 If you provide an A4 use or composite A3/A4 use, no more than 15% of the floor area shall be used by customers for vertical drinking.

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 TACE10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 9 If you provide an A4 use or composite A3/A4 use drinks shall be served only with meals after 21.00hrs.

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 TACE10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 10 If you provide an A4 use or composite A3/A4 use, no external drinking or dining shall occur after 21.00hrs

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 TACE10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 11 The management of any A3 or A4 use (or any combination of these uses forming a composite use with another use(s)) shall be such that there is no external queuing of customers.

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 TACE10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 12 No A3 or A4 use (or any combination of these uses forming a composite use with another use(s)) shall commence until you have applied to us for approval of details of the ventilation system to get rid of cooking smells from the premises, including details of how it will be built and how it will look. You must not begin the 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.

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)

- 13 You must not occupy the building unless waste and recycling facilities have been provided in accordance with the details approved by the City Council as Local Planning Authority under reference RN/15/00639/ADFULL or in accordance with other waste and recycling details as submitted to and approved by the City Council. You must then provide the facilities in accordance with the approved details, clearly marked and made available at all times to everyone using the development. You must not use the facilities provided for any other purpose.

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)

- 14 The open space at the centre of the site and the pedestrian walkways through the site shall be open to the public every day from 06.30-22.00hrs.

Reason:

To ensure the open space provides a public benefit in accordance with policy for the Tottenham Court Road Opportunity Area which prioritises public realm benefits and improved pedestrian circulation and movement, as set out in CS5 of Westminster's City Plan: Strategic Policies adopted November 2013.

- 15 You must provide 79 residential car parking spaces within the development and these parking spaces shall only be used for the parking of vehicles by people living in the residential part of this development..

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)

- 16 At least 60 of the 79 residential car parking spaces which shall not be assigned to any specific residential unit in accordance with details approved by the City Council as Local Planning Authority under reference RN/15/00639/ADFULL or in accordance with other such relevant details which are submitted to and approved by the City Council. These minimum 60 parking spaces must be made available at all times to all residential occupiers of the development.

Reason:

To ensure the efficiency of the car parking provision 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.

- 17 You must use the access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes, and the clear internal height of any of these areas shall be maintained at 4.5metres

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 apply to us for approval of the detailed design of all vehicle access points to the site.You

must not start work on this part of the development until we have approved what you have sent us. You must then provide the accesses according to the approved details.

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)

- 19 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.

- 20 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 this part of the development until we have approved what you have sent us. You must then carry out the landscaping before first occupation of the development and the planting within one planting season of completing the development (or within any other time limit we agree to in writing)., , If you remove any trees or find that they are dying, severely damaged or diseased within five years of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the East Marylebone Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in S25, S28 and S38 of Westminster's City Plan: 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. (R30CD)

- 21 (a) You must undertake a written scheme of investigation for a programme of archaeological work in accordance with the details approved by the City Council as Local Planning Authority under reference RN/14/01748/ADFULL or in accordance with other relevant details as submitted to and approved by the City Council, , (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)

- 22 You must provide the environmental sustainability features (environmentally friendly features) as stated in your submitted Sustainability Strategy and Energy Strategy before you start to use any part of the development. You must not remove any of these features, unless we have given you our permission in writing. (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)

- 23 You must provide the brown and green roofs as shown on the approved drawings, and you must not subsequently remove any of these features.

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)

- 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 apply to us for approval of detailed drawings of the design, construction and insulation of the whole ventilation system and any associated equipment. 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 the approved drawings. You must not change it without our permission. (C13BB)

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and 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. (R13AC)

- 26 (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.

- 27 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 26 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.

- 28 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.

- 29 (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.

- 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/45dbLamax 8 hrs in bedrooms at night when the windows are shut

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 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:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 32 All the residential flats fronting Rathbone Place hereby approved shall at all times be provided with fully operational mechanical comfort-cooling facilities

Reason:

To ensure that if residents choose to keep windows closed in order to shut out noise from on Rathbone Place, air conditioning is available to prevent overheating of dwellings. The provision of a high quality, healthy and safe living environment is in accordance with CS29 and CS32 of Westminster's City Plan: Strategic Policies adopted November 2013

- 33 You must undertake all demolition and construction work in accordance with the details approved by the City Council as Local Planning Authority under references RN/14/01747/ADFULL and

RN/14/03265/ADFULL or in accordance with other relevant details submitted to and approved by the City Council.,

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.

- 34 No construction work of any part of the development forming part of this permission shall begin until detailed design and method statements for all of the ground floor structures, foundations, basements and other structures below, including piling (both temporary and permanent), below ground level (the Foundation Works) which accommodate:, (a) The proposed location of the Chelsea-Hackney Line structures and tunnels,, (b) The ground movement arising from the construction of structures, and tunnels, (c) The effects of noise and vibration arising from the use of the running tunnels., , have been submitted to and approved, in writing, by the Local Planning Authority. All such works which form part of the design and method statements shall be completed, in their entirety, before any part of the building hereby permitted is occupied.,

Reason:

To meet the requirements of a direction made in connection with the Chelsea-Hackney line (CrossRail Line 2) by the Secretary of State for Transport under Articles 14(1) and 18(3) of the Town and Country Planning General Development Order 1988 and as set out in S41 and S43 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 5 (E) and para 4.68 of our Unitary Development Plan that we adopted in January 2007. (R33BC)

- 35 You must provide a satisfactory area of the site that is required for the surface interest safeguarding of Crossrail 2 in accordance with the details approved by the City Council as Local Planning Authority under reference RN/14/03056/ADFULL or in accordance with other relevant details as submitted to and approved by the City Council. The development shall only be occupied in accordance with the approved details.

Reason:

To meet the requirements of a direction made in connection with the Chelsea-Hackney line (CrossRail Line 2) by the Secretary of State for Transport under Articles 14(1) and 18(3) of the Town and Country Planning General Development Order 1988 and as set out in S41 and S43 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 5 (E) and para 4.68 of our Unitary Development Plan that we adopted in January 2007. (R33BC)

- 36 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 the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 37 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. Typical details of the facades at all levels. , 2. Public artworks., , 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 the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 38 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)

- 39 You must apply to us for approval of a shopfront and signage strategy / design guide. , , You must not start any work on these parts of the development until we have approved what you have sent us., , All shopfront and signs installed in the development must conform to this strategy.

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 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 40 The affordable housing provision shall be implemented in accordance with the amendments

approved by the City Council as Local Planning Authority under reference RN/14/02165/ADFULL or in accordance with other relevant details as submitted to and approved by the City Council. ,

Reason:

To ensure satisfactory affordable housing provision in accordance with S16 of Westminster's City Plan: Strategic Policies adopted November 2013 and H4 of our Unitary Development Plan that we adopted in January 2007.

- 41 No goods, including fuel, delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway. You may accept or despatch such goods only if they are unloaded or loaded within the curtilage of the site. This restriction does not apply however to the residential properties at the site or to commercial units which have no access to the on-site servicing area.

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)

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.
10

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
Addendum Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Audley Square Garage, 5 Audley Square , London, W1K 1DS,		
Proposal	Demolition of existing buildings (with the exception of 4 Red Lion Yard which is to be retained with external alterations) and the erection of new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 30 residential units with swimming pool and gymnasium, creation of roof terraces, car parking and cycle parking; vehicular access from Waverton Street; hard and soft landscaping; and plant at roof level.		
Agent	DP9		
On behalf of	Caudwell Properties (109) Limited		
Registered Number	15/02197/FULL	Date amended/ completed	24 March 2015
Date Application Received	10 March 2015		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

<p>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:</p> <p>a) i, The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street-sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing</p> <p>or ii, if planning permission is not granted for i. above, the refurbishment/rebuilding of the Council's street-sweeping depot at 21-23 Farm Street together with a contribution of £9.4M towards the City Council's affordable housing fund (index linked and payable upon commencement of development);</p> <p>b) Highways works associated with the development;</p> <p>c) Communal on-site parking spaces to be unallocated;</p> <p>d) Public art provision</p> <p>e) Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers;</p> <p>f) Costs of the stopping up order and the Dedication Agreement; and</p> <p>g) The costs of monitoring the S106 agreement.</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:</p> <p>(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 of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</p>

(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.

3. 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 required to enable the development to take place.

4. 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 planning application was reported to the Planning Applications Committee on 8th December 2015, (see minutes and report attached) which resolved to grant planning permission for the above scheme subject to a s106 Agreement which has yet to be signed. Following the resolution to grant permission, the City Council has received correspondence from the new owners of a neighbouring property at 39 Hill Street, raising concerns regarding potential losses of daylight/sunlight to that property as a result of the proposed development. No representations to the planning application had been received from the former owner of the building or from any occupiers of the building.

However, on 4 December 2015, just prior to the committee meeting the Council received a letter from Rights of Light Consultants Anstey Horne on behalf of the new owners of 39 Hill Street, Residential Land, requesting that the impacts upon light to 39 Hill Street are fully considered as part of the planning application process. This letter did not specify that it should be considered as an objection to the planning application, but stated that "there are several long leasehold interests and long term residents in the building and there may be further long leasehold interests in the future, so my clients' concern relates to both current and future occupants". The claim that there may be some long term residents in the 39 Hill Street is at odds with the committee report which stated that 39 Hill Street would be the *"most significantly affected property, which has many windows overlooking the site. However, this property, which is 39 Hill Street (the Berkeley Plaza) is not in permanent residential use and comprises serviced apartments for short term letting. It is therefore not considered that the same weight should be attached to protecting natural levels to the windows of this property as would be the case for permanent residential use."*

Anstey Horne's letter was circulated to the Members of the Planning Committee, and was therefore taken into account in the determination of the application but the committee decided that planning permission should be granted

Subsequent to the committee's decision further representations have been received from Residential Land and their agents complaining that the matter was inadequately discussed in the committee report, suggesting that members had insufficient information before them on which to base a decision, and denying that the building was used for short-term letting. In addition objection letters were received from five occupiers of the building. Notwithstanding Residential Land's claim, it is still not clear what the lawful use of the building definitely is given the lack of documentary evidence. It remains the case that in its previous ownership the building was, either wholly or in part, known as the Berkeley Plaza and flats within it were available for renting for short periods of time for holiday lets or by business visitors. The websites advertising this service can still be viewed via the internet. The current owner disputes this and considers that even if such a use did occur at any time, this would not have been the lawful use. In circumstances such as this it can often be time-consuming and difficult to establish the true lawful situation, and therefore in this case it is considered by officers to report the matter back to committee in more detail assuming the 'worst case scenario' - namely what the impact on neighbouring natural lighting levels would be assuming 39 Hill Street to be wholly in permanent residential use. Following the recently received objections officers have had the opportunity to visit the building where they were shown three of the 65 units.

The units facing the application site are single aspect and would be most affected by the proposed development. The committee report did not set out in detail the losses of daylight and sunlight to these affected windows, but the tables below do. There would be losses of daylight (VSC) ranging from 2% to 43% and losses to winter and annual sunlight levels ranging from 8-45%. The table also includes the losses from the 2013 planning permission granted at the application site which is a material consideration and shows that in many instances the reductions in sunlight and daylight to 39 Hill Street in the current application would not be as great as in the 2013 scheme.

The table below shows some of the windows that would lose over 20% VSC.

Level	Window Ref	Use	Existing	Consented	Proposed	Actual loss	Existing to proposed % change
First	W5/101	Bathroom	15.57	10.97	11.92	3.65	23.44%
First	W6/101	Bedroom	16.91	11.24	12.00	4.91	29.04%
First	W10/101	Kitchen	20.69	11.46	12.22	8.47	40.94%
Second	W7/102	Bedroom	20.93	12.92	13.79	7.14	34.11%
Second	W9/102	Kitchen	22.64	12.99	13.87	8.77	38.74%
Second	W16/102	L/K/D	27.85	17.75	18.49	9.36	33.61%
Third	W7/103	Bedroom	23.16	14.75	15.69	7.47	32.25%
Third	W10/103	Bedroom	27.54	15.46	16.39	11.15	40.49%
Third	W13/103	Living room	29.22	17.14	18.01	11.21	38.36%
Third	W15/103	Kitchen	29.90	18.79	19.85	10.05	33.61%
Fourth	W6/104	Kitchen	22.47	16.60	17.84	4.63	20.61%
Fourth	W11/104	Living room	28.27	17.10	18.01	10.26	36.29%
Fourth	W14/104	Bedroom	31.14	19.24	20.20	10.94	35.13%
Fifth	W7/105	Living room	26.65	19.47	20.55	6.10	22.89%
Fifth	W10/105	Kitchen	29.60	19.42	20.33	9.27	31.32%
Fifth	W15/105	Bedroom	32.94	21.56	22.49	10.45	31.72%
Sixth	W10/106	Kitchen	32.16	22.42	23.10	9.06	28.17%
Sixth	W12/106	Bedroom	33.66	22.86	23.51	10.15	30.15%
Sixth	W16/106	Living room	35.13	25.84	26.76	8.37	23.83%
Seventh	W9/107	Bedroom	33.69	25.74	26.12	7.57	22.47%
Seventh	W13/107	Bedroom	35.42	25.94	26.20	9.22	26.03%
Seventh	W17/107	Living room	26.35	28.47	28.99	7.36	20.25%
Eighth	W10/108	Living room	34.02	27.20	26.92	7.10	20.87%

Where there are reductions in VSC greater than 20%, it is considered that occupants may notice the change in daylighting levels. However, in the context of an inner London location such reductions are not excessive and the remaining lighting levels would be reasonable.

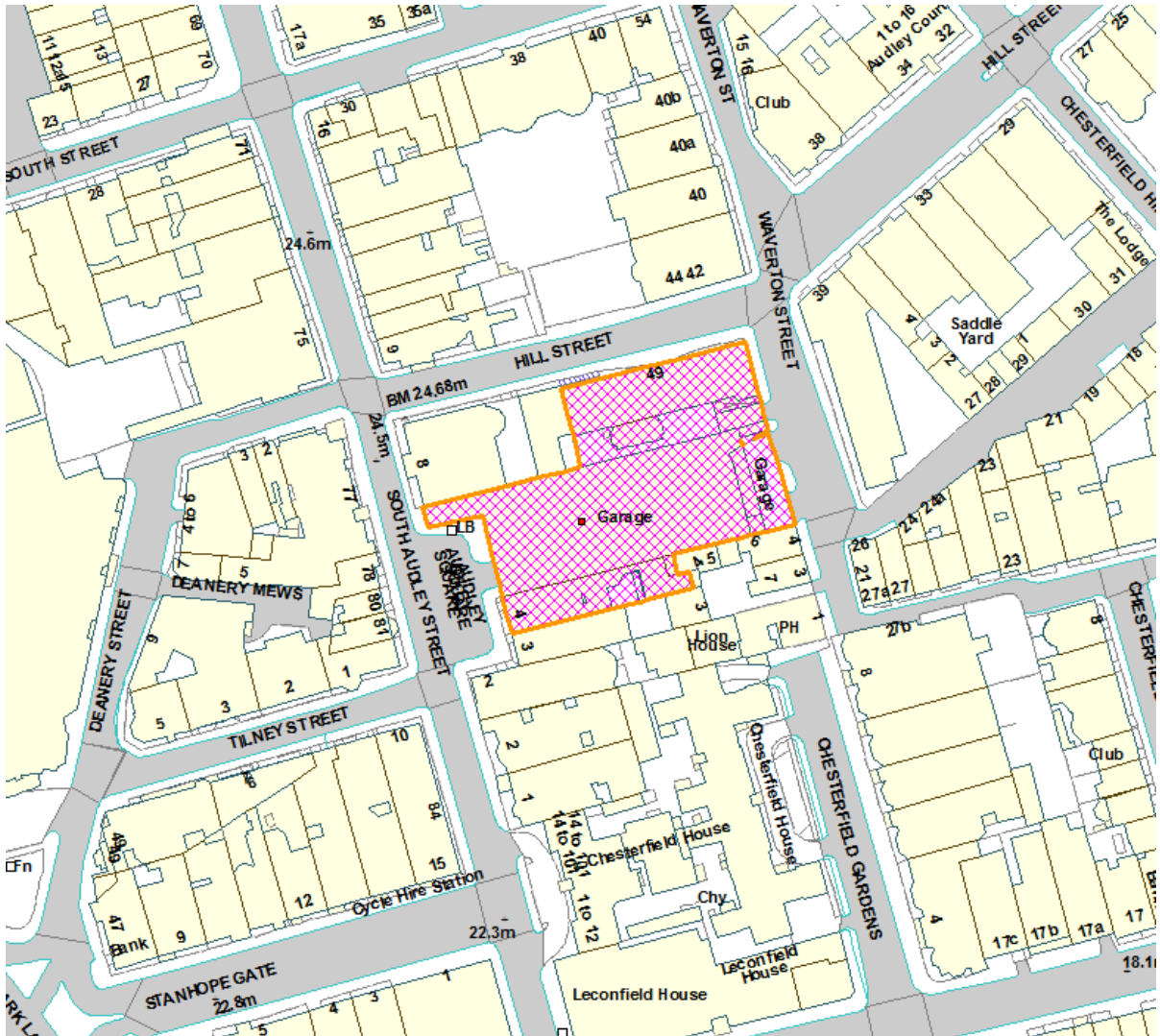
The table below shows some of the windows that would lose over 20% annual and winter sunlight.

Level	Window Ref	Room use	Existing winter	Proposed winter	% loss	Existing annual	Proposed annual	% loss
First	W6/101	Bedroom	12	8	33.3%	30	20	33.3%
First	W9/101	Kitchen	12	8	33.3%	35	21	40%
First	W14/101	Kitchen	13	10	23.1%	44	25	43.2%
Second	W2/102	Kitchen	9	7	22.2%	28	25	10.7%
Second	W9/102	Kitchen	14	9	35.7%	38	23	39.5%
Second	W15/102	L/K/D	11	11	0%	45	32	28.9%
Third	W4/103	Living room	13	8	38.5%	32	24	25%
Third	W12/103	Kitchen	17	13	23.5%	49	32	34.7%
Third	W15/103	Kitchen	15	14	6.7%	50	35	30%
Fourth	W2/104	Kitchen	10	7	30%	37	32	13.5%
Fourth	W6/104	Kitchen	15	10	33.3%	37	27	27%
Fourth	W10/104	Kitchen	18	13	27.8%	44	30	31.8%
Fifth	W1/105	Kitchen	12	7	41.7%	44	38	13.6%
Fifth	W6/105	Kitchen	15	11	26.7%	40	31	22.5%
Fifth	W11/105	Kitchen	18	13	27.8%	47	33	29.8%
Sixth	W7/106	Living room	18	12	33.3%	49	36	26.5%
Sixth	W10/106	Kitchen	20	13	35%	51	35	31.4%
Sixth	W15/106	Kitchen	19	17	10.5%	55	17	21.8%
Seventh	W7/107	Kitchen	17	13	23.5%	52	42	19.2%
Seventh	W9/107	Bedroom	18	13	27.8%	51	38	25.5%
Seventh	W16/107	Kitchen	20	18	10%	55	43	21.8%
Eighth	W10/108	Living room	16	10	37.5%	47	37	21.3%
Eighth	W18/108	Kitchen	17	15	11.8%	49	41	16.3%

In terms of sunlight, all the windows facing the application currently receive good levels of sunlight (over 5% annual probable sunlight hours in the winter months and 25% annual probable sunlight hours). This is largely due to the existing low level buildings connected with the garage site. There would be losses to annual sunlight over 20% - ranging from 8% to 45%. Eleven windows at first floor level, seven windows at second, and five at third floor level would see a reduction to below 25% annual probable sunlight. The remaining windows at second and third floor level and then all at fourth floor level and above would retain over 25% annual probable sunlight. There would be similar proportional losses to winter sun, but all the windows at first floor level and above would retain 5% or more winter sun. Therefore in some instances the loss of sunlight may be noticeable by the occupants.

However, these sunlighting levels are not unacceptable in a dense urban environment such as central London and in this case the impact of the development on the neighbouring property would not be so severe that withholding planning permission would be justified.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Site from Audley Square

Looking north on Waverton Street.



5. CONSULTATIONS

ADDITIONAL AND LATE REPRESENTATIONS RECEIVED AFTER THE PREVIOUS REPORT WAS WRITTEN (AND REPORTED VERBALLY AT PLANNING APPLICATIONS COMMITTEE ON 8 DECEMBER 2015)

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

Seven letters of objection on the following grounds:

- Material change in the amount of daylight and sunlight available to the residential units at 39 Hill Street
- 39 Hill Street is a permanent residential block
- Proposals will have an impact on property values.

6. BACKGROUND PAPERS

1. Application form
2. Planning Applications Committee Report and minutes dated 8 December 2015
3. Letter from Anstey Horne on behalf of the owners of 39 Hill Street, dated 4 December 2015
4. Letter from occupier of 39 Hill Street, dated 19 February 2016
5. Letter from occupier of Flat 31, 39 Hill Street, dated 18 February 2016
6. Letter from occupier of Flat 61, 39 Hill Street, dated 22 February 2016
7. Letter from occupier of Flat 3, 39 Hill Street, dated 22 February 2016
8. Letter from occupier of Flat 28, 39 Hill Street, dated 22 February 2016
9. Letters and other information from Montagu Evans on behalf of the owners of 39 Hill Street, dated 22 February 2016

(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

Item No.
10

DRAFT DECISION LETTER

Address: Audley Square Garage, 5 Audley Square , London, W1K 1DS,

Proposal: Demolition of existing buildings (with the exception of 4 Red Lion Yard which is to be retained with external alterations) and the erection of new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 30 residential units with swimming pool and gymnasium, creation of roof terraces, car parking and cycle parking; vehicular access from Waverton Street; hard and soft landscaping; and plant at roof level.

Reference: 15/02197/FULL

Plan Nos: PL806, PL807, PL808, PL809, PL810, PL811, PL812, PL813, PL814, PL815, PL816, PL817, PL840, PL841, PL842, PL843, PL844, PL845, PL846, PL847, PL870, PL871, PL872, PL873, PL106A, PL107, PL108, PL109, PL110A, PL111, PL112, PL113, PL114, PL115, PL116, PL117, PL118, PL140, PL141, PL142, PL143, PL144, PL145, PL146, PL147, PL170, PL171, PL172, PL173, SK192

PL104B, PL105B (these two drawings have been updated due to the committee resolution to ensure that all the car parking was to be unallocated)

Structural Methodology Statement dated March 2015 (INFORMATION ONLY),
Energy Statement dated March 2015, Construction Management Plan dated March 2015

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 You must apply to us for approval of detailed drawings of the following parts of the development -
 1. Typical facade details at all levels, including roof;
 2. Public art on Audley Square and Waverton Street,
 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 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)

- 4 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)

- 5 **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)

- 6 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)

- 7 The street facades shall be clad in natural Portland stone.

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)

- 8 (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.

- 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 (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 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 8 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.

- 12 **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 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)

- 13 You must apply to us for approval of a detailed scheme to prevent overheating within the residential units (based on a whole house ventilation scheme with the windows closed). You must not occupy the residential flats until we have approved what you have sent us. You must then carry out the work according to the approved details. (C26BC)

Reason:

To prevent overheating as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013

- 14 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 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:

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 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling. You must clearly mark them and make them available at all times to everyone using the residential units. (C14FB)

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)

Item No.
10

- 16 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.

- 17 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)

- 18 You must apply to us for approval of details of the following parts of the development: , , - detailed sections of the proposed basements and the relationship with the highway., , 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 ensure compliance with Policy TRANS19 of the Unitary Development Plan that we adopted in January 2007.

- 19 Any structure over the footway (highway) must maintain 2.6 metres vertical clearance and not extend closer than 1 metre to the kerb edge.

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)

- 20 All car parking spaces shall be provided and maintained in working order with active Electric Vehicle Charging Points

Reason:

To promote sustainable forms of transport.

- 21 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)

- 22 The family sized (3+ bedrooms) residential units shown on the approved drawings 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 make sure that the development is completed and used as agreed, and to make sure that it meets H5 of our Unitary Development Plan that we adopted in January 2007. (R07AB)

- 23 The ancillary facilities shown on plan number PL107 (gym, business centre, pool/Jacuzzi, cinema screening room) must only be used in connection with the residential units hereby approved.

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.

- 24 You must adhere to the Construction Management Plan dated March 2015 by EC Harris LLP at all times during demolition and redevelopment.

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.

- 25 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)

- 26 You must provide the environmental sustainability features (environmentally friendly features) as set out in the Energy Statement before you start to use any part of the development., , 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)

- 27 All vehicles must enter and exit the site in forward gear.

Reason:

In the interests of public safety and to ensure that the decorations are not hit by high vehicles as set out in TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.

- 28 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)

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. 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. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit 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 , , 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 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 5 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please 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)
- 6 Prior to the commencement of development excluding demolition, the highway will need to be stopped up under s247 of Planning Act. If works commence prior to the finalisation of the stopping up process, an obstruction of the highway is still occurring. The applicant must contact the Council by writing to Jeff Perkins to progress the stopping up order.
- 7 You are advised that you will need technical approval for the works to the highway (supporting structure) prior to commencement of development excluding demolition. You should contact Andy Foster (0207 641 2541) in Engineering & Transportation Projects to progress the applicant for works to the highway.
- 8 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: , - Provision of a new street sweeping depot and affordable housing units at 21-23 Farm Street, - Highways works associated with the development; , - Communal on-site parking spaces to be unallocated; , - Public art provision, - Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers; and, - Secure the costs of the stopping up order and the Dedication Agreement, - The costs of monitoring the S106 agreement

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.
10

Item No.

1 AUDLEY SQUARE GARAGE, 5 AUDLEY SQUARE, W1K 1DS

Demolition of existing buildings (with the exception of 4 Red Lion Yard which is to be retained with external alterations) and the erection of new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 30 residential units with swimming pool and gymnasium, creation of roof terraces, car parking and cycle parking; vehicular access from Waverton Street; hard and soft landscaping; and plant at roof level.

A draft decision letter was submitted as an additional representation.

A late representation was received from Anstey Horne (04.12.15).

The Presenting Officer referred at the meeting to the revised recommendation to include:

'1. Grant conditional permission, subject to a S106 legal agreement to secure the following:

a) i. The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street-sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing;

or ii, if planning permission is not granted for i. above, the refurbishment/rebuilding of the Council's street-sweeping depot at 21-23 Farm Street together with a contribution of £9.4M towards the City Council's affordable housing fund (index linked and payable upon commencement of development);

b) Highways works associated with the development;

c) Communal on-site parking spaces to be unallocated;

d) Public art provision;

e) Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers;

f) Costs of the stopping up order and the Dedication Agreement; and

g) The costs of monitoring the S106 agreement.'

RESOLVED:

1. That conditional permission be granted subject to a S106 legal agreement to secure the following:

a) i. The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street-sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing;

or ii, if planning permission is not granted for i. above, the refurbishment/rebuilding of the Council's street-sweeping depot at 21-23

Farm Street together with a contribution of £9.4M towards the City Council's affordable housing fund (index linked and payable upon commencement of development);

- b) Highways works associated with the development;
 - c) All on-site parking spaces to be unallocated;
 - d) Public art provision;
 - e) Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers;
 - f) Costs of the stopping up order and the Dedication Agreement; and
 - g) The costs of monitoring the S106 agreement.
2. 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 would be possible and 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.
3. 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 required to enable the development to take place.
4. That the City Transport Advisor 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.

Item No.
1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 December 2015	Classification For General Release	
Report of Director of Planning		Wards involved West End	
Subject of Report	Audley Square Garage, 5 Audley Square, London, W1K 1DS		
Proposal	Demolition of existing buildings (with the exception of 4 Red Lion Yard which is to be retained with external alterations) and the erection of new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 30 residential units with swimming pool and gymnasium, creation of roof terraces, car parking and cycle parking; vehicular access from Waverton Street; hard and soft landscaping; and plant at roof level.		
Agent	DP9		
On behalf of	Caudwell Properties (109) Limited		
Registered Number	15/02197/FULL	TP / PP No	TP/1717/10960
Date of Application	09.03.2015	Date amended/ completed	24.03.2015
Category of Application	Major		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		
Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Within Central Activities Zone		
Stress Area	Outside Stress Area		
Current Licensing Position	Not Applicable		

1. RECOMMENDATION

1. Grant conditional permission, subject to a S106 legal agreement to secure the following:

a) i. The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing;

or ii, if planning permission is not granted for i. above, the refurbishment/rebuilding of the Council's street sweeping depot at 21-23 Farm Street together with a contribution of £9.4m towards the City Council's affordable housing fund (index linked and payable upon commencement of development);

- b) Highways works associated with the development;
- c) Communal on-site parking spaces to be unallocated;
- d) Public art provision;
- e) Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers;
- f) The costs of monitoring the S106 agreement.

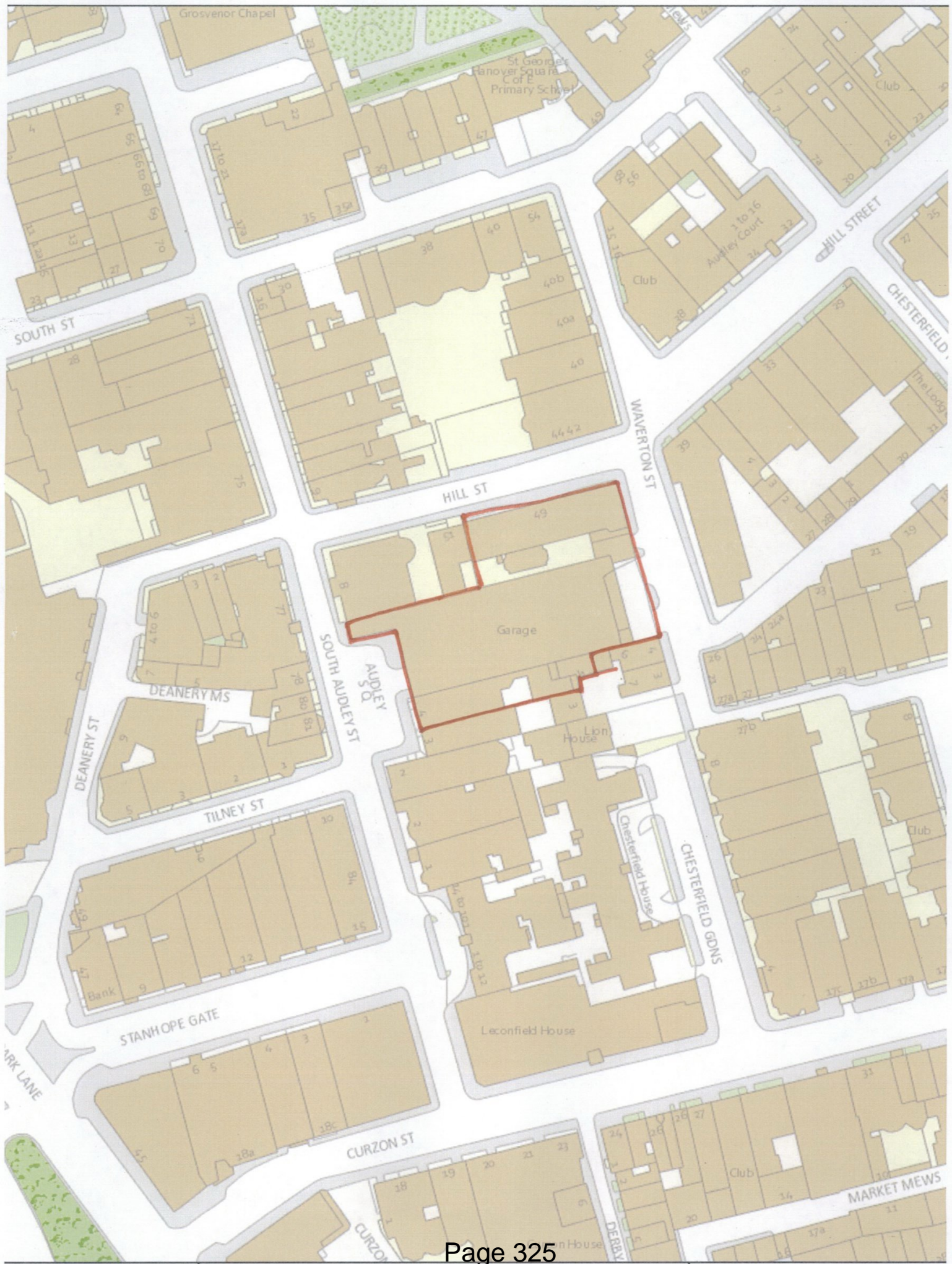
2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

(a) The Director of Planning shall consider whether it would be possible and 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.

3. 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 required to enable the development to take place.

4. That the City Transport Advisor 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

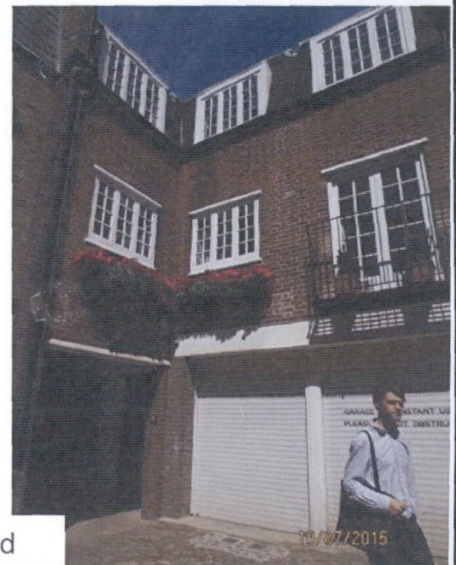




Audley Square
and 4 Audley
Square



The Ascott, 49 Hill
Street



4 Red Lion Yard

AUDLEY SQUARE GARAGE, 5 AUDLEY SQUARE, W1

2. SUMMARY

The application site comprises a collection of five different buildings - a multi-storey public car park (formerly publicly-owned) fronting South Audley Street, vacant fuel-filling station for licensed black cabs facing Waverton Street, an eight storey short-term let apartment block (The Ascott) on the corner of Waverton Street and Hill Street, a six storey residential building (No.4 Audley Square) and, attached to the rear of this, a mews house.

There is an extant planning permission, which expires on 16 January 2016, for the redevelopment of a slightly smaller site (i.e. not including 4 Audley Square or 4 Red Lion Yard) for 24 residential units and a new Council street sweeping depot which would be relocated from its existing site in Farm Street to allow that site to be redeveloped for 14 residential units. No on-site affordable housing was proposed as part of that scheme but a financial contribution of £6.128m towards the affordable housing fund was secured. This permission was renewed in January 2013 with the affordable housing contribution increased to £8.128m. This permission has not been implemented, and the current application is for an alternative scheme on a larger site now including 4 Audley Square and 4 Red Lion Yard. The key differences are that the design is now neo-Classical rather than modern and the street sweeping depot is not included.

In the current scheme a different strategy for the depot is proposed, in which the Farm Street depot site is redeveloped at the developer's cost for mixed use purposes including a new depot and affordable housing, all of which would be retained in the Council's ownership. The planning application for the redevelopment of the Farm Street depot has been submitted but the public consultation period is still ongoing so it cannot be considered as a part of a land use swap package at present. The extant permission for the car park et al site expires on 16 January 2016, and since this permission has already been extended once it cannot be so again. Therefore the current application for the car park has to be determined in advance of Farm Street, but if the committee is minded to grant planning permission for the car park it can be connected to a future planning permission at Farm Street should such permission be granted.

The scheme provides no affordable housing, but the current planning application at Farm Street proposes a mixed use redevelopment of the Council's land comprising a new Council depot and 14 affordable housing units which, once built by the developer, would be given back to the Council. The Council's viability consultant considers that if this is provided in lieu of the affordable housing requirement at the car park site it would be the maximum achievable within the constraints of financial viability. However, there can be no certainty that the redevelopment of Farm Street would occur in the form currently proposed, as the planning application has yet to proceed through the requisite statutory process. A fall-back alternative position is therefore proposed, which is that should the complete redevelopment of the Farm Street depot for mixed use purposes not occur, the applicant must still upgrade the existing depot to a suitable modern standard and pay a commuted sum towards the affordable housing fund. In these circumstances the Council's viability consultant considers that the maximum contribution of towards the affordable housing fund would be £9.4m.

The key issues for consideration are:

- The quality of the design of the proposed new building and the impact it would have on visual amenity, taking into particular account the loss of the existing building at 4 Audley Square;
- The impact on surrounding residential amenity;
- The strategy for delivering the affordable housing requirement, linked to the redevelopment of the existing Council depot site at 21-23 Farm Street for a mixed use scheme comprising new depot and residential;

- Parking and servicing arrangements;
- Public realm improvements on the existing highway including the provision of public art.

It is considered that the benefits of the scheme would outweigh any disadvantages and the proposals are recommended for approval.

3. CONSULTATIONS

GREATER LONDON AUTHORITY

Provide the following comments:

- the principle of a residential development meets the strategic objectives for the CAZ and is supported
- 4 Audley Square makes a positive contribution to the character and appearance of the conservation area and to the setting of the adjacent listed buildings and its demolition will result of a designated heritage asset
- demolition of 49 Hill Street is regrettable
- design approach is supported in principle, but details are required relating to the window reveals, ridge lines and projecting bays

HISTORIC ENGLAND

Concern over the loss of 4 Audley Square, it is a good conservation area building, entirely characteristic of Mayfair and its loss is regrettable. Concern also raised with regards to the height of the proposed development, it will make it very visible in long views within the conservation area and it fundamentally alters the scale of Audley Square

RESIDENTS SOCIETY OF MAYFAIR AND ST JAMES'S

Objection - The proposed development is inappropriate, the plans show a gracious design but there is no contemporary presence.

ENVIRONMENTAL HEALTH

No objection on noise and contaminated land.

Code of Construction Practice is required and should be included in the S106

HIGHWAYS PLANNING MANAGER

No objection, but raise the following concerns:

- no off-street servicing is proposed and this is unacceptable
- proposed changes to include public realm will need separate Highways Authority approval

ARBORICULTURAL MANAGER

No objection to the loss of one Chanticleer Pear tree from Waverton Street.

GO GREEN

The application is fully compliant with Policy 5.2 of the London Plan and results in 35% carbon reduction. The scheme aims to meet level 4 for Code for Sustainable Home and this is welcomed.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 1138; Total No. of Replies: 24

No. of objections: 21; No. in support: 3

Objections raising the following:

Amenity

* Loss of sunlight and daylight to windows and terraces

* Loss of privacy

- * Noise from plant
- * Vibrations from plant

Design

- * Overdevelopment of the site
- * Height/bulk/scale and mass of the scheme
- * Scheme will change the streetscape
- * The scheme should be lowered by two floors

Highways/Parking

- * Loss of off-street parking
- * Does not solve parking issues around Mayfair
- * Removes street and off street car parking
- * The scheme will attract chauffeur driven cars which block the highway
- * The provision for service vehicles is too little and they will block the roads
- * The amount of parking provided is unnecessary in this location

Other

- * Delivery of the scheme will be very complex
- * Increase in noise, dirt, dust, noise and congestion will impact on the area
- * Concern over the depth of excavation
- * Disruption during building works

4. BACKGROUND INFORMATION

4.1 The Application Site

The application site has four street frontages and comprises five different buildings. Two of these are conjoined back-to-back buildings which face South Audley Street and Waverton Street respectively and were formerly Council-owned, comprising a public car park (Audley Square car park) and a smaller fuel-filling station (now vacant) which is three storeys with a forecourt to Waverton Street. The filling station was mainly used by licensed black cabs rather than by passing traffic.

The third building forms the corner of Waverton Street and Hill Street. This is known as The Ascott and comprises accommodation forming lawful short term let apartments over eight storeys.

The fourth building, No.4 Audley Square, faces onto South Audley Street immediately to the south of the car park site and comprises six residential units over six storeys. To the rear of this building there is a separate mews house, the fifth building on the site, which faces into Red Lion Yard and is known as No.4 Red Lion Yard.

Both the car park and filling station are within modern, undistinguished buildings. The existing car park is L-shaped with the recessed part set back from South Audley Street to form Audley Square which is, in reality, little more than a tarmacked entrance to the car park. The Ascott is a much more attractive earlier neo-Georgian building. No. 4 Audley Square is recognised as being a good conservation area building, whilst the mews building is modern with historic characteristics.

The surrounding area is mixed in character and use. To the immediate south of the application site there are permanent residential properties in both South Audley Street and Waverton Street, including several mews dwellings in Red Lion Yard, some of which immediately abut

the site. To the north of the car park is a Grade II listed building at 8 South Audley Street, which is in cultural use as The Nehru Centre, and there are some residential rooms on its upper floors. To the rear of The Nehru Centre at 51 Hill Street there are four residential units with rear windows overlooking the rear of the car park. The buildings on the opposite side of South Audley Street are in both residential and commercial use.

Opposite the site in Waverton Street is the flank of the nine storey Berkeley Plaza apartment hotel; whilst to the south east there are residential properties in Hay's Mews and Charles Street which face the site obliquely, and also The Greenhouse restaurant.

Directly opposite The Ascott in Hill Street there is a large residential property forming the corner of Waverton Street and Hill Street.

4.2 Relevant History

South Audley Street/Waverton Street buildings

Planning permission was granted in May 2004 for the redevelopment of the car park and fuel filling station for a new, smaller car park, apartment hotel and a Council street sweeping depot. This proposal was the Council's own development and was intended to achieve three purposes. Firstly it was to bring back into more effective use an under-used car park and redundant filling station; secondly it would provide a purpose-built modern Council cleansing depot to replace a dated depot located at 21-23 Farm Street; and thirdly it would enable the Farm Street depot to be redeveloped for housing.

There was a concurrent application, granted at the same time, for the redevelopment of 21-23 Farm Street for 14 residential units.

Neither of these planning permissions has been implemented.

49 Hill Street

A Certificate of Lawfulness was granted in September 1993 for the existing use of the premises as serviced accommodation.

Planning permission was granted in September 2004 for the conversion to provide four additional serviced apartments at ground and basement levels.

South Audley Street/Waverton Street buildings and 49 Hill Street

Planning permission was granted in February 2010 for the demolition of the existing buildings and their replacement with a new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 24 residential units with swimming pool and gymnasium and a Council street sweeping depot. This permission was subject to a payment to an affordable housing contribution of £6.128m.

This permission was renewed in January 2013 with the affordable housing contribution increased to £8.128m. This permission has not been implemented, but is still extant.

5. THE PROPOSAL

The current application site is larger than in the 2010 and 2013 permissions by the addition of 4 Audley Square and 4 Red Lion Yard. The proposals involve the demolition of all the buildings on the site with the exception of 4 Red Lion Yard and the erection of a new single

building with frontages to South Audley Street, Waverton Street and Hill Street. The new building would rise to eight-storeys above ground level on the South Audley Street frontage

and nine storeys above ground level on the Waverton Street, Hill Street and Red Lion Yard frontages. In addition, there would be a lower ground floor level with five basement levels below that. Due to the height differences between South Audley Street and Waverton Street, the ground floor level of the building on South Audley Street equates to the first floor level of the building in Waverton Street.

The proposed building will be used for residential purposes throughout, comprising 29 residential units with basement parking. Some of the units would have private garage spaces, with the remainder of the parking in a communal area. In total there would be 18 allocated car parking spaces and 23 unallocated (totalling 41 spaces). Some of the larger units would have access to swimming pools, wine cellars and gyms.

The proposal includes an internal courtyard providing a communal garden for the residents. The new residential units would range in size from 59m² to 1375m² providing a mix of 5x1-bed, 4x3-bed, 9x4-bed, 2x5-bed, 7x6-bed, 1x7-bed and 1x8-bed units, plus the retention of the 2-bed mews house at 4 Red Lion Yard.

Unlike the previous proposals the current application does not include the relocation of the Council's street sweeping depot from its current site at 21-23 Farm Street which is now proposed to remain at that site but modernised or redeveloped to include a new depot.

The other main differences between the consented and proposed include:

- The enlarged site and the deletion of the depot proposals allows an increase in the number of residential units from 24 to 29;
- The detailed design of the proposed building is neo-classical rather than overtly modern;
- The building includes a large courtyard on the boundary with Red Lion Yard instead of being built closer to that boundary with no external amenity space.

6. DETAILED CONSIDERATIONS

6.1 Land Use

The Unitary Development Plan (UDP) identifies the car park/fuel station elements of the application site as an 'Opportunity Site' for redevelopment, where the preferred uses would be residential, retail, office and creative industries. In the previously approved schemes the introduction of the street sweeping depot was to provide the opportunity to enable the Farm Street depot site to be redeveloped for housing, and planning permission was granted for this which has since lapsed.

The current proposals for the redevelopment of the car park/fuel station for residential purposes as part of a larger scheme would be in accordance with the UDP designation, residential being one of the identified 'preferred uses'.

Loss of car parking

As the preferred uses do not include replacement public car parking, there is no requirement to provide it but the application still needs to be assessed under UDP Policy TRANS25 which states that the City Council will normally permit the loss of public off-street parking, dependent on its level of use, availability of other nearby public car parks and the impact on local on-street parking facilities. The loss of the car park has previously been accepted, but as those permissions have not been implemented it is necessary to assess the loss of the public car park again.

Objections have been received from commercial and residential occupiers to the loss of the car parking, and the stress this will lead to on-street parking in the area

The car park accommodates 293 spaces, but even at peak usage (which is (14.00hrs on a Saturday) only 217 spaces are occupied, which equates to a maximum occupancy level of 74%. However, 88 of the occupied spaces are allocated to long term vehicle storage rather than daily car parking, and if this function of the car park is discounted, the maximum occupancy reduces to 129 spaces or 44%. It is stressed that this is the maximum occupancy level and for most of the time the car park is much less used than this.

Turning to available capacity in other public car parks nearby, the applicant's submitted survey shows that there are 1905 spaces in public car parks within easy walking distance of the site, which are on average only 64% utilised. There is therefore available capacity nearby.

With regard to on-street parking, kerbside parking in the streets around the site is not fully occupied, with daytime meter bay availability being 90% in the most recent parking survey of 2011, translated as nine spaces available within 200m of the site. Daytime residents' car parking occupancy in this locality was found to be 19% in the parking survey (38 available spaces).

The amount of both off-street and kerbside capacity in the vicinity of the application site therefore confirms that the proposed loss of Audley Square car park would not lead to a detrimental impact on parking or traffic around the site and the proposals therefore comply with UDP Policy TRANS25.

Loss of fuel filling station

The loss of the fuel-filling station on Waverton Street has previously been accepted. UDP Policy TRANS17 identifies certain fuel-filling stations that the City Council will seek to protect, and this list does not include the facility at Waverton Street. It has in any event been vacant for several years with no detrimental impact and there is another filling station a short distance away in Park Lane, which is a road with more passing traffic located in a less residential location, and this is protected under Policy TRANS17. The loss of the filling station therefore raises no policy objections under TRANS17.

Loss of temporary sleeping accommodation

49 Hill Street (The Ascott) comprises temporary sleeping accommodation. UDP Policy TACE3 encourages, wherever possible, the return of temporary sleeping accommodation to permanent housing, and therefore the proposals to redevelop The Ascott for permanent housing is acceptable in this instance.

Street Sweeping Depot

UDP Policy H10 requires the provision of a community facility, where appropriate, in large housing developments. In previous planning permissions for this site the implementation of this policy was coupled with UDP Policy ENV11 which seeks opportunities for new depots in major redevelopment schemes and protects existing depot sites, including that at 21-23 Farm Street. The existing depot facility at Farm Street is dated and in need of modernisation, and therefore the strategy in the previous permissions was to replace the depot at Farm Street with a new, modern facility at Audley Square which would, in turn, enable the Farm Street depot to be sold and redeveloped for housing purposes.

In the current scheme a different strategy for the depot is proposed, in which the Farm Street depot site is redeveloped at the developer's cost for mixed use purposes including a new depot and affordable housing, all of which would be retained in the Council's ownership. The planning application for the redevelopment of the Farm Street depot has been submitted but the public consultation period is still ongoing so it cannot be considered as a part of a land use swap package at present. The extant permission for the car park et al site expires on 16 January 2016, and since this permission has already been extended once it cannot be so

again. Therefore the current application for the car park has to be determined in advance of Farm Street, but if the committee is minded to grant planning permission for the car park it can be connected to a future planning permission at Farm Street should such permission be granted.

Residential

City Plan Policy S14 aims to protect all residential land. The existing two bedroom unit at 4 Red Lion Yard is retained in the proposals and is included in the proposed mix of units as shown in the table below. The existing residential units at 4 Audley Square would be subsumed within the new residential accommodation provided in the redeveloped part of the site.

The proposed residential mix would be: 5x1 bed units (16.6%), 4x3 bed units (13.3%), 9x4 bed units (30%), 2x5 bed units (6.6%), 7x6 bed units (23.3%), 1x7 bed unit (3.3%) and 1x8 bed unit (3.3%), and therefore 80% of the provided units would be family-sized accommodation, in compliance with UDP Policy H5.

Three small units are proposed, comprising studio units. One of these units would be located over sub-basement and lower ground floor level. Two north-facing windows would serve this unit at lower ground floor level, and these are below the level of the lightwell railings. Whilst this is not ideal, the two other studio flats would be located at first floor level facing Waverton Street, and therefore the overall quality of the smaller units would be acceptable.

City Plan Policy S14 states that the number of residential units on site should be optimised. The scheme provides 29 residential units with a range of unit sizes from 59m² to 1375m² (total floorspace 27,511m²) with the five smallest units being 59m², 62m², 72m², 73m² and 76m². The unit sizes then jump to 299m², so there are no mid-range sized units.

The consented scheme included 24 residential units over 14,498m² (this floorspace discounts the area of the proposed depot), but included no one bedroom units and two very large units of 10 and 11 bedrooms. (See unit schedule below)

PROPOSED SCHEME					CONSENTED SCHEME				
Unit	Above Ground GIA	Below Ground GIA	Total GIA	Bed Nos.	Unit	Above Ground GIA	Below Ground GIA	Total GIA	Bed Nos.
	m2	m2	m2			m2	m2	m2	
Townhouse 1	506	823	1329	6	Unit 7A	916	0	916	
Townhouse 2	582	793	1375	6	Unit 6A	1,562	0	1562	
Townhouse 3	281	713	1074	6	Unit 5A	1,756	0	1756	
Townhouse 4	262	634	896	5	Unit A4	526	0	526	
Townhouse 5	402	525	927	4	Unit A3	526	0	526	
Penthouse 1	965	407	1372	6	Unit A2	526	0	526	
Penthouse 2	903	398	1301	8	Unit A1	523	0	523	
Penthouse 3	766	426	1192	7	Unit B4	550	0	550	
E. Penthouse 1	607	407	1014	5	Unit B3	550	0	550	
E. Penthouse 2	395	370	765	4	Unit B2	550	0	550	
Unit A4	587	0	587	6	Unit B1	543	0	543	
Unit A3	634	0	634	6	Unit B0	317	0	371	
Unit A2	640	0	640	6	Unit C4	714	0	714	
Unit B4	500	0	500	4	Unit C3	358	0	358	
Unit B3	515	0	515	4	Unit C2	358	0	358	

Unit B2	526	0	526	4	Unit C1	358	0	358	
Unit B1	528	0	528	4	Unit C0	305	0	305	
Unit C4	285	97	382	3	Unit D3	343	0	343	
Unit C3	299	0	299	3	Unit D2	343	0	343	
Unit C2	303	0	303	3	Unit D1	332	0	332	
Unit D4	381	111	492	4	Duplex 01	448	226	674	
Unit D3	402	118	520	4	Duplex 02	0	565	565	
Unit D2	404	0	404	4	Duplex 03	0	728	728	
Unit D1	389	0	389	3	Duplex 04	418	157	575	
Unit E1	73	0	73	1					
Unit F1	72	0	72	1					
Studio 01	0	76	76	1					
Studio 02	62	0	62	1					
Studio 03	59	0	59	1					

The applicant states that there is less residential floorspace *above* ground floor level (12,337m²) than in the extant scheme (12,822m²) and therefore substantially more of the current development is non-habitable residential floorspace, which is accepted. In consequence, although it is case that the current scheme does not optimise residential accommodation at the site, it better optimises residential accommodation in comparison to the extant scheme and is therefore acceptable.

Affordable housing

The 27,511m² additional residential floorspace achieved in the proposals requires the provision of 25% on-site affordable housing, amounting to 6877m², under UDP Policy H4 and City Plan Policy S16. Where it is acknowledged as being impractical or inappropriate to provide affordable housing either on or 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 £43,788,000.

The City Council's has appointed an independent viability expert to assess the proposals and advise on the matter. The Council's consultant agrees that the provision of on-site affordable housing would severely undermine the economic viability of the proposals and that more could be achieved by off-site provision. This follows the principle of providing no on-site affordable housing established in the previous scheme.

It is the applicant's intention to provide affordable housing in a mixed use redevelopment scheme for the existing Farm Street depot, for which a planning application has been submitted. This application would, if granted, provide 14 affordable housing units, together with a new depot. The applicant has already paid the City Council £33m for the right to develop Farm Street, to which would be added the cost of building the scheme should planning permission be granted. Furthermore, the completed development would then be handed to the Council and therefore retained in public ownership. The Council's viability consultant considers this to be the optimum solution and recommends it to the Council. In this option the residential units at Audley Square could not be occupied until the affordable housing units at Farm Street are ready for occupation.

However, there can be no certainty that the redevelopment of Farm Street would occur in the form currently proposed, as the planning application has yet to proceed through the requisite statutory process. There therefore needs to be a fall-back position, and this is that should the wholesale redevelopment of the Farm Street depot for mixed use purposes not take place, the applicant must still upgrade the existing depot to a suitable modern standard and pay a commuted sum towards the affordable housing fund. In these circumstances the Council's viability consultant considers that the provision of a new depot and a maximum contribution of £9.4m towards the affordable housing fund could be achieved within the constraints of economic viability.

It is therefore recommended to members that permission is granted subject to a legal agreement requiring that the development is linked to the planning permission for the redevelopment of the Farm Street depot for mixed depot/affordable housing purposes, but that if planning permission for that scheme is not permitted the development is linked to a scheme for the modernisation of the existing Farm Street depot together with a commuted affordable housing payment of £9.4m.

6.2 Townscape and Design

Context

The site lies within the Mayfair Conservation Area and there are several listed buildings adjacent, most notably 8 South Audley Street, and 2 and 3 Audley Square, all listed Grade II.

Demolition

The proposals involve the demolition of the car park and conjoined filling station, the unlisted building at 4 Audley Square and 49 Hill Street (The Ascott).

- The car park/filling station buildings are negative features of the conservation area and demolition is uncontentious.
- No. 4 Audley Square is a mid 19th century house, with a 19th century stone facade. It has been altered internally, although does retain its Georgian stair, and is not considered listable. However, it is considered to make a positive contribution to the character and appearance of the Mayfair Conservation Area, in terms of its architectural quality and historic interest, and there is a presumption to retain it.
- No. 49 Hill Street is a post war neo-Georgian block of limited architectural interest. It is considered to make a neutral contribution to the conservation area and its demolition may be acceptable if the proposed replacement makes an equal or greater contribution to the conservation area.

In considering these proposals the City Council has a duty to take into account the Planning (Listed Buildings and Conservation Areas) Act 1990 and have special regard to the preservation of the settings of listed buildings and the preservation and enhancement of the Mayfair Conservation Area.

Layout

The proposed development would occupy a larger site than that of the extant scheme, which did not include 4 Audley Square. On each of the three street frontages the proposed building would follow the historic building lines, albeit with some set backs (see below), which is consistent with UDP Policies DES 1 and DES 4.

Height and bulk

When considering the previous scheme in 2008, the committee report stated that those proposals represented the maximum that would be acceptable on the site. The current proposed building would be higher and more bulky than the extant scheme.

The extant scheme

The floor to floor height of the approved scheme was 3.250m. It featured a facade to Audley Square of five storeys, which related closely to the adjacent buildings and was entirely appropriate in terms of its height and bulk. The two roof storeys above the Audley Square facade were set back sufficiently so as to be almost invisible from street level.

The remainder of the building was similar to the height of the existing Ascott building, and comparable to the building on the east side of Waverton Street, the rear wing of 39 Hill Street. The top floor was set back to reduce its visibility from street level, but it was more visible in the longer views, from the eastern end of Hill Street and the south end of Chesterfield Gardens. This was all considered acceptable.

The current scheme

The floor to floor height of the current varies from 3.550m to 3.765m, but the majority of floors are 3.550m. This means that the scale of the proposed building is greater than that of the approved scheme, even if the number of floors is broadly the same. The total height of the building is 55.8m AOD, compared to 51.6m AOD of the approved scheme. That is an increase in height of approximately four metres, or the equivalent of at least one storey. However, much of this increase is in the form of a shallow pitched roof and so its visual impact from street level is limited.

The proposed massing is considered contentious in Audley Square where it is significantly greater than the approved scheme and greater than the adjacent buildings. The relationship with the scale of the adjacent listed buildings is of particular concern. The facade to Audley Square has a parapet line at about 20 metres above street level. This compares with the parapet of the listed buildings on South Audley Street, at 17 metres and at 3 Audley Square (to the south) at just over 13 metres. The impact on No. 3 is exacerbated because the new building features an additional floor above the parapet level, capped by a large pediment, which takes it to nearly 26 metres above street level; that is almost twice the height of the facade at No.3.

This juxtaposition is considered insensitive to the setting of the listed buildings, No.3 in particular. It would cause harm to their settings and to the character and appearance of this part of South Audley Street and the Mayfair Conservation Area.

On Hill Street and Waverton Street the building has a parapet level at sixth floor level, about 22 metres above street level. The three storeys above this are then set back. The parapet level is slightly lower than that of the building immediately to the east, No. 39 Hill Street, but the floors above that parapet mean that the proposed building is almost 10 metres higher than No.39.

This is approximately four metres higher than the approved scheme. However, the top two metres are in the form of a pitched roof, which reduces its visual impact from street level. Even so, setting the roof aside, the proposed building is two metres higher than the approved scheme. This creates an uncomfortable relationship with surrounding buildings.

Design

The approved scheme was a high quality modern design by Foster Associates. The current scheme is a neo-Classical design by Robert A M Stern Architects. It too is of high quality. The neo-Classical approach is appropriate to the Mayfair Conservation Area and no objection is raised to this in principle.

The proposed building is faced in ashlar stonework with recessed multi-pane timber windows. There are small projecting balconies, with metal balustrades, and recessed loggia. The

façade is enriched with Classical elements such as a rusticated base, pilasters, string courses, cornices, keystones. The application refers to the use of limestone cladding but does not specify the nature of this. It is considered that it should be clad in natural Portland stone, as this is the limestone which characterises the Mayfair Conservation Area and the West End in general.

Whilst the modern architectural approach of the approved scheme might be argued to be less appropriate for the Mayfair Conservation Area than the neo-Classical approach adopted here, the approved buildings did relate closely to the historic domestic scale of Audley Square. They respected the existing height, scale and historic Georgian plot width rhythm of the Square, and introduced a degree of architectural variety through the use of stone and glazed brickwork. In comparison to this relatively low key approach, the current proposal is over-scaled and dominating.

The amalgamation of No.4 Audley Square into the site and its total demolition and replacement by the large scale building is harmful to the conservation area and the setting of the listed No.3 Audley Square. (This amounts to less than substantial harm in terms of the NPPF tests). The demolition of this high quality 19th century façade results in a loss of townscape grain and architectural variety in Audley Square. Therefore, in line with the NPPF test, the harm caused to heritage assets has to be weighed against public benefits. It is concluded that the benefits of a high quality new building and the provision of surrounding public realm improvements (which are not part of the extant scheme) are sufficient to outweigh that harm.

Objections have been received with respect to the proposed demolition of No. 4 and the height and design of the new building. Both the GLA and Historic England consider that No. 4 is an important conservation area building which should be retained. Historic England objects to the proposed height of the development and its impact on the scale of Audley Square.

The GLA are not convinced that the benefits of the development outweigh the harm caused by demolition. They suggest that further design development is required to reduce the massing to avoid harming the setting of adjacent listed buildings and the Mayfair Conservation Area.

The Resident's Society of Mayfair and St James's object to the proposed Classical design approach and consider that a more modern design would be better.

Conclusion

It is considered that the proposal is a high quality Classical design but it fails to respond well to its location within the Mayfair Conservation Area and the adjacent listed buildings. It would cause significant, but less than substantial, harm to these heritage assets. A more acceptable form of development as suggested by the GLA, which did not harm heritage assets, could be achieved by retaining the front façade of 4 Audley Square and reducing the massing in Audley Square, to relate more sensitively to the adjacent listed buildings. Nonetheless, a decision has to be made on the application as currently proposed and it would not be unreasonable to take the view that on balance the public benefits of the scheme are sufficient to outweigh the less than substantial harm.

6.3 Amenity

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. The extant scheme included losses to daylight and sunlight. The current scheme would also result in losses to neighbouring daylight and sunlight, sometimes worse when compared to the extant scheme, but also sometimes better.

Daylight

There are several properties surrounding the application site which are in residential use and which would be affected by the proposed development due to the loss of daylighting. The closest are the those immediately abutting the application site at 8 South Audley Street (which is mainly in non-residential cultural use as the Nehru centre but within some upper floors there are residential rooms associated with the centre), 51 Hill Street (a rear annex to the Nehru Centre which is in use as four residential flats), 3 and 4 Waverton Street, 5 Red Lion Yard and 4 South Audley Street (which is sub-divided into four flats). There are also residential properties directly opposite the application site to the north in Hill Street (No. 44) and the east at 77, 79/80 and 81 South Audley Street. Some properties that would be affected, though not directly opposite the application site are to be found at Hay's Mews/Charles Street to the south east of the application site. Other than these, the most significantly affected property would be the building directly facing the proposed development on Waverton Street to the east, which has many windows overlooking the site. However, this property, which is 39 Hill Street (the Berkeley Plaza) is not in permanent residential use and comprises serviced apartments for short term letting. It is therefore not considered that the same weight should be attached to protecting natural levels to the windows of this property as would be the case for permanent residential use.

The previously approved scheme is a material consideration in the determination of the new scheme, and as the 2013 permission is extant it could still be implemented. The height and bulk of the current scheme is similar to the extant scheme, though marginally higher. There would be less of an impact on the properties in Red Lion Yard in comparison to the extant scheme as the current proposal includes an open courtyard on the boundary with Red Lion Yard meaning that the main bulk would be further from this shared boundary.

Objections on the grounds of loss of light have been received from 51 Hill Street, 4 Waverton Street, 27 Charles Street and Chesterfield House.

51 Hill Street was built in 2010 within the rear yard of the Nehru Centre at No.8 South Audley Street, and the buildings are close to each other with just 7m between them. It contains four flats, each of which has windows in four elevations and are therefore well lit for a central urban location despite their proximity to the existing car park, the Ascott building and the Nehru Centre itself. The most important habitable rooms in these flats face Hill Street, the windows to which would mostly be unaffected by the proposed development. The bedroom windows would be closer to the proposed development and would be affected more.

An objection has been received from the occupier of a maisonette on the fourth and fifth floors of 51 Hill Street concerning loss of light. There are severe losses of VSC to one of the three bedrooms in this flat, which would lose light to each of its three windows by between 7%-99%. Whilst this is a substantial loss to this one room, the remainder of the windows to this flat would be affected minimally and therefore the overall impact would be limited to the extent that it would be difficult to withhold planning permission for this reason.

By building 51 Hill Street in such close proximity to itself, the Nehru Centre has reduced the light it receives to its rear-facing windows. Although the proposed car park redevelopment would add to this impact, the Nehru Centre is primarily a cultural centre and not residential (although there are some ancillary residential rooms) and it is therefore considered that this impact would be acceptable. The Nehru Centre has made no representations on the proposals.

3 and 4 Waverton Street

The flank of 4 Waverton Street abuts the application site, but has no windows directly facing it and there would be no loss of daylight to any windows in excess of the BRE guidelines. An objection has been received from this property on the grounds that the proposal would affect two rooflights, one serving a hallway and the other serving a bathroom. The BRE guidelines concern the protection of habitable rooms which these rooms are not.

3 Waverton Street, on the other side of No.4 from the application site, would be more affected since it has a rear extension with a window directly facing the application site which would lose 61% VSC (it would be 59% in the extant scheme). However, this is a secondary window to a room which is mainly lit by another window little affected as it does not directly face the application site and therefore any reduction would be within the BRE guidelines.

Red Lion Yard

The most affected dwelling in Red Lion Yard would be No.5 which has a window directly facing the application site close to the boundary, which would lose 54% VSC (compared to 66% in the consented scheme) but as this is a bathroom window it would not breach BRE advice.

1 Red Lion Yard, a former public house has recently been redeveloped and now is a large single family dwelling.

44 Hill Street

44 Hill Street is located to the north of the application site, on the opposite side of the road with several windows facing the proposed development, though none of these would lose VSC by more than 20%. The property further along Hill Street, on the corner with south Audley Street, has no principal windows on this frontage and would not be significantly affected.

Charles Street/Hay's Mews

Objections have been received from some of the residential occupiers in Charles Street/Hay's Mews on the grounds of loss of light. Charles Street backs onto, and rises above, Hay's Mews to the south west of the application site, and has rear windows looking over the mews properties. However, neither the front elevation of Hay's Mews nor the rear elevation of Charles Street, which are north-facing, look directly at the application site. Some of these properties, in particular nos.24 and 25 Hay's Mews/Nos.26 and 27 Charles Street, look north onto the existing tall flank wall of the existing Berkeley Plaza building which rises to nine storeys above ground level and has a significant impact on the daylight received by these properties. Although the proposed development would reduce the VSC levels by more than 20% for some of the lower floor windows of these properties (up to 25% in the case of 25 Hay's Mews/27 Charles Street and 31% for 24 Hay's Mews/26 Charles Street) the loss of actual VSC would be quite low (3-4%) and it would therefore not be justified to refuse permission on this basis.

Chesterfield House

Chesterfield House lies to the south of the application site beyond Red Lion Yard, and objections have been received from some residents on the grounds of loss of light. The closest part of this residential block is a stairwell enclosure which projects forward of the main flank of the building which is set further back. The main flank contains a number of windows, mainly to bedrooms and bathrooms, which would be affected by the proposed development. There would be VSC losses greater than 20% to windows at basement to third floor level of Chesterfield House, ranging from 20-27%. Whilst significant, it is considered that these reductions would be so harmful that withholding planning permission would be justified.

Sunlight

With regard to sunlight, very few surrounding properties need to be analysed under BRE criteria as most do not face the application site within 90 degrees of due south. Of those that do need to be assessed, No.44 Hill Street is the most obviously affected as it faces due south towards the application site, but, notwithstanding this, none of its windows would lose more than 20% of existing sunlighting levels.

Technically, the rear windows to 3 Waverton Street need to be assessed since they face slightly south-west but since they do not directly face the application site the impact on sunlighting levels to these windows is negligible.

No other, neighbouring residential windows are required to be tested, including these in the rear elevation of 27 Charles Street. The windows concerned face north and currently receive virtually no sunlight. As the proposed development would be to the north-west of these windows it would cause very little overshadowing and the impact on the sunlighting of this property would be minimal.

Overlooking and sense of enclosure

UDP Policy ENV13 aims to ensure that new developments do not unacceptably increase overlooking of neighbouring residential properties or sense of enclosure due to overbearing proximity.

The proposed development would extend in front of the side elevation of 51 Hill Street which contains windows. It would result in an increased sense of enclosure for these windows, but not materially more so than in the extant scheme. The proposed facing elevation would have no windows, so there would be no loss of privacy.

Objections have been received from the occupiers of No.27 Charles Street regarding loss of privacy, but any view of this property would be oblique and from across a street, and it is considered that no significant overlooking would arise.

6.4 Transportation/Parking

Parking

41 car parking spaces are proposed throughout the basement levels, 18 of which would be allocated to 10 residential units and the remainder (21 spaces) for the remaining 19 residential units would be unallocated. The existing garage space for 4 Red Lion Yard would be retained for that dwelling.

Provided that no residential unit is allocated more than two spaces, the proposed car parking provision and allocation is consistent with UDP Policy TRANS23.

The GLA has objected to the scheme, stating the level of car parking amounts to over-provision of car parking spaces but as the provision does not exceed the City Council's maximum parking standards, the application could not be refused on these grounds.

The applicant has confirmed that at least 20% of the car parking spaces will have access to electric charging points, in compliance with the London Plan.

95 cycle parking spaces are proposed within the basement areas. The Further Amendments to the London Plan (FALP) requires 55 spaces. The proposals are therefore consistent with FALP.

Car park access

Access to the car park is proposed to be from Waverton Street. A forecourt would be provided to create an off-street drop-off crescent with gated entrance and exit. The basement car park would be accessed via two car lifts leading from the drop-off crescent. No details have been submitted relating to the car lift cycle times and therefore it is unclear how long it would take for the lift to be returned to street level and be available for the next vehicle to use. However, as there will be low trip rates associated with this development and the queuing for the car lift would be off-street, the proposed car lift method is considered acceptable.

Servicing – including waste collection

City Plan Policy S24 and UDP Policy TRANS20 require off-street servicing in new developments, and in this case the Waverton Street drop-off crescent would be available for servicing, except by large vehicles. It is accepted that there is sufficient capacity within the drop-off for these vehicles to be accommodated without blocking the entrance to the car lifts.

The drop-off area would not be able to accommodate refuse vehicles or any larger service vehicles and therefore this would need to be done from the highway and it is likely to result in short term localised congestion to both traffic and pedestrians, but as this would be infrequent and for very short duration it would not justify the refusal of planning permission.

Objections have been received to the lack of off-street servicing and that the scheme will not improve traffic congestion in this part of Mayfair. However, this will clearly not be the case when judged, as it must be, against the lawful use of the site as a public car park and filling station which together generated a substantial amount of traffic on both South Audley Street and Waverton Street. Traffic generation would therefore be greatly reduced by the proposed residential development. Furthermore, the filling station was used exclusively by black cab vehicles which would often be parked on both sides of the road on Waverton Street, using the road as an informal rest area for drivers' on meal and drink breaks and between fares. This resulted in a significant congestion problem in the street with access and manoeuvring difficult for other road users, and it also lead to noise and disturbance from continuous idling engines and conversations between drivers close to homes in Hay's Mews, Red Lion Yard and Waverton Street itself. The removal of these problems is considered to be a substantial benefit.

Development under the Highway

The proposal includes extending the basement levels beneath Audley Square (towards South Audley Street) and Hill Street. UDP Policy TRANS19 aims to protect the highway in such circumstances by ensuring that there remains a minimum vertical depth below the footway or carriageway of about 900mm and the extent of the new or extended basement area does not encroach more than about 1.8m under any part of the adjacent highway. The applicant has indicated that the basement structure will ensure a minimum coverage of 900mm and a condition is recommended to ensure that this is achieved.

Public realm

It is the applicant's intention to carry out public realm improvements on both Audley Square and Waverton Street. These works would be on the highway and would therefore be subject to the approval of the City Council as Local Highways Authority, which has yet to be given. The public realm proposals would require the relocation of all parking from the development site frontages. The area created on Audley Square is intended to create a proper public square consistent with its name to replace the current forecourt and parking. Part of this area would continue to provide vehicular access to the front of the building and part would accommodate public art which at present is proposed to be a sculpture of adult and child figures in period dress by the artist Phillip Jackson.

Whilst the creation of a public square would certainly be a visual and amenity improvement, the proposals would lead to the loss of on-street car and motorcycle parking facilities, which is contentious and highly likely to lead to objections when the draft Traffic Management Orders are publicised and Stopping Up Order procedures invoked. It is also dependent on finding suitable other locations for the car and motorcycle parking. However, planning permission, if granted, is not dependent on these public realm works and if for highway reasons the public realm scheme cannot be achieved the development can still be implemented regardless.

6.5 Economic Considerations

The regenerative benefits of bringing back into beneficial use the vacant and under-used parts of the site are welcomed.

6.6 Other UDP/Westminster Policy Considerations

Basement excavation

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 and Environmental Sciences Team 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.

6.7 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, but with a major concern over the proposal to demolish No.4 Audley Square as previously discussed in this report. The only other substantial objection relates to the level of car parking, again covered previously in this report. The question of affordable housing is also raised in the Stage 1 report as neither the City Council's viability assessment nor the now proposed solution to provide affordable housing units nearby on the Farm Street site was available at the time that the Stage 1 report was issued. It is anticipated that this new information will satisfy the Mayor on affordable housing provision.

6.8 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 13th 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.

6.9 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:

- Off-street affordable housing provision at 21-23 Farm Street
- A new or modernised Council depot at 21-23 Farm Street
- A contribution towards the Council's affordable housing fund
- Public realm improvements on Audley Square and Waverton Street
- Public art provision
- A contribution towards the monitoring the construction project

It is considered that the matters listed above would meet relevant policy criteria 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).

The proposed development is also liable for a Mayoral CiL payment.

6.10 Environmental Assessment including Sustainability and Biodiversity Issues

The proposal is fully compliant with London Plan policy 5.2 and results in a 35% carbon reduction over Building Regulations. The scheme also aims to meet 'level 4' for Code for Sustainable Homes; this is acceptable and will be secured by condition.

With regards to renewable energy, ground source heat pumps are proposed and they will provide space heating and comfort cooling to the flats as well as hot water to the swimming pool. The applicants have also confirmed that they are willing to install photovoltaics at roof level and these will be secured by condition.

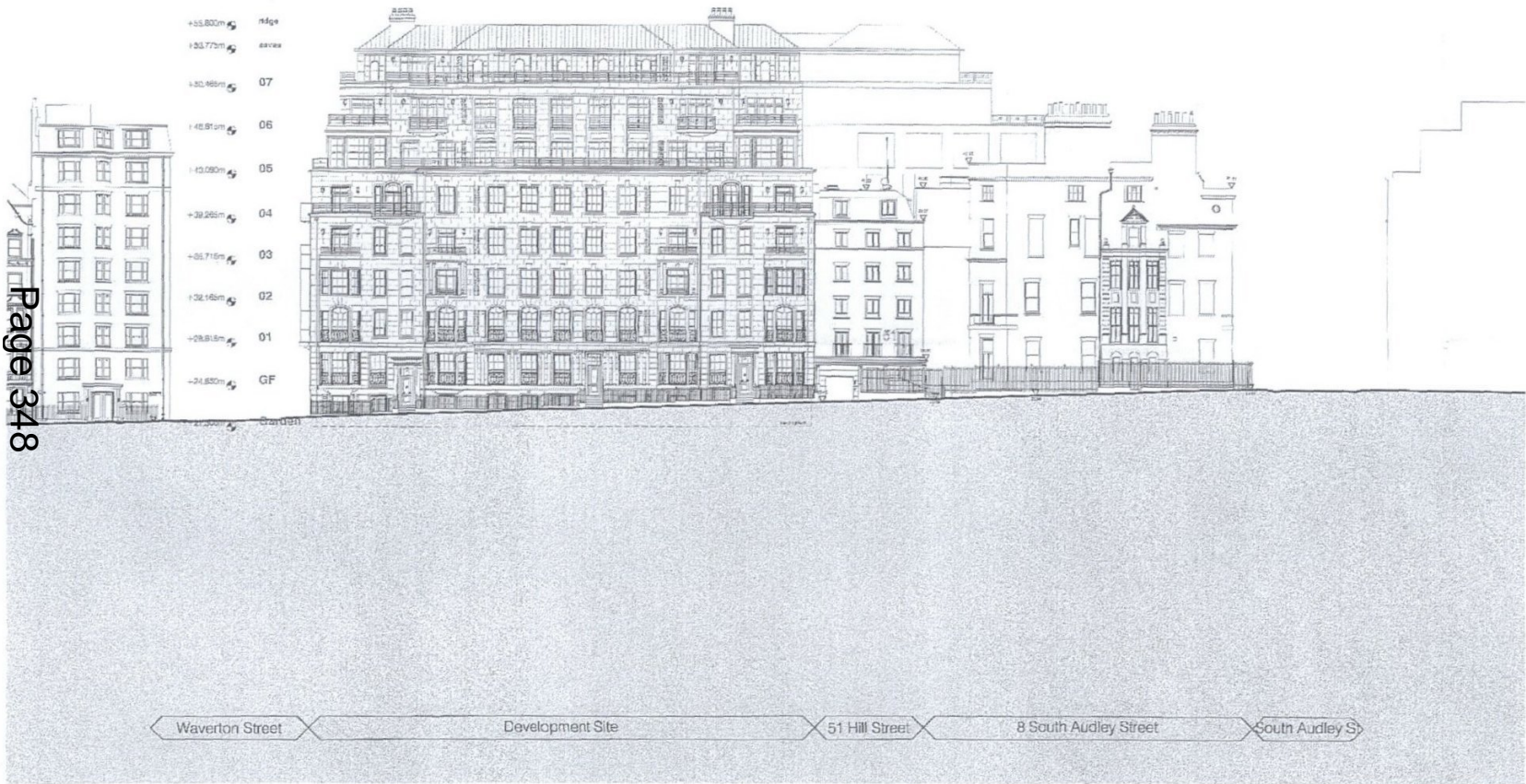
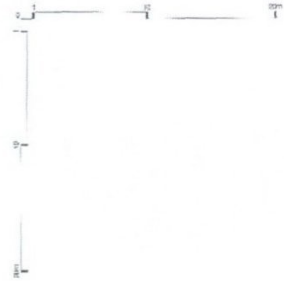
6.13 Conclusion

It is considered that the benefits of the scheme would outweigh any disadvantages and the proposals are recommended for approval.

BACKGROUND PAPERS

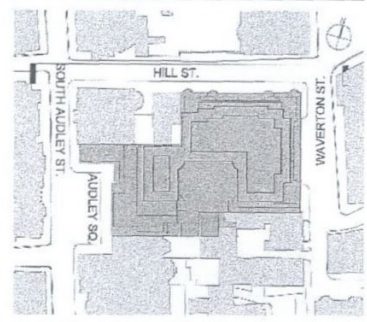
1. Application form
2. Letter from GLA dated 1 May 2015
3. Letter from Historic England dated 16 April 2015
4. Response from Residents' Society of Mayfair and St James's dated 30 March 2015
5. Response from Highways Planning Manager dated 22 September 2015
6. Responses from Environmental Health dated 27 April and 26 May 2015
7. Response from Go Green Team dated 26 March 2015
8. Response from the Arboricultural Manager dated 1 May 2015
9. Letter from occupier of 30 Chesterfield House, South Audley Street dated 15 April 2015
10. Letter from occupier of 20 Chesterfield House, South Audley Street dated 18 April 2015
11. Letter from occupier of 27 Charles Street, London dated 19 April 2015
12. Letter from occupier of 27 Charles Street, London dated 19 April 2015
13. Letter from occupier of 4 Waverton Street, London W1J 5QN dated 20 April 2015
14. Letter from occupier of The Garden House, 8, Hay's Mews dated 14 April 2015
15. Letter from occupier of 3 Deanery Street, London W1K 1AX dated 16 April 2015
16. Letter from occupier of 50 Broadway, London SW1H 0BL dated 21 April 2015
17. Letter from occupier of 22 Charles Street and 22 Hay's Mews, London dated 22 April 2015
18. Letter from occupier of 9 Hill Street dated 4 April 2015
19. Letter from occupier of Bircham Dyson Bell LLP, 50 Broadway London dated 16 April 2015
20. Letter from occupier of Flat 4, 51, Hill Street dated 10 April 2015
21. Letter from occupier of 27 Charles Street, London dated 19 April 2015
22. Letter from occupier of Flat 10 Chesterfield House, South Audley Street dated 17 April 2015
23. Letter from occupier of Chesterfield House Management Ltd, South Audley Street dated 15 April 2015
24. Letter from occupier of 26 Charles Street, Berkeley Square dated 20 April 2015
25. Letter from occupier of 3 Audley Square, Mayfair dated 7 May 2015
26. Letter from occupier of 27 Chesterfield House, South Audley Street dated 30 April 2015
27. Letter from occupier of 6 Hay's Mews, London W1J 5PU dated 11 May 2015
28. Letter from occupier of Flat A, 25 Charles Street dated 29 April 2015
29. Letter from occupier of Flat 10, 17 Grosvenor Square dated 26 May 2015
30. Letter from occupier of 001 Hood House, Dolphin Square dated 18 May 2015
31. Letter from occupier of Wanborough House, Stratton Road dated 1 November 2015
32. Letter from occupier of Flat D, 25 Charles Street dated 24 November 2015

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT MIKE WALTON ON 020 7641 2521 OR BY E-MAIL – mwalton@westminster.gov.uk



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- PROPOSED MATERIAL KEY**
- External envelope: stone
 - Windows: painted timber frames - colour: white
 - Street level railings to light wells: painted steel - colour: black
 - Lightwell and terrace floor finish: stone paving
 - Balustrades: bronze with glass screen behind
 - Rainwater goods: powder coated aluminium - colour: dark grey
 - Pitched roof: standing seam lead with copper ridge capping
 - Flat roof: lead or paving (at upper roof level where maintenance access is required)
 - Roof eaves / gutters: lead
 - Chimneys: stone with clay chimney pots



PLANNING ISSUE: 13.02.15

12043
 Audley Square House
 Proposed elevation: Hill Street
 1:200 @ A1

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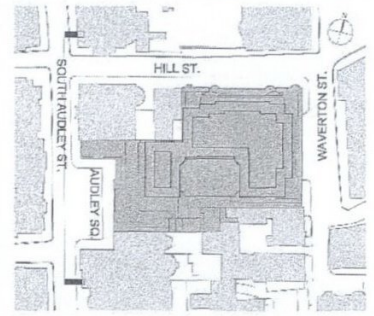


+55.800m ridge
 +53.775m eaves
 +50.460m 07
 +40.810m 06
 +19.000m 05
 +06.260m 04
 +03.710m 03
 +02.160m 02
 +01.610m 01
 +04.000m GF

9 S. Audley St | Hill Street | 8 South Audley Street | Development Site | 3 Audley Sq | 2 Audley Sq

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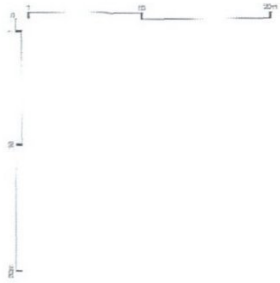
PLANNING ISSUE: 13.02.15

PL170
 Audley Square House
 Proposed elevation: South Audley Street
 1:200 @ A1

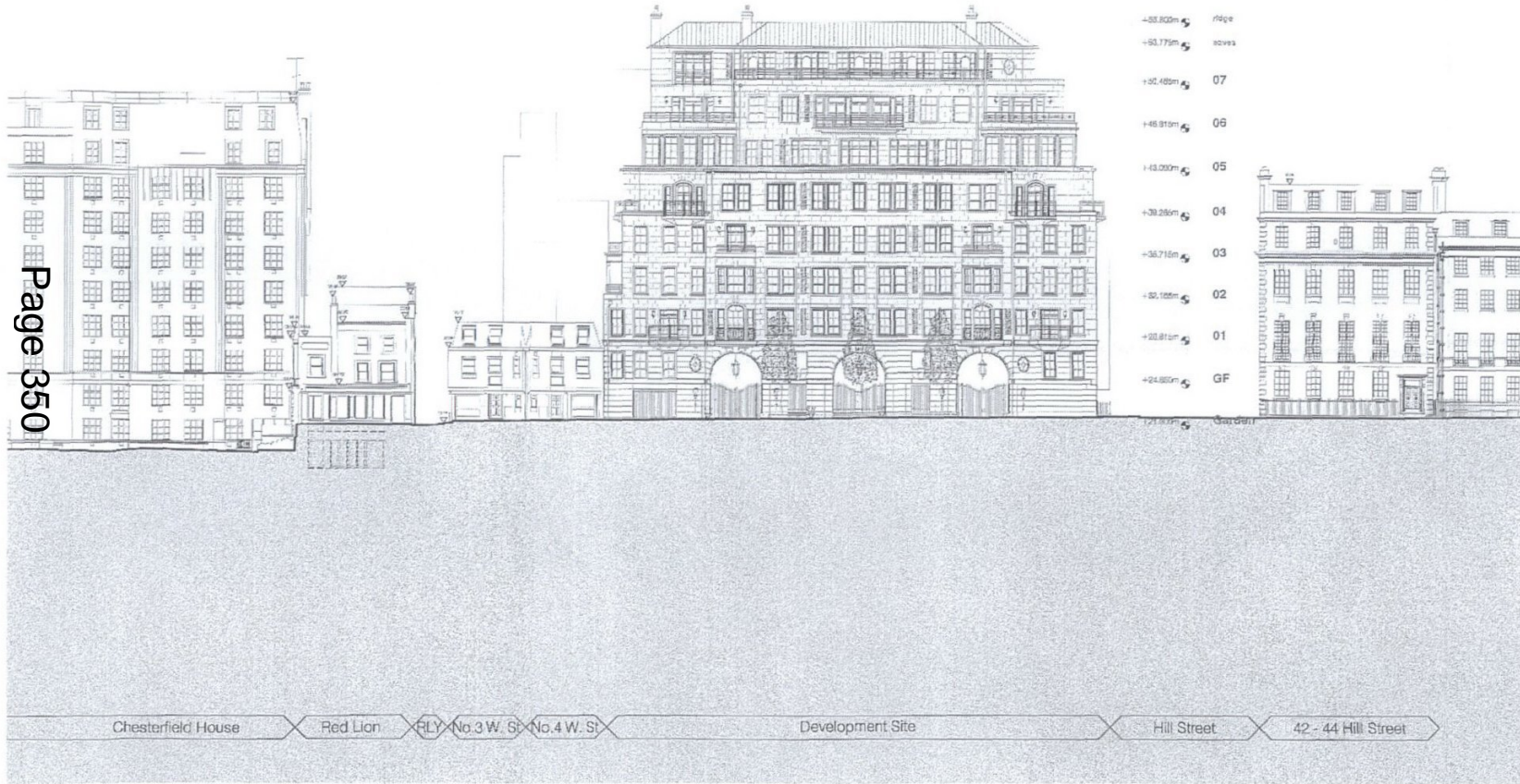
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 M&M is not a UK-registered architectural firm.

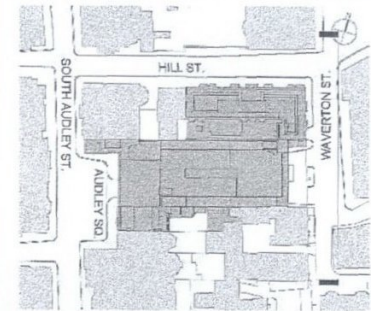
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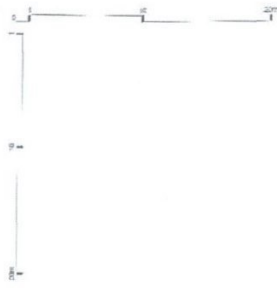
PLANNING ISSUE: 13.02.15

12043
PL172 Audley Square Houses
 Proposed elevation: Waverton Street
 1:200 @ A1

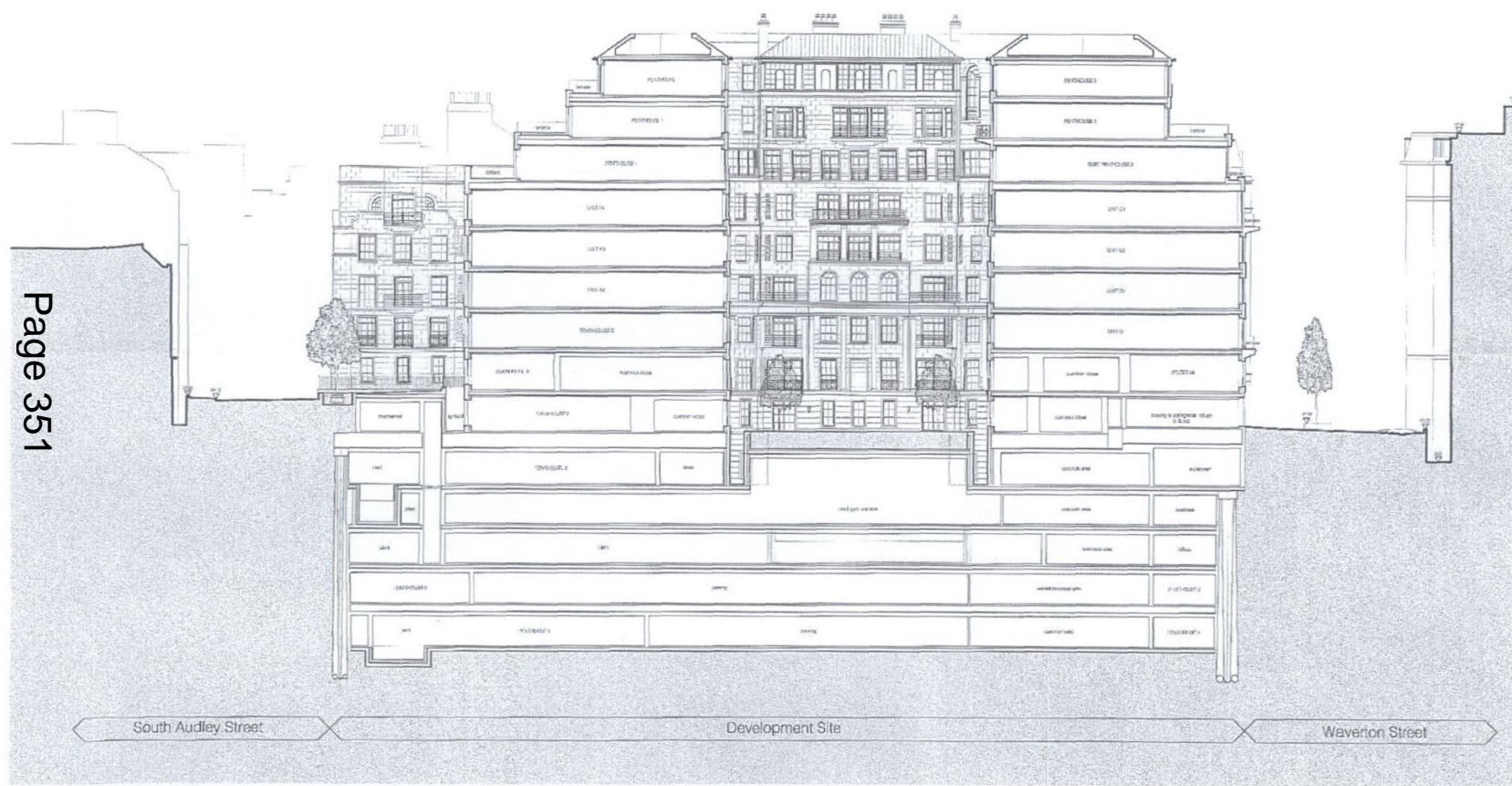
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 2013 design award winner www.designawardwinners.com

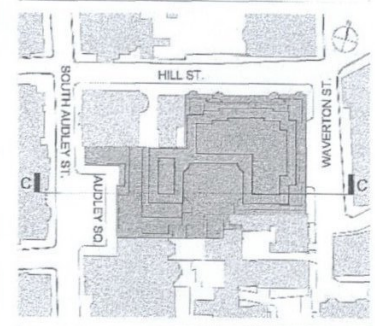
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PLANNING ISSUE: 13.02.15

12043
PL142 Audley Square House
 Proposed section CC
 1:200 @ A1

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Item No.
11

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 th March 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Maida Vale	
Subject of Report	Carlton Tavern, 33A Carlton Vale, London, NW6 5EU,		
Proposal	Demolition of existing public house and redevelopment to provide a building comprising of basement, ground and four upper floors to provide a public house (Class A4) at ground floor and basement level and 10 residential units from basement to fourth floor levels; associated landscaping works and cycle parking.		
Agent	Fladgate LLP		
On behalf of	CLTX Ltd		
Registered Number	14/05526/FULL	Date amended/ completed	6 July 2014
Date Application Received	11 June 2014		
Historic Building Grade	Unlisted		
Conservation Area	Adjacent to the Maida Vale Conservation Area		

1. RECOMMENDATION

<p>For Committee's consideration:</p> <ol style="list-style-type: none"> 1. In light of the material changes in circumstances that have arisen since the determination of the application on 13 January 2015, does the Committee agree that the reason for refusal should be amended to include objection to loss of the existing building? 2. Subject to 1. above, agree the amended reason for refusal set out below (additional text in bold): <p style="margin-left: 20px;"><i>'Because of the loss of the existing building (an undesignated heritage asset), and because of the bulk, height and detailed design of the new building, the development would be detrimental to the view from the adjacent Maida Vale Conservation Area, namely the Paddington Recreation Ground, and from Carlton Vale, where the site is viewed in the context of the gateway entrance to the park (i.e. the Recreation Ground). It would therefore harm the appearance of this part of the City and fail to maintain or improve (preserve or enhance) the setting of the neighbouring Maida Vale Conservation Area. This would not meet S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (F) of our Unitary Development Plan that we adopted in January 2007.'</i></p>
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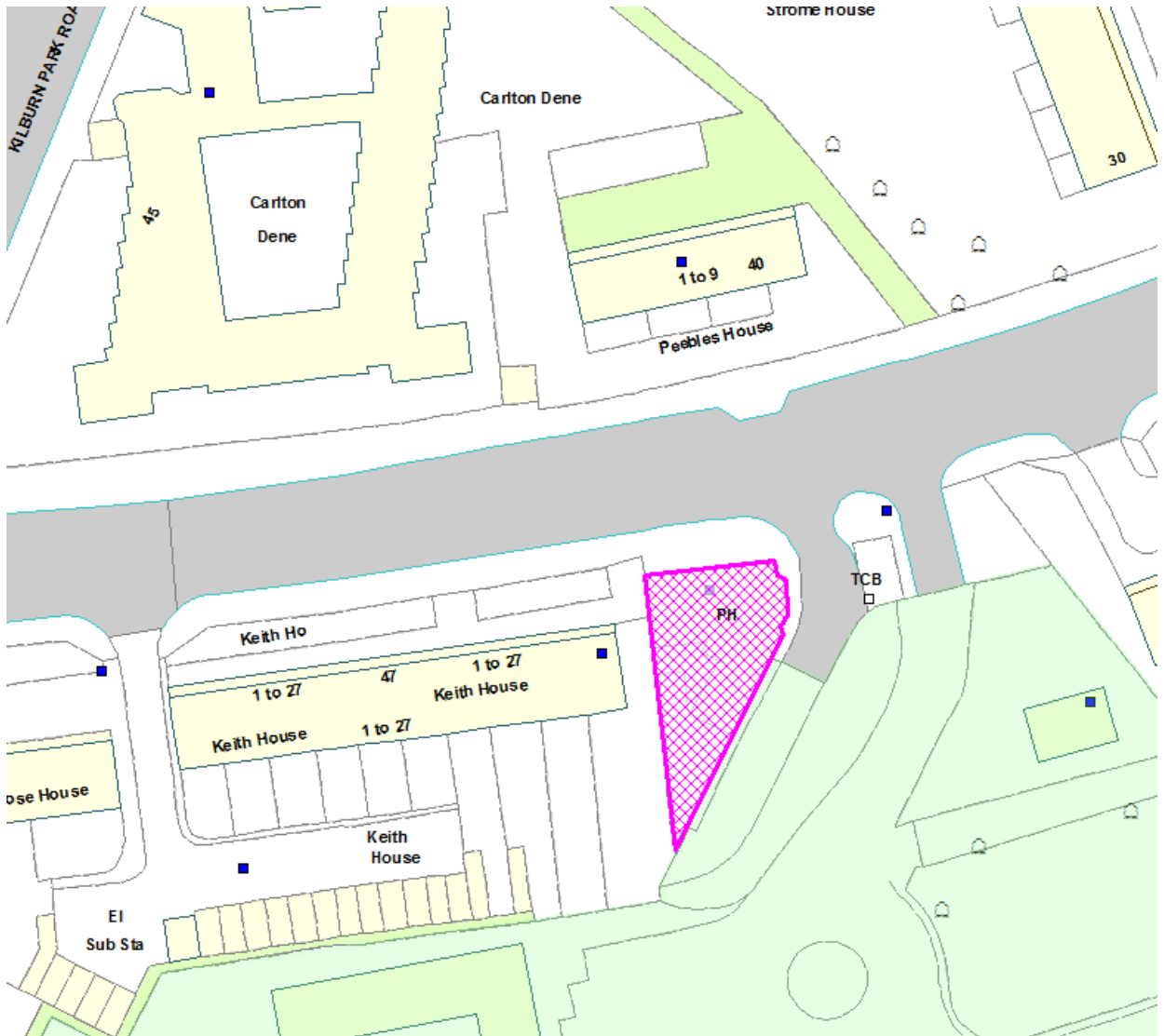
3. Subject to 1. above, agree that the City Council will resist the appeal against refusal of planning permission for the additional reason of the loss of the existing building (as set out in 2. above).

2. SUMMARY

Since the Planning Applications Committee resolved to refuse permission for redevelopment of the site at the committee meeting held on 13 January 2015 there have been several material changes in circumstances; namely, its subsequent unlawful demolition on the 8th April 2015, the subsequent issue of a Historic England report dated 29th April 2015 setting out the heritage value of The Carlton Tavern, and the designation of the site as an Asset of Community Value (ACV) on the 2nd February 2016.

The key issue is the effect of these subsequent events on the City Council's reason for refusing planning permission, which along with the Enforcement Notice issued in respect of the unlawful demolition of the building, is to be the subject of a Public Inquiry scheduled to commence on 17 May 2016 for 8 days.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Street view taken on 18 July 2014 (above) and on 28 April 2015 (below).



5. CONSULTATIONS

None required.

6. BACKGROUND INFORMATION

6.1 The Application Site

This application site is located on the south side of Carlton Vale next to an entrance to the Paddington Recreation Ground and adjacent to the Maida Vale Conservation Area. The surrounding area is characterised by low-rise residential blocks of flats, and there are views of the grade I listed St Augustine's Church between buildings on the opposite side of the road.

6.2 Recent Relevant History

Permission for the redevelopment of the site was refused by the City Council on 13 January 2015. Subsequently, Historic England appraised the building and was considering it for inclusion in the Statutory List of buildings of historic or architectural interest when it was unlawfully demolished on 8 April 2015.

Demolition of the building without notification contravened the requirements of, amongst other things, the Localism Act 2011 because it resulted in the loss of a building capable of being designated as an Asset of Community Value without due process.

The planning enforcement matter was reported to the Planning Applications Committee on 5 May 2015 and the Committee resolved to issue an Enforcement Notice to remedy the breach of planning control (see background papers). The Enforcement Notice was issued on 19 June 2015 and took effect on 24 July 2015. It requires the owner(s) of the land to:

'Rebuild The Carlton Tavern Public House, to match in facsimile the building as it stood immediately prior to its demolition on 8th April 2015, in conformity with the detailed architectural descriptions as to building materials, plan form, exterior and interior attached to this Notice, and in conformity with the photographs attached for the purposes of illustration.'

The City Council obtained an Injunction to prevent clearance of the site or any further demolition on 8 July 2016.

The City Council designated the Carton Tavern as an Asset of Community Value on 2 February 2016.

The refusal of planning permission and the issue of the Enforcement Notice are currently the subject of appeals to be heard at a Public Inquiry commencing 17 May 2016.

7. DETAILED CONSIDERATIONS

At the time of considering the planning application on 13 January 2015 the value of the building as a work of architecture and its townscape contribution were not fully understood. The research subsequently carried out by Historic England revealed its importance and led them to conclude that, had it not been demolished, it was “highly likely” to have been recommended for listing (see copy of Historic England letter and report in the background papers).

In light of this material change in circumstance with regard to the architectural importance of the existing (now demolished) building and the Committee’s previous resolution in respect of the unauthorised demolition of the building (as reflected in the Enforcement Notice issued in June 2015 – see background papers), the Committee is asked to consider whether they would have refused the planning application on additional grounds relating to the loss of the (now demolished) existing building. The reason for refusal that the Committee previously resolved on 13 January 2015 is provided below for information, along with the Amended Reason for Refusal that is recommended by officers so that the reason for refusal of the planning application accurately reflects the material changes in circumstances that have occurred subsequent to the 13 January 2015 committee.

13 January 2015 Reason for Refusal:

‘Because of the bulk, height and detailed design, the new building would be detrimental to the view from the adjacent Maida Vale Conservation Area, namely the Paddington Recreation Ground, and from Carlton Vale, where the site is viewed in the context of the gateway entrance to the park (i.e. the Recreation Ground). It would therefore harm the appearance of this part of the City and would fail to maintain or improve (preserve or enhance) the setting of the neighbouring Maida Vale Conservation Area. This would not meet S25 and S28 of Westminster’s City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (F) of our Unitary Development Plan that we adopted in January 2007.’

Recommended Amended Reason for Refusal (additional text in bold italics):

*‘**Because of the loss of the existing building (an undesignated heritage asset), and because of the bulk, height and detailed design of the new building, the development** would be detrimental to the view from the adjacent Maida Vale Conservation Area, namely the Paddington Recreation Ground, and from Carlton Vale, where the site is viewed in the context of the gateway entrance to the park (i.e. the Recreation Ground). It would therefore harm the appearance of this part of the City and fail to maintain or improve (preserve or enhance) the setting of the neighbouring Maida Vale Conservation Area. This would not meet S25 and S28 of Westminster’s City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (F) of our Unitary Development Plan that we adopted in January 2007.’*

8. BACKGROUND PAPERS

1. Copy of Decision Letter dated 13th January 2015.
2. Committee Minutes dated 13th January 2015 and transcript of Committee Presentation and Deliberations.
3. Letter from Historic England dated 30th April 2015 and appended report dated 29th April 2015.
4. Committee Report and Resolution seeking authorisation to issue an Enforcement Notice dated 5th May 2015
5. Interim High Court Injunction dated 8th July 2015.
6. High Court Injunction dated 18th January 2016.
7. Copy of Decision Letter dated 2nd February 2016 confirming the listing of the site as an Asset of Community Value.

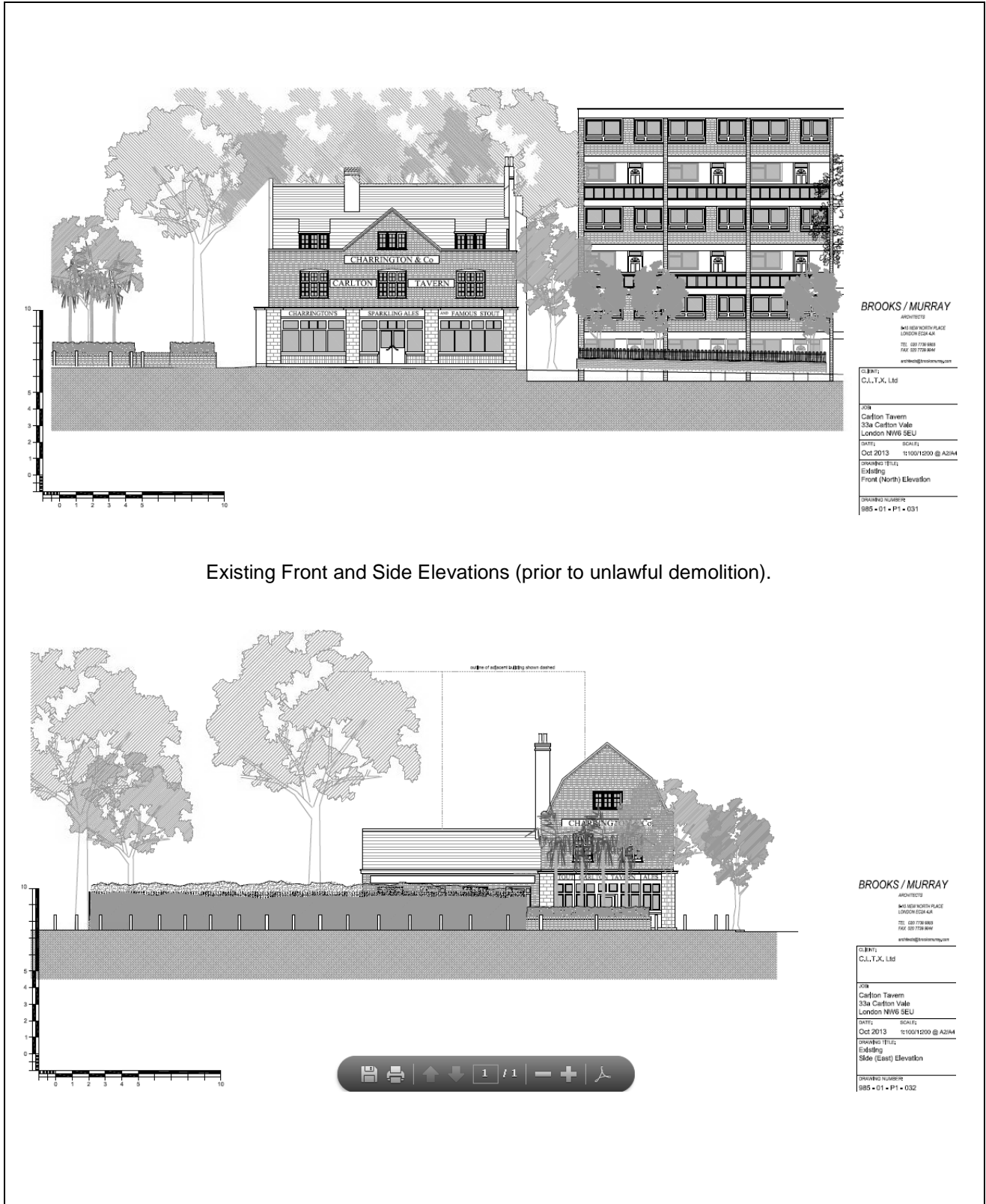
Selected Relevant Drawings

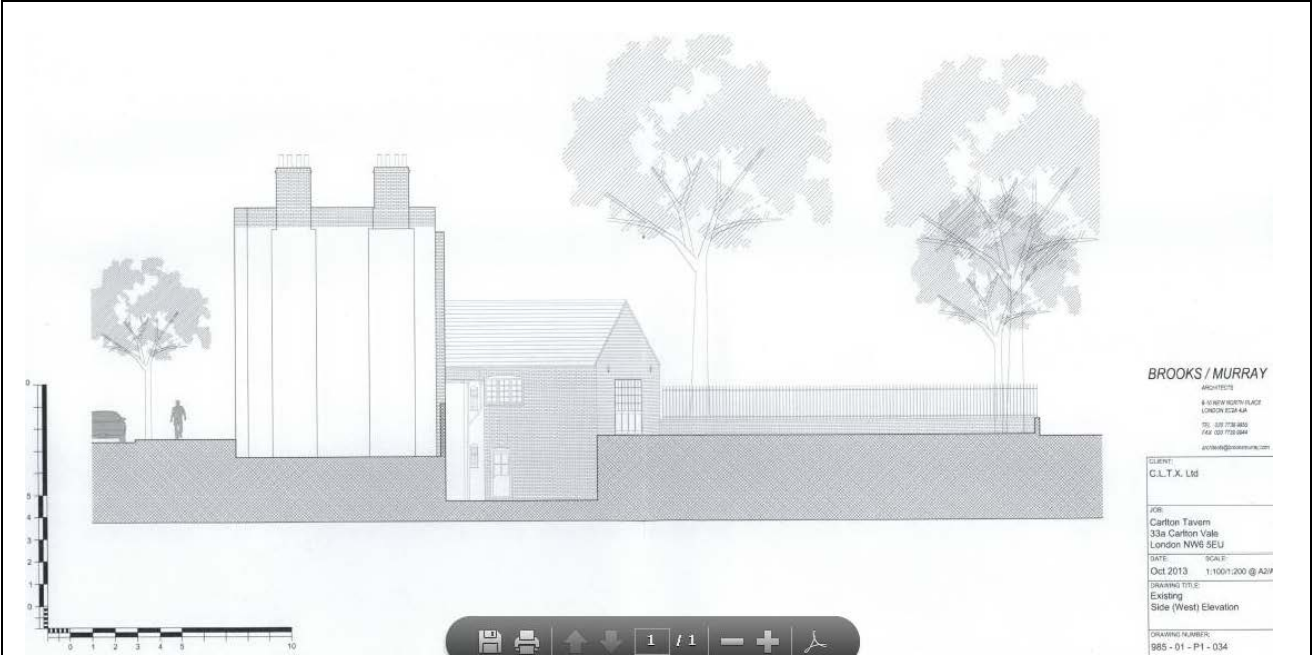
Existing elevations and proposed elevations and plans.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT MATTHEW PENDLETON
ON 020 7641 2535 OR BY EMAIL AT NorthPlanningTeam@westminster.gov.uk

9. KEY DRAWINGS





BROOKS / MURRAY
ARCHITECTS

6 NEW BETH PLACE
LONDON EC2A 4AP
TEL: 020 776 8665
FAX: 020 776 8664
www.brooksmurray.com

CLIENT:
C.L.T.X. Ltd

JOB:
Carlton Tavern
33a Carlton Vale
London NW6 5EU

DATE: Oct 2013 SCALE: 1:100 @ A3

DRAWING TITLE:
Existing
Side (West) Elevation

DRAWING NUMBER:
985 - 01 - P1 - 034

Above: Existing Rear Elevation (prior to unlawful demolition).



- LEGEND**
- 1 Existing Form
 - 2 Existing Form
 - 3 Proposed New Structure (Shaded)
 - 4 Proposed New Structure (Shaded)
 - 5 Proposed New Structure (Shaded)
 - 6 Proposed New Structure (Shaded)
 - 7 Proposed New Structure (Shaded)
 - 8 Proposed New Structure (Shaded)
 - 9 Proposed New Structure (Shaded)
 - 10 Proposed New Structure (Shaded)

1	Existing Form	00/13
2	Existing Form	00/13
3	Proposed New Structure (Shaded)	00/13
4	Proposed New Structure (Shaded)	00/13
5	Proposed New Structure (Shaded)	00/13
6	Proposed New Structure (Shaded)	00/13
7	Proposed New Structure (Shaded)	00/13
8	Proposed New Structure (Shaded)	00/13
9	Proposed New Structure (Shaded)	00/13
10	Proposed New Structure (Shaded)	00/13

BROOKS / MURRAY
ARCHITECTS

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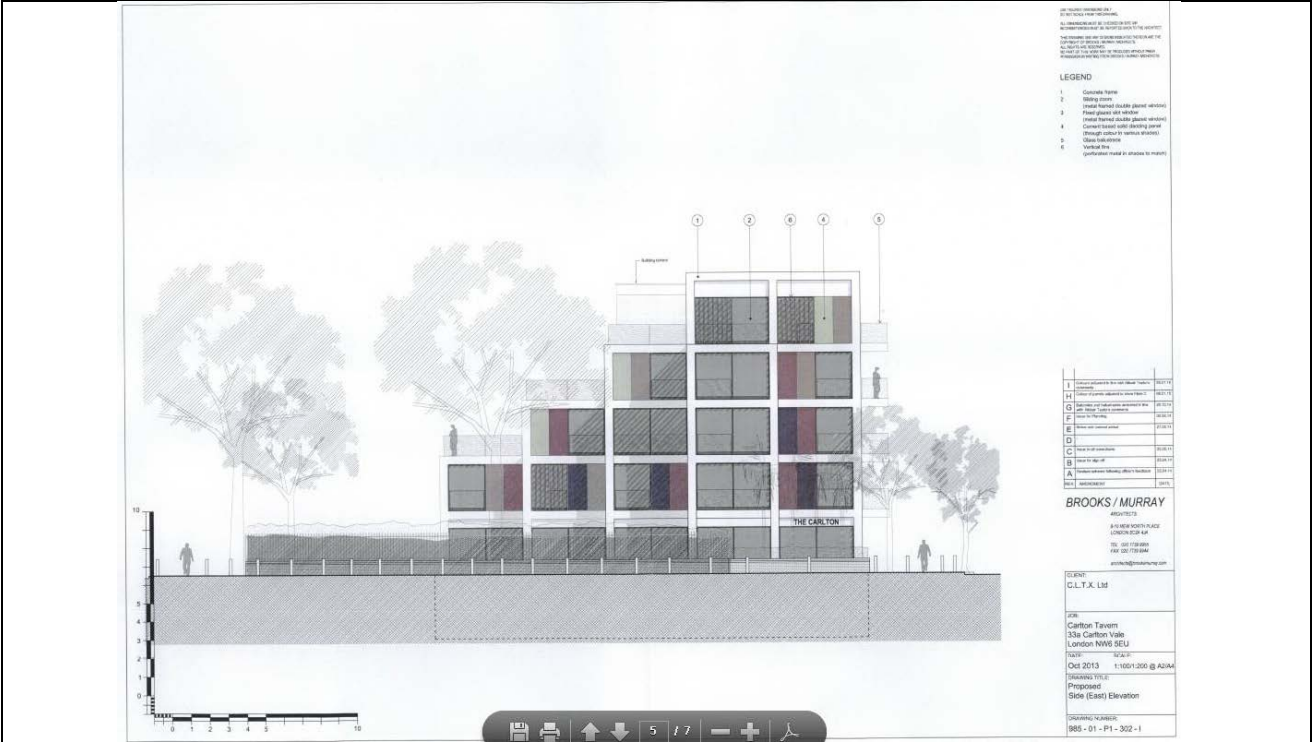
CLIENT:
C.L.T.X. Ltd

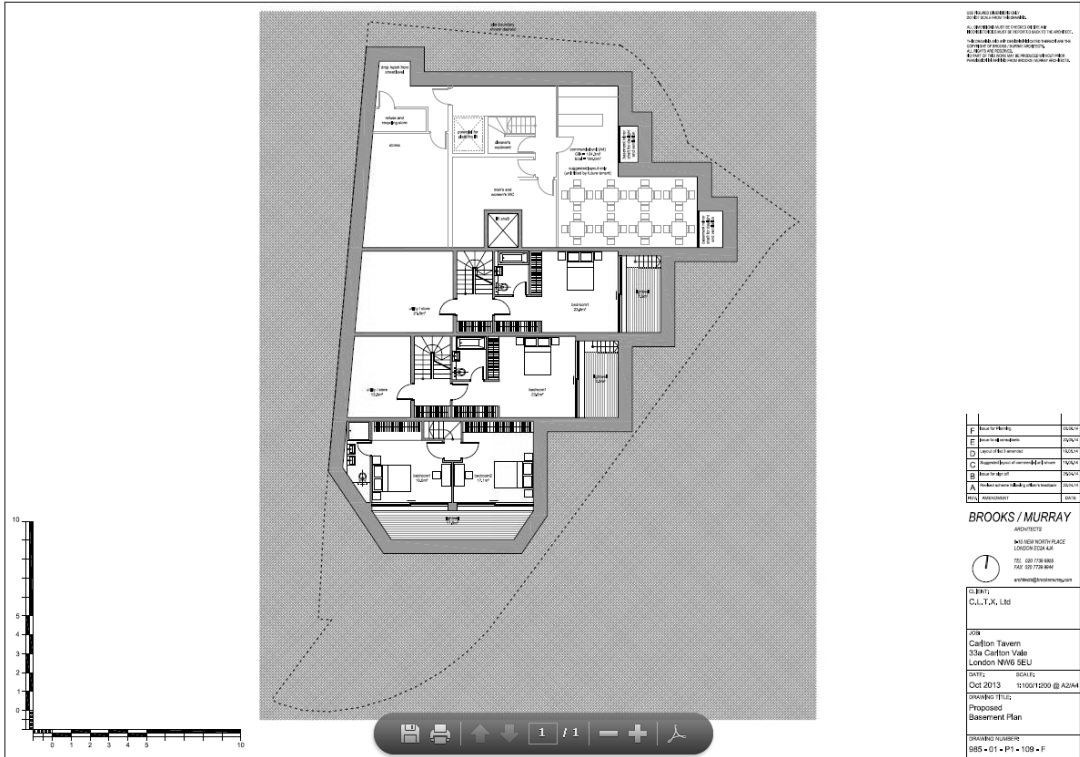
JOB:
Carlton Tavern
33a Carlton Vale
London NW6 5EU

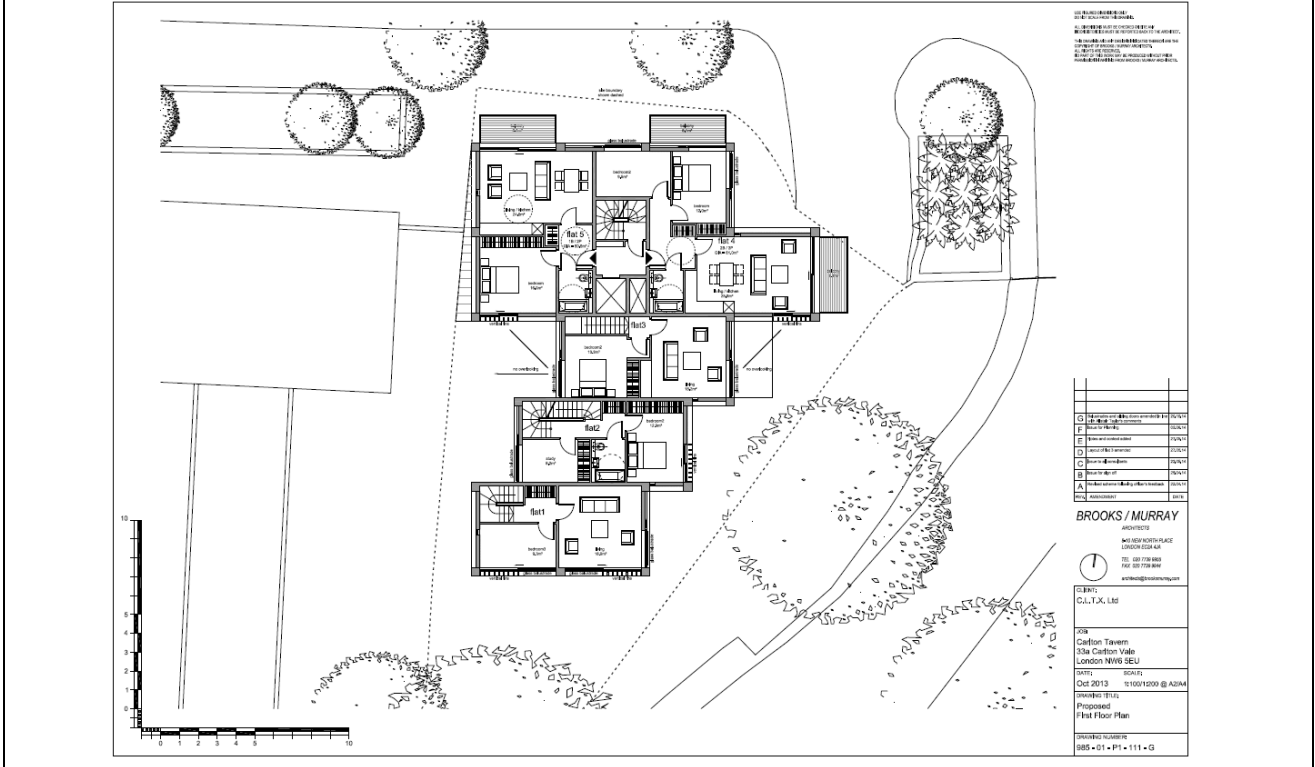
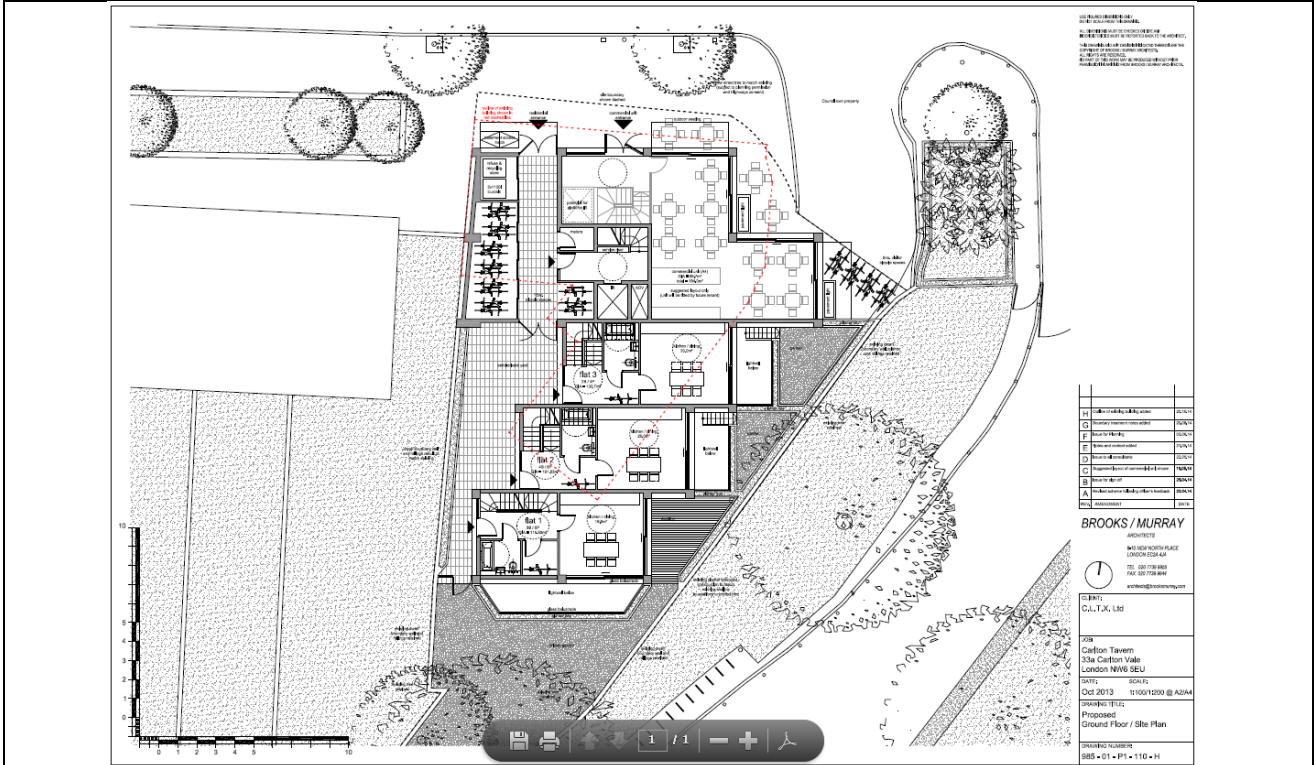
DATE: Oct 2013 SCALE: 1:100 @ A3

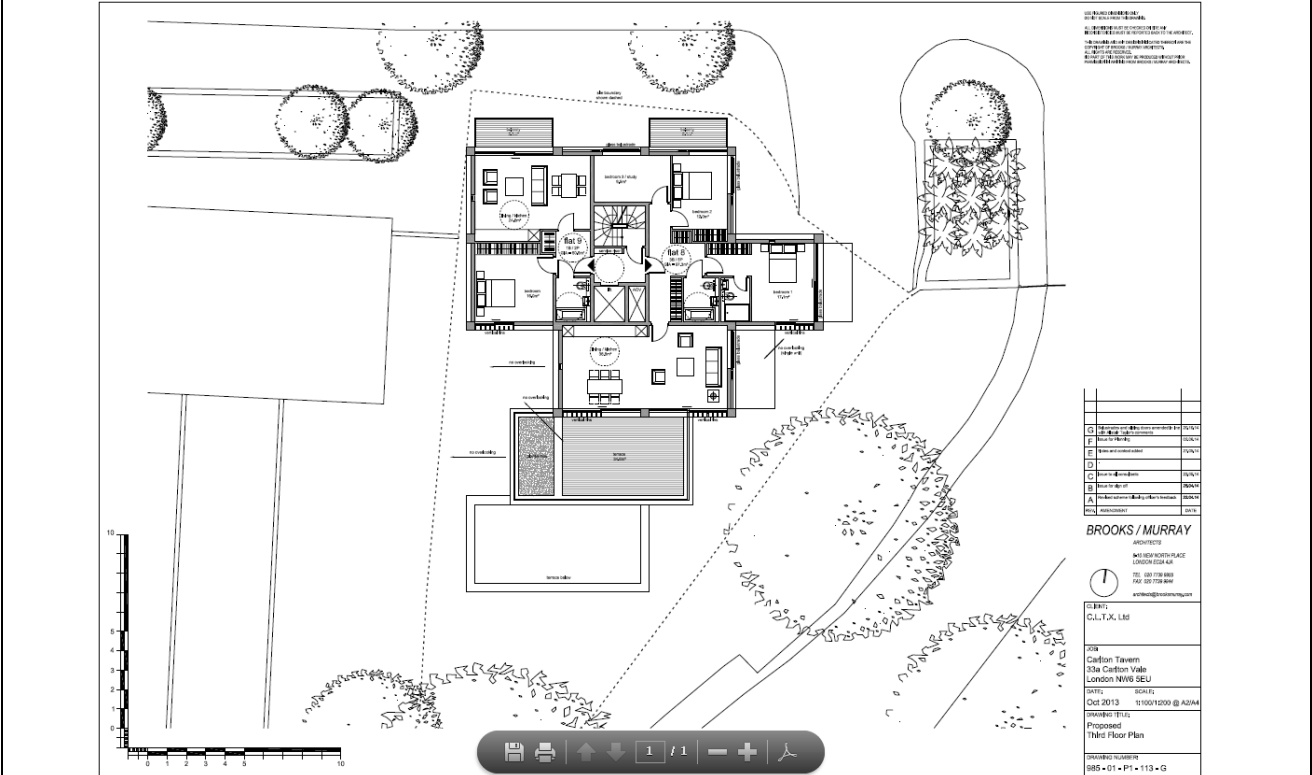
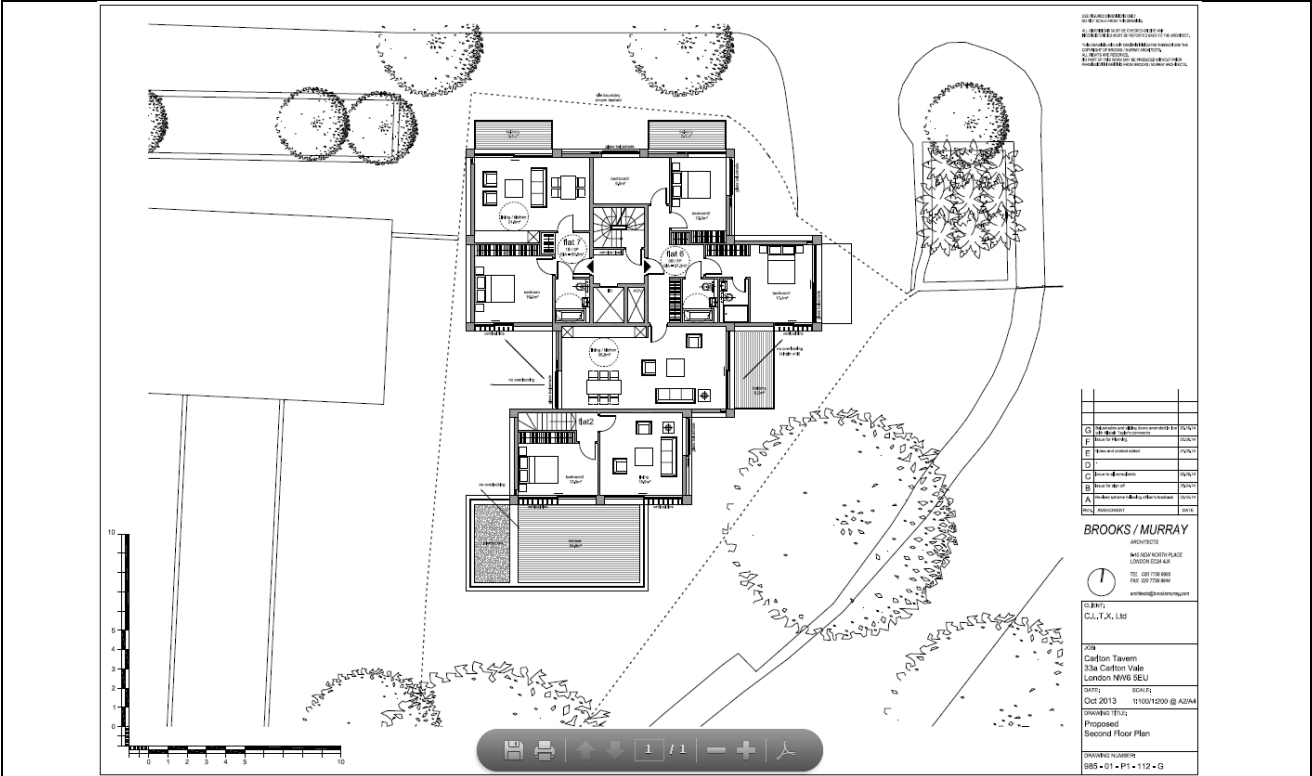
DRAWING TITLE:
Proposed
Front (North) Elevation

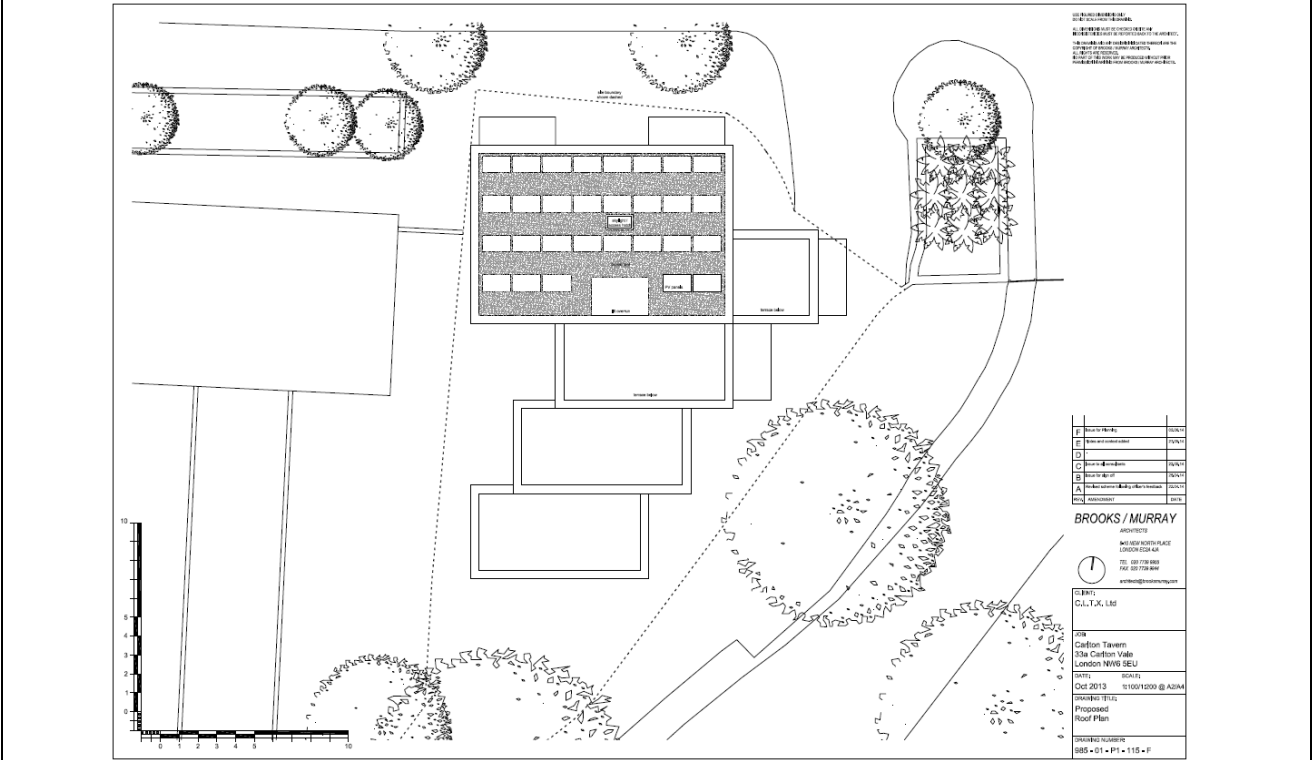
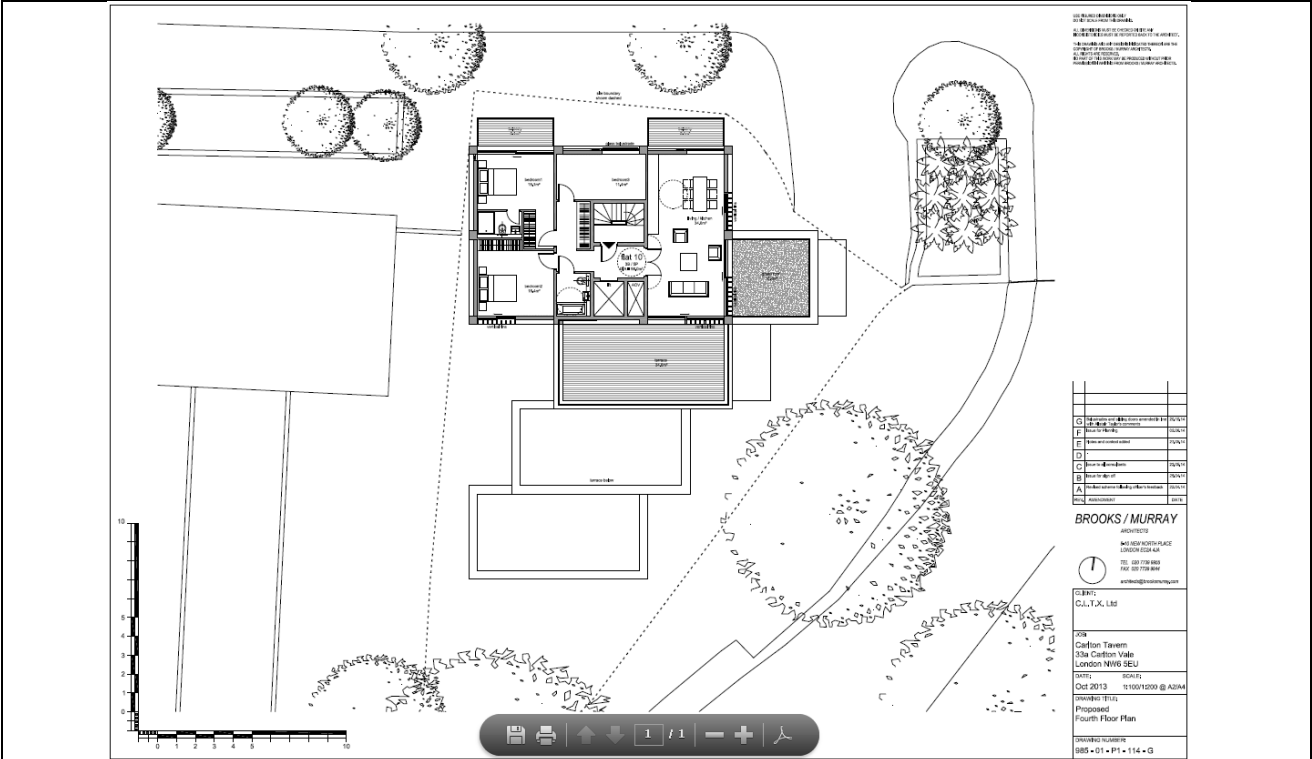
DRAWING NUMBER:
985 - 01 - P1 - 301 - I











Item No.
11

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