

# **Committee Agenda**

Title:

**Planning Applications Sub-Committee (3)** 

Meeting Date:

Tuesday 8th August, 2023

Time:

6.30 pm

Venue:

Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP

Members:

#### Councillors:

Nafsika Butler-Thalassis (Chair) Md Shamsed Chowdhury Jason Williams Amanda Langford

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



Committee members will attend the meeting in person at Westminster City Hall. The Committee will be a hybrid Meeting and will be live broadcast via Microsoft Teams. Admission to the public gallery is by a pass, issued from the ground floor reception 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.

If you require any further information, please contact the Committee Officer, Georgina Wills, Committee and Governance Officer.

Tel: 07870 548348; Email: gwills@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 Md Shamsed Chowdhury was substituting for Councillor Cara Sanquest and that Councillor Jason Williams was substituting for Councillor Ryan Jude.

To note any further changes to the membership.

# 2. DECLARATIONS OF INTEREST

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

#### 3. MINUTES

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

# 4. PLANNING APPLICATIONS

Applications for decision

#### Schedule of Applications

Members of the public are welcome to speak on the specific applications at the virtual planning committee meeting.

To register to speak and for guidance please visit:

https://www.westminster.gov.uk/planning-committee

Please note that you must register by 12 Noon on the Friday before the Committee meeting.

In the event that you are successful in obtaining a speaking slot at the hybrid meeting please read the guidance, in order to familiarise yourself with the process prior to joining the remote meeting. (Pages 5 - 12)

All committee meetings open to the public are being broadcast live using Microsoft Teams. For information on participating in the virtual Committee please see the following link

https://www.westminster.gov.uk/aboutcouncil/democracy/stream-council-meetings

To access the recording after the meeting please revisit the Media link

1.	5 BALFOUR PLACE, LONDON, W1K 2AU	(Pages 15 - 46)
2.	OSLO COURT, PRINCE ALBERT ROAD, LONDON, NW8 7EN	(Pages 47 - 100)
3.	40 EASTBOURNE TERRACE, LONDON, W2 6LG	(Pages 101 - 136)
4.	35 THE MARKET, COVENT GARDEN, LONDON, WC2E 8RF	(Pages 137 - 156)
5.	16 BOURDON STREET, LONDON, W1K 3PH	(Pages 157 - 184)
6.	15 CLIVEDEN PLACE, LONDON, SW1W 8LA	(Pages 185 - 204)
7.	7 CAROLINE PLACE, LONDON, W2 4AW	(Pages 205 - 222)

Stuart Love Chief Executive 28 July 2023

# **Order of Business**

At Planning Sub-Committee meetings the order of business for each application listed on the agenda will be as follows:

Order of Business				
i) Planning Officer presentation of the case				
ii) Applicant and any other supporter(s)				
iii) Objectors				
iv) Amenity Society (Recognised or Semi-Recognised)				
v) Neighbourhood Forum				
vi) Ward Councillor(s) and/or MP(s)				
vii) Council Officers response to verbal representations				
viii) Member discussion (including questions to officers for clarification)				
ix) Member vote				

These procedure rules govern the conduct of all cases reported to the Planning Applications Sub-Committees, including applications for planning permission; listed building consent; advertisement consent, consultations for development proposals by other public bodies; enforcement cases; certificates of lawfulness; prior approvals, tree preservation orders and other related cases.



# **MINUTES**

# **Planning Applications Sub-Committee (3)**

#### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (3)** Committee held on **Tuesday 30th May, 2023**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Ruth Bush (Chair), Cara Sanquest, Ryan Jude and Ed Pitt Ford

**Also Present:** Councillor Jessica Toale (Item 7)

# 1 MEMBERSHIP

- 1.1 It was noted that Councillors Ruth Bush and Ed Pitt Ford were substituting for Councillor Nafsika Butler-Thalassis and Councillor Amanda Langford respectively.
- 1.2 A Councillor was required to Chair the evening's meeting and the Sub-Committee

#### **RESOLVED:**

That Councillor Ruth Bush be elected Chair of Planning Applications Sub-Committee (3) for that evening's meeting.

## 2 DECLARATIONS OF INTEREST

2.1 Councillor Ruth Bush explained that a week before the meeting, all four Members of the Sub-Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and emails containing objections or giving support. Members of the Sub-Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Sub-Committee, it did not mean that the

issue had been ignored. Members would have read about the issue and comments made by correspondents in the papers read prior to the meeting.

- 2.2 Councillor Ryan Jude declared an interest in respect to Item 7 and advised that he was a friend of Councillor Jessica Toale and both were members of the Majority Group.
- 2.3 Councillor Cara Sanquest and Councillor Ruth Bush made the same declaration.
- 2.4 Councillor Ruth Bush declared that in respect of Item 2 she was a Chair of The Westminster Faith Exchange.
- 2.5 Councillor Ruth Bush also declared that in respect to all items that she was a Trustee of the Westminster Tree Trust.

#### 3 MINUTES

**RESOLVED**: That the minutes of the meeting held on 4<sup>th</sup> April 2023 be signed by the Chair as a correct record of proceedings.

#### 4 PLANNING APPLICATIONS

The Sub-Committee heard the applications in the following order: 7, 2, 3, 5, 6, 1, 4.

## 1 LANGFORD COURT, 22 ABBEY ROAD, LONDON, NW8 9DN

Erection of mansard roof extension with green roof and lift overrun with communal satellite dish, 4 rooftop air source heat pumps within green wall enclosure with bird and bat boxes, in association with the provision of four additional residential flats and associated cycle and waste storage at basement level.

Late representations were received by two local residents (29.05.23 and 27.05.23).

The Planning Officer tabled the following amendments to the report in bold:

# Item 1 - Langford Court, 22 Abbey Road

Proposed changes to the officer's report, bottom of page.31

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 states that features that contribute positively to the significance of a setting of a conservation area will be conserved and opportunities will be taken to enhance conservation area settings.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their

setting. Chapter 16 of the NPPF clarifies that harmful proposals should **be clearly** and convincingly justified and should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused. Paragraph 202 in the NPPF identifies that where the harm caused to the heritage asset would be less than substantial, it should be weighed against the public benefits of the proposal including, where appropriate securing its optimum viable use.

#### RESOLVED UNANIMOUSLY

That conditional permission be granted.

# 2 RUPERT HOUSE, 19 RUPERT STREET, LONDON, W1D 7PA

Use of upper and lower basements and ground floor as a place of worship and community centre.

Additional representations were received by 75 local residents (date unknown).

Ainab Masqsood, representing The Aziz Foundation, addressed the Sub-Committee in support of the application.

Luke Raistrick, representing Centro Plan, addressed the Sub-Committee in support of the application.

#### **RESOLVED UNANIMOUSLY**

That conditional permission be granted.

# 5, 7, 9, 11, 13, 15, 17 & 19 PASSMORE STREET, LONDON, SW1W 8HR AND 11 & 19 PASSMORE STREET, LONDON, SW1W 8HR

# 5, 7, 9, 13, 15 and 17 Passmore Street

Demolition and rebuilding behind retained front facade and party walls with alterations to front fenestration, provision of a new basement, mansard roof, extensions at rear ground and first floor level and installation of air source heat pump in rear basement lightwell. (Applications 1, 2, 3, 5, 6 and 7)

#### 11 and 19 Passmore Street

Alterations to front fenestration, the provision of a new basement, mansard roof, extensions at rear ground and first floor level and installation of air source heat pump in rear basement lightwell. (Applications 4 and 8)

The Planning Officer had circulated the following revision to the wording of Condition 12:

# **Applications 1-8**

# Revision to wording of condition 12

#### **Pre Commencement Condition.**

You must carry out a detailed reclamation audit and apply to us for approval of the audit including the following parts:

- 1. The reclamation audit should identify any building materials and products presenting a high reuse potential. The audit should also list any other reusable building elements. The inventory should present as much information as possible on the dimensions, quantities, conditions, environmental impact, technical characteristics, disassembly Item No. 3 13 14 recommendations, etc of the materials and products identified. If an existing concrete frame is present a specialist should investigate the quality of the recycled concrete aggregates and their re-usability potential before full demolition is considered. If windows are present, they should be dismantled first and sent to glass recyclers for clear glass cullet production (minimising contamination).
- 2. Based on the audit, the design team should demonstrate that any new-built project is designed incorporating at least 20% by material mass/volume for the whole building to derive from re-used or recycled content.
- 3. For any materials that are not re-used on-site, but identified as having re-use potential, the design team should advertise the availability of these potentially reusable materials to reclamation professionals (such as the Excess Material Exchange platform led by Enfield Council, Globchain or RE:London) and other interested parties who will contribute to the effective circulation of the elements. Meeting minutes from attending a 'Circular Economy surgery' or workshop with such platforms will be sufficient.
- 4. All proposals, including retrofit of existing building elements, should prioritise sustainable material procurement, sourcing products with high recycled content or construction materials with a circular business model (take-back schemes etc).

You must not start any demolition works until we have approved what you have sent us. You must then carry out the works according to these details.

Alexander Lewis, representing Tribeca Holdings, addressed the Sub-Committee in support of the application.

Alan Coleman, representing Tyler Parkes, addressed the Sub-Committee in objection to the application.

Michael Phillips addressed the Sub-Committee in objection to the application.

#### RESOLVED UNANIMOUSLY

Application 1

That conditional permission be granted - subject to completion of a legal agreement to secure the following:

- i) ensuring that the building contract entered into by the owners of the buildings at 5 to 19 Passmore Street requires that the construction works (to build the mansards and alterations to front facade) are carried out as a single operation; and
- ii) cost of monitoring of this agreement.

# Application 2

That conditional permission be granted - subject to completion of a legal agreement to secure the following:

- i) ensuring that the building contract entered into by the owners of the buildings at 5 to 19 Passmore Street requires that the construction works (to build the mansards and alterations to front facade) are carried out as a single operation; and
- ii) cost of monitoring of this agreement.

# **Application 3**

That conditional permission be granted - subject to completion of a legal agreement to secure the following:

- i) ensuring that the building contract entered into by the owners of the buildings at 5 to 19 Passmore Street requires that the construction works (to build the mansards and alterations to front facade) are carried out as a single operation; and
- ii) cost of monitoring of this agreement.

# Application 4

That conditional permission be granted - subject to completion of a legal agreement to secure the following:

- i) ensuring that the building contract entered into by the owners of the buildings at 5 to 19 Passmore Street requires that the construction works (to build the mansards and alterations to front facade) are carried out as a single operation; and
- ii) cost of monitoring of this agreement.

# **Application 5**

That conditional permission be granted - subject to completion of a legal agreement to secure the following:

- i) ensuring that the building contract entered into by the owners of the buildings at 5 to 19 Passmore Street requires that the construction works (to build the mansards and alterations to front facade) are carried out as a single operation; and
- ii) cost of monitoring of this agreement.

# Application 6

That conditional permission be granted - subject to completion of a legal agreement to secure the following:

- i) ensuring that the building contract entered into by the owners of the buildings at 5 to 19 Passmore Street requires that the construction works (to build the mansards and alterations to front facade) are carried out as a single operation; and
- ii) cost of monitoring of this agreement.

# Application 7

That conditional permission be granted - subject to completion of a legal agreement to secure the following:

- i) ensuring that the building contract entered into by the owners of the buildings at 5 to 19 Passmore Street requires that the construction works (to build the mansards and alterations to front facade) are carried out as a single operation; and
- ii) cost of monitoring of this agreement.

# **Application 8**

That conditional permission be granted - subject to completion of a legal agreement to secure the following:

- i) ensuring that the building contract entered into by the owners of the buildings at 5 to 19 Passmore Street requires that the construction works (to build the mansards and alterations to front facade) are carried out as a single operation; and
- ii) cost of monitoring of this agreement.
- 2. That if the S106 legal agreement in respect of Applications 1-8 had not been completed within six weeks of the date of the Committee's resolution, then:
- a) The Director of Town Planning and Building Control 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 Town Planning and Building Control was authorised to determine and issue the decision under Delegated Powers; however, if not;
- b) The Director of Town Planning and Building Control shall consider whether the permission should be reused on the grounds that the proposals were unacceptable in the absence of the benefits which would have been secured; if so, the Director of Town Planning and Building Control was authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

# 4 19 VILLIERS STREET, LONDON, WC2N 6ND

Installation of kitchen extract duct to rear elevation.

Additional representations were received from 27-29 John Adam Street Freehold Company Limited (14.04.23 and 20.04.23).

A late representation was received by a resident (30.05.23).

The Presenting Officer tabled the following clarifications/corrections to the report.

## Additional condition 9

You must apply to us for approval of plan drawings at ground, first, second, third, fourth and roof level showing the position of the proposed duct in relation to the application property. You must not start any work on the duct until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

#### **RESOLVED UNANIMOUSLY**

That conditional permission, as amended, be granted.

## 5 42 WIGMORE STREET, LONDON, W1U 2RY

Alterations to 42 Wigmore Street at front elevation and rear (Welbeck Way) elevation at ground to fourth floor level. Roof terraces at third and fourth floor level for use by the existing office. Reconfiguration of mechanical plant area with associated machinery at fourth floor level. Enlargement of existing glass roof, installation of PV panels and green roof at main roof level. Re-landscaping of front courtyard including installation of green wall. Alterations to Wigmore Street arcade entrance (which forms part of 44-46 Wigmore Street).

Mike Nisbet, addressed the Sub-Committee in support of the application.

lan Kingbrown addressed the Sub-Committee in objection to the application.

#### RESOLVED UNANIMOUSLY

- 1. That conditional permission be granted, subject to an additional condition requiring the submission of a maintenance plan regarding the biodiversity features of the application.
- 2. That conditional listed building consent be granted.
- 3. That reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter be agreed.

# 6 77-78 MARYLEBONE HIGH STREET, LONDON, W1U 5JW

Variation of Condition 14 of planning permission dated 7 December 2022 (RN: 22/04052/FULL) for, 'Use of the basement, ground, and part first floor as a restaurant (Class E(b)), installation of air conditioning units within acoustic enclosures at roof level and new full height extract ducting (kitchen extract duct and pizza oven flue) to west elevation'; NAMELY, to extend the opening hours of the restaurant use to customers between 08.00 hours and 23.30 hours on Monday to Thursday, 08.00 hours to 00.00 hours on Friday and Saturday, and 08.00 hours to 22.30 hours on Sundays, bank holidays and public holidays. (Application under Section 73 of the Act).

Tito Arowobusoye, representing First Plan, addressed the Sub-Committee in support of the application.

#### RESOLVED UNANIMOUSLY

That conditional permission be granted.

#### 7 3 BATEMAN STREET, LONDON, W1D 4AE

Use of the ground floor as a drinking establishment (sui generis use) as an extension to the existing bar at 2 Bateman Street.

Late representations were received from Soho Society (30.05.23) and Councillor Paul Fisher (29.05.23)

Kelsey Brennan, representing Simmons Bars, addressed the Sub-Committee in support of the application.

Robert Lord, representing the Soho Society, addressed the Sub-Committee in objection to the application.

Maria Tempia, representing the Soho Society, addressed the Sub-Committee in objection to the application.

Mark Wallinger addressed the Sub-Committee in objection to the application.

Councillor Jessica Toale, in her capacity as Ward Councillor, addressed the Sub-Committee in objection to the application.

#### **RESOLVED UNANIMOUSLY**

That conditional permission be refused.

#### Reasons

The development would add to existing late-night activity and disturbance in this part of the city. This, together with similar changes in other buildings in the area (cumulative effect), would harm:

- the character and function of the area:
- the diversity of evening and night-time uses,
- the quality of the area's environment; and
- the amenity (including the general quality of the living and working environment) of the community in the area, including residents.

This is as set out in Policies 2, 7, 16, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (X40AB)

The	Meeting	ended	at 10	.30 i	om
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CHAIRMAN:	 DATE _	

# Agenda Annex

# CITY OF WESTMINSTER PLANNING APPLICATIONS SUB COMMITTEE – 8th August 2023 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s): 23/01223/FULL West End	5 Balfour Place London W1K 2AU	Erection of a single storey extension at sixth floor level with a terrace to the rear. Demolition of existing rear lower ground floor extension and erection of an alternate extension in the northern portion of the rear garden with a terrace above. Partial infilling of internal lightwell from first to fifth floor level adjacent to No. 4 Balfour Place to accommodate a lift. External alterations including modifications to the rear fenestration, replacement window and installation of railing detailing to the front elevation, modifications to main entrance portico, alteration to fire access arrangement and associated works. Reconfiguration of existing building, and together with the proposed extensions to provide six residential units (one additional unit) (Class C3).	Elite Property Developers Limited
	Recommendation Grant conditional p			
Item No	References	Site Address	Proposal	Applicant
2.	RN(s): 21/06285/FULL & 21/06286/LBC Regent's Park	Oslo Court Prince Albert Road London NW8 7EN	Erection of a single storey roof extension to provide four new residential units (3x3 bed and 1x2 bed) (Class C3) with external terraces, green roof and PV panels, installation of associated plant equipment, extension of main stair tower and existing lifts, replacement of existing restaurant extension and provision of separate restaurant entrance.	Airspace Advisory Ltd
	2. Refuse listed b	ng permission – puilding consen	design and heritage and insufficient arboricultural detait – design and heritage.	
Item No	References	Site Address	Proposal	Applicant
3.	<b>RN(s)</b> : 22/01773/ADFUL L	40 Eastbourne Terrace W2 6LG	Servicing Management Plan, Operational Management Plan for the hotel and restaurant uses, and details of how a no Coach/no group bookings policy will be managed, pursuant to condition 10A (OMP) and 10B (No coach or group booking policy)	CSHV IUK ET Propco Limited
	Lancaster Gate		and 32 (SMP)of planning permission dated 1 November 2019 (19/03058/FULL).	
	Lancaster Gate  Recommendation Approve details		and 32 (SMP)of planning permission dated 1	
Item No	Recommendation	Site Address	and 32 (SMP)of planning permission dated 1	Applicant
Item No 4.	Recommendation Approve details		and 32 (SMP)of planning permission dated 1 November 2019 (19/03058/FULL).	Applicant Samba Covent Garden LTD
<b>-</b>	Recommendation Approve details  References RN(s): 22/07788/FULL	Site Address 35 The Market Covent Garden London WC2E 8RF	and 32 (SMP)of planning permission dated 1 November 2019 (19/03058/FULL).  Proposal  Use of an area of public highway measuring 6.5m x 10.5m for the placing of 26 tables, 52 chairs, 10 stools, 13 planters, 2 parasols, external bar area, service station and associated works in connection with Sushi Samba for a temporary period until 24 March 2024.	Samba Covent

# CITY OF WESTMINSTER PLANNING APPLICATIONS SUB COMMITTEE – 8th August 2023 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

5.	RN(s): 22/07219/FULL & 22/07220/LBC West End	16 Bourdon Street London W1K 3PH	Use of the ground floor as a retail unit (Class E(a)), alterations to the ground floor front elevation including the installation of a louvre to serve an air conditioning unit and internal alterations.	Grosvenor West End Properties Ltd
		permission and	d conditional listed building consent. conditional listed building consent as set out in Informativ	e 1 on the draft decision
Item No	References	Site Address	Proposal	Applicant
6.	RN(s): Application 1 22/04454/FULL Application 2 22/04832/LBC Knightsbridge &	15 Cliveden Place London SW1W 8LA	Application 1 Variation of condition 1 of planning permission dated 7 July 2020 (RN: 20/01382/FULL) for: Retention of an air conditioning unit in an acoustic enclosure within the rear garden and rear double-doors to rear elevation at lower ground floor level. Namely, to change the acoustic enclosure to a louvred system (retrospective).  Application 2 Installation of louvred acoustic housing under stairs in rear garden (retrospective).	Marc Walters
	Belgravia  Recommendation  Application 1  1. Grant condition			
	Application 2  1. Grant condition 2. Agree reasons decision letter.	s for granting co	ng consent. onditional listed building consent as set out in Informative	e 1 on the draft
Item No	References	Site Address	Proposal	Applicant
7.	RN(s): 22/08515/FULL Lancaster Gate	7 Caroline Place London W2 4AW	Installation of 1 air conditioning unit in the rear garden, housed in an acoustic enclosure.	Mr Hadrien de Montferrand
	Recommendation Grant conditional p		,	

# Agenda Item 1

Item	No.
1	

CITY OF WESTMINSTER				
PLANNING	Date Classification			
APPLICATIONS SUB COMMITTEE	<b>08 August 2023</b> For General Release		ase	
Report of		Ward(s) involved	k	
Director of Town Planning 8	& Building Control	Building Control West End		
Subject of Report	5 Balfour Place, London, W1K 2	2AU		
Proposal	Erection of a single storey extension at sixth floor level with a terrace to the rear. Demolition of existing rear lower ground floor extension and erection of an alternate extension in the northern portion of the rear garden with a terrace above. Partial infilling of internal lightwell from first to fifth floor level adjacent to No. 4 Balfour Place to accommodate a lift. External alterations including modifications to the rear fenestration, replacement window and installation of railing detailing to the front elevation, modifications to main entrance portico, alteration to fire access arrangement and associated works. Reconfiguration of existing building, and together with the proposed extensions to provide six residential units (one additional unit) (Class C3).			
Agent	Proun Architects			
On behalf of	Elite Property Developers Limited			
Registered Number	23/01223/FULL Date amended/			
Date Application Received	24 February 2023 completed 13 March 2023			
Historic Building Grade	Unlisted			
Conservation Area	Mayfair			
Neighbourhood Plan	Mayfair Neighbourhood Plan			

#### 1. RECOMMENDATION

Grant conditional permission

#### 2. SUMMARY & KEY CONSIDERATIONS

The application proposes the reconfiguration of the existing building, and erection of a single storey extension at roof level, to rear at lower ground floor and a full height extension within the internal lightwell level to provide six residential flats which is a net increase of one residential unit. Alterations are also proposed to the front and rear elevation including alteration to the fenestration, installation of new and replacement windows. Terraces at rear ground floor and at new sixth floor are also proposed.

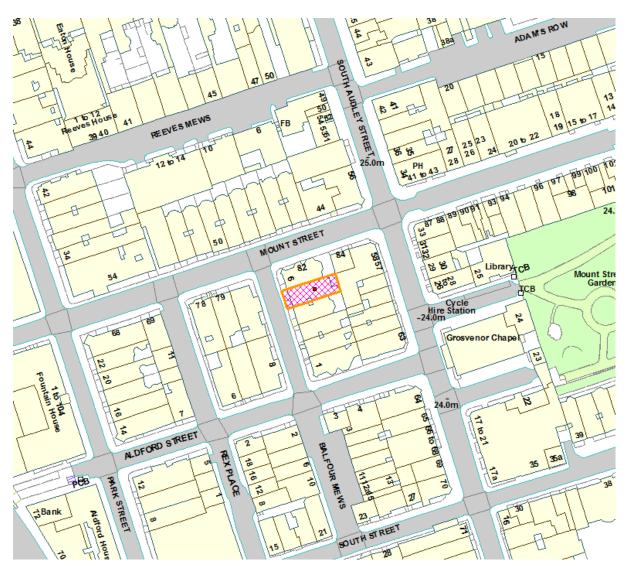
The key considerations in this case are:

Item No.

- The impact of the proposed buildings on the character and appearance of the Mayfair Conservation Area.
- The impact on the amenity of neighbouring residential properties.

For the reasons set out in the main report, it is considered that the proposal, with conditions, is acceptable in land use, design, sustainability, amenity and highways terms and neighbouring residential occupiers would not be unduly harmed. As such, the application is recommended for approval.

# 3. LOCATION PLAN



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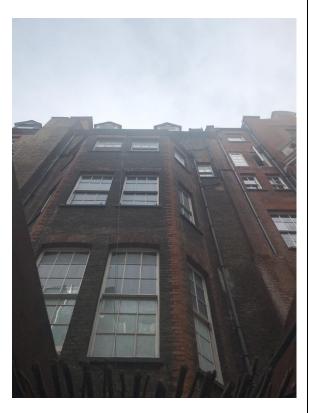
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# 4. PHOTOGRAPHS

# Front Elevation



**Rear Elevation** 



Rear Courtyard



Internal lightwell



#### 5. CONSULTATIONS

# 5.1 Application Consultations

MAYFAIR RESIDENTS GROUP Any response to be reported verbally.

MAYFAIR RESIDENTS GROUP Any response to be reported verbally.

RESEIDENT SOCIETY OF MAYFAIR & St. JAMES'S Any response to be reported verbally.

HEALTH AND SAFETY EXECUTIVE (PLANNING & FIRE SAFETY) No objection.

HISTORIC ENGLAND (ARCHAEOLOGY) No objection.

HIGHWAYS No response.

WASTE PROJECT OFFICER Further information required.

ENVIORMNETAL HEALTH No response.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED No. Consulted: 62
Total No. of replies: 9
9 objections have been received on the following ground:

#### Design

- The development potential of the site has been maximised.
- The detailed design of the rear of the sixth floor is not appropriate for the building, nor its context within the terrace and is harmful to the Mayfair Conservation Area.
- o The proposed terrace at sixth floor level will impact historic roof form.

#### Amenity

- Loss of outlook within neighbouring properties.
- Unacceptable loss of light.
- Amenity concerns due to inclusion of terraces (overlooking and potential noise disturbance).
- Air conditioning will exacerbate existing noise issues from plant in the locality.
- Impact construction will have on the living conditions of neighbouring residential occupiers.

#### Other

- Lower ground floor extension with roof terrace above and terrace at sixth floor level represents a security risk to neighbouring residential and commercial occupants.
- The roof top extension will negatively impact the view from the penthouse of the neighbouring building.
- The impact of the proposed demolition needs specific structural consideration for neighbouring properties and a regime for complete compensation include a provision to cover the cost of relocation during the proposed works needs to be secured.

#### PRESS NOTICE/ SITE NOTICE:

Yes

# 5.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application. However, the Early Community Engagement guidance only expects such engagement to take place where proposals of this nature may have a significant impact on residential amenity or other noise sensitive receptors.

#### 6. WESTMINSTER'S DEVELOPMENT PLAN

#### 6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## 6.2 Neighbourhood Planning

The Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

Item	No.
4	

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair neighbourhood area in accordance with accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

## 6.3 National Policy & Guidance

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

#### 7. BACKGROUND INFORMATION

#### 7.1 The Application Site

5 Balfour Place is an unlisted building located in the Mayfair Conservation Area, the Central Activities Zone and is identified as West Mayfair in the Mayfair Neighbourhood Plan. The buildings comprise lower ground, ground and five upper levels and is currently in use as five residential flats (Class C3).

Balfour Place is predominantly residential in character; however, there is some commercial floorspace within the lower levels of 6 Balfour Place located immediately to the north of the application site.

# 7.2 Recent Relevant History

Permission was granted on 20 July 2021 (RN:15/04253) for the use of the lower ground, ground, first and second floor levels as three self-contained dwellings (1 x 2 bed and 2 x 1 bed units). This permission was not implemented.

Permission was granted on 15 October 2021 (RN: 15/07798) for the use of the lower ground, ground, first and second floor levels as two self-contained dwellings (1 x 1 bed and 1 x 3 bed unit). This permission has been implemented.

#### 8. THE PROPOSAL

The main aspects of the proposal are as follows:

- o Erection of a single storey extension at sixth floor level with a terrace to the rear;
- o Demolition of existing rear lower ground floor extension and erection of an

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alternate extension in the northern portion of the rear garden with a terrace/ and planted area above:

- Partial infilling of internal lightwell from first to fifth floor level adjacent to No. 4
   Balfour Place to accommodate a lift;
- Modifications to the rear fenestration;
- Installation of replacement window;
- Installation of railing detailing to the front elevation;
- Modifications to main entrance including reinstatement of a portico;
- Re-provision of means of fire access from the roof of 3-4 Balfour Place to a window of the fifth floor flat; and
- Utilisation of the pavement vaults to provide secure cycle parking for 16 bicycles.

The enlarged building together with the reconfiguration of the existing accommodation will provide six residential units (one additional unit) (Class C3). The proposal unit mix is detailed in the table below.

Existing and proposed residential unit mix.

	1 -bed	2-bed	3-bed	4-bed	Total
Existing	1	3	1	0	5
Proposed	0	4	1	1	6

As a result of the proposal, the residential floorspace would increase from 726 sqm GIA to 851 GIA (i.e. a net increase of 125 sqm GIA).

#### 9. DETAILED CONSIDERATIONS

#### 9.1 Land Use

The scheme seeks to reconfigure the existing residential accommodation on the site and provide an additional one new dwelling. This will result in the provision of six flats in total. This includes 2 family sized units (3 bed or more).

Policy 8 of the City Plan 2019-2040 (April 2021) states that Westminster seeks to optimise housing delivery by optimising site densities, delivering a higher number of homes on small sites, permitting appropriate upwards extensions, and planning positively for tall buildings in certain locations. As such, the additional residential unit in this location is acceptable in principle subject to impacts of the additional bulk as discussed in the design and amenity sections below.

Furthermore, the policy goes on to state that no new homes in Westminster will exceed 200sqm GIA. One of the units proposed totals 208 sqm GIA which marginally exceed this threshold. In order to meet the required proportion of family sized units (see below)

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due the narrow nature of the site relative to its depth, whilst ensuring the proposed residential accommodation is of a suitable quality, it is considered that it is necessary to arrange the family sized units over two floors. Further, given that the existing lower ground to second floor levels currently accommodates two units (one 3-bed and one 1-bed) whereas, through efficiencies and alterations which this consent seeks three units (one 4-bed and two 2-bed) would be provided within these levels. Whilst a unit exceeding the 200 sqm GIA threshold would normally be objectionable, given the above, it is considered acceptable in this instance.

Policy 10 of the City Plan 2019-2040 (April 2021) states that residential developments will provide a mix of units in terms of size, type and tenure to secure mixed and inclusive communities and contribute towards meeting Westminster's housing needs; however, the policy does go on further to state that 25% of all new homes across Westminster will be family sized.

Two family sized units are proposed which represents 33% of the units on site and therefore is considered acceptable.

Policy 12 of City Plan 2019-2040 (April 2021) requires that all new homes and residential extensions will provide a well-designed, energy efficient and high-quality living environment and all new homes will meet or exceed the Nationally Described Space Standards. Policy D6 of the London Plan (2021) concerns housing quality and standards and Part C states that housing development should maximise the provision of dual aspect dwellings.

All the proposed units will meet the requirements of the Nationally Described Space Standards and are proposed to be dual aspect. The overall layout is considered to result in a standard of accommodation that is likely to be acceptable and will provide good quality residential accommodation.

Policy 12 goes on to say that all new-build homes will provide at least 5 m2 of private external amenity space for each dwelling. Where it is sufficiently demonstrated that it is not practicable or appropriate to provide any type of external amenity space, additional internal living space equivalent to the external requirement is required.

Private outdoor space is provided for the two family sized dwellings. Due to the constraints of the existing property, it is not possible to provide private outdoor space to the two bedroom dwellings but each of these dwellings is significantly larger than the minimum required floor area (circa 20 sqm) with generous living rooms. As such, the lack of external amenity space is considered acceptable in this instance.

Policy 9 of the City Plan 2019 – 2040 (April 2021) states that at least 35% of all new homes will be affordable across Westminster where 10 new units are being provided or the increase in residential floorspace totals 1,000 sqm GIA. The proposal seeks to provide an additional one flat and the overall increase in residential area totals 125 sqm GIA. As such, the current proposal does not trigger the requirements to provide affordable housing.

## 9.2 Environment & Sustainability

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The proposed new building fabric have been selected to exceed the U-values required under Part L of the building regulations thus ensuring a highly efficient development.

All habitable rooms can be ventilated through vertical window openings to omit the need for mechanical ventilation.

All flats are dual aspect and have been designed to minimise the need for artificial lighting as far as practicable.

Water efficiency and management features are being proposed through the implementation of efficient taps, shower heads or other appliances.

The Applicant agreed to accept a condition ensuring that the hot water and heating systems within the residential units are electrically powered only.

Whilst there is no BREEAM requirement for a proposal of this scale, in support of the application, a BREEAM pre assessment submitted in support of the application, the scheme achieves an anticipated score of 67.97% which equates to a rating of 'very good'. A condition has been recommended requiring a post construction certificate of assessment showing that the development has achieved a 'very good' rating to be submitted within 6 months of occupation ensuring that this target has been achieved.

#### 9.3 Biodiversity & Greening

The proposal has been amended during the course of the application to include a greened/planted area to the rear of the terrace at ground floor level to the roof of new lower ground floor accommodation. This addition is welcome and ensures that the proposal results in a biodiversity gain.

#### 9.4 Townscape, Design & Heritage Impact

#### **Legislative & Policy Context**

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

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

Whilst there is no statutory duty to take account of the effect on the setting of a conservation area, City Plan Policy 39 requires development to ensure heritage assets (which includes conservation areas) and their settings are conserved and enhanced, in a manner appropriate to their significance. Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting.

Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as

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relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

#### Assessment

The application site is located mid terrace towards the northern end of Balfour Place located within the Mayfair Conservation Area. The building, which was originally a single family dwelling was constructed as part of the terrace (No.1-6 Balfour Place) in 1891-1893 to the design of both Eustace Balfour and H. Thackeray Turner. It is understood the building was partially bomb damaged and has undergone several alterations since first constructed, some of which were unsympathetic and much simpler in detailed design than the original construction.

In design and heritage terms, the main considerations are the replacement rear extension, the roof top extension at sixth floor level with inset terrace, modifications to the fenestration at the rear of the site, alterations to Balfour Place frontage (installation of stone entrance portico, replacement windows, detailing at first, second and fifth floor level) and the erection of an extension within the internal lightwell along the boundary with 3-4 Balfour Place to accommodate a replacement lift. These are discussed in turn below:

#### Replacement Rear Extension

The existing rear lower ground floor extension is not historic and therefore the principle of the demolition is considered acceptable. The replacement extension occupies 50% of the rear garden and therefore will remain subservient to the main building. In detailed design terms the proposals are considered acceptable, the detailed courtyard elevation will be brick with doors centrally positioned with a window either side concealed behind the party walls. Details of the materials, doors and windows are requested by condition. The terrace to the extension does not raise design concerns and will have metal railings surrounding it with a small, planted area. Conditions have been used to secure the design and to restrict pergolas, trellis and other items from affecting the appearance.

#### Roof top extension

The principle of the proposed roof extension is considered acceptable and is similar in terms of height, bulk and detail to recently consented extensions at this level. Along the Balfour Place frontage, the proposed new sixth floor will now be a close visual mirror of 2 Balfour Place with the raising of the ridge to be the same as its neighbour to the south. The detailed design of the rear roof extension has been modified to be a more traditional mansard with inset dormer following officers' advice owing to the potentially visible location when viewed from the corner of South Audley Street. It is considered that the revised sixth floor extension is acceptable in design and heritage terms.

#### Alterations to Rear Fenestration

The proposal includes changes to the rear fenestration at rear ground and first floor level which facilitate the use of the existing double height space to the rear of the site as two separate levels. Whilst this element of the proposal will not be readily visible from the public realm, it is considered that these changes are acceptable in private views and will ensure that the rear elevation has more design unity with adjacent properties and adheres better to the façade lines and window levels.

#### Alteration to Balfour Place frontage

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It is proposed to reinstate the original front stone entrance portico, this is welcomed in design terms. Similarly, the proposal to replace non-original windows with ones to match the original windows are also welcomed in design terms, conditions are attached to secure the detailed design. The alterations to the façade both back and front bring the building in to closer visual alignment with adjacent sister buildings built as part of the same original development.

#### Extension within the internal lightwell

Whilst some of the internal lightwell is being infilled, 50% will still remain to provide light and ventilation to the property. The light well is found deep in the plan against the adjacent party wall and can only be viewed form the property of the adjacent one.

There have been a substantial number of objections from neighbouring residents' on the basis that the proposal would overdevelop the site, the proposed sixth floor and inset terrace would result in the loss of a historic roof form and on the basis that the detailed design of rear of the proposed sixth floor extension is unacceptable.

As above, the proposed extensions are considered acceptable in design and heritage terms and subject to the amenity considerations discussed in Section 9.5 (Amenity) of this report, it is not considered that it would be appropriate to refuse the proposal on the basis that the site is overdeveloped.

Neighbours have objected to the loss of the historic roof form. The front section is original it is set behind a parapet and is a recessive detail. The other portions of the roof have been altered and modified in the past. The extension of the pitch to mirror others adjacent, also with the other proposed alterations is not considered contentious in this context.

The design of the rear of the sixth floor extension, following modifications, is now considered acceptable.

#### 9.5 Residential Amenity

Policy 7 of the City Plan 2019-2040 seeks to protect and, where appropriate, enhance amenity by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, privacy and overlooking.

Policy S33 of the City Plan 2019 – 2040 states that; 'development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council's Noise Thresholds, with particular attention to: minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses'

Objections have been received from occupants of 3-4 Balfour Place and from and on behalf of residents within 57-59 South Audley Street and 84 Mount Street on the basis the proposal will result in the loss of light, reduce outlook, impacts residential privacy and may cause issues as a result of both noise associated with the use of the proposed terraces, noise transfer and noise from mechanical plant.

#### Daylight and Sunlight

A daylight and sunlight assessment has been submitted. This assesses the impact of the

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development on the light receivable by the neighbouring properties at 3-4 Balfour Place 49 Balfour Place and 57-59 South Audley Street (which includes 84 Mount Street).

#### Daylight

Vertical Sky Component (VSC) is the method used to measure the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the window will have the potential to provide good levels of daylight. Reductions of more than 20% should be avoided as such losses are likely to 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 principal habitable rooms including living rooms, larger kitchens and bedrooms. However, the guidance is clear that numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the site circumstances.

The distribution of daylight within individual rooms can also be assessed using the No-Sky Line (NSL) test. The applicant has submitted an NSL assessment where room layouts are known.

The report shows that any reductions in daylight received are below BRE thresholds. In light of this, it is not considered that the objections on the loss of daylight can be supported.

#### Sunlight

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that if the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, or there is more than a 4% loss in total annual sunlight hours, then the occupants of the existing building are likely to notice the loss of sunlight.

All windows that face within 90 degrees of due south have been tested for direct sunlight. All windows tested pass both the total annual sunlight hours test and the winter sunlight hours test.

#### Sense of Enclosure

The proposed rear extension does not extend upward of the rear or either of the side boundary walls and therefore raises no issues in terms of outlook.

The proposed lightwell extension which would contain a lift would be located directly across from obscured windows to WCs within 3-4 Balfour Place. Given the windows are obscured, it is not considered that the proposal extension will materially impact the outlook from the WCs. Windows which are understood to serve numerous galley kitchens will also have visibility of the proposed lightwell extension. Given the limited existing outlook from these rooms, and that the extension would only occupy one quarter of the total internal lightwell and would be offset from these windows, it is not considered that the impact on outlook would be so harmful to justify a recommendation to refuse the application.

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The bulk and mass of the proposed sixth floor extension is set back from the existing building line to both the front and rear of the property. As such, it is not considered the additional bulk is so great that it would result in a material increased sense of enclosure to properties to the front or rear of the site.

The sixth floor of 3-4 Balfour Place has side windows facing the application site which serve a living/dining room. Whilst the proposal will have a marginal impact on the outlook from the living/dining room, given the proposed extension is set back from the boundary adjacent to the impacted windows and that the room also benefits from easterly windows not impacted by the proposal, it is not considered it would be reasonable to refuse this application.

Given the above, objections relating to loss of outlook cannot be supported.

#### Privacy

The proposal introduces new windows to the front and rear of the proposed extensions. Given the presence of windows at the lower levels and the separation distance between the application site and properties on both the other side of Balfour Place and towards residential properties to the rear, it is not considered that the additional windows will result in a material reduction of privacy.

The proposal introduces a terrace at rear ground floor level. Initially the proposed terrace extended the full extent of the rear extension. During the course of the application, the extent of the terrace was reduced and a planted area was introduced to the rear to increase on-site biodiversity and to reduce the potential of views into the rear windows of 3-4 Balfour Place. Following this revision, it is no longer considered that there will be any material visibility into the residential accommodation at 3-4 Balfour Place.

The proposal introduces a terrace at new sixth floor to the rear of the site, inset into the slope of the roof. Given the presence of windows at the lower levels of the application site and the presence of terraces to the rear of neighbouring buildings, it is not considered that the proposal would reduce the level of privacy felt within properties to the rear. Given that the proposed terrace is set back from the rear building line, it is not considered that there would be any significant visibility into residential accommodation within 3-4 Balfour Place.

There would be a degree of mutual overlooking between the proposed ground floor and sixth floor terraces and existing terraces at the same level to the rear of 3-4 Balfour Place. Given the central London location of the site, a degree of mutual overlooking between external amenity space of neighbouring properties is not uncommon and, it is not considered that the impact would be so significant as to justify a recommendation for refusal.

#### Noise from terrace

Objections have also been received on the grounds of noise disturbance from the use of the rear terrace. However, most of the neighbouring properties benefit from outside amenity space at the rear of their respective buildings including terraces and gardens to all of the building where neighbouring objectors reside. Whilst there is the potential that there could be some noise associated with the use of the proposed terrace, given its domestic use, and as there are other terraces in the immediate vicinity, it is not

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considered that its use is likely to give rise to such significant disturbance as to justify a recommendation for refusal.

#### Noise transfer

Objections have been raised on the grounds that the proposal could lead to noise transfer between the application site and neighbouring occupants. A condition has been imposed to ensure that the design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration arising from the development in its built form.

#### Noise from Plant

Objectors raised concerns regarding the potential of noise associated with mechanical plant. No mechanical plant is proposed.

#### 9.6 Transportation, Accessibility & Servicing

The site is centrally located and well served by public transport including principal bus routes and benefits from the highest public transport accessibility (PTAL) rating (6b).

#### Car Parking

No car parking is proposed, Policy 27 supports residential development without car parking provision.

#### Cycle Parking

The London Plan requires 1.5 spaces per 1-bedroom unit and 2 spaces for 2+ bedroom units. The submission documents state that the proposal includes cycle parking provision for 12 spaces in the front pavement vault in line with policy. However, whilst there is annotation stating that cycle parking is located within the front pavement vault, individual spaces have not been identified on the submitted drawings. As such, a condition is recommended requiring further details to ensure cycle parking is provided in line with the London Plan requirements.

#### Waste Storage

Whilst waste storage has been indicated, the waste details on the submitted drawings are not in line with the council waste storage requirements. As such, a condition is recommended to secure revised details of waste storage.

#### 9.7 Economy including Employment & Skills

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

The new residential accommodation proposed will support the local economy through increased local spending, thereby supporting local employment and services.

#### 9.8 Other Considerations

### Fire Safety

Following a review of the information provided within the planning application, the HSE is satisfied with the fire safety design, to the extent that it affects land use planning.

#### Construction Impacts

Neighbouring residents have raised concerns regarding the impact of construction works on residents' amenity and have referenced other works which have recently been complete and are currently under construction in the vicinity of the site.

Residents of 3-4 Balfour Place have specifically security concerns during the construction process.

They have also raised concerns with regards to the structural implications associated with proposed demolition and have requested that a regime for complete compensation including a provision to cover the cost of relocation during the proposed works needs to be secured.

Developers carrying out work must notify the Health and Safety Executive (HSE) and must ensure that the method of construction and access arrangements during the construction process comply with the Construction (Design and Management) Regulations 2015 (CDM 2015). Therefore, the security implications during the construction process will be fully considered at that stage.

The structural integrity of the development is not controlled through the planning system but through other legislation, including Building Regulations and the Party Wall Act. Whilst these concerns are noted they could not justify a refusal.

Whilst concerns relating to potential disturbance from construction works are understood permission could not reasonably be withheld on this basis. It is not considered that construction associated with the proposed development would require neighbouring occupiers to move from their home. A condition is recommended to control the hours of noisy building works. It is also recommended that an informative is included on the decision notice encouraging the applicant 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. With these, it is considered that the potential effects of the construction process will be ameliorated as far as reasonably possible.

#### Security

Security concerns have been raised regarding the implications of the provision of access from the application site to the roof of 3-4 Balfour Place and vice versa. Access between the two roofs is currently achievable and the proposal would not change this.

Further security concerns have been raised on behalf of James Purdey and Son Limited who occupy the commercial premises located within the lower levels to the rear of the site and sells and stores licensed firearms. They consider that the proposed single storey extension with roof terrace is of grave concern due to now access being possible from Mount Street over the roofs due to the development of 6 Balfour Place. Given that there is a flank wall to the rear of the application site which extends approximately 3.5m above the finished terrace level and that rear flank wall is visible from both the

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application premises and from Mount Street, it is not considered that the security risk would increase as a result of the proposal.

#### Ventilation

Concerns have been raised by occupants of 3-4 Balfour Pace on the basis that they believe that the proposed works to the lightwell will render it impossible to ventilate the adjacent rooms within their properties. Whilst some of the internal lightwell is being infilled, 50% of the portion of the lightwell within the boundary of the application site will still remain to provide light and ventilation to the properties. Further, 50% of the total lightwell is contained within the boundary to 3-4 Balfour Place and is not impacted by this proposal. As such, it is not considered that the proposal would have any material impact on the capability of rooms facing the to ventilate.

#### Right to a view

Occupants of the top floor flat within 3-4 Balfour Place have objected on the basis that they will lose their view to the north. No individual has the right to a view and a planning application could not be lawfully refused on the basis that a private view would change.

#### 9.9 Environmental Impact Assessment

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

## 9.10 Planning Obligations & Pre-Commencement Conditions

The estimated Westminster CIL payment is £68,585 and the Mayoral CIL is estimated at £9,976.

The proposal does not trigger any planning obligations.

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

No pre-commencement condition are recommended.

#### 10. Conclusion

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On all the other matters the proposals are in line with the development plan subject to conditions detailed in the report, specifically 7, 8, 10, 12, 25, 27, 33, 34, 36, 37, 38, 39, 40 and 43 of the City Plan 2019 - 2040 (April 2021) and policies MRU2, MD2 and MD3 of the Mayfair Neighbourhood Plan 2018 – 2038.

In terms of heritage impact, the proposal is considered acceptable, mindful of policies 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The application is therefore recommended for conditional approval.

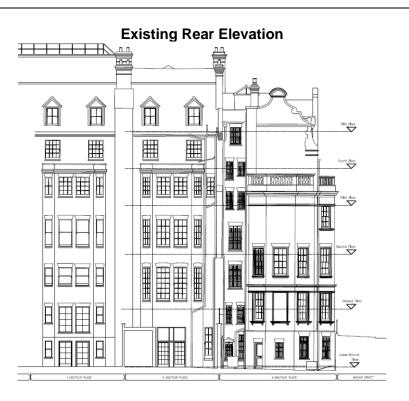
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAMIAN LAVELLE BY EMAIL AT dlavelle@westminster.gov.uk.

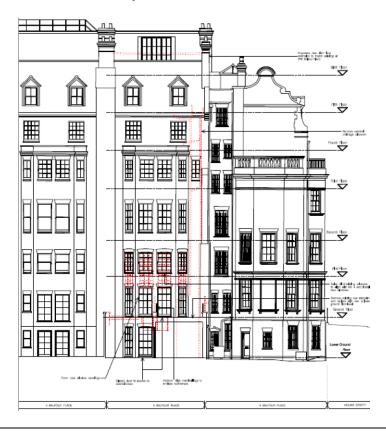
# 11. KEY DRAWINGS



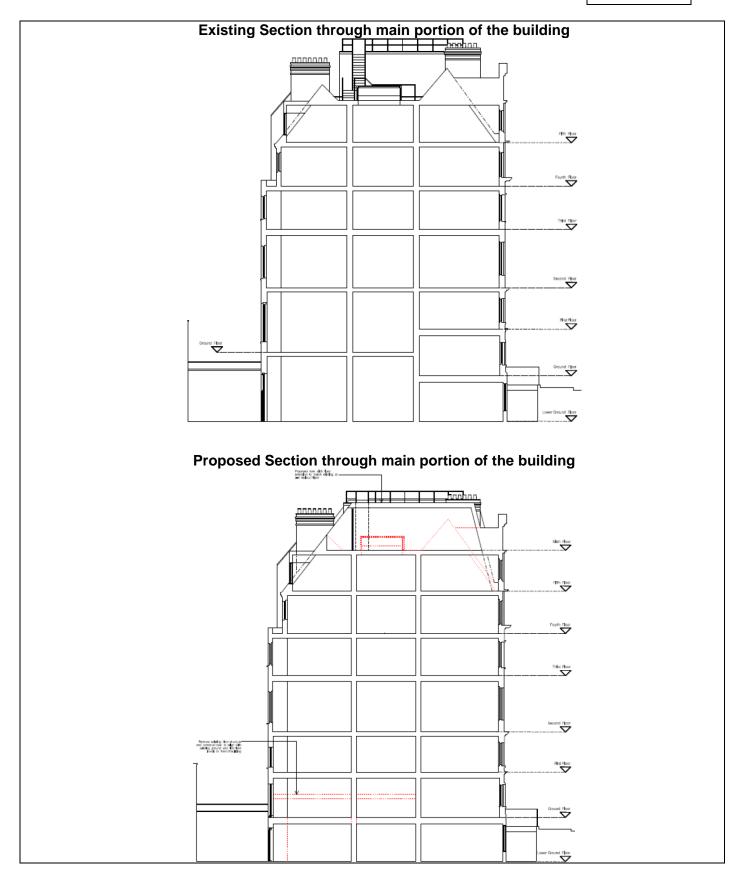
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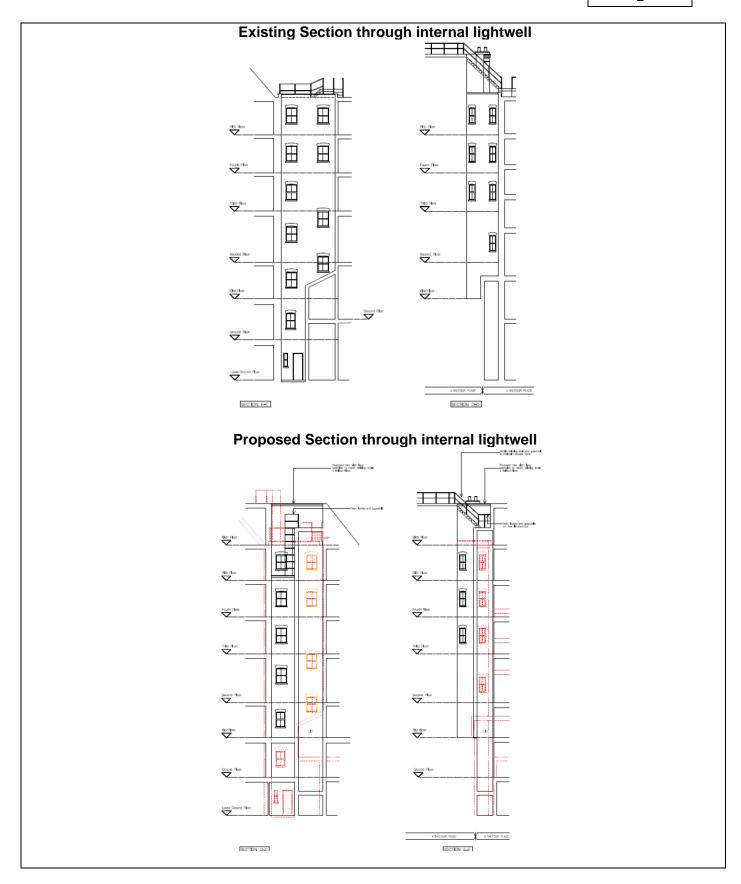
# **Proposed Rear Elevation**

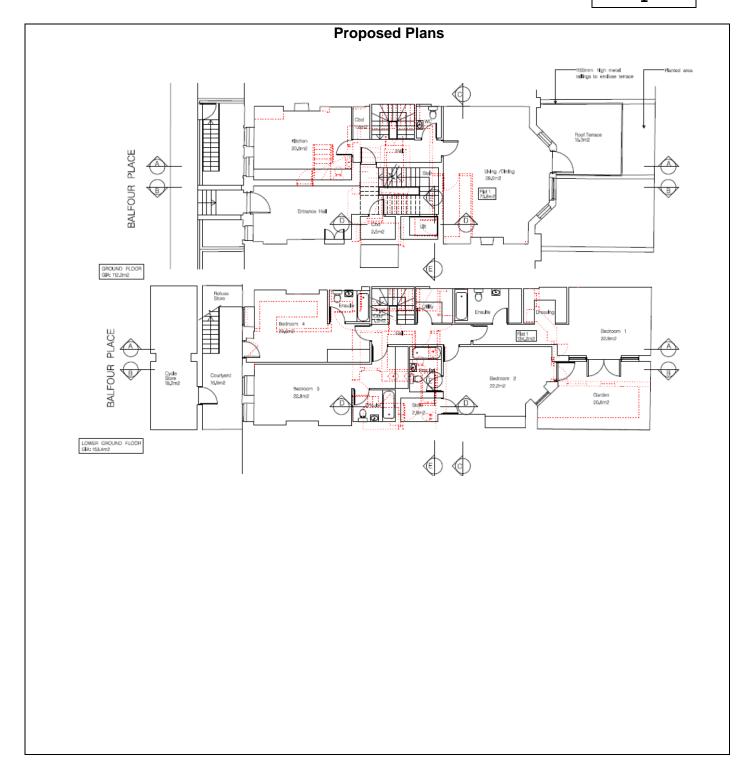


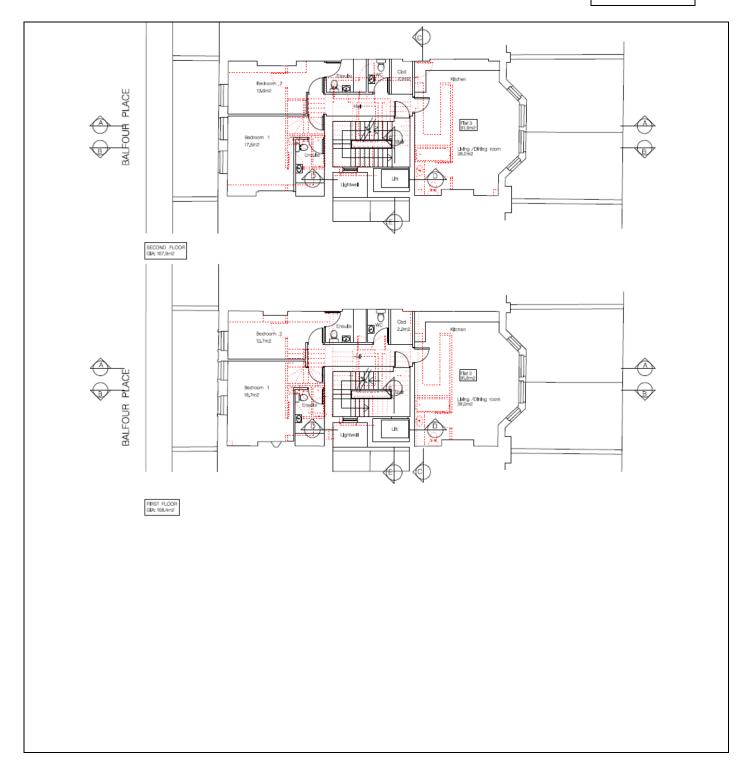
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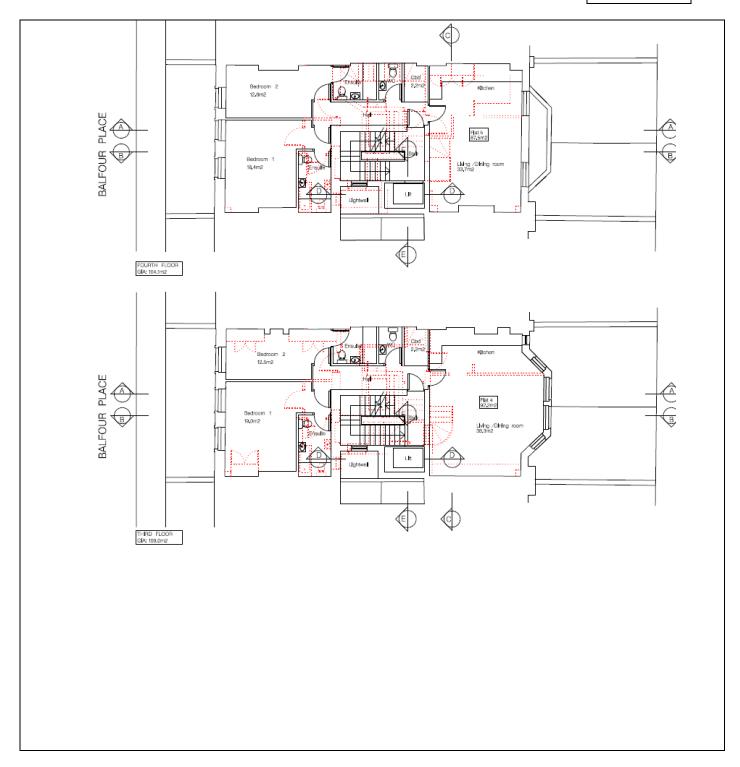


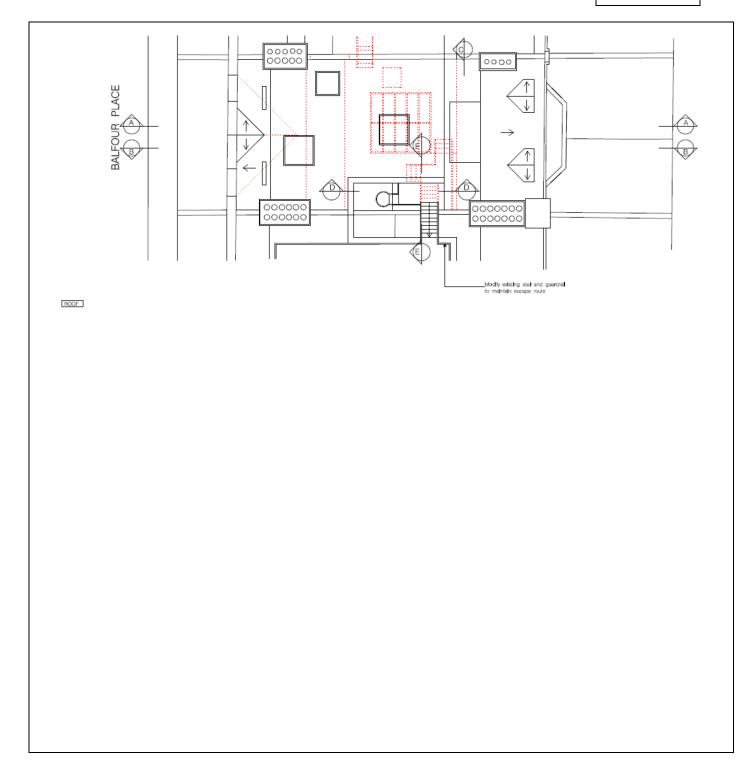
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**Address:** 5 Balfour Place, London, W1K 2AU,

**Proposal:** Erection of a single storey extension at sixth floor level with a terrace to the rear.

Demolition of existing rear lower ground floor extension and erection of an alternate extension in the northern portion of the rear garden with a terrace above. Partial infilling of internal lightwell from first to fifth floor level adjacent to No. 4 Balfour Place to accommodate a lift. External alterations including modifications to the rear fenestration, replacement window and installation of railing detailing to the front elevation, modifications to main entrance portico, alteration to fire access arrangement and associated works. Reconfiguration of existing building, and together with the proposed extensions to provide six residential units (one additional

unit) (Class C3).

**Plan Nos:** 2952-P-221 REV C, 2953-P-222 REV B, 2953-P-223 REV B, 2953-P-224 REV C,

2953-P-225 REV B, 2953-P-226 REV D, 2953-P-227 REV D, 2953-P-228 REV B,

2953-P-229 REV B, 2953-P-230, 2953-P-231.

Case Officer: Damian Lavelle Direct Tel. No. 07779431364

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

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

#### Reason:

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

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

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

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

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

#### Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

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The design and structure of the building 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. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

#### Reason:

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, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49BB)

The design and structure of the building 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. (C49AA)

#### Reason:

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 as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49AB)

You must apply to us for approval of details of secure cycle storage for the residential use use. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the approved residential units. You must not use the cycle storage for any other purpose. (C22HA)

#### Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

You must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not occupy the residential accommodation use hereby approved until we have approved what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark them and make them available at all times to everyone using the residential accommodation. You must not use the waste and recycling store for any other purpose. (C14GB)

#### Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

7 The family sized residential units (units containing three bedrooms or more) shown on the

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approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides a minimum of three separate rooms capable of being occupied as bedrooms.

#### Reason:

To protect family accommodation as set out in Policy 8 of the City Plan 2019 - 2040 (April 2021). (R07DD)

You must apply to us for approval of details of a post construction stage report which demonstrates that the development meets a "very good" rating under BREEAM Domestic Refurbishment 2014. This report shall be submitted to us within 6 months of the occupation of any part of the building. If you use another method, you must achieve an equally high standard.

#### Reason:

To make sure that the development affects the environment as little as possible, as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44BD)

You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the planted area to the rear of rear ground floor terrace 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 prior to using the residential accommodation hereby approved and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

#### Reason:

To reduce the effect the development has on the biodiversity of the environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43AC)

10 All new windows and roof lights must be openable.

#### Reason:

To ensure the development minimises its operational carbon dioxide emissions and achieves the highest levels of sustainable design and construction in accordance with Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R17DA)

11 You must apply to us for approval of samples and specification details 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 work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

# Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Conservation Area. This is as set out in Policies

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38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 14 You must apply to us for approval of detailed drawings (scale 1:20 and 1:5) of the following parts of the development -
  - 1, Roof lights, showing method of opening and relationship with roof fabric
  - 2, Windows showing method of opening and relationship with wall fabric
  - 3, Doors showing method of opening and relationship with wall fabric
  - 4, Railings showing method of fixing relationship with building fabric
  - 5, Dormers, including windows/doors and relationship with roof fabric
  - 6, New stone Portico

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved details.

# Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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

# Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the terraces hereby approved.

#### 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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

17 The residential units hereby approved shall be constructed to achieve mains water consumption of 105 litres or less per head per day (excluding allowance of up to five litres for external water consumption) using the fittings approach.

#### Reason:

The site is in an area of serious water stress requiring water efficiency opportunities to be maximised to mitigate the impacts of climate change and enhance the sustainability of the development in accordance with Policy 38(D) in the City Plan 2019 - 2040, Policy SI5 in the London Plan 2021 and our Environmental Supplementary Planning Document (2022).

18 The heating and hot water system within the residential units hereby approved must be powered by electric only.

#### Reason:

To reduce the reliance on fossil fuels and to make sure that the development continues to reduce its operational carbon impact as the national grid becomes cleaner in accordance with Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021).

# Informative(s):

- In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Building works must be carried out in accordance with condition 2 of this permission. Noncompliance with this condition will result in enforcement action.
- 3 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This

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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.

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

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

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

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

- The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.
- With regards to condition 5, we expect details to identify 18 cycle parking spaces which are dedicated to the approved residential accommodation.

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

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CITY OF WESTMINSTER				
PLANNING	Date	Classification		
APPLICATIONS SUB COMMITTEE	8 August 2023	For General Rele	ase	
Report of		Ward(s) involved		
Director of Town Planning 8	Building Control	Regent's Park	, ,	
Subject of Report	Oslo Court, Prince Albert Road	, London, NW8 7E	N	
Proposal	Erection of a single storey roof extension to provide four new residential units (Class C3) with external terraces, green roof and PV panels, installation of associated plant equipment, extension of main stair tower and existing lifts, replacement of existing restaurant extension and provision of separate restaurant entrance. (Linked with 21/06286/LBC)			
Agent	Lambert Smith Hampton			
On behalf of	Airspace Advisory Ltd			
Registered Number	21/06285/FULL <b>&amp;</b> 21/06286/LBC	Date amended/	44 Ostaban 2000	
Date Application Received	13 September 2021	completed	14 October 2022 and 30 January 2023	
Historic Building Grade	II			
Conservation Area	St John's Wood			
Neighbourhood Plan	Not applicable			

# 1. RECOMMENDATION

- 1. Refuse planning permission design and heritage and insufficient arboricultural details.
- 2. Refuse listed building consent design and heritage.

# 2. SUMMARY & KEY CONSIDERATIONS

Oslo Court is a seven storey residential block of flats with restaurant at ground floor level surrounded by Prince Albert Road, Charlbert Street, Newcourt Street and Culworth Street, north of Regent's Park.. The building is Grade II listed and lies within the St John's Wood Conservation Area.

Permission is sought for the works to facilitate a roof extension to provide four new flats with terraces and associated alterations including a new stair and lift tower, new entrance gates, refuse and cycle storage and the construction of a new entrance to the existing restaurant. Following feedback to the initial proposals by the City Council, amendments have been made during the course of the

application primarily to refine the design and height of the roof extension, provide additional documents and to take into consideration comments from the Health and Safety Executive.

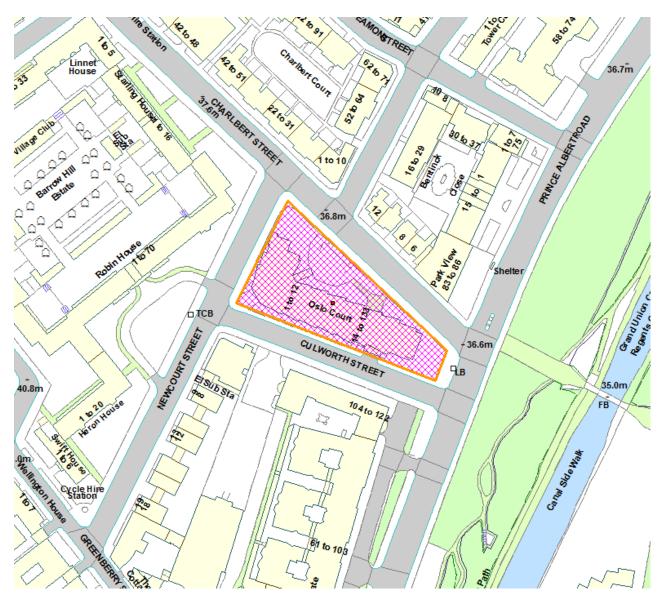
Representations of objection have been received to the proposals from Councillor Rigby, the St John's Wood Society, the St Marylebone Society, the Regent's Park Conservation Area Advisory Committee, the Friends of Regent's Park & Primrose Hill, primarily on design and listed building grounds. Concerns are also raised to the proposals from Historic England on the harm of the extension to this existing listed building. Substantial objection and support has been given to the proposals from residents within the building and surrounding local residents primarily on land use, design, amenity and highways grounds.

The key issues in the determination of this application are:

- The impact of the proposed extension and alterations upon the Grade II listed building and setting of other nearby designated heritage assets;
- The impact of the proposed extension upon the character and appearance of the St John's Wood Conservation Area; and the setting of other nearby designated heritage assets, such as the listed buildings adjoining the site;
- The impact of the proposals upon the amenity of neighbouring residential properties; and
- The acceptability of the proposed residential accommodation in terms of its, size, mix and accessibility.

The proposals are considered unacceptable in listed building and design terms and in arboricultural terms and there are no significant public benefits to outweigh the harm cause by the proposals. It is therefore recommended that the applications for planning permission and listed building consent be refused.

# 3. LOCATION PLAN



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# 4. PHOTOGRAPHS



View of eastern elevation (Charlbert Street) and entrance to flats and restaurant.



View of northern elevation at the junction with Newcourt Street and Culworth Street



View of southern elevation from Prince Albert Road



Aerial View of site

#### 5. CONSULTATIONS

# 5.1 Application Consultations Original Consultation dated 23 September 2021

# COUNCILLOR RIGBY:

Writes in support of the objections received. The addition of an additional storey would have a negative impact on the this art deco Grade II listed building and the setting of Regent's Park. Support however is given to the other improvements.

# HEALTH AND SAFETY EXECUTIVE (HSE)

An objection was raised on the grounds no fire statement has been submitted.

#### HISTORIC ENGLAND:

No need to be consulted on the proposals.

#### THE ST MARYLEBONE SOCIETY:

A strong objection received on the grounds that the proposed extension appears taller than the floors below; that the extension is too bulky and is especially noticeable Regent's Park. In addition the eastern elevation 'crashes' into the existing corner roof pavilion and spoils its free standing form.

#### REGENTS PARK CONSERVATION AREA ADVISORY COMMITTEE:

Objection raised on the grounds that the proposed extension harms the listed building and the character and appearance of the Regent's park Conservation Area. There are no public benefits to outweigh the harm caused.

### FRIENDS OF REGENT'S PARK & PRIMROSE HILL:

Given the architectural importance of the building, an objection to the proposed roof extension is made as it is not set back from the edge far enough to mitigate the harm in views; the extension s too high and dominates the existing building and will be viewed from the park and finally that the restaurant entrance should better be resolved.

#### ST JOHN'S WOOD SOCIETY:

Objection raised on the grounds that the proposed extension harms the listed building and the character and appearance of the Regent's park Conservation Area; that the proposed extension appears taller than the floors below and that the highly glazed structure could cause light spillage.

# ART DECO SOCIETY UK:

Objection raised on the grounds that the roof extension would be highly prominent and an incongruous structure which would compete with and detract from the modest and authentic design of the host building. The extension is poorly conceived and would result in a distortion of the original design. The materials proposed are an incongruous element in a highly prominent position. The glazing would result in a highly illuminated 'crown' to the building affecting the character and appearance of the conservation area and from Regent's Park. Structural concerns are also raised. The public benefits of additional housing does not outweigh the harm caused.

In addition, the society draws the City Council to the attention of recently refused similar applications at Harringey Council (both of which dismissed at appeal).

# METROPOLITAN POLICE:

No objection raised but comments made that there should be no linkage between the restaurant and residential building; new doors will be required to the residential building; consideration should be given to internal post; that the cycle storage in front of the building are no acceptable and should be in a storage facility.

#### ROYAL PARKS:

No objection.

#### **CLEANSING MANAGER:**

Objection, the details are not in accordance with the council's waste guidance.

#### HIGHWAYS PLANNING MANAGER:

Objection raised to the lack of secure and weather proof cycle storage and that the waste store is shown to have doors opening on the highway.

#### **ENVIRONMENTAL SCIENCES:**

No objection to the principle of roof extension or the plant proposed subject to conditions. Details of a stacking plan between the 6<sup>th</sup> and 7<sup>th</sup> floor should be provided along with further information on noise transference between the flats and further details on the restaurant flue are required.

## ARBORICULTURAL OFFICER:

Insufficient information has been provided demonstrating that the protected trees would not be harmed.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 280 Total No. of replies: 64

No. of objections: 23 (on behalf of 14 properties) No. in support: 39 (on behalf of 31 properties)

23 Objections have been received on some or all of the following grounds:

#### LAND USE:

 Oslo Court has numerous smaller flats, are the 4 proposed penthouses appropriate here.

# **DESIGN AND HERITAGE:**

- The proposals are harmful in listed building terms
- The proposed extension clashes with this Art Deco building
- The proposals harm the character and appearance of the St John's Wood Conservation Area
- The proposals harm the character and appearance of the Regent's Park Conservation Area

- The materials are incongruous and the glazing will result in an illuminated top
- The proposals will set an unacceptable precedence

#### AMENITY:

- Loss of view
- Light spillage from glazed roof extension
- Loss of sunlight and daylight
- Noise transference between proposed flats and existing flats
- Noise from existing plant servicing restaurant

#### HIGHWAYS:

Impact on parking

#### SUSTAINABILITY:

Concerns raised as to the sustainability of the building

#### OTHER:

- Noise and disruption during course of construction
- Structural concerns and proposed building materials
- Letters of support from the applicant and their respective companies should not be taken into account
- Some objectors have not heard of, or are part of the other residents associations claimed in other representations
- Fire risk
- Loss of property value
- The proposals considered wider benefits of the scheme should just be considered as normal repair works
- Lack of consultation from applicant
- Inconsistencies between the documents in the submission showing lack of transparency

39 Letters of support have been received on the following grounds:

# DESIGN:

- Roof extension is sensitive to the host listed building in terms of scale and massing
- Minimal visibility from the conservation area
- Minimal visibility from Regent's Park

#### SUSTAINABILITY:

- The extension will be sustainable architecture
- Building will become more energy efficient
- New insulation to roof
- New PV panels

#### OTHER:

The roof extension supports other proposed and much needed works

- Reduction in service charges for other flats
- The roof extension would be far more preferable than a 5G mast
- The new entrance to the restaurant is very much welcomed

#### PRESS NOTICE/ SITE NOTICE:

Yes

#### Second Consultation dated 14 October 2022

WARD COUNCILLORS:

Any further response to be reported verbally

#### HSE:

Initially concern was raised to the fire safety measures in place. In a response dated 12 April 2023, after further submission of details HSE are now content with the proposals.

#### HISTORIC ENGLAND:

Although authorisation is given to determine the application, Historic England offers the following advice:

"The Grade II listed Oslo Court is a striking and little-altered block of flats constructed of reinforced concrete and brick infill in the International style. It was designed by Robert Atkinson and built in 1937-38. The glazed entrance stair tower is a defining architectural feature of the listed building, and its cantilevered canopy which rises above the roofline is specifically mentioned in the listed description.

These proposals seek the introduce a single-storey roof extension to provide additional residential accommodation. This would involve the demolition and rebuilding of the stair tower's top section with elongated proportions so it continues to rise above the roofline.

In our view, this aspect of the scheme would erode the authenticity of what is currently a relatively intact modernist building, with a striking stair tower and carefully conceived and intact modernist proportions. The proposed demolition and rebuilding of the stair tower top section would therefore cause harm to the architectural interest of the listed building. It is possible that an additional floor could be accommodated relatively discretely and without the need to demolish the top section of the stair tower. However, the current arrangement would be visually jarring and an unsuccessful solution for a listed building that derives a great amount of significance from its external architectural character".

#### **ROYAL PARKS:**

On further reflection, the Royal Parks deem the installation of any additional storeys to be a further unwanted addition to the sky space that would be highly visible from within The Regent's Park when viewing north from inside the Park. This would impact on views from the Park and would additionally lead to unwanted massing which is a major concern for us.

One of The Royal Parks' charitable objects is to protect, conserve, maintain and care for the Royal Parks, including their natural and designed landscapes and built environment, to a high standard consistent with their historic, horticultural, environmental and architectural importance. One of our key priorities is to protect the intrinsic qualities of each of our open spaces. We also have a duty to protect the open sky space viewed from within the parks (with the use of viewing cones) as well as a duty to protect historic

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sight lines and key views.

BIG 6: Response received from the TWENTIETH CENTURY SOCIETY: No objection. The scheme is of high quality and enhance the building.

# REGENTS PARK CONSERVATION AREA ADVISORY COMMITTEE: No response received.

#### ST JOHN'S WOOD SOCIETY

Although the reduction in height is welcomed and the extent of glazing is reduced, the society remains unconvinced that the amendments are enough to mitigate the harm caused to the listed building. Oslo Court has numerous smaller flats, and the society questions whether the 4 proposed penthouses are appropriate here.

# **ENVIRONMENTAL SCIENCES:**

No objection raised subject to conditions and informatives.

# ARBORICULTURAL OFFICER:

Objection raised on the grounds that the assessment does not contain enough information with regards to the impact to the root protection areas; lack of detailing regarding piles; lack of detailing regarding hardstanding and that the proposals are likely to impact on two trees.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 303 Total No. of replies: 27

No. of objections: 15 (on behalf of 11 properties)
No. in support:12 (on behalf of 17 properties)

15 Objections have been received on some or all of the following grounds:

#### LAND USE:

- Four flats will not add to housing stock
- Four large flats will not be representative of the existing building.

#### **DESIGN**

- The revisions are meerly tweeks and result in no significant changes
- The new documents show new bins, cycles etc but don't address the proposed new floor
- The listed building should be preserved

#### **HIGHWAYS**:

Continued lack of parking

# **SUSTAINABILITY**

- Flats would add to carbon footprint
- Why is the applicant not looking to propose double glazed windows for the entire building

Heat spill

#### AMENITY:

Loss of light

#### OTHER:

- The numerous leaseholder/ associations within Oslo Court are not fully endorsed; have different members or not attended by everyone
- The statement of community involvement is not accurate or a true statement of the leaseholder/ associations within Oslo Court
- Noise and disruption during the course of works
- Structural concerns
- Leaks and water ingress to existing top floor flats

12 Letters of support have been received on the following grounds:

#### DESIGN:

- Well designed extension
- Reduction in height welcomed
- Materials are acceptable
- Minimal impact on skyline
- Claims of loss of visual amenity are false numerous buildings in this location have roof top extensions

#### SUSTAINABILITY:

The flats are sustainable and environmentally friendly

### OTHER:

- Weight should be given to the wider improvements.
- The thorough testing of the structural implications are welcomed

# 5.2 Applicant's Pre-Application Community Engagement

Engagement was carried out by the applicant with the local community and key stakeholders in the area prior to the submission of the planning application and during the course of the application when revisions were being prepared in accordance with the principles set out in the Early Community Engagement guidance. The engagement activities undertaken by the applicant (as listed in the submitted Statement of Community Involvement) are summarised in the table below:

#### **Initial Consultation**

Engagement	Date	Attendance	Summary of Discussions
Method/Event/Activity			
Letter drop (map provided of area	26July 2021	N/A	N/A
included) advising of proposals and	-		
website address			
Presentation to Cllr Rigby, Ward	19 August	Applicant and	Presentation of application only.

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Member for Regent's Park (online)	2021	Cllr Rigby	
Presentation to St John's Wood	23 August	Applicant and	Presentation of application only.
Society (online)	2021	society	
Several Meetings (unclear if in	Unknown	Applicant and	Discussions of what additional works
person or online) to Leaseholder		Leaseholders	should be prioritised as part of the
Association of Oslo Court			application.

In summary, across the range of engagement undertaken by the applicant the principal issues raised were:

- The common parts of the building are in need of modernisation and improvement and the Applicant's proposals can deliver that;
- The proposals will help to prevent the installation of 5G masts at Oslo Court;
- The proposed improvements to the entrance of the ground floor restaurant are welcomed and will reduce disturbance to residents caused by the current restaurant entrance location;
- The modular method of construction will reduce the construction period and therefore noise and disruption to residents and neighbours; and
- The impact on the daylight & sunlight received by neighbouring properties needs to be assessed.

The applicant's Statement of Community Involvement and other application documents identify that the scheme has been revised in the following ways in response to views and representations expressed during pre-application community engagement:

- A Daylight & Sunlight Assessment has been commissioned and assessed the levels reaching neighbouring properties as a result of the scheme. This Assessment has been submitted with the planning application;
- A visual impact assessment has been undertaken and included with the application;
- Improvements to the entrance and communal areas have been included in the scheme, as shown by the accompanying Design and Access Statement;
- A structural survey has been commissioned to address any concerns regarding the additional weight of the new apartments; and
- The design of the proposal was reviewed to achieve the right balance of solid and glazing ensuring unwanted light spill was minimised.

As a point to note a number of objectors advise that there are a number of Leasehold Groups in Oslo Court and if not part of the one referred to in the Statement of Community Involvement then views were not sought. A number of the objectors also state that they were not aware of the proposals until the first consultation by the City Council and therefore the claims of a letter drop are false.

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Second Consultation in response to Revisions (this was further to advice from the City Council to the applicant regarding the principle of the extension in listed building and design terms, the detailed design and materials of the extensions, the implications of the proposals in land use, highways, energy and arboricultural terms).

Engagement Method/Event/Activity	Date	Attendance	Summary of Discussions
Consultation Exhibition in Oslo Court	21-28 <sup>th</sup> July 2022	•	Applicant claims overwhelming support was given to the proposals.
Presentation to Cllr Rigby, Ward Member for Regent's Park (online)	14 September 2022	Applicant and Cllr Rigby	Presentation of revisions/ application only.

The applicant's Statement of Community Involvement and other application documents identify that the scheme was revised in the following ways in response to views and representations expressed during the application process:

- A revised Daylight & Sunlight Assessment has been commissioned and assessed the levels reaching neighbouring properties as a result of the scheme.
- The proposed materials for the façade of the new apartments has been changed to be more in keeping with the rest of the building;
- The revised proposals see a reduction in the proposed building height of 7.5% compared to the original scheme and the amount of glazing has been reduced by 53%;
- The Energy Strategy for the proposals has been amended so that the new apartments will achieve netzero carbon. Air-source heat pumps have also been introduced to the proposals; and
- Additional changes to the ground floor restaurant have been introduced to the proposals including a new entrance and removal of the unsightly extensions that are not in keeping with the existing building.

Again, objectors advise that there are a number of Leasehold Groups in Oslo Court and if not part of the one referred to in the Statement of Community Involvement then views were not sought.

# 6. WESTMINSTER'S DEVELOPMENT PLAN

# 6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

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As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

# 6.2 Neighbourhood Planning

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

# 6.3 National Policy & Guidance

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

#### 7. BACKGROUND INFORMATION

# 7.1 The Application Site

The applications relate to a Grade II listed block of flats (with restaurant at ground floor level) within the St John's Wood Conservation Area. The application site is surrounded by Prince Albert Road, Charlbert Street, Newcourt Street and Culworth Street. At ground floor there is a restaurant adjacent to the residential foyer and accommodation. To the basement of Oslo Court on the junction with Culworth Street and Newcourt Street is a car garage.

Built in 1937-38 to a design by Robert Atkinson, it is a significant example of interwar British 'International Modernism' built in an area of mixed but positive character immediately to the north of Regent's Park, from where the building can be seen. The Park is Grade I Registered and is a separate but immediately adjoining conservation area.

The building itself is built of brick and concrete and rises to 7 storeys to a long L-shaped plan, presenting the narrower south-eastern end to the park.

# 7.2 Recent Relevant History

There has been a number of planning and listed building consent applications at this property. Of most relevance are:

# 19/01186/FULL and 19/01187/LBC

Installation of gates to Charlbert Street entrance.

Approved 12 April 2019

# 20/07710/FULL and 20/07749/LBC

Installation of 12 antennas, three 300mm dishes, six cabinets and ancillary works thereto at roof level.

Refused 13 April 2021

#### 8. THE PROPOSAL

Permission is sought for a roof extension measuring approximately 520 sqm. The extension is designed to follow the set backs of the existing building with a set back of approximately 1.5m and measures 3m above the existing parapet. The extension would contain four residential units (3 x 3bed and 1 x 2bed) and all have private external amenity space. The lift/stair cores is to be extended upwards. Plant, air source heat pumps and PV panels are proposed at roof level adjacent.

An extension to the existing restaurant in the form of a reconfigured extension and restaurant entrance will provide an additional 23m2 of additional floorspace. The new entrance will include a new wheelchair platform lift.

### 9. DETAILED CONSIDERATIONS

# 9.1 Land Use Roof Extension - Residential

In land use terms, the provision of additional residential units is in accordance with Policy 8 (Housing Provision) of the City Plan and is therefore welcomed. Objections have been received on the grounds that Oslo Court is made up of small units and that the proposals for larger flats do not respect this. Whilst this objection is noted there is nothing within City Council policies or within any historic conditions that prohibits larger flats.

The proposal includes  $1 \times 2$  bed flat (100m2) and  $3 \times 3$  bed flats measuring 125m2, 130m2 and 140m2. The proposals meet the unit mix requirements of policy 10 of the City Plan.

Policy 12 of the adopted City Plan seek to ensure new homes and residential extensions provide a well -designed, energy efficient and high quality living environment; that 90% of all new build housing is accessible and adaptable and that all new homes will meet or exceed the National Described Space Standard.

All the units exceed the minimum requirements outlined in the Nationally Described Space Standards (70m2 for a 2 bed, 4 person home and 95m2 for a 3bed, 6 person home), but these are not exceptionally large units, and do not exceed the 200m2 as stipulated in Policy 8 and are therefore supported. The proposed flats will be dual aspect and therefore well lit (this too is demonstrated through the sunlight and daylight assessment submitted with the application) and ventilated. The flats are to be served by a lift and therefore accessible.

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Policy 12 D also requires that all new homes will provide at least 5 sqm of external amenity space. The proposals exceed this with terraces measuring 21m2 (for the 2 bed unit) and 26m2, 28m2 and 32m2 for the 3 bed units.

The proposals are acceptable in land use terms and comply with City Council policies.

The applicant in their supporting arguments to the proposals have offered a contribution of £250,000 to the City Council's affordable housing fund. Under normal circumstances, a payment in lieu may be sought as a last resort when an application triggers the City Council's affordable housing policy. The scheme does not trigger on affordable housing payment as it's does not meet the threshold under policy 9.

#### **Restaurant Extension**

The entrance to the existing restaurant is currently through the foyer of the residential building. It is proposed to replace the existing single storey restaurant extension to the eastern side of the building with a slightly larger extension, resulting in a further 23m2 of additional floorspace and this would enable a new entrance to the restaurant from the garden grounds of Oslo Court and in turn provide a level access lift. The restaurant would then be completely self contained with access from the foyer of the residential for back of house business only.

The principle of the restaurant extension is supported by Policy 16 (Food, drink and Entertainment) of the City Plan. The restaurant would extend into the existing communal gardens of Oslo Court. Policy 34 (Green Infrastructure) states the City Council will protect and enhance the city's green infrastructure and that all open spaces and their quality, heritage and ecological value, tranquillity and amenity will protected. Whilst the proposals will result in the loss of small area of communal garden, the proposed extension of 23m2 to a well established, long standing restaurant, providing much needed step free access and allowing the restaurant activities to generally take place away from the residential foyer, is not considered so harmful to warrant refusal.

# 9.2 Environment & Sustainability

# **Sustainable Design**

Policy 38 D of the City Plan seek to ensure a sustainably designed development and that measures have been incorporated into design in the following applications and as follows:

 Residential conversions and extensions of 500 sq m (GIA) of residential floorspace or above, or five or more dwellings will aim to achieve "Excellent" in BREEAM domestic refurbishment or equivalent standard.

The proposed extension has been technically designed to address current Building Regulations requirements and perform at a high level of sustainability in the long term.

All windows/ doors have floor to ceiling glazed elevations increasing natural light, in addition to the proposed rooflights. All proposed fenestration and rooflights are double glazed assembled in a high quality system of frames. Cross ventilation is also provided through the proposed windows and the openable rooflights.

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Water consumption has been calculated and is below the target of the 110L per person per days and is met through water efficient fixtures and fitting. Light fittings are all proposed to be energy saving.

Air source heat pumps are proposed at roof level to provide efficient heating and cooling, and PV panels and large areas of green roof are proposed.

The proposals are considered suitable for the scale of the development and to comply with the aims of policy 38 of the City Plan and the guidance as set out in the Environmental Supplementary Planning Document (ESPD). Had the application been considered acceptable a condition securing that the development would be designed to achieve a BREEAM 'Excellent' would have been recommended.

The proposals are considered to comply with Policy 38D of the City Plan.

# **Energy Performance**

Policy 36 of the City Plan relates to energy and promotes zero carbon; developments to reduce on-site energy demand and to maximise low carbon energy sources. Whilst the general aims of the policy are relevant here, as the application proposals are not considered 'major development' not all is applicable. The applicant has however provided an energy statement setting out their commitment to reducing energy demand CO2 emissions.

Table: Regulated carbon dioxide savings from each stage of the energy hierarchy.

	Regulated Carbon Dioxide Savings	
	Tonnes CO <sub>2</sub> per Annum	%
<b>Be Lean:</b> Savings from energy demand reduction	0.9	10%
Be Clean: Savings from heat network	0	0%
Be Green: Savings from renewable energy	14.9	165%
Cumulative on-site savings	15.8	175%

The following measures are proposed to reach the above reductions:

#### Be Lean – Reduce Energy Demand

Good building design, notably to the extensions and fabric performance and highly efficient thermal envelope, improving upon the London Plan notional specification for existing buildings; mechanical ventilation with high efficiency heat recovery; low energy LED lighting throughout and lighting controls to all areas and communal areas to include occupancy sensing where appropriate.

# Be Clean - Supply Energy Efficiency

While no reduction has been associated with the 'Be-Clean' Stage the proposed solution will maintain water based heating systems (underfloor heating) to enable the new apartments to be connected to a heat network in the event that the remainder of the building is connected to any future heat network provision to the building.

# Be Green – Use Renewable Energy

An appraisal of available renewable energy solutions has been carried out, which has resulted in an array of PV panels to the new roof and air source heat pumps (to provide the primary heating system to provide both heating and hot water) being proposed.

The proposals comply with policy 36 of the City Plan for this scale of development and had the application been considered acceptable in other regards, conditions to secure the provision of the measures proposed and monitoring would have been recommended.

# **Circular Economy**

Policy 37(C) relates to waste management and circular economy and seeks the recycling, re-use, and responsible disposal of Construction, Demolition and Excavation waste in accordance with London Plan targets and the council's Code of Construction Practice (CoCP).

The proposals are not major proposals. Whilst some demolition is proposed including the existing restaurant extension and the stair/lift core and water tank at roof level, this is minor. Had the application been considered acceptable, further clarification on the potential to reuse on site demolition and excavation materials as secondary aggregates would have been sought. The new extensions are to be of a modular construction and whilst not likely to be of a local supplier, is not a reason for refusal.

The proposals comply with policy 37 of the City Plan.

#### Flood Risk & Sustainable Drainage

The site is located within the Avenue Road flooding hotspot. Measures to reduce the risk of surface water flooding include the planting and green roofs in accordance with policy 35 (Flood risk). Given the nature of the proposals there is little scope to introduce any other sustainable urban drainage systems elsewhere on site without significant disruption to the communal areas and gardens. The overall risk of surface water flooding to the site and surrounds is considered to be very low.

# **Light Pollution**

Objections were initially received on the grounds of light spillage from all the new windows of the roof extension. Whilst the materials and extent of glazing has been reduced in the revised proposals, objectors still consider that this will be significant.

The extent of glazing has been reduced from the original proposals by 53% according to the applicant. The fenestration proposed is reflective of the lower levels at approximately 30% of the new facade and not considered to result in significant light spillage.

# **Environment & Sustainability Summary**

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

# 9.3 Biodiversity & Greening

As noted above, a green roof is proposed to the majority of the roof extension. This is welcomed and had the application been considered acceptable, further details of its make-up, construction and planting details would have been conditioned.

It is disappointing to see that the proposed restaurant extension did not incorporate a green roof, especially noting the loss of communal gardens associated with this element of the scheme. Had the application been considered acceptable, a condition securing a green roof to this extension would have been recommended.

Had the application been considered acceptable conditions securing bird and bat boxes would have also been recommended.

# 9.4 Townscape, Design & Heritage Impact

# Site and Significance

The applications relate to a Grade II listed block of flats within the St John's Wood Conservation Area. Built in 1937-38 to a design by Robert Atkinson, it is a significant example of interwar British 'International Modernism' built in an area of mixed but positive character immediately to the north of Regent's Park, from where the building can be seen. The Park is Grade I Registered and is a separate but immediately adjoining conservation area.

The building is built of brick and concrete and rises to 7 storeys to a long L-shaped plan, presenting the narrower south-eastern end to the park. It cleverly utilises an awkward triangular plot, providing a building of strong individuality supported by a generous landscaped frontage onto Charlbert Street, whilst also avoiding an overly deep plan. The southern long side onto Lulworth Street and the north-western end onto Newcourt Street front their respective street edges more closely but still with some set back to provide defensible space and separation between the ground floor flats and the public realm. The eastern 'nose' of the building acts almost like the prow of a ship, minimising its presence when viewed from the park to the east.

To three of its frontages the building has an overtly horizontal emphasis, common to this interwar modernism. Alternating horizontal brown and white bands of brown brick and white windows and concrete banding run rhythmically across the façade, punctuated with angled projecting bays and balconies stacked vertically in a very ordered and considered manner. Where windows are isolated from this principal assemblage, such as the oculus windows to Lulworth Street secondary stair tower, they are again accentuated with white-painted surrounds and stacked vertically. This produces a highly geometric and repetitive form which is fundamental to the building's character. This angled and stepped form also achieves a careful handling of mass, helping to break up what might have otherwise been somewhat unrelentingly long and monotonous brick

facades. This pattern of projecting banded and stacked balconies is then cleverly used by Atkinson to subtly 'turn' the building's corners such that the narrower end facing the park has a more vertical emphasis appropriate to its narrow frontage, acting almost as a punctuation mark to the line of larger mansion blocks which otherwise form something of a wall of buildings onto Prince Albert Road.

The success of the projecting and staggered balcony pattern, is perhaps also something of a limitation when it comes to the vertical termination of the building. Unlike many buildings, the building does not feature a roof storey, cornice or other form of 'lid' to terminate its height, with the upper-most floor architecturally designed and proportioned the same as those below. Whilst this might be seen as an opportunity for upwards extension, or as a flaw in its design, it can also be seen as a bold unapologetic move by Atkinson who instead uses the vertical 'fulcrum' of the stair tower to provide the necessary finality to the building's height in the way in which it consciously (and functionally) projects above the main roofline. 'Stopping' the building's height in this way also avoids the potential for a set-back or projecting terminating feature or roof storey to interrupt or conflict with the vertical lines and stacked, rhythmic patterns formed by the balconies.

The building's height is an important component of its proportions, carefully balanced between the provision of a large number of dwellings with a sense of restraint and proportionality across its long but tapering site. It sits respectfully close to the edge of the park – largely screened at lower levels, but handsome when seen as it projects above the outer park treeline in framed views from the walkway which leads over the canal from the Outer Circle. From here it is visible, but not prominent, aggressive or discordant.

At seven storeys, the building strikes a comfortable balance between its height and the narrowness of the site – an eight storey version is likely to have produced a more vertically elongated form, failing to achieve the restraint it now shows against its horizontality, whilst a six storey version of the same design is likely to have been somewhat squat in comparison to its length. Atkinson was a noted architect of his period who remains a respected contributor to interwar architecture – the likelihood of him having not considered the height of the building at great length is very slim. In all likelihood the built height was almost certainly the result of a careful assessment of what works for the building itself and for how it sits amongst the surrounding townscape and landscape setting of the time.

Other buildings in the immediate vicinity are not listed (the nearest being the Grade II listed 50 and 52 Charlbert Street, 100m to the north), but several are nevertheless of some architectural or historic significance in their own rights, and also in how they contribute to the character and appearance of the conservation area as defined by the Conservation Area Audit. Notably for these applications, this includes North Gate to the south (7-9 storeys), which also faces the park, and Barrow Hill Estate to the north (4-7 storeys).

It is acknowledged that, as profiled by the applicant's later application submission documents, some of these buildings fronting Prince Albert Road are already taller than the application site. Where they are taller and within the same conservation area, as in the case of North Gate, they are generally more substantial buildings, where the greater

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height is proportionate to the building's design. The height of North Gate is also heavily moderated by the upper heights being represented by well-integrated roof storeys.

Most of the other buildings profiled by the applicant as being taller and fronting Prince Albert Road, are outside of the SJW Conservation Area where planning considerations would have been lesser than in this case. It is notable also to consider the orientation of Oslo Court and how it interacts with the streets that run back from Prince Albert Road. To solely consider the application site and proposals in relation to Prince Albert Road, where heights will inevitably be greater, ignores the way in which Oslo Court differs from the other buildings which it shares that frontage with. It ignores the individual character of Oslo Court, including its consciously narrower, carefully proportioned profile to the park, but also the way it then stretches back further into the lower-scale residential character of St John's Wood.

# Legislation, Policy and Guidance

As the works affect a listed building within a conservation area, the decision-maker is obliged by Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to give special regard / attention to the preservation of the listed building, its feature or setting, and to the preservation or enhancement of the character / appearance of the conservation area. The NPPF in Sections 12 and 16, and the council's City Plan policies, provide the framework for how this is applied.

With respect to the adjacent Regent's Park Conservation Area and Registered Park, whilst there is no statutory duty to take account of effect on the setting of the park in relation to either designation, Policy 39 of the Westminster City Plan 2019-2040 requires development to preserve their settings wherever possible. Chapter 16 requires that great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

#### **Proposals and their impacts**

It is proposed to extend the building through the addition of an eighth, set-back storey to both wings, along with the associated extension of the stair towers. Also proposed at ground floor level is a new extension to the restaurant, and new bin storage on Lulworth Street. No other works of alteration or improvement are shown in the application although it does make statements about overhauling services etc. There are also assertions in the 'Conservation Area Statement' that various elements of the site will be refurbished, including the entrance gate piers, entrance canopy but again no explicit proposals are then included in plans or other documents. Such work should in any case be a part of the standard maintenance regime of the property, and should not carry weight against harmful proposals, as argued by a number of objectors.

#### **Roof extension**

The additional storey would be set back from the existing building line, with a staggered

plan layout following that of the original building below. The stair-tower is also proposed to be extended upwards such that it would still project above the building's upper-most position, but not by the same proportion as the existing arrangement between top storey and stair-tower top (which is more or less equivalent to a full storey). The proposals, as revised during the course of the application, would on the whole utilise the same materials pallet as the existing building, including alternating bands of stock brickwork and white windows. This reduces the issues previously raised in relation to the original application proposals which were partly considered harmful due to their use of a discordant modern materials palette. The notes on the drawings however include specifications for composite windows and metal copings and cills, which could contrast with the slimline character of the steel casements of the original, and painted concrete surrounds.

The extension would be visible from a number of street-level angles at both close and medium distances, and more substantially visible from private upper floors windows of surrounding buildings. From these angles it would appear discordant with the building's design, in particular with the staggered, vertically stacked balconies.

The extension's horizontal banding, again trying to mimic the host building below, misrepresents the coupling of brown brick and white bands in pairs, instead proposing a bottom, middle and top series of bands in addition to the original topmost brick band of the original parapet below; this effectively doubles-up the banding between parapet and new balcony fronts at that level which, in combination with the stepping back of those new balcony fronts, creates a remarkably difficult, almost 'modular' craned-in aesthetic, in contrast to the solidity and uniformity of the building below.

The proposed design attempts to mimic the stepped form of the balconies below, but does so in combination with a step-back on all sides which therefore fails to respect the proportionality of the sawtooth like building plan, appearing as a perhaps deflated and diminished version of one of the building's existing banded storeys. Whilst stepped-back upwards extensions are a common means of architectural mitigation and integration, in this case it in fact conflicts with the fundamental 'sawtooth' plan and form of the building. By simply producing a reduced version of the building's roof plan, the vertical lines of the extension would be offset from and misaligned with those of the original stacked bays and balconies below. From various positions locally, one would see the incongruity of offset staggered lines of an architecturally mismatched extension running along the length of the building. It would appear visually disconnected and offset with the vertically stacked balconies below, but would also create a series of awkward, ill-defined recesses and projections surrounding the extended principal stair tower, which would be simply stretched uncomfortably upwards and outwards to infill these gaps.

The stair tower too would become subsumed within the mass of the new storey. Whilst extended in height in an apparent attempt to respect its pre-eminence and 'fulcrum' architectural function, it would not be extended by the same proportion, and would therefore sit only a little higher than the set-back extended storey. Due to the set-back of the extension, it would also fail to have the same vertical relationship with the building that it was designed to have.

This awkwardness of form and mismatch of designs at high level would harm the building's unique architectural significance, and would detract from it's positive

contribution to the conservation area and setting of the adjacent Regent's Park. Whilst this would remain 'less than substantial harm' in terms of the NPPF with respect to all of the affected assets, it would be very much within the moderate part of that spectrum and would nevertheless be significant and permanent given its visibility and prominence.

It is noted that Historic England have raised similar concerns to the above in their response in December 2022. It is noted also that conversely, the Twentieth Century Society have given a very much supportive set of comments, albeit in a much abbreviated form to the detailed Historic England comments. Objections have also been raised by the Royal Parks (in relation to views outwards from the Grade I Registered Regent's Park), and by the St John's Wood Society – both very coordinating with the concerns raised above and by Historic England. Whilst the comments of the Twentieth Century Society are given weight, it is clear from officers' and Historic England's detailed assessment, and from the representations of two key local stakeholders, that their view is in isolation from what is otherwise a consensus of harm.

#### Restaurant extension

The proposed restaurant extension would replace an existing timber modern addition which projects form the building's northern end into the gardens. In principle this is welcomed, and in exercise the proposed new extension, whilst larger, is carefully constrained and would be positively integrated with the architecture of the building, and landscape qualities of the gardens. This extension would enable improved access for all restaurant users, allowing it to enjoy its own access separate from the building's residential lobby. Whilst this is a benefit, it is an isolated one which is not otherwise linked to the main rooftop proposal.

# Bin and cycle storage

The application also proposes new bin and cycle storage in two locations. To Lulworth Street, a sliding gate screen would partially conceal the existing informal Euro-bin storage area. From the submitted description it would appear that this proposal (revised and clarified during the course of the application) is otherwise enclosed on other sides other than by the existing surrounding low level walls. In principle the partial concealment of the bins is overall likely to be an improvement upon the untidy appearance of the current bins, but it is not well detailed in the application – we do not know much if anything about the design of the proposed sliding gates. Were the application otherwise recommended for approval, a condition securing further details would have been recommended. As a point to note however, it is questioned whether, given the slope of the road, sliding gates are viable in this location, restricting their ease of use in one direction, whilst risking uncontrolled operation in the other.

To the building's main Charlbert Street turning circle, it is proposed to install new cycle hangers in two of the currently open parking area. Again no real detail is given of these, but the single plan shown suggests standard roll-top metal hangers. Whilst these functional items of street furniture are widely seen installed by highway authorities on streets in place of parking bays they are not of a standard of design which is considered to be appropriate in a carefully but simple landscaped open space such as the application site. Notwithstanding the design quality of these, or the lack of design detail, it is questioned whether this location is appropriate for a 'built' secure cycle storage

structure, due to its openness and simplicity or hard and soft landscaping.

# Summary and recommendation

As discussed above, the proposals would harm the significance of the listed building and conservation area, and would detract from the setting of the adjacent Regent's Park (as a conservation area and registered park). As such, the proposals fail to accord with policies 38, 39 and 40 of the Westminster City Plan 2019-2040. If you consider that the public benefits proposed would not outweigh the less than substantial harm that would be caused to the designated heritage asset, then it is recommended that in order to be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, the applications must be refused permission and listed building consent.

# 9.5 Residential Amenity

Development that could result in a change to the amenity of neighbouring residents such as that of the proposals here must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers.

The objections received raise concern of loss of view, light spillage from glazed roof extension, loss of sunlight and daylight, noise transference between proposed flats and existing flats and noise from existing plant servicing restaurant.

# **Sunlight and Daylight**

One of the multiple objections to loss of sunlight and daylight raises queries over the assessment and states that 1) the assessment shows loss of sky over 20%, 2) that the statistics presented do not match the images, 3) that whilst the report says ADF would be the most accurate measures this has not been done and 4) that in terms of APSH only some 9 rooms have been analysed yet 58 declared as compliant.

On the third point, what the objector does not note is that the assessment identifies that ADF should only be used if the variable are unknown, such as room layouts then the accuracy can not be relied upon and on the last point, the objector is correct and there was an error in the report. This has been rectified by the applicant.

As noted above the extension is 3m in height (above the parapet) and in general follows the pattern of the building bulk below and incorporates between a 1.3m-1.5m set back all around, a 2.8m set back from the north elevation on the 'L' and a 5m set back from the eastern elevation facing the park.

A daylight and sunlight assessment has been submitted and considers the impact of the development upon the following properties:

- 1-10 Charlbert Court (Map no. 1)
- 6-12 Charlbert Street (Map no's.2-5)

- Park View 83-86 Prince albert Road (Map no. 6)
- 104-122 North Gate (Map no.7)
- Tibet House, 1 Culworth Street (Map no. 8)
- 1-70 Robin House (Map no.9)

Map showing properties assessed:



The assessment demonstrates that all windows and rooms assessed fully comply with the BRE targets in terms of sunlight and daylight and the objections on this grounds cannot be sustained. The objections to points 1 and 2 of the detailed objection can therefore not be sustained.

#### Sense of Enclosure

Given the height of the extension at 3m and the distance between the application site and all the surrounding properties the proposals are not considered to result in any overbearing sense of enclosure.

#### **Privacy**

Windows are proposed to all elevations of the roof extension. These, in general replicate the window positioning of the lower level residential units and are therefore not considered to give rise to any additional overlooking to neighbouring properties over what currently exists.

Terraces are proposed to each of the flats, again to all, elevations. Whilst there are a number of terraces proposed, these are not considered excessive in size. There are existing terraces to the lower level flats in the building on all elevations and therefore any

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additional overlooking from the proposed terraces is unlikely to be harmful to neighbouring properties given existing mutual overlooking.

The proposals are therefore acceptable in terms of privacy and overlooking.

#### Loss of View

Loss of views are raised as an objection. It is unclear if this is reference to loss of views of Regent's Park. Views are not a material planning consideration. However, given the height of the extension it is not considered that the proposals would result in any harm of views.

# **Light Spillage**

As addressed above, objections were initially received on the grounds of light spillage from all the new windows of the roof extension. Whilst the materials and extent of glazing has been reduced in the revised proposals, objectors still consider that this will be significant. The extent of glazing has been reduced from the original proposals by 53% according to the applicant. The fenestration proposed is reflective of the lower levels at approximately 30% of the new facade and not considered to result in any harmful or significant light spillage.

#### **Noise from Terraces**

Given there is a proliferation of terraces on all elevations of the existing building, it is not considered that the proposed terraces to these four flats would result in unacceptable noise levels.

## Noise & Vibration from Plant

Objections have been received to the siting of new plant at roof level and to the existing plant serving the restaurant.

The acoustic report submitted with the application was revised during the course of the application at the request of the Environmental Sciences Officer to provide the actual noise calculations of the plant proposed and details regarding the distances from the proposed air source heat pumps and plants to the nearest noise receptors so that a full assessment could be made..

The Environmental Sciences Officer considers that the proposed air source heat pumps and plant will not cause any detrimental harm to the nearest residential properties in terms of noise.

Also, under the request of the Environmental Sciences Officer further information was requested on the extract ventilation to the existing restaurant as it was proposed to vent above the proposed roof extension but no details had been provided. This is now considered acceptable and raises no noise concerns.

Had the applications been considered acceptable, standard compliance noise conditions would have been recommended.

### Noise Transference Between Proposed Flats and Existing Flats

The proposed roof extension is to be located above existing flats. The Environmental Sciences Officer has assessed the noise report submitted with the application and does not consider noise transference to be of a concern and had the application been considered acceptable noise conditions would have been recommended.

## **Amenity Conclusion**

For the reasons set out above, the proposals are considered acceptable in amenity terms and comply with policies 7, 33 and 38 of the City Plan.

## 9.6 Transportation, Accessibility & Servicing

### **Highway Impact/ Carparking**

Objections have been received on the grounds that three flats will create extra demand for on-street carparking should permission be granted. The Highways Planning Manager raises no objection to the scheme with no parking, as this is policy compliant. Had the application been considered acceptable, car club membership for the proposed new flats would have been secured, to off-set any increased demand in on-street car parking. The proposals are in accordance with policy 27 of the City Plan and London Plan policies.

### Cycling & Cycle Storage

There is currently no cycle parking for the occupiers of Oslo Court. As originally submitted there was only an indication of cycle parking proposed, with no real detail and this raised an objection from the Highways Planning Manager. The revisions now show cycle parking is proposed in the form of 2 bike hangers, providing 12 spaces (8 for the newly proposed flats and 4 for existing residents) to the front entrance/forecourt. Whilst this provision is in accordance with the London Plan requirement of 1 space per residential unit of 1 bedroom or fewer and 2 spaces per unit of 2 bedrooms or more, as noted above in the design section of this report, the provision on hangers within the setting of this listed building are unacceptable. Had the application been considered acceptable in other regards officers would have sought to explore other options.

### Accessibility

The residential building is accessed via 5 steps from the front forecourt. This is not altered as a result of the proposals. An internal lift is proposed to access the new roof level accommodation.

The new extension to the restaurant will provide level access and this is welcomed.

## Servicing and Waste & Recycling Storage

Refuse storage for Oslo Court currently exists in an off-street area on Culworth Street and the applicant proposes that waste and recyclables collection for the new flats can be accommodated within this provision.

As originally proposed, it was sought that a three sided open topped store with outward opening gates be installed to this area. The cleansing manager raised concerns that the waste store does not comply with the Council's guidelines in that different waste streams were not shown on the plans or labelled. This also raised objection from the Highways Planning Manager as the gates opened outward over the public highway.

Whilst the concerns from the Cleansing Manager were noted, it was not considered by officers that for the provision of four additional residential units that new, upgraded or reconfigured waste stores were a reasonable request. The scheme has however been amended to now propose sliding access gates which is welcomed in principle. Had the application been considered acceptable, details of these gates and the sliding mechanisms, having regard to the slope in the land and the actual workability of these would have been secured by condition.

## 9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending. The new residential accommodation proposed will support the local economy through increased local spending, thereby supporting local employment and services.

### 9.8 Other Considerations

### Fire Safety

The Health and Safety Executive (HSE) have been consulted on the proposals given new residential accommodation is proposed on a 'relevant' building.

Despite initial concerns, the HSE now have no objections to the proposals and consider that the fire safety measures proposed, fire service access points, means of escape and existing materials are all, in general, acceptable.

### **Arboricultural Matters**

There are six tree's to the north of the application, in the communal garden by the restaurant extension. The nearest tree's to the restaurant extension are T5 and T6 (glyptostroboides). The trees at Oslo Court are protected by virtue of their location within the conservation area.

An Arboricultural Impact Assessment (AIA) has been submitted. The AIA states that the restaurant extension foundations (which require 'no excavation' and will be a beam and pile design) could affect the closest trees T5 and T6 but the actual impact of the foundations on T5 and T6 is not assessed. The report implies that there will be no

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excavation and that the use of screw piles will mean that there is no direct incursion into Root Protection Areas (RPA's). However, screw piles still require excavation and can still affect significant tree roots. Even if the screw piles do not harm tree roots (which is not guaranteed to be the case) the construction of a new building over the tree RPAs could still have impacts through soil compaction and contamination and soil capping which prevents natural drainage and gaseous exchange with the soil beneath the foundations, potentially causing long term harm to tree roots and limiting the available rooting environment.

The AIA includes a Tree Constraints Plan (TCP) but there is no plan showing the tree constraints with the proposals overlain.

The AIA states that it is possible that some facilitation pruning will be required but the extent of pruning is not specified in the Impact Assessment section of the report. The outline method statement then goes on to specify crown lifting to 3.5m for T5 even though this isn't included in the Impact Assessment.

In conclusion, the AIA does not provide enough information. A plan showing tree constraints in relation to the development proposal should be provided. The extent of incursion into tree RPAs must be provided, both in respect of the area of RPA coverage by the extension, and the areas of RPA which will be affected by the piles. In order to make this assessment the number, size and locations of piles should be provided. If a significant area of the RPA is affected, then even the specialist foundation design may not be provide adequate justification for the incursion. In addition, officers need to know the distance of the extension from the tree trunks, as both T5 and T6 are young specimens which could be expected to undergo substantial trunk expansion as they mature. The AIA should also include an assessment of the impact of new hard surfacing, including areas of RPA encroachment and details of the hard surfacing design. Where RPA encroachment is proposed, more detail is required with respect to the methods which will be employed to prevent harm to retained trees.

The application is recommended for refusal on the ground of insufficient information.

### **Structural Concerns**

Residents in their objections have cited structural concerns over building a new roof top floor. The proposed roof extension is to be a modular construction and a preliminary structural report has been submitted which confirms the proposed weighting of the extension on this concrete building is likely to have no significant structural effect on the building. Whilst this has not been reviewed by the Council's Building Control Manager, should planning permission be granted the proposals would be subject to Building Regulations.

The applicant has further addressed the concerns of neighbours and states that there are areas of existing cracking in the basement concrete columns, which could present an issue if untreated in the long-term, however the development provides the opportunity to undertake remedial works to these columns, and to undertake a more comprehensive condition survey so that potential long-term structural issues can be addressed. In addition the proposal remediates the existing stair core roof which has experienced

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structural issues and required glazing to be infilled with blockwork to avoid further issues. The development proposes restoring this glazing in line with the form of the original stair tower. The proposal also provides the opportunity to address, remediate and prevent any future water ingress issues. This is all noted and welcomed but not a material planning consideration and a reason within itself to grant or withhold permission.

## **Noise and Disruption during Construction**

Multiple objections have been received on the grounds of noise and disruption during the course of works if permission was to be granted, especially noting the years of construction on the adjacent Bentinck Close.

Whilst the objections of noise and disruption during works are noted, it is not itself a reason to withhold permission. A condition is recommended to protect the amenity of the surrounding area by ensuring that core working hours are kept to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturday. The condition states that noisy work must not take place outside these hours except as may be exceptionally agreed by other regulatory regimes such as the police, by the highway's authority or by the local authority under the Control of Pollution Act 1974. An informative is also recommended to advise the applicant to join the considerate constructors scheme. Through the use of the above conditions and informative, it is considered that the impact of the development on surrounding occupiers is being suitably controlled and mitigated as far as practicable under planning legislation.

Given the nature of the proposed works, a construction management plan or the applicant's agreement to adhere to the City Council's Code of Construction Practice is not required.

### **Loss of Property Values**

Objections have been received on the grounds that the works and the extension will impact property values to neighbouring properties. Loss of property values is not a material planning consideration.

# Letters of support from the applicant and their respective companies should not be taken into account

Objections have been received on the grounds that the freeholders and representatives of the freeholders have written in multiple times in support of the proposals and that they should not be taken into account.

As noted in the consultation section of this report, and as identified in the background papers list, officer's have made clear what letters of support have been received and although reported in number form, take into consideration the content of the letters of support.

## Concerns over legitimacy of the Leaseholder's Association.

Objections have been received on the grounds that some of the letters of support are from the 'Oslo Court Leaseholder's Association' and that they, who've been living in this

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building for many years, have not heard of, or are part of the other resident's associations claimed in these representations.

Whilst ownership/ freeholder/ leaseholder arrangements are not a material planning consideration, the applicant has advised that the current Oslo Court Leaseholders' Association was formed in 2019 after discussion with the buildings' freeholder. Its remit is to deal with issues affecting the building and liaise with leaseholders/residents to best represent their interest. The Association is made up of 12 leaseholders, some of whom have experience in property and design. It is the only organisation within the building that has the authority to speak on behalf of residents.

There does appear to be other 'associations' within the building but it is unclear whether this is a formal and recognised arrangement.

## 9.9 Environmental Impact Assessment

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

### 9.10 Planning Obligations & Pre-Commencement Conditions

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

The estimated CIL payment is £413,108,000.

#### 10. Conclusion

The proposals are unacceptable in design and heritage terms and would result in harm the building's unique architectural significance, and would detract from it's positive contribution to the conservation area and setting of the adjacent Regent's Park. Whilst this would remain 'less than substantial harm' in terms of the NPPF with respect to all of the affected assets, it would be very much within the moderate part of that spectrum and would nevertheless be significant and permanent given its visibility and prominence.

Whilst it is recognised that there are public benefits to the proposals providing good quality residential accommodation and wider economic benefits; these would not outweigh the less than substantial harm that would be caused to the listed building or the heritage asset of St John's Wood and Regent's Park Conservation Areas.

As touched upon above, the applicant notes that in addition to the provision of good quality family homes with private amenity space, built in a sustainable manner etc, that the scheme brings with it a whole suite of improvements to the communal parts of the existing building, a new roof and fabric that's much in need, decluttering of roof of redundant plant, new modern water tanks for all apartments, new electrical upgrade works, the opportunity to address structural issues in the building and improved facilities for the restaurant. They also offer a contribution of £250,000 to the Council's affordable housing fund. Whilst these are all noted, officer's agree with objectors who claim that the majority of these works should be done as standalone freeholder improvements and are general maintenance works and these are not considered to be public benefits. In addition, the offer of a financial contribution is not a policy requirement in this instance.

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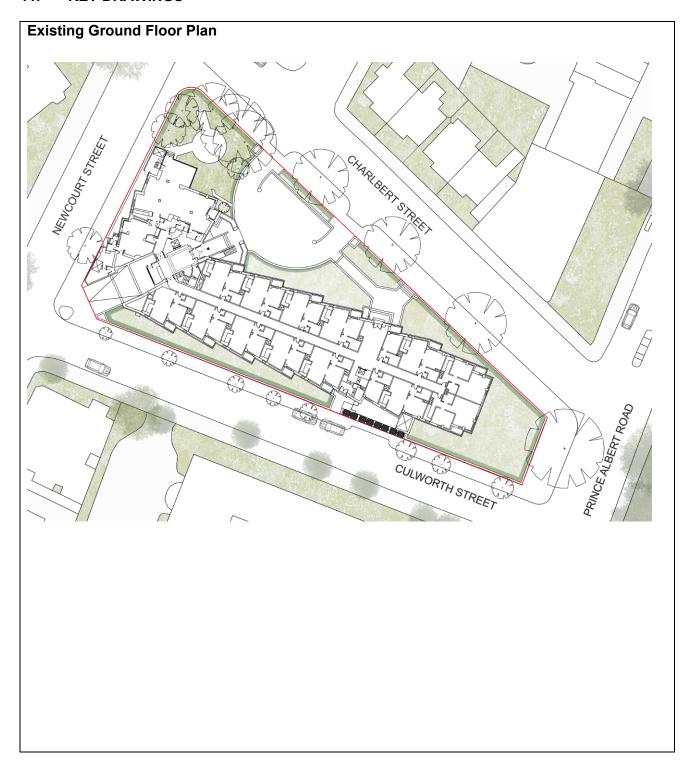
Whilst the restaurant works are a benefit, it is an isolated one which is not otherwise linked to the main rooftop proposal.

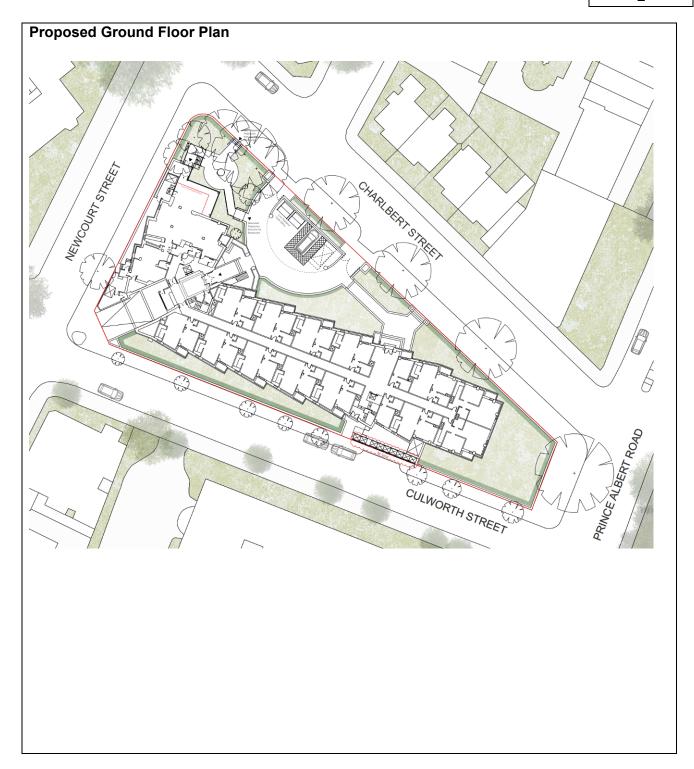
Therefore, the recommendation to refuse permission and consent is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

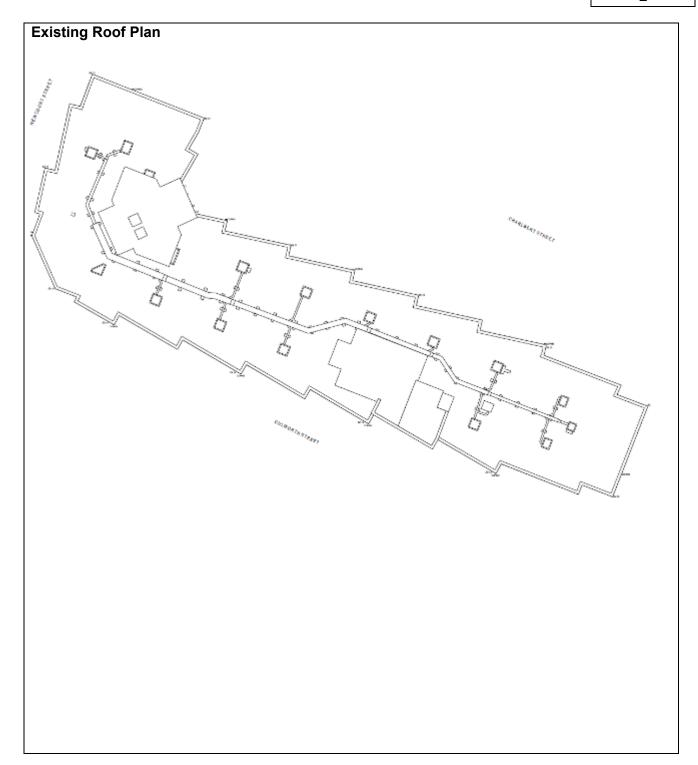
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

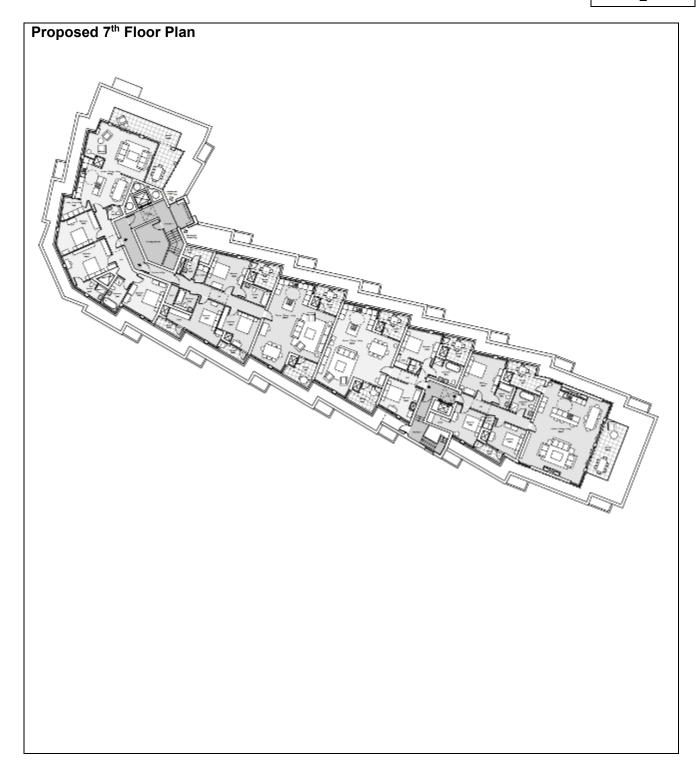
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT kdavies1@westminster.gov.uk

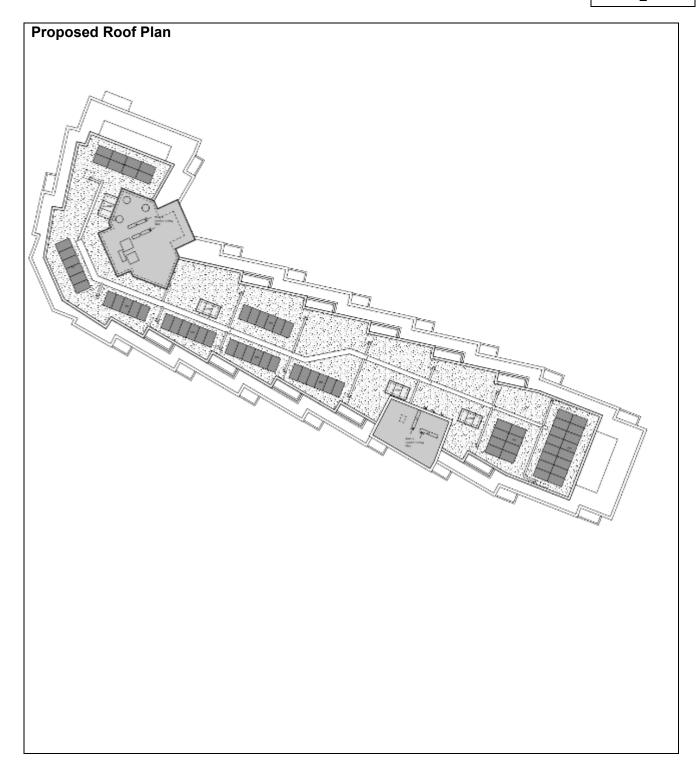
## 11. KEY DRAWINGS

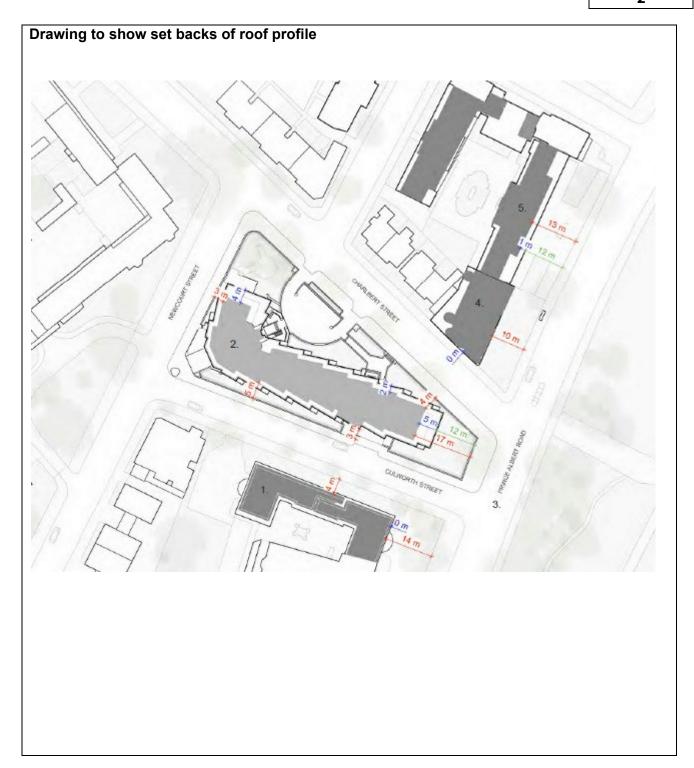


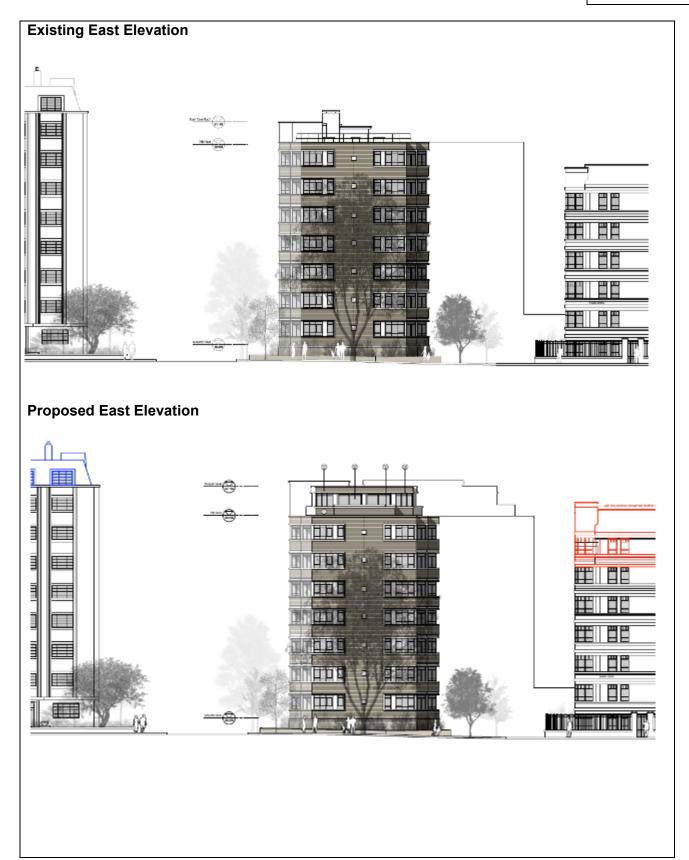


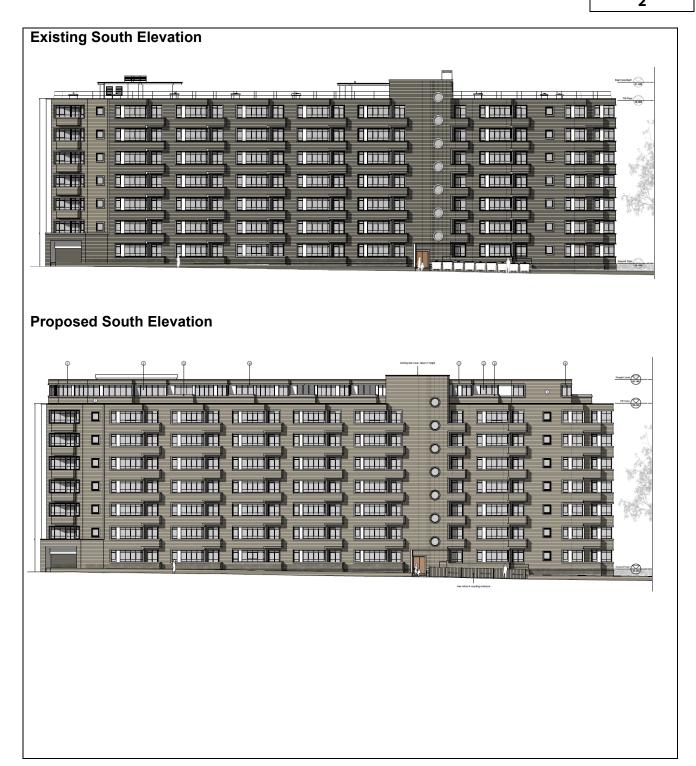


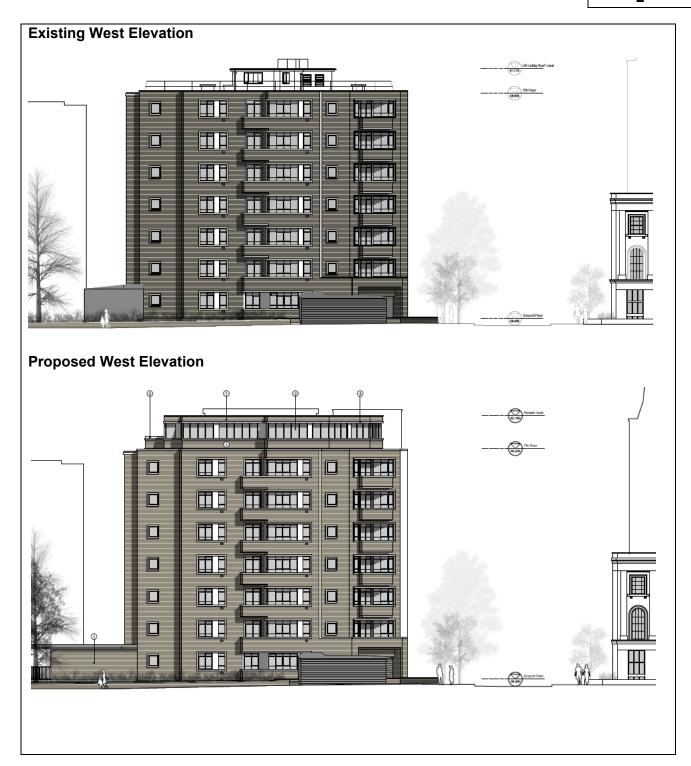


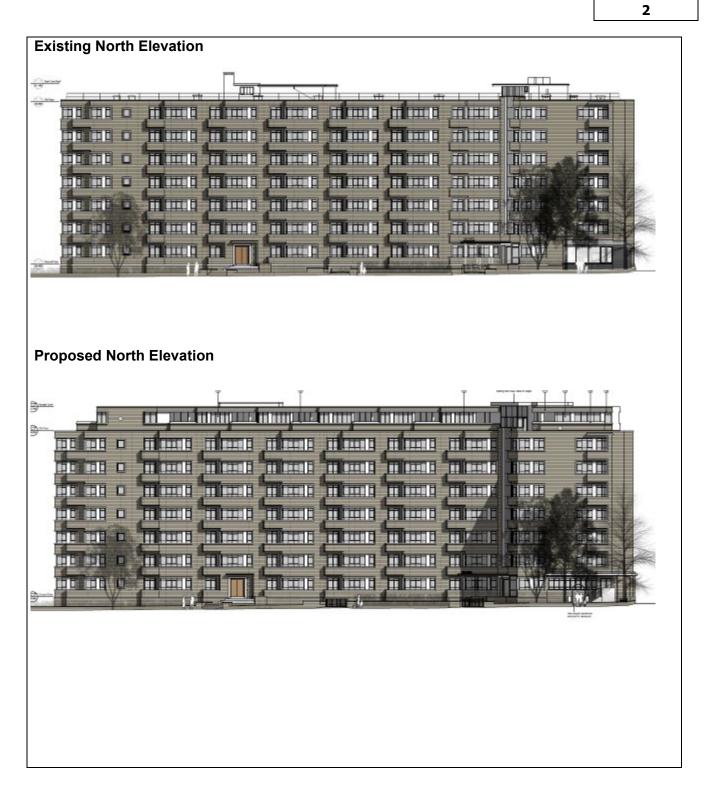


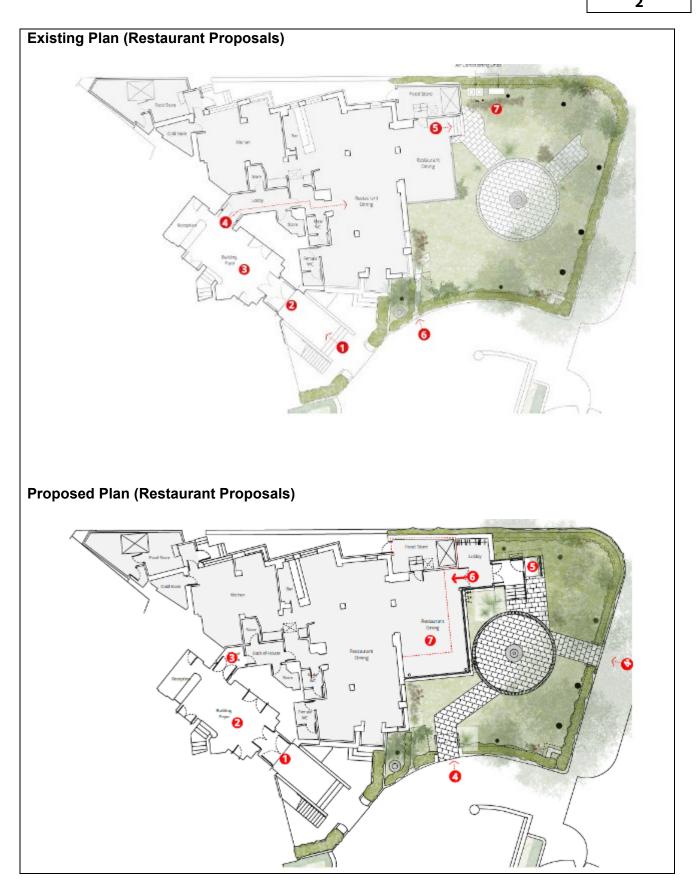




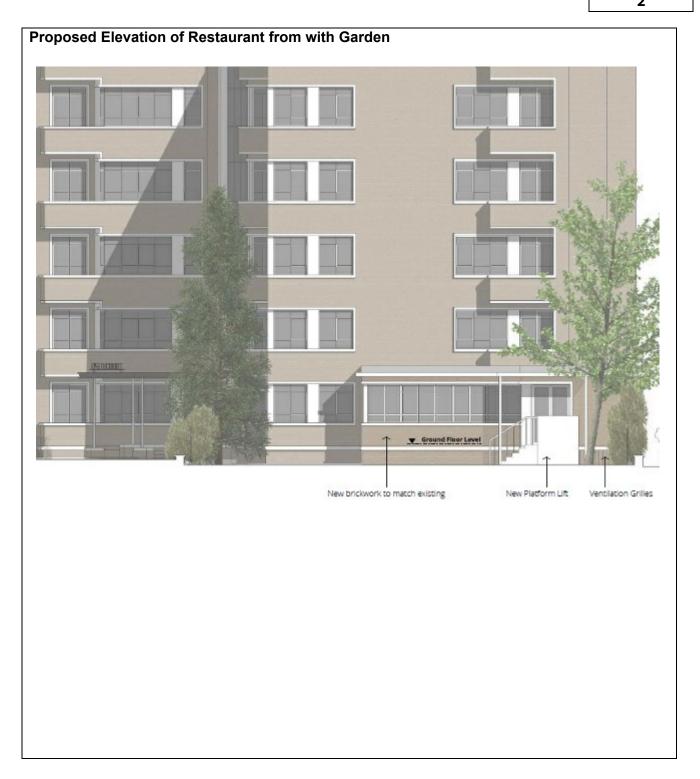










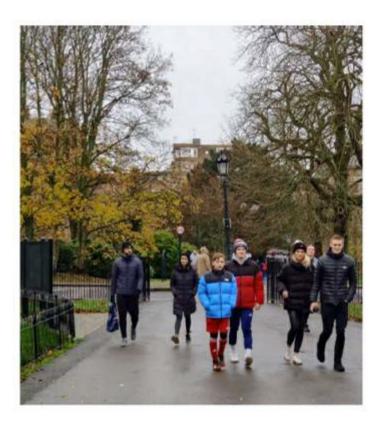


## Image of Roof Extension and Materials



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## Existing (top) and Proposed (bottom) View from Regent's Park





## Existing (top) and Proposed (bottom) View from Prince Albert Road



Existing



Proposed

2

## Existing (top) and Proposed (bottom) Views from Charlbert Street





### DRAFT DECISION LETTER - 21/06285/FULL

Address: Oslo Court, Prince Albert Road, London, NW8 7EN

Proposal: Erection of a single storey roof extension to provide four new residential units (3x3)

> bed and 1x2 bed) (Class C3) with external terraces, green roof and PV panels, installation of associated plant equipment, extension of main stair tower and existing

lifts, replacement of existing restaurant extension and provision of separate

restaurant entrance. (Linked with 21/06286/LBC)

Reference: 21/06285/FULL

Plan Nos: Existing:

296 PL: 001; 002; 103; 104; 110; 111; 112; 113; 114; 115; 116; 120; 121

Proposed:

296 PL: 200 D; 201; 202; 300 B; 301 B; 302 B; 303 B; 304 B; 305 B; 306 A; 310 A;

311 A

For information only:

Fire Safety Letter, Fire Statement, Fire Safety Strategy dated January 2023; Fire plans E1-001; P1-001; Noise Impact Assessment Rev 03 03/09/21; Noise

Addendum Rev 01 13/12/21; Planning Statement dated September 2021; Benefits Summary received 11 October 2022; Design and Access Statement dated September 2021 and Supplementary Architectural Design Statement dated September 2022 Rev E: Heritage Assessment and Supplementary Heritage Note

received 11 October 2022; Pre-Planning Report P03-28 September 2022; Energy Statement dated Feb 2022; Predicted Operational Energy Assessment dated 18 Feb 2022; Daylight and Sunlight Report Rev 3; Daylight and Sunlight Letter dated 26 July 2023; Statement of Community Involvement dated 2 September 2021 and 16 September 2022; Outline Construction Management Plan dated Sept 2021; MEP Serviced Concept Report dated August 2021; Transport Statement dated

September 2021; Greengage Letter dated 8 October 2021; Tree Survey and AIA

dated January 2022.

Case Officer: Direct Tel. No. Kimberley Davies 020 7641

07866036948

### Recommended Condition(s) and Reason(s)

#### Reason:

Because of their design and poor relationship with the existing building, the proposed roof extension and extension of the stair tower would harm the special architectural and historic interest of this grade II listed building. It would also fail to maintain or improve (preserve or enhance) the character and appearance of the St John's Wood Conservation Area, and the setting of the nearby Regent's Park Conservation Area and Grade I Registered Park. The harms identified are not outweighed by the scheme's public benefits. This would not meet Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

### Reason:

The proposed location of the cycle storage to the front forecourt is harmful to the special interest of this grade II listed. It would also fail to maintain or improve (preserve or enhance) the character and appearance of the St John's Wood Conservation Area This would not meet Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021) and the advice set out in our 'Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings' and 'Supplementary Planning Guidance: Development and Demolition in Conservation Areas'.

#### Reason:

Insufficient information has been provided to confirm that the proposed development will not cause harm to protected trees, thereby contrary to Policies 34, 38 and 39 of the City Plan 2019-2040 (April 2021).

## Informative(s):

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

### DRAFT DECISION LETTER - 21/06286/LBC

Address: Oslo Court, Prince Albert Road, London, NW8 7EN

**Proposal:** Erection of a single storey roof extension to provide four new residential units (3x3)

bed and 1x2 bed) (Class C3) with external terraces, green roof and PV panels, installation of associated plant equipment, extension of main stair tower and existing

lifts, replacement of existing restaurant extension and provision of separate

restaurant entrance. (Linked with 21/06285/FULL)

Reference: 21/06286/LBC

**Plan Nos:** Existing:

296 PL: 001; 002; 103; 104; 110; 111; 112; 113; 114; 115; 116; 120; 121

Proposed:

296 PL: 200 D; 201; 202; 300 B; 301 B; 302 B; 303 B; 304 B; 305 B; 306 A; 310 A;

311 A

For information only:

Design and Access Statement dated September 2021 and Supplementary Architectural Design Statement dated September 2022 Rev E; Heritage Assessment and Supplementary Heritage Note received 11 October 2022.

Case Officer: Kimberley Davies Direct Tel. No. 020 7641

07866036948

### Recommended Condition(s) and Reason(s)

#### Reason:

Because of their design and poor relationship with the existing building, the proposed roof extension and extension of the stair tower would harm the special architectural and historic interest of this grade II listed building. It would also fail to maintain or improve (preserve or enhance) the character and appearance of the St John's Wood Conservation Area, and the setting of the nearby Regent's Park Conservation Area and Grade I Registered Park. The harms identified are not outweighed by the scheme's public benefits. This would not meet Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

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Iter	n No.

CITY OF WESTMINSTER				
PLANNING	Date	Classification		
APPLICATIONS SUB COMMITTEE	8 <sup>th</sup> August 2023 For General Release		ase	
Report of		Ward(s) involved.		
Director of Place Shaping and Town Planning		Currently within Lancaster Gate		
		Pre May 2022- Within Hyde Park, now adjoining.		
Subject of Report	40 Eastbourne Terrace, London, W2 6LG.			
Proposal	Servicing Management Plan and Operational Management Plan for the hotel and restaurant uses, and details of how a no Coach/no group bookings policy will be managed, pursuant to condition 10A (OMP) and 10B (No coach or Group booking policy) and 32 (SMP) of planning permission dated 1 November 2019 (19/03058/FULL)			
Agent	Gerald Eve			
On behalf of	CSHV IUK ET Propco Limited			
Registered Number	22/01773/ADFULL	Date amended/ completed	June 2023	
Date Application Received	16 March 2022			
Historic Building Grade	Unlisted, but a number of designated heritage assets are located in close proximity, including Paddington Station (Grade I) on the opposite side of Eastbourne Terrace, the Hilton hotel (Grade II) located to the front of the station in Praed Street and terraced properties along Westbourne Terrace (Grade II).			
Conservation Area	Outside of, but borders the Bayswater Conservation Area			
Neighbourhood Plan	Not applicable			

## 1. RECOMMENDATION

1. Approve details.

## 2. SUMMARY & KEY CONSIDERATIONS

This report relates to details required by conditions relating to the permission granted by our Planning Applications Sub-Committee in 2019 for the part demolition, extension and alteration of the building in connection with its use as a hotel and restaurant within the Paddington Opportunity Area and Central Activities Zone. In granting planning permission in 2019, it was accepted that the

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development was to be serviced from a loading bay within an enclosed structure, which was also to house a loading bay for the adjacent development at 50 Eastbourne Terrace. It was acknowledged that the development was likely to be serviced by around 15 vehicles per day.

A Servicing Management Plan, Operational Management Plan and details of No coach/No group bookings have been submitted as required by conditions of the 2019 planning permission. The document has been revised a number of times during the course of the application following two resident's meetings to discuss the document and a resident meeting to discuss general Highway matters.

The key considerations in this case are:-

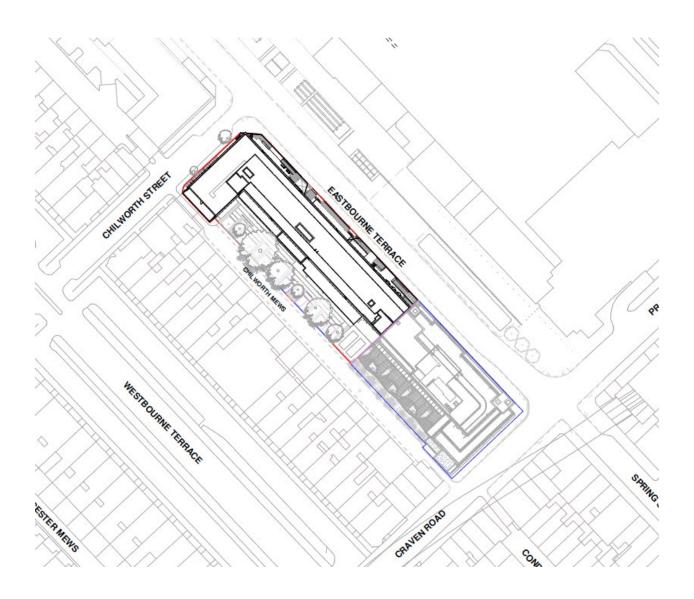
- Whether the Operational Management Plan and No Coach/No group bookings details are
  acceptable in the interests of public safety, to avoid blocking the road and to protecting the
  environment of residents and the area generally, having regard to the approved uses.
- Whether the Servicing Management Plan is acceptable in protecting neighbouring residents from noise nuisance and safeguarding highway safety, having regard to the approved servicing strategy.

Representations of objections have been received by the South East Bayswater Residents Association, Public Residents Active Concern on Transport and residents of Chilworth Mews and Westbourne Terrace. The objections surround the principle of servicing the development via Chilworth Mews, and to the size (height, length and width) of the servicing vehicles and their ability to satisfactorily access Chilworth Mews and the internal loading bay, having regard to the dimensions of the arches at each end of the mews and the width of Chilworth Mews, including due to the new pavement outside the new mews houses and proximity of the existing Mews houses and their pot plants.

Notwithstanding the representations of objection received, the City Council's Highways Planning Officer is satisfied with the servicing strategy for all servicing to occur off street within the designated loading bay, designed for the largest vehicle expected to service the site including refuse vehicles and the vehicle tracking is considered robust with minimal impact on highways users. The commitments and processes of the SMP are welcomed as are the No coach party provision. The OMP is also considered to be acceptable to minimise the impact of the development on residents of Chilworth Mews with minimal pedestrian activity to the rear controlled by the OMP and conditions of the planning permission. Compliance with these documents will ensure the operational impact of the development on the amenities of residents will be minimised.

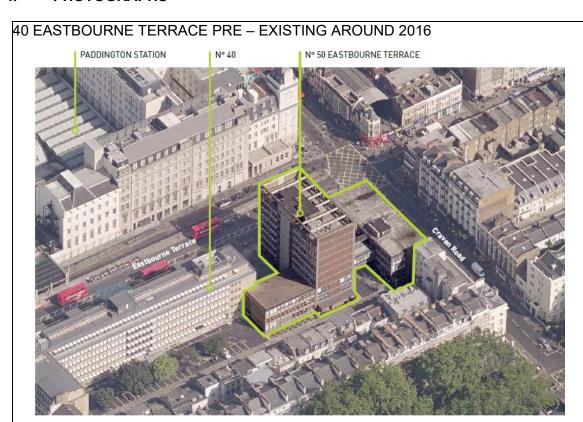
As such officer's consider the application to be acceptable and to meet with the requirements of the relevant conditions. As such a favourable recommendation is given.

## 3. LOCATION PLAN



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## 4. PHOTOGRAPHS





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## 40 EASTBOURNE TERRACE - FRONT - WORKS UNDERWAY



3

## 40 EASTBOURNE TERRACE - REAR FROM CHILWORTH MEWS













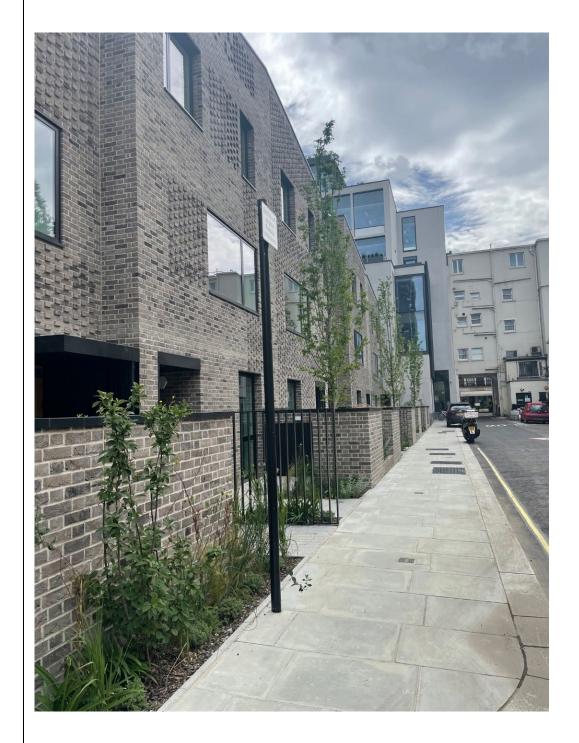
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## CHILWORTH MEWS



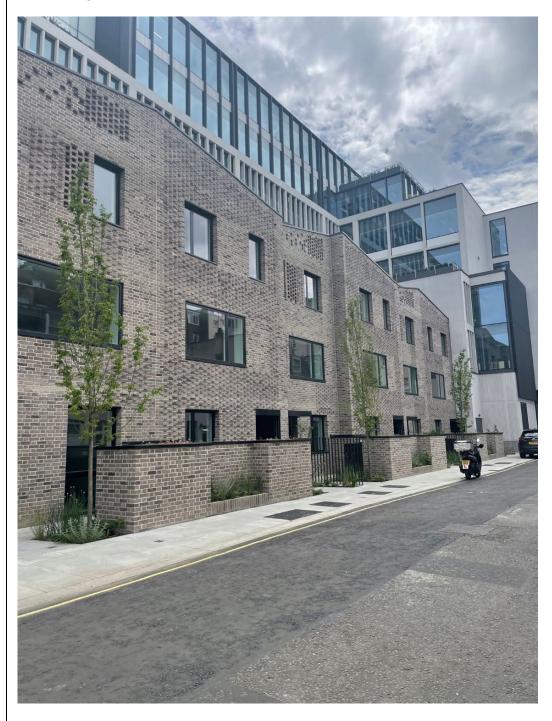


50 EASTBOURNE TERRACE – REAR FROM CHILWORTH MEWS – New Mews Houses and new paving.



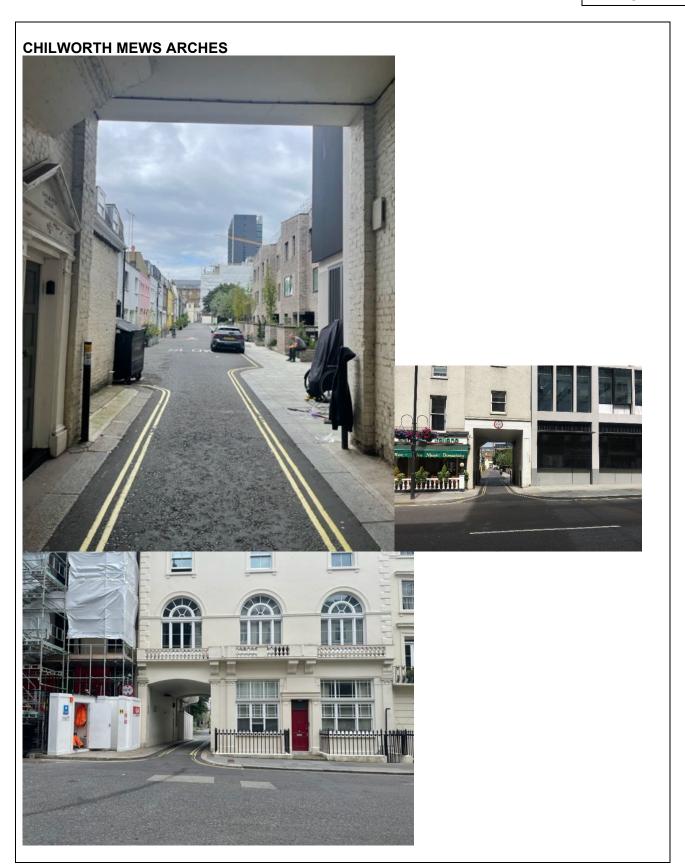
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50 EASTBOURNE TERRACE – REAR FROM CHILWORTH MEWS – New Mews Houses and new paving.



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#### **CONSULTATIONS**

## 4.1 Application Consultations

#### **HIGHWAYS PLANNING TEAM**

No objection

#### WASTE PROJECT OFFICER

No objection

**WARD COUNCILLORS OF LANACSTER GATE** (Following May 2022 elections the site is now within Lancaster Gate Ward).

Any response to be reported verbally.

**WARD COUNCILLORS FOR HYDE PARK** (Councillors for Hyde Park Pre May 2022) Any response to be reported verbally.

# SOUTH EAST BAYSWATER RESIDENTS' ASSOCIATION (SEBRA) Objection.

- Request determination by Committee.
- Determination of application should be deferred until highways matters resolved to improve vehicular flow to and from loading bay, given changes to the layout of the road surface to Chilworth Mews.
- At the time of approval of 50 Eastbourne Terrace, developer undertook to encourage tenants to use smaller vehicles, request that 40 Eastbourne Terrace do the same.
- On reversing vehicles into and out of loading bay, reverse bleepers should be off and white noise reduced, banksmen should be on site.
- Should sanction tenants not in accordance with SMP.
- Vehicle manoeuvres should be able to drive in or out without impinging on the area in front of the existing Mews houses and from either end of the Mews (north or south arch).
- o Slot times for the bays should be sufficient for the number of expected vehicles.
- Query vehicular swept paths, especially if both bays in operation.
- SMP requires risk analysis.
- Has approval been given for high servicing vehicles to pass through the southern arch?
- The new pavement in front of the Mews houses on the north east side of the Mews has narrowed the Mews and reduced the space for reversing movements to get into the servicing area.
- Large vehicles fail the swept path analysis.
- Encroachment to pot plants of Mews properties not acceptable
- Consider making Chilworth Mews one-way.
- Risk of non-resident vehicles being parked in the mews on Sundays and other uncontrolled hours.
- Welcome meetings held as per the requirement of the informative of the main planning permission which expects neighbour liaison on this application.

## PADDINGTON RESIDENTS ACTIVE CONCERN ON TRANSPORT (PRACT) Objection.

- Do no believe the SMP/OMP is workable due to insufficient width, both in the Mews and inside the dual use loading bay and we think a different solution has to be found.
- A test on the ground is needed including a transit van 2.5m wide and including two vehicles being inside the loading area at the same time.
- Severe damage to residential amenity
- Vehicle swept paths fail on all accounts.
- One or are reversing manoeuvre will be needed on both arrival and departure when there are two vehicles in the loading bay.
- Width of transit vans 2.5 wide require additional movements and swept paths for these vehicles should be provided.
- Width constraint within the dual use structure- not enough room for drivers when two vehicles in use.
- Driving out when two vehicles are in inside is problematic.
- Use of the joint servicing bay by long vehicles- swept path analysis not clear
- Swept paths must be specific for various types of vehicles- need it for transit vans.
- A large number of reversals add to delay, to visual intrusion in a previously quiet mews and to noise and air pollution. The risk of infringing on the frontages of the Mews Houses.

## PADDINGTON BUSINESS IMPROVEMENT DISTRICT (BID)

Any response to be reported verbally.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 216

Total No. of replies: Numerous representations from six addresses

No. of objections: Numerous from six addresses, some stating on behalf of the local

residents.

No. in support: 0

## Objections to 40 Eastbourne Terrace SMP/OMP

- The loading bay is insufficient to accommodate the large vehicles.
- Vehicles will need to carry out extra reversing and will impact on the area outside Mews properties.
- Mews is not wide enough to accommodate large vehicles.
- 2.5m wide vehicles require extra turning area
- We need to see swept paths that actually work.
- Insufficient internal space between the two loading bays for each of 40 & 50 Eastbourne Terrace especially for linen trucks.
- Expected deliveries for 40 Eastbourne Terrace is likely to be more which cannot be accommodated within the bay- please restrict.
- Reversing is an issue.

- Comments are applicable for 40 & 50 Eastbourne Terrace
- Already have ongoing problems to 50 Eastbourne Terrace.
- Impact of narrowing of the mews, , loading bay door width of 7m, lack of swept paths for a 2.5m wide van
- The enclosed loading bay arrangements are currently insufficient for the commercial development at 50 Eastbourne Terrace and cannot reasonably have servicing for a 366 bed hotel and sx250 seat full service restaurants added.
- Concurrent servicing for 40 and 50 Eastbourne Terrace cannot be achieved due to insufficient space within the enclosed loading bay.
- No information provided in the SMP to detail how banksmen are intended to monitor the road for waiting vehicles.
- Basic details on how, when and by whom doors and windows on the Chilworth Mews side of the building can be used, should be included in the document.
- Loading bay cannot take a 2.5m wide van.
- Mews has been narrowed and the swept path for vehicles does not work.
- Loading bay is of insufficient size to accommodate the largest vehicle proposed to service the development.
- SMP for 50 Eastbourne Terrace should be reviewed.
- Loading bay is tight and doors will not be able to be closed.
- The rest of the mews should also have a pavement.
- Turntable should be installed.

## Problems with the related servicing of 50 Eastbourne Terrace:-

- Noise, nuisance and disturbance from deliveries to 50 Eastbourne Terrace, delivery drivers parking up and shouting, fire escape left open, fire escape left open, no banksmen. An internal arrangement with cameras is shown above not to resolve the problem, nor will an intercom, which would not resolve the waiting and potentially increase in noise.
- Continued breaches at 50 Eastbourne Terrace, cannot still be teething problemsthe use of Chilworth Mews as part of the servicing area for 50 Eastbourne Terrace continued unchecked.
- Both the BNPRE Banksman responsible for the managing the servicing arrangements today and the delivery driver of the Bywater's vehicle have said to me today that both the servicing processes and provision of space within the loading bay are insufficient for the needs of this development.
- Council is in breach of its duty to seek a resolution to these continuing breaches by failing to acknowledge or implement the potential solutions to the problem put forward by our local community in our face to face meeting with the WCC Highways and Planning Officers on May 19<sup>th</sup>, 2023.
- Suggest reinstatement of loading bay on Craven & removal of controlled hours on the loading bay on the south side of Craven Road. Reinstatement /extension of the hours on loading and unloading in Craven Road would provide necessary waiting and servicing space for 50 Eastbourne Terrace, where the built loading bay has fallen short of requirements.
- The booking system is not being used consistently by tenants and deliveries are turning up and uploading in the road.
- Loading bay attendant continue to accept goods unloaded within Chilworth Mews because delivery drivers change regularly and are not aware of the conditions on the bay.

- Delivery drivers ignore the "no waiting" rule in Chilworth Mews and often will not move when advised that service vehicles must not wait in the residential road.
- The driver of the Bywaters vehicle confirmed that the loading bay is too small safely accommodate 2 vehicles concurrently and that loading bay doors cannot be shut for servicing for vehicles over 7m.
- No station for banksmen to monitor arrivals and waiting whether booked in or casual and no information is provided in the SMP to detail how banksmen are intended to monitor the road for waiting vehicles.
- Approved SMP for 50 Eastbourne Terrace is out of date as does not reflect the loading bay now being within a structure.
- The servicing management arrangements and approach to servicing for 50
   Eastbourne Terrace as approved can no longer be maintained in the shared enclosure. Therefore, this plan needs to be reviewed and amended in conjunction with the other activities in the shared space.

PRESS NOTICE/ SITE NOTICE: No

## 4.2 Applicant's Pre-Application Community Engagement

Our Early Community Engagement guidance sets out expectations for developers with respect to Planning Applications ranging from householder to major applications. It is not generally expected to be undertaken with respect to approval of details applications relating to a permission already granted as often these details relate to technical aspects of a development and are not ordinarily widely consulted upon.

However, in this case, in granting conditional planning permission in 2019, the Planning Applications Sub-Committee attached an informative to the permission advising the developer:-

"With respect to condition 32, you are expected to undertake neighbour liaison as required and set out in the minutes of the Planning Applications Sub-Committee 17.09.2019. Any forthcoming approval of details application pertaining to condition 32 will also be the subject of formal consultation by the City Council with neighbours".

# Residents Meetings to discuss the Approval of Details Application the subject of this report.

Consequently, an in person resident's meeting with the developer took place on 29<sup>th</sup> June 2022 chaired by Councillor Jude, with Ward Councillors, PRACT, SEBRA and the case officer, planning highway's officer, the developer and residents in attendance.

A further meeting (held over Teams) took place on 5<sup>th</sup> June 2023.

## Residents Meeting to discuss Chilworth Mews Highway's Report

As a result of discussions during the first residents meeting, the City Council's City Highways Team undertook to write a report "Chilworth Mews Highways Report" which following circulation to interested parties, resulted in an in person meeting on 19<sup>th</sup> May 2023 to specifically discuss the content of the Highways report. This meeting was chaired by The City Council's City Highways Project & Programme Manager &

Highways Planning Manager, with attendance by Ward Councillors, PRACT, SEBRA, residents, the case officer and planning highway's officer. The outcome of this meeting and any actions is not yet known.

#### 5. WESTMINSTER'S DEVELOPMENT PLAN

## 5.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## 5.2 Neighbourhood Planning

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

## 5.3 National Policy & Guidance

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

#### 6. BACKGROUND INFORMATION

## 6.1 The Application Site

The application site (prior to development) comprised a 1950's office block with curtilage access road and car parking to its rear. Its primary frontage is to Eastbourne Terrace facing the flank of the Grade I listed Paddington Station. It also faces onto Chilworth Street (north) and at the rear (west) to Chilworth Mews, beyond which lies the larger properties on Westbourne Terrace. Chilworth Mews is a public highway and comprises of a terrace of residential mews houses along its western side. To its south is 50 Eastbourne Terrace, previously also an office building, which has recently undergone redevelopment for office, commercial and residential use and is now complete and understood to be partially occupied.

Access to Chilworth Mews is via arched entrances from Chilworth Street and Craven Road and the road, which has no formal footpath (apart from a new stretch of footpath outsde of the new mews houses on the east side of Chilworth Mews) is shared by pedestrians, cyclists and vehicles.

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40 Eastbourne Terrace is not listed and is located outside of a conservation area, although the boundary of the Conservation Area runs down the centre of Chilworth Mews. There are a number of trees within the rear curtilage of the site, which are the subject of Tree Preservation Orders.

In terms of land use designations within the development plan, the site is located within the Paddington Opportunity Area (POA) and the Central Activities Zone (CAZ). Eastbourne Terrace has been the subject of Crossrail works, which has resulted in various closures and diversions of vehicular and pedestrian traffic over the last few years.

## 6.2 Recent Relevant History

#### **40 EASTBOURNE TERRACE**

## **Original Application**

Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). 19/03058/FULL

Application Permitted 1 November 2019

#### 1<sup>st</sup> Non-Material Amendment

A First Non-Material Amendment was agreed on 05.03.2021 to remove reference to the specific number of bedrooms (366) within the development and change the description of the proposal to "Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1)" and to include a new condition to restrict the number of hotel bedrooms to 369. . (21/00688/NMA)

#### 2<sup>nd</sup> Non-Material Amendment

A Second Non-Material Amendment was agreed on 17.05.2021 to amend the wording of condition 26 (tree protection measures) to enable details to be provided in four phases.(21/01953/NMA)

#### 3<sup>rd</sup> Non-Material Amendment

A third Non-Material Amendment was agreed on 09.09.2021 for Replacement of relocated lower ground floor plant rooms with bedrooms; recesses to fire exits removed at lower ground floor level; cycle and bin store relocated within the lower ground floor level; entrance to cycle store relocated at lower ground floor level; 8 windows replaced with 8. inset brick bays at ground floor level; 1 window added at ground floor level on the South Elevation; curtain walling replaced with individual windows on Chilworth Street; windows included within lightwell on Chilworth Street; and certain consented windows replaced with shadow box windows. (21/01110/NMA)

#### 4<sup>th</sup> Non-Material Amendment

A fourth Non-Material Amendment was agreed on 12.01.2022 for Amendments to planning permission dated 01 November 2019 (RN:19/03058/FULL), as amended by non-material amendments dated 05 March 2021 (RN: 21/00688/NMA) and 09

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September 2021 (RN: 21/01110/NMA) for the: Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). NAMELY, to allow the addition of a fire escape door at lower ground level, adjustment of bedroom window positions, fire exit door rotated, and brick wall extended at lower ground level and smoke vent louvres removed at lower ground floor level. (21/07942/NMA)

#### 5<sup>th</sup> Non-Material Amendment

A fifth Non-Material Amendment was agreed on 25.11.2022 for Amendments to planning permission dated 01 November 2019 (19/03058/FULL) for Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). Namely, design changes to hotel back of house; loading bay; changes to refuse provision; change of a window to a door at 4th floor level; relocation of a door at 5th floor level; revision to staircase enclosure.(22/01848/NMA).

#### **Water Tank Application**

Conditional permission was granted on 09.09.2021 for Excavation below existing building to accommodate basement level for water tank relating to the approved hotel planning permission (19/03058/FULL) (21/01170/FULL).

#### PLANNING ENFORCEMENT - RECENT CASES SUMMARY

#### Tree works.

## Alleged breach

Breach of the tree protection plan discharged under application ref;21/07425/ADFULL. Planning enforcement ref; 23/77784/H.

#### Outcome

The City Council's Arboricultural Manager visited site and identified a breach of the protection plan in regard to root severance, lack of monitoring and the storage of materials within the root protection areas of the tree. Warning letters have been issued and meeting held with Gerald Eve to agree remedial action has been agreed. The matter continues to be monitored.

## Fire escape doors

## Alleged breach

Doors adjacent to the loading bay left open in potential breach of condition 27 (doors and windows) of planning permission ref; 22/01848/NMA granted in respect of the hotel development 40 ET. Planning enforcement ref; 23/78502/H. Condition 27 states.

A. The doors (notwithstanding the specific allowances under B and C of this condition) and windows to the rear elevation facing Chilworth Mews shall not be opened or used, except in the case of an emergency and for maintenance.

#### Outcome

Waring letters were issued 3 July 2023 requiring full compliance with Condition 27. The Agent provided a response stating that the doors are being used by security staff in accordance with Condition 27.

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The matter continues to be monitored.

## Alterations to the façade of the hotel

## Alleged breach

Possible unauthorised air vents installed on the western façade of the hotel building. Planning enforcement ref; 23/78287/H

#### Outcome

It was confirmed that these are grilles to support the brickwork to be erected to the facade of the hotel and as such there was no breach of planning control.

#### **50 EASTBOURNE TERRACE**

## <u>The Planning permission for 50 Eastbourne Terrace & associated highways works to Chilworth Mews.</u>

Conditional planning permission was granted for the redevelopment of 50 Eastbourne Terrace in 2016 and varied in 2019 and 2020. The 2020 permission (19/07378/FULL)permitted in February 2020 was for:-

Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the relocation of cycle and refuse storages into defensible zone landscaping along Chilworth Mews; party wall adjustments to incorporate services; amendment to unit mix increasing the provision of family sized dwellings; amendments to facade and roof; to the mews buildings and changes to the ground floor office reception layout and the introduction of an ancillary retail cafe unit (Class A1)

This permission is governed by a Deed of Variation an earlier Deed of Variation dated 10.07.2019 which varied the original S106 legal agreement dated 2016 between the applicant and us under Section 106 of the Town and Country Planning Act 1990 to secure the following planning obligations:

- a) Obligations set out in the original legal agreement 2016:
- i) Provision of car parking on an unallocated basis.
- ii) Highways works surrounding the site necessary for the development to occur, including vehicle crossovers, changes to on-street restrictions and footway repaving.
- iii) Employment and Training Strategy for the construction and operational phases of the development.
- iv) Crossrail planning obligation
- b) Additional obligations: in the Deed of Variation dated 10.07.2019
- i) A financial contribution of £200,437 to the Affordable Housing Fund to offset shortfall in residential floor space on the site.
- ii) A financial contribution of £22,515 to the Carbon Off-Set Fund to offset the shortfall in on-site carbon reduction.

To be paid on commencement of development (definition within S106 legal agreement excludes demolition).

## Approved Servicing Management Plan

Approval on 05.10.2020 of Details of Servicing Management Plan and waste storage pursuant to condition 18 and 24 of planning permission dated 5th February 2020 (RN:19/07378/FULL).( 20/02855/ADFULL)

#### PLANNING ENFORCEMENT - RECENT CASES SUMMARY

# <u>Loading bay (in regard to use by the occupier of 50 Eastbourne Terrace)</u> <u>Alleged breaches</u>

- Deliveries not taking place in loading bay in breach of the approved Servicing Management Plan discharged by application ref; 20/02855/ADFULL and Conditions 18 (Servicing Management plan) and 31 of permission ref; Planning Enforcement case ref; 22/77213/H.
- Deliveries taking place in the loading bay outside of the permitted hours in breach of the approved Servicing Management Plan discharged by application ref; 20/02855/ADFULL and Conditions 18 (Servicing Management plan) and 31 of permission ref; permission ref; 19/07378/FULL. Planning Enforcement case ref; 22/77462/H.
- Noise from the use of loading bay out of hours and noise the storage of waste materials in the loading, in breach of the approved Servicing Management Plan discharged by application ref; 20/02855/ADFULL and Condition 18 (Servicing Management Plan) of permission ref; 19/07378/FULL. Planning Enforcement case refs; 23/77834/H and 23/78349/H.

## Condition 18 states.

Notwithstanding the outline servicing plan submitted, you must apply to us for approval of a detailed Servicing Management Plan in relation to the commercial premises. You must not occupy the commercial premises until we have approved what you have sent us and abide by the terms of the Servicing Management Plan at all times. Condition 31 states:

All servicing must take place from the loading bay shown on the drawings (whether enclosed in a structure or not) and this area shall only be used for this purpose and servicing must only take place between 07.00-20.00 on Monday to Saturday and 10.00-16.00 on Sunday and Bank Holidays. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building.

#### Outcome

Warning letters have been issued in respect of these breaches and the Planning Enforcement Team have continued to monitor the through 2022 and 2023. The alleged breaches identified by residents and as a result of the monitoring of the site by the Planning Enforcement Team have been raised with Freeholders Agent's for investigation and to take the appropriate action to remedy the situation. Given that there continues to be ongoing alleged breaches of planning control in regard to deliveries to 50 Eastbourne Terrace the Planning Enforcement Team are currently

drafting an enforcement report recommending to the Head of Legal Services that formal enforcement proceedings commence with the service of an enforcement notice for breach of the Servicing Management Plan (approval ref; 20/02855/ADFULL) and Conditions 18 and 31 of planning permission ref; 19/07378/FULL.

#### Vapiano Restaurant

## Alleged breach

Commencement of the use of the premises as a restaurant prior to discharge of the Condition 4B (Operational Management Plan) and Condition 10 (Odour Abatement Scheme) of planning permission ref; 22/00672/FULL. Planning Enforcement case refs; 22/77460/H and 23/77732/H.

Condition 4B states;

B. Prior to the use of the retail/restaurant and ancillary take-away and delivery service, you must apply to us for approval of an operational management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings and to minimise any impact in environmental, highways and amenity terms.

The Operational Management Plan must include:-

- Details of staff and capacity, arrival and departure processes, hours of operation.
- Delivery & Click and Collect to remain ancillary to the sit down restaurant.
- Delivery operatives must only attend the site by way of foot, by bicycle or by electrically powered bicycle.
- Delivery operatives must park lawfully.
- No obstruction of the pedestrian or vehicular highway within the vicinity of the site.
- No use of Chilworth Mews at any time
- Litter patrols
- Dedicated restaurant employee to monitor delivery driver compliance with OMP.
- Policy to exclude delivery operatives who fail to comply with OMP.
- Contact for complaints.
- Log of complaints/issues over 12 months from date of first occupation of the restaurant.
- Resubmission of OMP with any necessary refinements/ revisions

You must not start the retail/restaurant and ancillary take away or delivery use until we have approved in writing what you have sent us. You must then carry out the measures included in the approved management plan at all times that the restaurant is in use. Condition 10 states.

A. Prior to the use of the Restaurant on the corner of Craven Road and Eastbourne Terrace for hot food, you must submit for approval a scheme for the prevention of odour nuisance from the kitchen extract ventilation and subsequently install it maintain it.

#### Outcome

On 3 March 2023 the City Council served the relevant parties with both Breach of Condition Notices and Enforcement Notices in respect of breach of Condition 4B and Condition 10.

Condition 4B was later discharged by way of application ref; 22/08590/ADFULL and Condition 10 was later discharged by way of application ref; 23/00964/ADFULL. Therefore, these matters are considered to be closed.

## **Treeology Café**

## Alleged breach

Item	No.

Unauthorised A boards and planters placed on the public highway outside the premises. Planning Enforcement case ref; 23/78121/O.

#### Outcome

A boards and planters have been removed following the issue of warning letters.

#### 7. THE PROPOSAL

This is an Application for Approval of Details reserved by conditions following the grant of planning permission on 01.11.2019 under reference (RN:19/03058/FULL) for the demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). NB. Class A3 has now been replaced by Class E.

Three conditions are sought for discharge:-

- 1. Operational Management Plan for Hotel and Restaurant uses- Condition 10A.
- 2. No Coach/No Group Bookings- Condition 10B
- 3. Servicing Management Plan- Condition 32

#### **Condition 10**

Prior to occupation you must provide to us and we must have agreed:-

- a. An Operational Management Plan for the hotel and restaurant uses.
- b. Details of how you will manage a No Coach/No group bookings policy.
- c. Details of Electric Vehicle charging points for LGV delivery use and the 4 DDA car parking bays.

These plans must thereafter be followed/maintained for the life of the development, unless a revised plan is agreed by us in writing.

**Reason for condition**:- In the interests of public safety, to avoid blocking the road and to protect the environment of residents and the area generally as set out in S41 and S29 of Westminster's City Plan (November 2016) and STRA25, TRANS 2, TRANS23, ENV5, ENV6 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.

#### Condition 32

Notwithstanding the outline servicing plan submitted, you must apply to us for approval of a detailed Servicing Management Plan in relation to the hotel and restaurant premises.

The Servicing Management Plan will include details of the operational safety measures that will be employed to restrict the use of reversing "bleepers" associated with vehicles reversing into the loading bay at 40 Eastbourne Terrace. An associated risk assessment must also be provided.

The Servicing Management Plan will also include confirmation of the maximum permitted vehicle size to be used to service the development, namely 7.5 t vehicle class approximately 8 m in length.

The hotel and/or restaurant must not commence operation until we have approved what you have sent us. You must then operate the hotel and/or restaurant in accordance with the approved Servicing Management Plan at all times.

**Reason for condition:-**To protect neighbouring residents from noise nuisance and to safeguard highway safety, as set out in S24, S29, S32, S41 and S42 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007

## <u>Informative 16 of Planning permission granted on 01.11.2019 under reference:</u> <u>19/03058/FULL.</u>

"With respect to condition 32, you are expected to undertake neighbour liaison as required and set out in the minutes of the Planning Applications Sub-Committee 17.09.2019. Any forthcoming approval of details application pertaining to condition 32 will also be the subject of formal consultation by the City Council with neighbours".

## 1<sup>st</sup> Residents Meeting 29.06.2022.

As encouraged by informative 16, a residents meeting with the developer took place on 29.06.2022 chaired by Councillor Jude, with the case officer and planning highway officer in attendance, along with SEBRA, other Ward Councillors and residents of Chilworth Mews.

The details of the SMP for 40 Eastbourne Terrace were not really discussed, instead discussions focused on the highway works that had been undertaken by the City Council in Chilworth Mews, in particular the installation of a pavement area outside of the seven new Mews houses (which were constructed as part of the redevelopment of 50 Eastbourne Terrace) on the east side of Chilworth Mews towards the southern arch with Craven Road.

Concern was raised that the installation of the pavement had physically reduced the width of this part of Chilworth Mews for vehicular traffic. And, furthermore, the single yellow line was now located adjacent to that pavement, which when a vehicle was parked there, reduced the width of Chilworth Mews even further. Consequently, concerns were raised as to whether the servicing vehicles attending 40 and 50 Eastbourne Terrace, would be obstructed from accessing the joint off-street loading bay and whether vehicles could in fact access the joint off-street loading bay without oversailing "private" land. Residents remain of the opinion that the area of land between the mews houses on the east side of Chilworth Mews and the single yellow line is private land, belonging to the owners of the Mews houses.

It was agreed at the meeting that Highways Planning would request City Highway's to undertake a review of Chilworth Mews with respect to vehicular access to and through the Mews and to consider a number of highways matters raised by those who attended the meeting.

The report was circulated to those who attended the residents meeting on 29.06.2022 and was also placed on the City Council's website for this application as part of a reconsultation exercise.

## The City Highways Report on Chilworth Mews

A summary of the key findings of the report are set out below:-

- Both the southern and northern arches to Chilworth Mews are accessible by the City Council's Refuse and Recycling collection vehicles (26 tonne) and are therefore accessible by a 7.5 tonne vehicle class of approximately 8m in length, which is the maximum size vehicle permitted to service the development.
- The Highway boundary maintainable at public expense is the entirety of Chilworth Mews, to the front building line of the Mews houses on the east side of the Mews and not the location of the yellow line (as disputed by residents).
- An extension to the Controlled Parking Zone (CPZ) is required to install double yellow
  lines to the entire east side of the mews to prevent waiting at any time and to ensure that
  all vehicles, including those servicing 40 & 50 Eastbourne Terrace, Emergency vehicles
  and those accessing garages are not obstructing access along Chilworth Mews.

# <u>Table 1:- Comparison of Servicing hours of 40 & 50 Eastbourne Terrace and Existing Controlled Parking Zone restrictions</u>

NB/ Single yellow line -No parking, but allows loading and unloading within designated times.

Double yellow line – No waiting at any time

Day	M-F	SAT	Sunday	Bank Holidays
Existing CPZ-	08.30-18.30	08.30-13.30	None	08.30-18.30
single yellow				
line East and				
West side of				
the mews				
Servicing	07.00-20.00	07.00-20.00	09.00-16.00	09.00-16.00
Hours				
Servicing	07.00-08.30	0.700-08.30	09.00-16.00	08.30-09.00
hours when	18.30-20.00	13.30-20.00		
no CPZ				
<b>Proposed CPZ</b>				
	i)No waiting at	i) no waiting at	i)no waiting at	i)No waiting at
yellow line to	any time on	any time on	any time on	any time on
east side of	east side	east side	east side	east side
mews				
ii)single		ii)As per		ii)As per
yellow line to	existing	existing	existing	existing
west side of	situation	situation	situation	situation
mews				

## 2<sup>nd</sup> Residents Meeting

A second residents meeting (Via Teams) with the developer took place on took place on 5<sup>th</sup> June 2023 attended by Ward Councillors, SEBRA, PRACT, the developer, the residents of Chilworth Mews, the case officer and planning highway officer. Following discussions over the content of the SMP & OMP (& no coach parties) a final revised

#### 8. DETAILED CONSIDERATIONS

#### 8.1 Land Use

Planning permission has already been granted for the use of the site for hotel and restaurant purposes and development has commenced on site. The applicant has indicated that the Servicing Management and Operational Management Plan has been prepared in connection with Whitbred PLC, the proposed hotel operator. As such, this application does not raise land use issues.

#### 8.2 Environment & Sustainability

Not applicable to this Approval of Details Application.

submission was made, and full consultation carried out.

## 8.3 Biodiversity & Greening

Not applicable to this Approval of Details Application.

## 8.4 Townscape, Design & Heritage Impact

Not applicable to this Approval of Details Application.

## 8.5 Residential Amenity

See assessment under transport section.

## 8.6 Transportation, Accessibility & Servicing

#### **Pre-Existing Servicing Arrangement**

Prior to the commencement of development, the previously existing office building was serviced externally off-street from the rear car park/curtilage area via Chilworth Mews and was unrestricted and unregulated.

The original permission granted permission (by our Planning Applications Sub-Committee) for the hotel development, on the basis that it would be serviced from a new purpose built enclosed loading bay structure also at the rear and accessed via Chilworth Mews. The structure would contain two bays, 1 for this site (40 Eastbourne Terrace) and 1 for the adjacent site (50 Eastbourne Terrace). The loading bay was not to contain a turntable and vehicles would be required to reverse into/out of the loading bay. Servicing hours of 0600-21.00 (with restriction between 08.00-10.00 and 16.00 and 19.00) were originally proposed but were subsequently revised to 07.00-20.00 Monday to Saturday and 09.00-16.00 Sundays and Bank Holidays.

The City Council's Highways Planning Manager was satisfied that the servicing arrangements including the reverse manoeuvres required to access the off-street loading bay were acceptable and did not raise highway concerns. A Servicing Management Plan (SMP) had been submitted which contained overarching principles of how servicing would be managed. However, given the revised hours etc, a revised and simplified SMP was required by condition 32 of the original permission.

## Proposed Servicing Management Plan

A Servicing Management Plan (SMP) has now been submitted with a view to discharging condition 32. This is not an opportunity to revisit the principle of servicing of the site from the rear and the details of that as set out above. The SMP and OMP seek to exert some control over the servicing and operation of the premises so that, for example, the servicing is spread across the day and a large number of vehicles do not all arrive at once.

## The Highway- Chilworth Mews

As part of the approved S106 agreement for 50 Eastbourne Terrace (see history section of this report), there was a requirement for highways works to be undertaken immediately around the building to ensure the area was returned to an acceptable highway standard.

The highways proposals (which included a new pedestrian footway outside the development in Chilworth Mews) were consulted on with residents and local groups in January 2021. Numerous responses were received to the consultation, many of which were incorporated within the design for the scheme. The scheme was approved for implementation via Delegated Authority on 26 February 2021 by the Director of City Highways.

Following commencement of the highways works in late 2021, ongoing communication was received by officers regarding the new footway in Chilworth Mews. Concerns were raised over the apparent inability of vehicles to access garages should the new footway be implemented. It was viewed that the footway would reduce the width of the carriageway affecting turning movement of vehicles. This concern was heightened by the possibility of vehicles parking at the edge of the new footway reducing the width of the carriageway even further.

Swept path analysis was undertaken using standard industry methods based on the new and now current layout and dimensions of Chilworth Mews, inclusive of the new footway. The analysis was undertaken using both an 8m long HGV accessing the new servicing bays within both 40 and 50 Eastbourne Terrace, as well as a large car exiting a garage opposite the location of the new footway with a parked van located opposite. No issues regarding turning movement or access were identified.

The new footway has been implemented flush with the carriageway and so has no raised kerb edge, creating a single surface (similar to the remainder of the mews). The footway has been built to carriageway specification meaning that although vehicles are not permitted to park on the footway, it has been built to withstand vehicle overrun if required.

All highways work relating to the 50 Eastbourne Terrace is now complete.

Several communication chains have been received by officers in response to the consultation on the proposed Service Management Plan (SMP) and Operational Management Plan (OMP) for the development at 40 Eastbourne Terrace. The communications focus on whether Chilworth Mews, which would be used to access the

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off-street servicing bays for both 40 and 50 Eastbourne Terrace, remains suitable to provide vehicular access to the off-street servicing bays following recent highway works (in particular the new pedestrian footway) undertaken in the Mews as part of the development at 50 Eastbourne Terrace. The representations of objection submitted in relation to this application are set out in the consultation section of this report and in the background papers. It should be noted that copies of the several communication chains of emails have not been included to avoid duplication and residents have been made aware of this.

## **Highway boundary**

The western highway boundary of Chilworth Mews is the building line.

The majority of items (e.g., plant pots, furniture) etc have only appeared in the mews post 2016. Previous to that, the mews had limited items outside properties.

In the majority of Westminster, highway will be building/railing line to building/railing line due to the historical nature of the borough. Although all areas are highway, elements such as smoke vents or pavement lights may not be maintained at public expense due to being supporting highway structures (but do still form part of the highway). These areas are not private forecourts. With respect to the yellow lines on Chilworth Mews, these are parking restrictions only, they do not denote the extent of highway. As an example, a street location with a kerb and footway, the yellow line would be painted near the edge of carriageway – as it is an indicator to motorists not pedestrians. In a mews or where there is a single surface, the yellow line is painted as close the edge as possible – this is not also immediately against the building line for a variety of reasons.

## **Vehicle Tracking**

Vehicles, the maximum size which the loading bay can accommodate, can manoeuvre into and out of the off-street loading bays using the carriageway between the single yellow line on the western side of Chilworth Mews and the new single surface footway.

It is agreed that parked vehicles would impact manoeuvring of any vehicle. This would have been the case of the previous building access, as well as mews garage access. A solution could be to alter traffic management order to limit parking and/or loading on sections of carriageway, as previously discussed with residents.

## Servicing Management Plan

It is important to note that decisions to allow both developments at 40 and 50 Eastbourne Terrace to proceed have been taken some time ago and on the basis that servicing will take place from the Mews, with the size of the servicing bays also agreed. The SMP seeks to exert some control over the servicing and operation of the premises so that, for example, the servicing is spread across the day and a large number of vehicles do not all arrive at once.

The Servicing Management Plan, by Steer June 2023 is written as a manual to assist in the operation of the site as to what is allowed and expected . The Plan includes details of the following:-

 The loading area will be managed by the building management team already appointed for 50 Eastbourne Terrace. At the time of submission this is BNPPRE.

- Previous agreed estimated deliveries- 15 per day.
- All deliveries to the site via a loading area within the site boundary.
- No deliveries will be accepted by tenants other than from the designated loading bay provided.
- Booking system- online tenant portal platform available to all building occupiers (half hour slots & no double booking.
- Any repeated failure to comply with the SMP principles, can refuse the delivery of goods from particular suppliers both at the time of infringement and until the reasons for non-compliance are identified and the rules are complied with.
- Maximum vehicle size 8m in length (vehicle class MGV/7.5T), where possible use of smaller vehicles.
- Personal deliveries for individual staff members or hotel guests discouraged.
- Request for vehicles with white noise or broadband reversing alarms, standard bleepers prohibited before 08.00 Monday to Saturday.
- BNPPRE will continue to monitor the usage and operations of the loading bay to ensure that access and egress from the loading bay can occur safely at all times whilst minimising any disturbance to local residents and visitors.
- Servicing and waste management activities must only take place between 07:00 and 20:00 on Monday to Saturday and 10.00-16.00 on Sunday and Bank Holidays as specified in Condition 18 of the planning permission.
- The doors of this enclosure will be kept closed at all times, other than to allow a vehicle to enter or exit the designated loading bays.
- All drivers servicing the site will be required to deliver goods through the service
  access adjacent to the loading bay. An intercom will be provided to the Hotel and
  Independent Restaurant's back of house areas to permit direct contact with
  associated staff if required.
- A "no-idling" policy for all vehicles within the loading bay and all vehicles will be instructed to turn off their engines whilst unloading goods.
- All waste collection will occur via the loading bay provided. The operator will move all
  waste for a particular waste stream to the loading bay area immediately prior to
  collection. They will then return the empty bins to the designated waste store.
- Waste collections will occur daily with all waste collections scheduled to occur during
  the early afternoon where possible to avoid the morning when the loading bay is
  more heavily used for commercial deliveries and also avoid the evening peak for
  traffic on the road network.
- Electrical Vehicle Charging Points will encourage the use of 'green' vehicles by allowing the opportunity for electric goods vehicles and other powered "last mile" delivery vehicles to be charged on site.
- Management of SMP including monitoring and Travel surveys within 6 months of occupation and 3<sup>rd</sup> and 5<sup>th</sup> years.
- Measures to reduce servicing and delivery trips.
- Cycle couriers to use Eastbourne Terrace.
- Operational risk assessment provided.

The Highways Planning Officer has advised that the details are satisfactory. The SMP includes commitment for all servicing to occur off-street within the designated loading bay which has been designed for the largest vehicle expected to service the site. The vehicle tracking is considered to be robust and satisfactorily demonstrates that the maximum size vehicle would be able to enter and exit the loading bay with minimal

impact on other highway users.

Consideration has been given to the ability for vehicles to access the loading bay through the arches at each end of the Mews, taking into account the new pavement. The Mews is considered to remain accessible to all vehicles including the emergency services (Fire Engine) and refuse vehicles and therefore the vehicles expected to service the site are considered to be able to satisfactorily access Chilworth Mews.

Whilst a separate Highways Report and discussions are taking place with respect to potential changes to Chilworth Mews and surrounding roads (Craven Road, Chilworth Street), these are outside the scope of this application and outside the control of the developer/applicant. As such, whilst a request has been made to delay the determination of this application until the outcome of the Highways Report, there is not considered to be justification for this, and the request is therefore considered to be unreasonable.

## Operational Management Plan including No Coach/Group booking.

The Operational Management Plan by Steer June 2023 has been prepared to set out the strategy and approach to operation of the proposed hotel and restaurant. The plan includes details of the following:-

- The main access to the hotel/s will be provided on Eastbourne Terrace. A third
  access point is provided to the rear of the hotel via Chilworth Mews, only for those
  guests that book one of the accessible parking bays provided within the Mews, and
  for staff using the secure cycle parking provided.
- Visitor cycle parking is provided in two areas of the site on Eastbourne Terrace and Chilworth Street. Cycle parking for staff is provided in a new secure facility within the lower level ground floor.
- Occupants of the building at the time of any alarm will escape via fire exits into Chilworth Mews and will muster in Westbourne terrace.
- Staff and guests will only be able to gain access and egress from the hotel in line with conditions 27 & 28.
- The hotel reception and front desk will be staffed 24 hours a day, 7 days a week, to facilitate guest and visitor arrivals and departures. This will be supplemented by a comprehensive CCTV monitoring system.
- The independent restaurant unit will be open as follows:

Sun – Weds 07.00 – 12.00 Thursday – Saturday 07.00 -01.00

- Staff and customers wishing to smoke will be directed to do so on
   Terrace away from the main entrance doors. Suitable cigarette disposal facilities will
  be provided and regularly emptied / maintained by the facilities management team.
  Note staff and customers will not be permitted to smoke to the rear of the building
  within Chilworth Mews.
- There are no taxi facilities provided at the site. Staff or visitors will be encouraged to
  use the existing taxi ranks in the vicinity, particularly at Paddington Station if they
  need a taxi. There is no dedicated drop off facilities however taxis are allowed to
  temporarily stop on Eastbourne Terrace or Chilworth Street to drop off passengers.
  Taxis will not be permitted to use Chilworth Mews to pick up or drop off passengers
  associated with the 40ET development. This will be confirmed to all staff and guests.

- Hotel and restaurant staff will not be permitted to book licensed taxis directly to the
  hotel in order to minimise associated disruption to Eastbourne Terrace; instead, they
  will be directed to proceed to the Paddington Station taxi rank which is a high
  capacity rank situated approx. 200m from the hotel entrance (approx. 2.5 minutes'
  walk).
- Any tour operators or similar entities contact the hotel to request access for a coach
  party they must be made aware that the hotel cannot accept large parties arriving by
  coach. They would be told that other transport arrangements must be made (for
  example using the many public transport options at Paddington Station) should they
  wish to make a reservation.
- The hotel will be staffed 24 hours a day.
- A private, direct contact telephone number will be made available to local residents and businesses to enable them to contact the hotel management directly, should they have cause for concern.

The OMP is sufficiently detailed and provides a working document for the operator to ensure that operation of the hotel and restaurants minimise their impact on their neighbours. The document references conditions of the Planning permission, that provide additional safeguards for residents of Chilworth Mews and directs most activities to Eastbourne Terrace. As such, the OMP is considered to be acceptable and subject to compliance should ensure that the amenities of residents of Chilworth Mews are protected.

## 8.7 Economy including Employment & Skills

Not applicable to this Approval of Details Application

#### 8.8 Other Considerations

## Construction

The development site is currently subject to the Council's Code of Construction Practice (CoCP). It is a written code of standards and procedures that developers and contractors must adhere to. The purpose of the CoCP is to monitor, control and manage construction impacts throughout Westminster. It applies to all major development sites (among others). Its aim is to manage the environmental impacts of construction projects and identify main responsibilities and requirements of developers and contractors. Construction sites are inspected and monitored by Environmental Sciences and Highways Officers to ensure that contractors and sub-contractors comply with the requirements of the Code. Contractors are required to inform neighbours about key stages of the development. They must also provide contact details to allow complaints to be raised and notify the council of any complaints.

#### **50 Eastbourne Terrace**

As can be seen from the history section of this report, there have been a number of breaches of planning control associated with 50 Eastbourne Terrace and these are all being dealt with by our Planning Enforcement Team.

#### 8.9 Environmental Impact Assessment

Not applicable to this Approval of Details Application

## 8.10 Planning Obligations & Pre-Commencement Conditions

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

#### 9. Conclusion

The Servicing Management Plan and Operational Management Plan (including No coach parties) by Steer June 2023 is considered to provide an added layer of control over the operation of the site. The details provided as summarised in bullet point above are considered to be satisfactory and together with other planning conditions will minimise the impact of the operation in highways, environmentally and residential amenity terms. The objections raised by SEBRA, PRACT and local residents are not supported by officers.

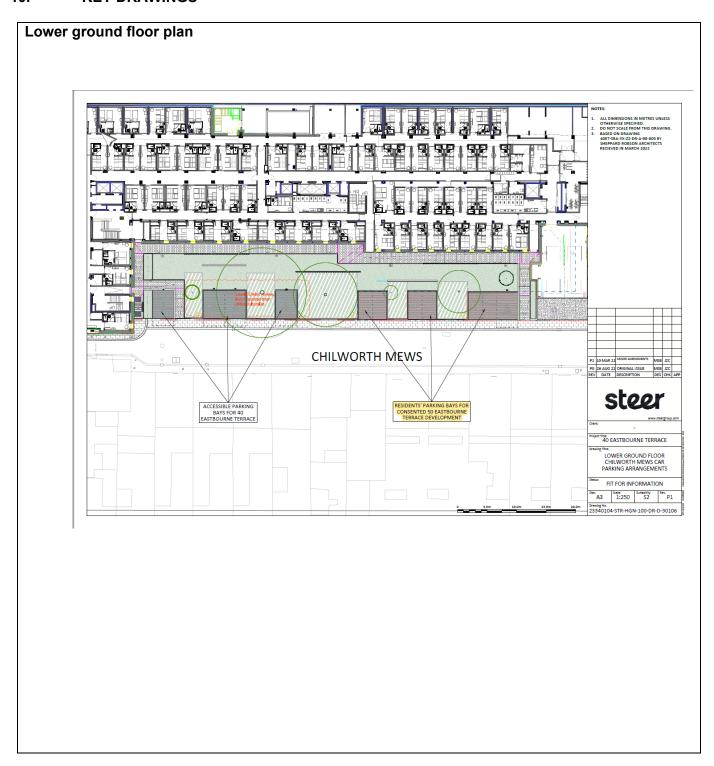
The requested changes to the highway noted in this report are currently subject to consideration by the City Council's, City Highways Team and are outside of the control of the developer. As such, it is unreasonable to withhold making a determination of this application on that basis. In conclusion, subject to compliance with the SMP, OMP and No coach party document, the use should be able to be operated satisfactorily.

Representations have cited the ongoing problems at the adjoining site at 50 Eastbourne Terrace and their lack of compliance with their approved SMP, notably the requirement to service off-street within their approved loading bay. And on this basis, they state that the SMP for 40 Eastbourne Terrace does not work and should not be approved, there is not considered to be any reason why that operator cannot comply with their approved SMP, its content is very similar to other operators throughout Westminster. As such continued non-compliance is likely to result in enforcement action being taken. The breaches at this adjoining site are not considered to give reason to refuse this application. The document meets the requirement of the conditions and is sufficiently detailed. The development is not yet complete or operational. However, the expectation is that the operator will comply with the SMP/OMP they themselves have submitted. The fear of non-compliance with the SMP/OMP does not justify withholding permission.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT, PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT swhitnall@westminster.gov.uk.

## 10. KEY DRAWINGS



#### DRAFT DECISION LETTER

**Address:** 40 Eastbourne Terrace, London, W2 6LG,

**Proposal:** Servicing Management Plan, Operational Management Plan for the hotel and

restaurant uses, and details of how a no Coach/no group bookings policy will be managed, pursuant to condition 10A (OMP) and 10B (No coach or Group booking

policy) and 32 (SMP)of planning permission dated 1 November 2019

(19/03058/FULL).

**Reference:** 22/01773/ADFULL

**Plan Nos:** 40 Eastbourne Terrace Servicing Management Plan and Operational Management

Plan June 2023 ref: 23340101.

Case Officer: Sarah Whitnall Direct Tel. No. 020 7641

07866036375

Recommended Condition(s) and Reason(s)

## Informative(s):

- This permission fully meets condition(s) 10A, 10B and 32 of the planning permission dated 1 November 2019 (19/03058/FULL). (I11AA)
- 2 Failure to comply with the Servicing Management Plan & Operational Management Plan may result in us taking legal action to stop any breach of planning of condition.

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	Date	Classification For General Release			
APPLICATIONS SUB COMMITTEE	11 July 2023				
Report of		Ward(s) involved			
Director of Town Planning & Building Control		St James's			
Subject of Report	35 The Market, Covent Garden, London, WC2E 8RF				
Proposal	Use of an area of public highway measuring 6.5m x 10.5m for the placing of 26 tables, 52 chairs, 10 stools, 13 planters, 2 parasols, external bar area, service station and associated works in connection with Sushi Samba for a temporary period until 24 March 2024.				
Agent	Mrs Giuditta Martello				
On behalf of	Mr G Martello				
Registered Number	22/07788/FULL	Date amended/ completed	16 November 2022		
Date Application Received	16 November 2022				
Historic Building Grade	The Market Building is Grade II*				
Conservation Area	Covent Garden				
Neighbourhood Plan	Not applicable				

## 1. RECOMMENDATION

Grant conditional planning permission.

## 2. SUMMARY & KEY CONSIDERATIONS

This application seeks permission to continue placing tables, chairs, planters, two parasols, an external bar and a service station in the north east corner of the Covent Garden Piazza, in connection with Sushi Samba restaurant which is located within the Grade II\* Market Building. Outside of trading hours the bar is to be covered and the parasols closed and kept on the piazza.

Planning permission was originally granted for this outdoor dining area in December 2020. The report associated with that permission explained that the items are harmful to heritage assets and the functioning of the highway, but because of the economic challenges created by the COVID-19 pandemic, the assistance the proposal provided to economic recovery outweighed those harms and permission was granted on a temporary basis until December 2022.

The key issues in this case are:

• The impact of the proposal on the setting of the Grade II\* listed Market Building, and on the

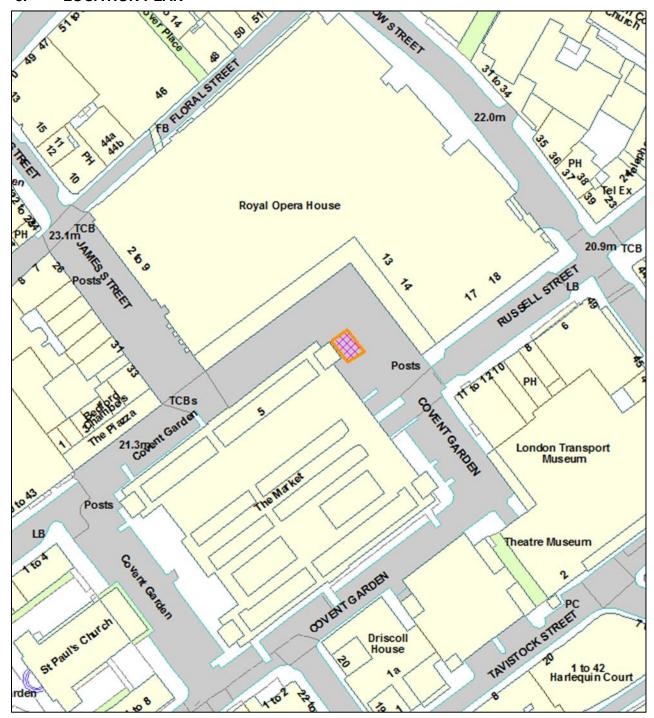
character and appearance of the Covent Garden Conservation Area; and

• It's impact on the pedestrian environment.

The Covent Garden Area Trust have raised a strong objection to the proposal on heritage grounds and fear that granting the external trading area for another temporary period will de facto make the arrangement, and its harmful impacts, permanent.

The proposal is considered harmful in heritage and townscape terms and the keeping of some items on the Piazza out of hours has a harmful impact on the highway. However, the proposal is recommended for approval for a further temporary period until March 2024 so that its authorisation will expire at the same time as other similar external trading areas on the piazza that have been authorised over the previous two years, during the pandemic, and which cause a similar degree of harm as this proposal (notably 27B The Market in the south east corner, which has been authorised until 24 March 2024). This approach is considered appropriate and reasonable to allow a strategic approach to be taken in respect of commerce in the public realm on this side of the Covent Garden Piazza.

## 3. LOCATION PLAN



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## 4. PHOTOGRAPHS





#### 5. CONSULTATIONS

## 5.1 Application Consultations

#### **COVENT GARDEN AREA TRUST**

Raise an objection. The previous permission was granted for a temporary period of two years only to help businesses during the COVID-19 pandemic. The Committee report for the previous application set out that the arrangement would be unacceptable as a long-term installation, due to its impact on the setting of the Grade II\* listed market building. The renewal of the permission will render the installation permanent in all but name.

The existing set up, for which renewal is requested, is an extension of the business internal space as opposed to a traditional alfresco dining area. The large, heavy, intrusive barriers, when combined with the parasols above, create an indoor-like space which is reinforced by the presence of the large external bar. The sheer size and dominance of the furniture and structures are wildly inappropriate and heavily impact upon the setting of the Grade II\* listed market building and the character and appearance of the piazza and Covent Garden Conservation Area, contrary to Policy 39 of Westminster's City Plan, sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and paragraph 192 of the NPPF.

## COVENT GARDEN COMMUNITY ASSOCIATION

Any response to be reported verbally.

#### HIGHWAYS PLANNING MANAGER

Objection. The proposed development does not secure an improved highway environment for pedestrians.

## WASTE PROJECT OFFICER

No objection.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 89 Total No. of replies: 0

#### PRESS NOTICE/ SITE NOTICE:

Yes

### 5.2 Applicant's Pre-Application Community Engagement

The Council expects that new and emerging development proposals will be shared with local communities through open, transparent, inclusive, and responsive community engagement that occurs at the earliest possible stage. We published our Early Community Engagement guidance in February 2022 to support applicants and developers to deliver best practice community engagement in Westminster on emerging development proposals.

As this application is for the renewal of a previously approved temporary development, there is no obligation for the developer to carry out pre-application community

engagement in this instance, nor has any been carried out to the knowledge of officers.

#### 6. WESTMINSTER'S DEVELOPMENT PLAN

#### 6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## 6.2 Neighbourhood Planning

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

## 6.3 National Policy & Guidance

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

## 7. BACKGROUND INFORMATION

## 7.1 The Application Site

The application site is a paved (cobbled) area directly to the east of the Covent Garden Market Building, which is a Grade II\* listed building. The area is outside a commercial premises (Use Class E) used as a restaurant. It is currently operating as Sushi Samba. The site is located in the Covent Garden Conservation Area and lies within the West End Retail and Leisure Special Policy Area.

## 7.2 Recent Relevant History

At subject site

On 2 December 2020, the Council granted permission for use of an area of public highway measuring 6.5m x 10.5m for the placing of 26 tables, 52 chairs, 10 stools, 13 planters, 2 parasols, external bar area, service station and associated works including

installation of new services below existing cobbles and pavement cover in connection with Sushi Samba (RN: 20/03408/FULL). The permission was temporary for a two-year period that expired in December 2022.

#### At 27B The Market

On 24 March 2022, the Council granted permission for use of 3 areas of public highway measuring 7.1m x 7.1m, 7.3m x 8.8m and 6.3m x 8.8m for the placing of 108 chairs, 24 tables, planters, windscreens, 5 parasol bases and new services below existing cobbles, installation of external service station, placement of waiter stations, external alterations to existing window in south elevation, and associated works (RN: 21/03975/FULL). The permission is temporary for a two-year period that expires 24 March 2024.

#### 8. THE PROPOSAL

The applicant proposes to place 26 tables, 52 chairs, 10 stools, 13 planters, 2 parasols, an external bar area and a service station on the paved/cobbled area in front of the north-east corner lodge of the Covent Garden Market Building. This is a renewal of the previous, now expired, planning permission dated 2 December 2020 (RN 20/03408/FULL).

The waiter station and tables and chairs will be stored within the external bar outside of opening hours (fully covered and locked), with the planters and any excess tables chairs stored within the restaurant premises in the Market Building. The two parasols will be retracted but kept in place outside out of hours.

## 9. DETAILED CONSIDERATIONS

## 9.1 Land Use

Policy 1 of the City Plan sets out Westminster's spatial strategy. This involves (at Part A6) supporting town centres and high streets, including centres of international importance such as the West End, to evolve as multifunctional commercial areas to shop, work, and socialise and, (at Part A7) protecting and enhancing the city's unrivalled heritage assets (including their settings), and townscape value.

Policy 2 of the City Plan sets out the spatial development priorities for the West End Retail and Leisure Special Policy Area (WERLSPA) including: (Part B) an improved retail and leisure experience that responds to innovation and change in the sector; (Part E) an enhanced pedestrian environment, public realm, and network of public transport infrastructure; and, (Part F) protection of the unique character of central London's distinct and iconic places and heritage assets.

Policy 14 of the City Plan sets out the approach to be taken for development in town centres and high streets. At Part A, Policy 14 requires proposals in existing town centres and high streets to enhance and diversify their offer as places to shop, work and spend leisure time. At Part C, it requires development within the town centre hierarchy to be of a scale, type and format that reflects and enhances the role and function of the centre within which it is proposed. In the WERLSPA this means a wide mix of commercial uses

that support the West End's role as a retail, employment and cultural hub, and as a centre for the visitor, evening and night-time economy.

Policy 43 of the City Plan requires development to contribute to a well-designed, clutter-free public realm with use of high quality and durable materials capable of easy maintenance and cleaning, and the integration of high-quality soft landscaping as part of the streetscape design. It also sets out that proposals for trading from premises extending into the street (including provision of tables and chairs on the highway) will be supported where they would not: 1. harm local amenity; 2. compromise pedestrian movement or traffic conditions; and, 3. impede refuse storage and street cleansing arrangements.

Considering the above policies, the proposed tables and chairs should be supported in land use terms unless they are considered to have unacceptable impacts on Westminster's heritage assets (including their settings) and townscape value, pedestrian environment, or local amenities.

## 9.2 Environment & Sustainability

Not applicable.

## 9.3 Townscape, Design & Heritage Impact

## Legislative & Policy Context

The key legislative requirements in respect of considering this proposal's effects on designated heritage assets are as follows:

Section 66 of the LBCA Act requires that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Section 72 of the LBCA Act requires that "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

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

Policy 34 of the City Plan protects the quality, heritage and ecological value, tranquillity and amenity of open spaces in Westminster. Paragraph 34.5 sets out that this means

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that development on open space must be essential and clearly ancillary to maintaining or enhancing the values of the open space.

Policy 38 of the City Plan requires development to positively contribute to Westminster's townscape and streetscape, having regard to the character and appearance of the existing area, adjacent buildings, heritage assets, the spaces around and between them and the pattern and grain of existing streets, squares, mews and passageways.

Policy 39 of the City Plan requires development to ensure heritage assets and their settings are conserved and enhanced in a manner appropriate to their significance, with development in the settings or affecting views of listed buildings being required to take opportunities to enhance or better reveal their significance. It also requires development in or affecting the setting of conservation areas to preserve or enhance the character and appearance of those conservation areas.

Policy 40 of the City Plan sets out that spaces and features that form an important element in Westminster's local townscape or contribute to the significance of a heritage asset will be conserved, enhanced and including important architectural details, boundary walls and railings, historic roof forms or structures, open lightwells, historic or characteristic shopfronts and street furniture, as well as squares, parks and gardens.

Policy 43 of the City Plan requires development to contribute to a well-designed, clutterfree public realm with use of high quality and durable materials capable of easy maintenance and cleaning. Additionally, this policy resists additional kiosks or other structures for the display and sale of goods outside of a market.

The Covent Garden public realm framework (February 2022), while not forming a part of the development plan itself, has been produced with current planning policies in mind and presents a vision and design principles to improve the public realm in Covent Garden.

#### Impact on Heritage Assets and Townscape

The Covent Garden Area Trust have raised an objection on the grounds that renewing this permission would effectively begin a biennial renewal process that would make the placement of these items in the setting of the grade II\* Covent Garden Market Building permanent in all but name. Their objection also raises that the Council found the existing scheme harmful in heritage terms and only approved it for a limited period in order to help business in the aftermath of the COVID-19 pandemic.

As explained in the committee report relating to the original December 2020 permission that allowed the layout of items, although they have no physical impact on any historic fabric, the siting and design of the external bar and waiter stations, tables and chairs, and parasols on the Piazza in such close proximity to the Market building causes less than substantial harm to the setting of the grade II\* listed Market building and the character and appearance of the Covent Garden Conservation Area.

The harmful impact upon the setting of the Market building principally arises in views when approaching it from Russell Street and from vantage points at the eastern end of the Piazza. The two large parasols covering tables and chairs, when up, limit

appreciation of the upper storey of the building. Restricting the visual openness of the Piazza and the appreciation of the listed building at its centre also harms the character and appearance of the Coven Garden Conservation Area.

Street clutter is defined (in Policy 28 of the City Plan) as unnecessary structures such as signs, railings, street lighting, road markings and advertising hoardings. The tables and chairs, when in use, do not count as clutter as they would contribute beneficially to the vibrancy of the area. However, any unnecessary structures provided in connection to the tables in chairs or any structures left in the public realm at times where the tables and chairs are not in use would constitute street clutter.

The bar and serving station would not be removed at night, but rather would be consolidated externally which would involve the waiter station and tables and chairs being stored inside the bar, with the remainder of the tables and chairs and planters stored inside at ground floor level. The two large parasols would also not be taken down outside out trading hours. Hence much of the proposal is street clutter and therefore harmful in townscape terms.

The Covent Garden Piazza is more than a strategic retail destination, it is one of the most iconic, historic and visited open spaces in London. The proposals are neither essential nor ancillary to the maintenance or enhancement of the Piazza as an open space and, indeed, would undoubtedly serve to detract from these values.

The external and unmoving presence of this bar would make it appear permanent even if it is not permanently affixed to the Piazza. Policy 43 of the City Plan resists all additional kiosks in the public realm. The bar structure would appear as a kiosk during operating hours and street clutter outside of these times.

As a long-term installation in the Piazza, the proposals are unjustifiable and would have an unacceptable impact on the setting of this important building, the townscape qualities of the Piazza and the Covent Garden Conservation Area. They would be contrary to Policies 34, 38, 39, 40 and 43 of the City Plan and their ongoing presence would increase the harm. It would also be inconsistent with the vision set out in the Covent Garden Public Realm Framework which in part seeks improvements to al fresco dinning by ensuring a seasonal approach and ensuring obstructions and clutter is minimised.

However, there are similar temporarily consented structures on the same side of the Piazza as the subject site, notably at 27B The Market (approved under planning permission dated 24 March 2022). Much like the previous permission at the subject site, the structures on the Piazza outside 27B The Market were permitted in the context of post-pandemic economic recovery. That permission expires on 24 March 2024. Limiting the period this installation is put up reduces the degree of less than substantial harm to heritage assets, and considering the public benefit the installation has in economic terms during the post-pandemic recovery period, the public benefits in the 27B The Market case were considered to outweigh the harm.

Given this context, and to allow a strategic approach to be made in respect of protecting the relevant heritage assets and the open townscape of this side of the Piazza, it is recommended that this application be granted for a limited period that aligns with the extant permission at 27B The Market (24 March 2024). This will reduce the degree of

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less than substantial harm such that it is outweighed by public benefits that arise from helping this business to operate in the manner they propose in these challenging economic times (see section 9.5) and by allowing customers to use the installation. In March 2024, the operators at both sites will have the opportunity to coordinate with each other and the Council to revise their exterior furniture arrangements in such a way that will minimise harm to the relevant heritage assets, while also allowing for al fresco dinning to continue in this location which contributes to the vitality and vibrancy of the area – this will also ensure the installation and can better accord with the published Covent Garden Public Realm Framework.

# 9.4 Residential Amenity

Policy 7 of the City Plan requires development to ne neighbourly by protecting and where appropriate enhancing amenity and local environmental quality.

Policy 43 of the City Plan sets out that proposals for trading from premises extending into the street will be supported where they do not harm local amenity.

The Council's records show that the nearest residential property is located on the upper floors of 10 Russell Street (approx. 50m away). The proposed hours of operation are 10:00 - 23:00 Monday to Saturday and 12:00 -22:30 on Sundays. This is recommended to be secured by condition. A recommended condition also ensures that no amplified music will be played in the outdoor seating area to ensure residential amenities are protected and the general noise environment of the area is not unacceptably worsened.

Given the site is located in a busy central London location and the use of this external area will be limited by these conditions, the proposals are considered to be acceptable in amenity terms.

# 9.5 Highway and Pedestrian Impact

Policy 25 of the City Plan sets out that development must prioritise and improve the pedestrian environment and contribute towards achieving a first-class public realm.

Policy 28 of the City Plan sets out that, given the increasing demands on existing highway space, the council will resist loss of highway land, particularly footways.

As mentioned previously, Policy 43 of the City Plan resists development for trading from premises into the street where they compromise pedestrian movement or impede refuse storage and street cleansing arrangements.

The Westminster Way is a Supplementary Planning Document that is a material consideration in planning decisions relating to development in the highway or public realm in the City. It sets out guidance for all development in the public realm.

The Council's Highways Planning Manager reiterates their objection to the layout, raising the same concerns they set out in relation to the previous application in 2020. They object to the proposal due to its impacts on the pedestrian environment.

While parts of Covent Garden Piazza are highway maintained at public expense, the area that the tables, chairs and other items seeking planning permission here are placed on is not. This area is a part of the Piazza is owned and maintained by Shaftesbury Capital, owners of the Market Building and other surrounding buildings. The area it is still nonetheless highway.

The Highways Planning Manager notes highway is often in the ownership of adjoining landowners and that if pedestrians have passed over an area for 20 years without restriction, then that land will be part of the public highway under the Highways Act 1980.

The primary function of the highway is the free and unobstructed movement of the highway users. This includes pedestrians, motorists' and cyclists. Secondary functions can be considered those that relate to the primary function (e.g. parking of vehicles, provision of cycle parking, and bus stop facilities). Tertiary functions of the highway are those that need not occur on the highway and include table and chairs and queuing space for premises. Therefore, the priority is given to pedestrian movements.

The waiter station and tables and chairs will be stored within the external bar outside of opening hours (fully covered and locked), with the planters and any excess tables and chairs stored internally at ground floor level.

The Highways Planning Manager has raised no objection in principle to the proposed tables and chairs as they are temporary furniture that can be removed from the highway outside of operational hours. However, objection is raised to the items that will remain on the highway outside of operational hours. Although the bar is on wheels, it will be a permanent fixture on the street and will obstruct pedestrian movements without providing the vibrancy and vitality that justifies the presence of these structures' on the highway during operational hours.

Accordingly, the keeping of furniture and equipment on the highway outside of operational hours is contrary to Policy 25 and our Westminster Way SPD.

However, as discussed above, it is considered reasonable to grant permission for this arrangement for a temporary period (up to the point that the authorised similar arrangement at 27B The Market that expires in March 2024). This will ensure the negative impact on the highway is temporary, while allowing the benefits of the scheme. This will also allow the council to re-assess the proposals for the placing items on the highway on this side of the Market Building in a holistically and improved manner in the future.

# Waste and cleansing

The Council's Waste Project Officer has raised no objection to the proposals as the area is not maintained or cleaned by the Council.

# 9.6 Economy

Businesses in the West End are continuing their post-pandemic recovery, and while the

situation is much improved since pandemic restrictions were in place, continued support for businesses will help them thrive and help the West End continue to attract visitors from around the world in a period when new economic challenges have arisen. The extending of trading from the restaurant premises into the highway adds to the diversity, vitality and vibrancy of the area, thereby improving the area's economic offer. The restaurant provides employment, and expanding into the public realm allows businesses to attract more customers and thereby allow them to continue to provide this employment.

#### 9.7 Other Considerations

None.

#### 9.8 Environmental Impact Assessment

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

# 9.9 Planning Obligations & Pre-Commencement Conditions

Planning obligations are not relevant in the determination of this application and no precommencement conditions are recommended.

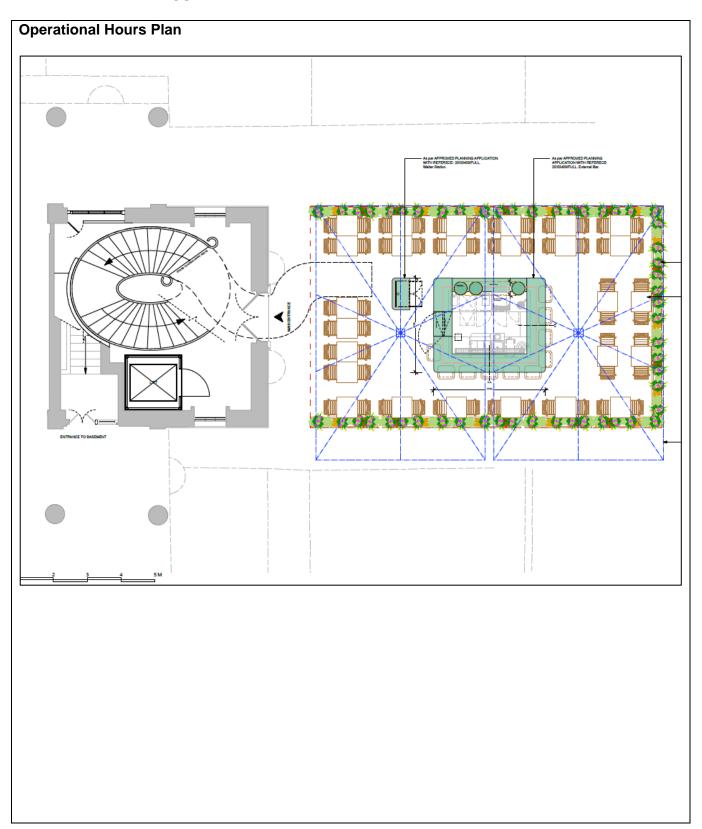
# 10. Conclusion

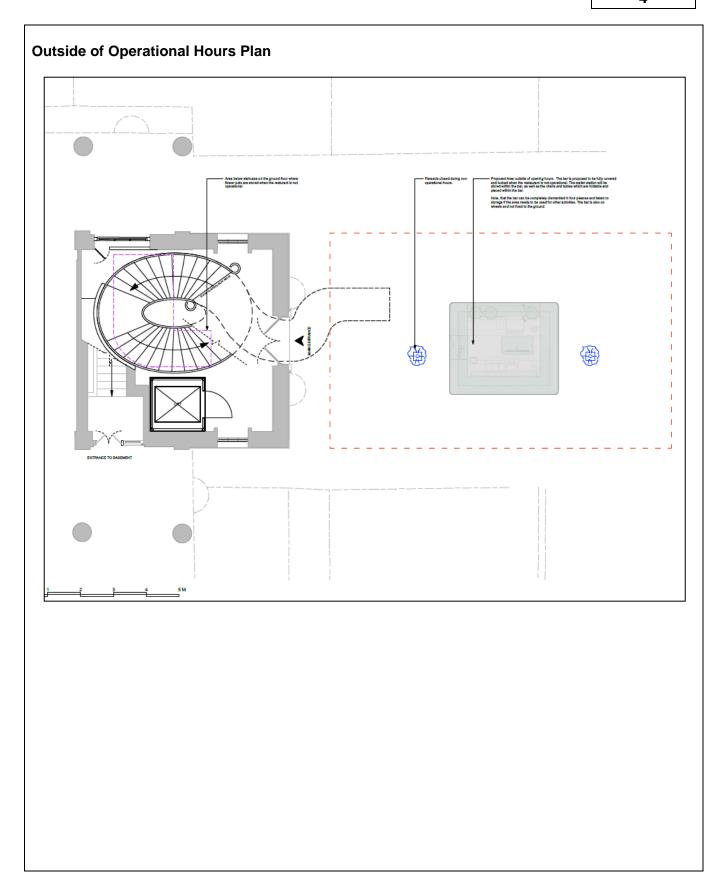
While being mindful of the proposals' harmful impacts on heritage assets and the pedestrian environment, subject to a condition to ensure that the installation is temporary until 24 March 2024, to align with the installation of tables, chairs and other items on the Piazza outside 27B The Market, and given the likely benefits to the vitality and vibrancy of the area, thereby improving the area's economic offer, it is recommended that conditional permission is granted.

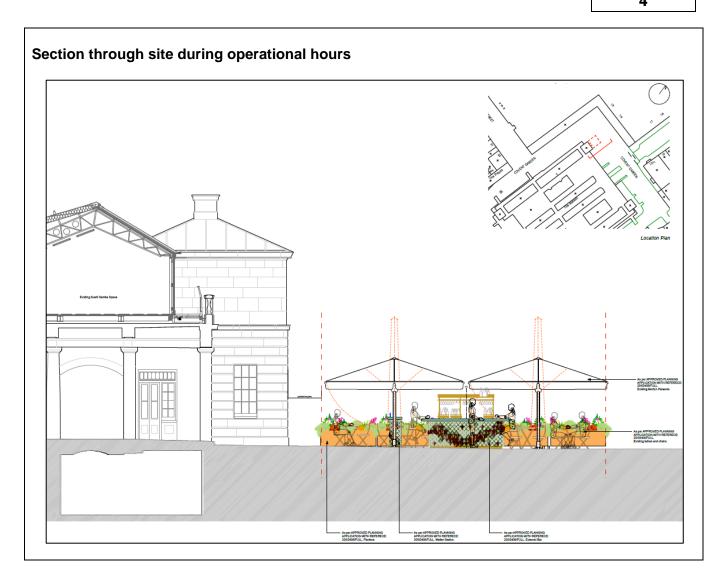
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JULIA ASGHAR BY EMAIL AT jasghar@westminster.gov.uk

# 11. KEY DRAWINGS







#### DRAFT DECISION LETTER

Address: 35 The Market, Covent Garden, London, WC2E 8RF

**Proposal:** Use of an area of public highway measuring 6.5m x 10.5m for the placing of 26

tables, 52 chairs, 10 stools, 13 planters, 2 parasols, external bar area, service

station and associated works in connection with Sushi Samba.

Reference: 22/07788/FULL

**Plan Nos:** 2022(00)001; 2022(02)100 Rev A: 2022(02)101; 2022(02)200 Rev A.

Case Officer: Max Leonardo Direct Tel. No. 07817095744

# Recommended Condition(s) and Reason(s)

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.

Only the waiter station, bar, parasols, tables and chairs and other furniture shown on drawing numbers 2022(02)100 Rev A and 2022(02)101 shall be placed on the Piazza.

The waiter station, bar, parasols, tables and chairs and other furniture shall only be placed on the Piazza in accordance with the position shown on drawing no. 2022(02)100 Rev A between 10:00 hours and 23:00 hours Monday to Saturday and 12:00 hours and 22:30 hours on Sundays; and in the position shown on drawing number 2022(02)101 between 23:00 hours and 10:00 hours Monday to Saturday and 22:30 hours and 12:00 on Sundays.

#### Reason:

In the interests of public safety, to avoid blocking the road and to protect the setting of the Grade II\* Covent Garden Market Building and the character and appearance of the Covent Garden Conservation Area as set out in Policies 25, 39 and 43 of the City Plan 2019-2040 (April 2021).

This use of the piazza may continue until 24 March 2024. You must then remove the waiter station, bar, parasols, tables and chairs and other furniture hereby approved.

#### Reason:

Allowing the proposals on a permanent basis would cause harm to the setting of the Grade II\* Covent Garden Market Building and the character and appearance of the

Covent Garden Conservation Area, which would not meet Policy 39 of the City Plan 2019-2040 (April 2021). We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets Policies 25 and 43 of the City Plan 2019-2040 (April 2021). For the above reasons, we can therefore only grant a temporary permission.

The tables and chairs, bar and other furniture must only be used by customers of Sushi Samba (Unit 35, The Market, Covent Garden, WC2E 8RF). (C25CA)

#### Reason

In the interests of public safety and to avoid blocking the road as set out Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021). (R25AD)

You must make good the works to the piazza and reinstate the cobbles in their existing arrangement on the removal of the waiter station, bar, parasols, tables and chairs and other furniture hereby approved.

#### 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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

6 No amplified music shall be played in the outdoor seating area.

#### Reason:

To protect neighbouring residents from noise and disturbance as set out Policies 7, 33 and 43 of the City Plan 2019 - 2040 (April 2021). (R25BE)

#### Informative(s):

- In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You cannot put tables and chairs in the area unless you have a street trading licence, which can

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be applied for at the following link: www.westminster.gov.uk/tables-and-chairs-licence.

If you want to know about the progress of your application for a licence, you can contact our Licensing Service by email to streettradinglicensing@westminster.gov.uk. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter.

Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times.

3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

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 5

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CITY OF WESTMINSTER				
PLANNING	Date	Classification		
APPLICATIONS SUB COMMITTEE	08 August 2023	For General Release	ase	
Report of			Ward(s) involved	
Director of Town Planning 8	Building Control	West End		
Subject of Report	16 Bourdon Street, London, W1	К 3РН		
Proposal	Use of the ground floor as a retail unit (Class E(a)), alterations to the ground floor front elevation including the installation of a louvre to serve an air conditioning unit, and internal alterations.			
Agent	GRA Architecture and Interiors Ltd.			
On behalf of	Grosvenor West End Properties Ltd.			
Registered Number	22/07219/FULL and 22/07220/LBC	Date amended/ completed	26 October 2022	
Date Application Received	26 October 2022			
Historic Building Grade	II			
Conservation Area	Mayfair			
Neighbourhood Plan Mayfair Neighbourhood Plan				

# 1. RECOMMENDATION

- 1. Grant conditional permission and conditional listed building consent.
- 2. Agree the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.

# 2. SUMMARY & KEY CONSIDERATIONS

16 Bourdon Street is a Grade II listed building in the Mayfair Conservation Area and the Central Activities Zone. The ground floor is used as a commercial garage rented out to nearby commercial premises with the exception of the central entrance which provides access to the residential unit at first and second floors of the building.

Bourdon Street comprises a mix of primarily residential on the north side of the street and commercial garaging and retail on the ground floors to the south side of the street with residential and some offices on the upper floors of the buildings.

Planning permission is sought for the change of use of the commercial garaging at ground floor level to a retail unit. Alterations are proposed to the ground floor front elevation to include new garage doors and the installation of a louvre to service an internal condenser unit. Internal alterations are

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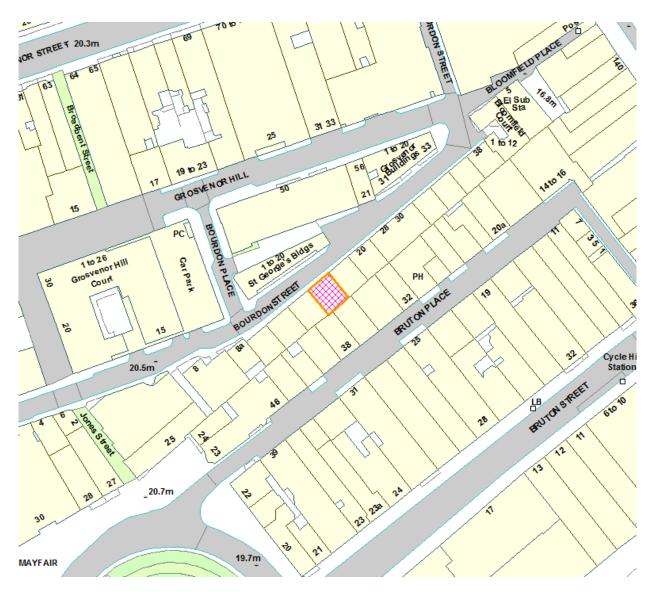
also proposed with a glass screen installed internally.

The key issue is:

• The impact on residential amenity in terms of potential noise nuisance arising from the customers and deliveries to the retail unit.

Subject to appropriate conditions including restricting the use of the premises to retail use in Class E, opening hours, acoustic mitigation and controls on the servicing, the proposal is considered acceptable. The applications comply with relevant adopted City Plan 2019-2040 policies and are therefore recommended for approval.

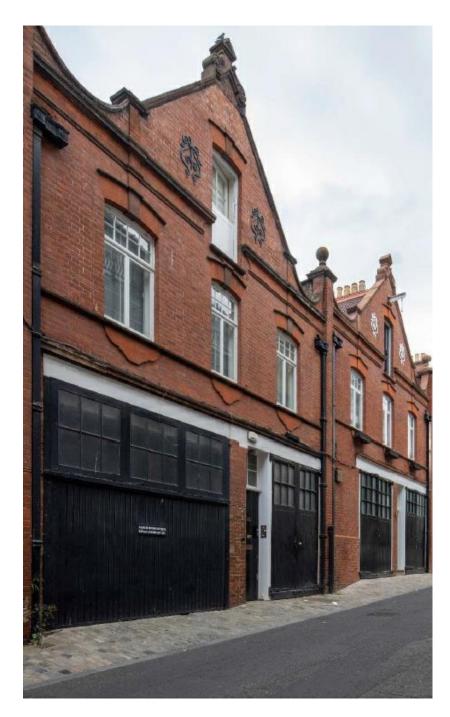
# 3. LOCATION PLAN



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# 4. PHOTOGRAPHS

# Existing Front Elevation:







# 5. CONSULTATIONS

# 5.1 Application Consultations

# RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

Objections on the following grounds:

- Encroachment of retail into a 'predominantly residential area'.
- Potential for a detrimental impact upon the amenity of nearby residents.
- Design of the louvres for the plant is detrimental to the listed building and conservation area.

# MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

# MAYFAIR NEIGHBOURHOOD FORUM

Any response to be reported verbally.

# HIGHWAYS PLANNING

Acceptable subject to conditions.

#### WASTE PROJECT OFFICER

Further details requested.

#### **ENVIRONMENTAL SCIENCES**

Acceptable subject to conditions.

#### COUNCILLOR TOALE

Objections on the following grounds:

- The street is residential in character and the buildings should be retained for this purpose.
- Activity associated with a commercial unit will detrimentally impact resident's amenity.
- Potential for highways congestion resulting from deliveries and servicing of a commercial unit.
- Existing commercial units in the street cause noise disturbance to residents and impact traffic movements in the street.
- Insufficient toilet facilities in the unit.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 36 Total No. of replies: 11 No. of objections: 8 No. in support: 3

Objections on the following grounds:

Land use -

- Encroachment of retail into a 'predominantly residential area'.
- Potential future use of the premises as a restaurant.
- Garages should be given over to residential parking.
- Policy 21 of the City Plan directs art galleries to the Mayfair and St. James's Special Policy Area.

#### Highways -

- Existing commercial units in the street cause noise disturbance to residents and impact traffic movements in the street.
- Potential for taxis and servicing vehicles to impact upon pedestrian safety.
- There is no pavement outside the premises and it would be a hazard to anyone visiting the retail unit.

# Amenity -

- Noise as disruption from 'events' being held at the art gallery.
- Insufficient staff welfare facilities with only one toilet provided.
- Loss of privacy to residents of St. George's Buildings opposite.
- Noise transference through the building structure to residential units.

# Support on the following grounds:

- Existing galleries are well run and have no impact upon the amenity of local residents.
- Gallery space would be a welcome addition to the 'cultural history of Bourdon Street'.
- Existing gallery operation at 20 Bourdon Street does not result in any highways issues from vehicles and there have been 'no late night gatherings disturbing the quiet of the street'.

# PRESS NOTICE/ SITE NOTICE:

Yes

# 5.2 Applicant's Pre-Application Community Engagement

Engagement was carried out by the applicant with local residents in the area prior to the submission of the planning application. Letters were sent to local residents detailing the proposal and providing contact information should more information be required. The applicant advises that comments received were either supportive of the proposal or requested further information on various issues which was provided.

# 6. WESTMINSTER'S DEVELOPMENT PLAN

# 6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38

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

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

# 6.2 Neighbourhood Planning

The Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair neighbourhood area in accordance with accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

# 6.3 National Policy & Guidance

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

#### 7. BACKGROUND INFORMATION

# 7.1 The Application Site

16 Bourdon Street is a Grade II listed building in the Mayfair Conservation Area to which it makes a positive contribution. The property is also located within the Central Activities Zone, the West End Retail and Leisure Special Policy Area and Central Mayfair as identified in the Mayfair Neighbourhood Plan.

The building comprises commercial garaging at ground floor level and a residential property at first and second floor levels, which is the same arrangement as the adjoining properties. The garages are not subject to any planning controls and the applicant advises that the garaging subject to this application has been used by a local commercial user.

Bourdon Street is mixed use in character with a number of retail units at ground floor level and a mix of office and residential accommodation.

# 7.2 Recent Relevant History

Whilst there is no relevant planning history in relation the application site, the planning history of a neighbouring site for a similar application is of relevance. A planning application at 12 Bourdon Street (RN: 15/10035) for the 'use of the ground floor as a retail unit (Class A1) and alterations to the ground floor front elevation' was refused on the 17 May 2016 for the following reason:

The introduction of a commercial use in this predominantly residential location would result in an unacceptable increase in activity, including vehicular and pedestrian traffic, that would increase noise and disturbance to residents, including blocking the highway to the detriment of pedestrian safety, and result in an overall loss of amenity to local residents (including adverse impact on the general quality of the living environment). It would also set a precedent, potentially leading to a cumulative impact, that would adversely affect the character and distinctiveness of the street and this part of the Mayfair Conservation Area.

The proposal is therefore contrary to policies S29, S32, S41, and S42 of Westminster's City Plan: Strategic Policies adopted November 2013, policies ENV 6, DES 9, TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007, and paragraphs 17 and 131 of the NPPF.

This refusal was appealed by the applicant and the appeal subsequently allowed on the 16 March 2017.

#### 8. THE PROPOSAL

Permission is sought for the replacement of the garage doors and the installation of a new ventilation louvre to the front ground floor elevation to provide air flow for an air conditioning unit located internally.

Works are proposed internally all in association with the change of use of the existing commercial garaging unit at ground floor level to a retail unit (Class E).

The retail unit which is intended to be operated by Lyndsay Ingram gallery totals 89 sqm GIA. It is proposed that the unit will be open to between 09:00 and 18:00 Monday to Friday.

# 9. DETAILED CONSIDERATIONS

# 9.1 Land Use

# Loss of commercial garaging

The applicant states the garage has been used for car parking on a commercial basis by a nearby business occupier. The loss of off-street commercial car parking resulting from the proposal accords with Policy 27 of the City Plan 2019 – 2040, which encourages car free living to promote use of more sustainable modes of transport. The City Council has no policies seeking the retention of commercial garage spaces. An objector has

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commented on the potential use of the garaging for nearby residential occupants to park their vehicles, however, City Council policies are to discourage residential parking. Further, the City Council has to assess the application in accordance with the development plan and therefore consideration for other uses is not appropriate during the consideration of this application.

#### Creation of a retail unit

Policy 2 of the City Plan (Spatial Development Priorities: West End Retail and Leisure Special Policy Area and Tottenham Court Road Opportunity Area) states that; "the intensification of the West End Retail and Leisure Special Policy Area (WERLSPA) over the Plan period will deliver the following priorities: ....

B. An improved retail and leisure experience that responds to innovation and change in the sector, including the transformation of the Oxford Street District."

Policy 14 'Town centres, high streets and the CAZ' states the following:

"Part A: The intensification of town centres, high streets and the CAZ to provide additional floorspace for main town centre uses is supported in principle, subject to impact on townscape and heritage. Proposals in existing town centres and high streets will enhance and diversify their offer as places to shop, work and spend leisure time.

Part G: Town centre uses will also be supported in principle throughout the parts of the CAZ with a commercial or mixed-use character, having regard to the existing mix of land uses and neighbourhood plan policies. In the parts of the CAZ that are commercial or mixed-use in character, the loss of town centre uses from the ground floor will be resisted."

Whilst the proposal is for a retail use, given that the premise sis intended to be operated by an art gallery, City Plan Policy 15 (B) is also relevant. This states that proposals for new arts and cultural uses will be supported in: 1. Strategic Cultural Areas when they complement the existing cultural offer; and 2. the town centre hierarchy; and 3. commercial areas of the CAZ.

The Mayfair Neighbourhood Plan Policy MSG1 encourages sustainable growth within Mayfair, including efficient use of existing floorspace and "activity (by providing restaurants, cafés, galleries, shops, and other uses which animate the streetscene for the public). Paragraph 4.1.13 also states the following: "The requirements of the local population also need to be maintained, managed and enhanced. As well as providing for the day-to-day needs of people in the area, local shops encourage people to walk and provide opportunities for social interaction. People who are old or less mobile are particularly dependent on local shops and services."

The unit is also located within the Central Mayfair area as designated in the Growth Areas Map in the Mayfair Neighbourhood Plan. Policy MSG2 of the Plan states that growth is 'particularly encouraged' within 'Central and East Mayfair for commercial growth'.

Policy MR6.1 of the Plan states that; 'Proposals for new Creative Originals retail development in Mayfair will be encouraged.' Whilst the proposed operation by the art

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gallery would be selling 'creative originals' which this policy is supportive of the application is for a retail unit and it is not considered necessary to restrict the use of the unit specifically for the display of art for sale on the premises.

A number of objections have referred to Bourdon Street as being 'predominantly residential' and that the change of use to a retail unit will change the character of the area. Conversely a number of letters supporting the application have commented on the introduction of an art gallery being a good addition to the street.

In consideration of the nature of the street it is noted that the planning application for the change of use of the commercial garaging to retail at 12 Bourdon Street was refused planning permission on the 17<sup>th</sup> May 2016 for the following reason:

The introduction of a commercial use in this predominantly residential location would result in an unacceptable increase in activity, including vehicular and pedestrian traffic, that would increase noise and disturbance to residents, including blocking the highway to the detriment of pedestrian safety, and result in an overall loss of amenity to local residents (including adverse impact on the general quality of the living environment). It would also set a precedent, potentially leading to a cumulative impact, that would adversely affect the character and distinctiveness of the street and this part of the Mayfair Conservation Area.

As detailed in the planning history section above this refusal was appealed and the appeal allowed. When considering the nature of the street the Inspector stated:

# Paragraph 5:

I acknowledge that this part of Bourdon Street includes predominantly residential uses, but there are other uses very close by. These include commercial uses, such as retail, restaurants and cafes, offices and art galleries, and other uses such as a car park. The land use evidence provided by the appellant lends weight to this finding. Local residents suggest that this locality has a quieter ambience than other localities within the CAZ. I was able to assess this on my site visit and noted that the current mix of uses in the locality results in some level of activity at present. I also noted that some uses are open at night. There is evidence before me of vehicle, pedestrian, construction and commercial activity in the locality. All of this lends weight to its description as having some mix of uses which is reflected in its character and ambience. The small scale of the proposed retail use would not adversely affect that character or appearance and could positively help to enhance a sense of community. It therefore would not compromise the attractions of residential neighbourhoods within the CAZ.

# Paragraph 7:

The retail use proposed, therefore, would not be out of place in the Conservation Area and would add to the rich variety of commercial and retail uses within it. As the proposed external alterations would be limited and conditions could control their detailing, unacceptable harm would not be a consequence. As the proposed use would result in the external doors being open, there would be the potential to better reveal the historic interior of the listed building, which would be a benefit of the appeal proposal. Further, as there is currently a mix of uses in the

Conservation Area, the proposed use would not adversely affect its busy feel through additional activity, noise and disturbance. For all these reasons, therefore, the appeal development would preserve and enhance the character and appearance of the Mayfair Conservation Area.

Whilst the Inspector also notes that the appeal decision does not set a precedent as each application is determined on its own merits his assessment of the character and nature of the area is important, especially their assessment that the activity within the vicinity 'lends weight to its description as having some mix of uses which is reflected in its character and ambience.' This assessment is deemed accurate, there is a mix of uses in the vicinity with a ground floor art gallery at No. 12 (Rodeo); an art gallery at No. 20 (Lindsay Ingram) and the Tuk Tuk Flower Studio at 34 Bourdon Street. The remainder of the ground floor uses on this side of Bourdon Street is primarily commercial garaging with office or residential uses above. The opposite side of the street is primarily residential with a large block of flats at St. Georges Buildings. The wider area is very mixed use in character with Bourdon Street joining Davies Street and Berkeley Square to the west. Paragraph 14.25 of the City Plan states; 'commercial uses in the Central Activities Zone and states Town centre uses provide a key element of the mix of uses within it and contribute to its character and strategic functions. However, the CAZ is also home to many local residents and some parts of it are also wholly residential in character. To respect its many functions, and the need to protect residential amenity, policy support is therefore provided for town centre uses within the parts of the CAZ that are of a commercial or mixed-use character.' Taking into account the Inspectors decision and the uses within the street, the change of use of commercial garaging to a small retail unit is not considered to change the character of the street and the objections on these grounds are not a sustainable reason for refusal of the application.

Retail accommodation now falls within Use Class E, being 'Commercial, Business and Service', which includes a range of uses including retail, restaurant, financial and professional services, medical, offices, indoor sports and "any other services which it is appropriate to provide in a commercial, business or service locality". The applicant has sought consent for retail use with the proposed occupier being the current occupier of 20 Bourdon Street (Lyndsay Ingram Art gallery), who would occupy the unit as additional floorspace and have provided information based on this with an assessment on that basis. Other uses which fall within Class E such as restaurant, indoor sports or a creche could have un-intended consequences in amenity and highways terms which have not been considered. This issue has also been raised by a number of objectors who have commented on the potential for the unit to change to other uses in Class E (namely restaurant use) which may have potential unforeseen impacts. A condition is therefore included to restrict the use of the premises as retail within Class E and this is considered to address the objectors' concern about this issue.

Letters in support of the proposal have been received which have commented on the benefits of an additional retail use to the 'cultural history' of the street. The benefits of retail accommodation in general for the local residents and visitors to the West End are noted and retail is a welcome land use in appropriate locations in the Central Activities Zone.

The applicant has confirmed that the premises would only be open between 09:00 and 18:00 Monday to Friday. Given the proposed use as retail shop, it is not considered the

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use would result in unacceptable noise from customers or staff such that it would impact on other occupiers within the street, especially given it will only be open during the day. A condition is attached to restrict the shop opening times to those specified. Given this the objections on these grounds are not considered sustainable.

An objector has commented that the location is unsuitable for an art gallery as it is located outside of the designated Mayfair and St. James's Special Policy Area. The application is for general retail use of the unit, but it is proposed to be occupied by an art gallery. The objector considers Policy 21 of the City Plan restricts gallery spaces to the Mayfair and St. James's SPA and as this property is outside the designated area the application should be refused on those grounds. However, this is not what the policy says, the policy requires; 'Developments in the Mayfair and St. James's Special Policy Areas (SPAs) that enhance the character and function of both areas as centres for the art trade and luxury retail, through the provision of additional floorspace for use as art galleries, antique trading or luxury retail, is encouraged.' There is nothing in the policy to restrict art galleries solely to the designated area of the SPA and other relevant policies make it clear that retail floorspace is an acceptable land use within suitable areas of the Central Activities Zone. The objection on these grounds is not therefore considered sustainable.

# 9.2 Environment & Sustainability

Not relevant to a development of this scale.

# 9.3 Biodiversity & Greening

Not relevant to a development of this scale.

# 9.4 Townscape, Design & Heritage Impact

# **Legislative & Policy Context**

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

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA Act') requires that "In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Section 66 of the LBCA Act requires that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Section 72 of the LBCA Act requires that "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

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

# **Design Consideration**

16 Bourdon Street stands on the south side of the street and has a fine façade of redbrick. It is part of a row of mews buildings dating from the late nineteenth century and, at ground floor level, it contains many features contributing to its special interest such a decorative wall-tiles, timber boarding, brick paving, and vestiges of the partitions forming the original stalls. The ground floor comprises two main compartments the smaller of which is likely to have been a carriage house and harness room, with the larger one being stabling, and there is a door giving access from the street to the upper floors. The timber doors to the carriage house are historic, but those to the stable have been altered and now incorporate a modern 'up-and-over' door beneath the retained glazed section of the original doors.

The proposed alterations involve replacing the up-and-over door with timber doors that better reflect the original design, behind which will be a glazed screen similar to others erected in buildings elsewhere in the street. Mechanical plant will be housed in an enclosure being the main entrance doors, and areas partitioned to create a WC, teapoint, and a small office. The currently blocked internal doorway between the two spaces will be reopened and enlarged which will result in the loss of some historic fabric, and the floor will be levelled in the new WC. The impact of the alterations is mostly benign in heritage asset terms, and there are benefits in terms of reinstating missing timberboarding to the walls and the change from a private to public use will allow greater appreciation of the building's historic interior, which is a public benefit. Objections have been received to the design of the louvred panel proposed for the front elevation due to the impact on the appearance of the listed building and wider Conservation Area. Although, the ventilation panels in the new door are novel and somewhat unusual, in design and heritage asset terms they are acceptable, and they are part of a set of doors which replace the existing unattractive and incongruous up-and-over door. Therefore, this aspect of the proposal represents an improvement to the appearance of the building when seen from the street and the objections on these grounds are not considered sustainable.

In NPPF terms the degree of harm caused by the alterations is at the very low end of less than substantial, and arises from changes necessary to make the spaces work for the proposed use. This harm is outweighed by the benefit of creating public access to a historically and architecturally interesting part of the building that would otherwise be a private space in a comparatively poor state of repair. The alterations therefore accord with City Plan polices 38, 39, and 40, and with policy MD of the Mayfair Neighbourhood Plan.

# 9.5 Residential Amenity

# **Privacy**

Objections have commented on the potential loss of privacy to residential occupiers of neighbouring buildings. Considering the unit has no windows and the access is directly onto the public highway it is not considered the proposal will result in any decrease in privacy to nearby residents and the objections on these grounds cannot be supported.

#### **Noise & Vibration**

#### Plant -

In relation to noise from the proposed plant the application has been considered in the context of Policy S33 of the City Plan 2019-2040. This policy seeks to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant operation.

An acoustic report has been submitted in relation to the installation of the plant equipment. A single condenser unit is proposed behind part of the ground floor front façade with a louvre on the front elevation. Background noise measurements at the property have been measured at the proposed with the lowest background noise level between the hours of 07:00 and 19:00 being recorded as 45dB. As this figure is above the WHO guideline levels the design criteria is 10dB below being 35dB at the nearest noise sensitive property.

The nearest noise sensitive windows were identified as being the windows of the residential unit at first floor level of the same building at a distance of 2m from the louvre.

Acoustic mitigation measures are proposed which includes the lining of the internal walls and ceiling of the condenser unit enclosure with an acoustically absorbent material.

The acoustic report concludes that with the acoustic mitigation measures installed and the hours of operation of the plant controlled as detailed above that the noise levels at the nearest sensitive property will be compliant with the City Council criteria. Environmental Health have assessed the documentation and confirmed that the plant operation will be acceptable. Conditions are included to control noise and vibration levels from the plant, hours of operation and the installation of the acoustic mitigation measures.

#### Noise Transference -

In order to ensure there is no unacceptable level of noise transference through the building structure to the residential occupier on the first floor a condition is attached to ensure that no music is played in the premises. The drawings show the installation of a new 'acoustic ceiling' being installed throughout the unit to mitigate any noise transference to the floor above and this is considered acceptable in listed building terms. A standard condition is also included with regard acceptable noise levels through the building structure into adjoining residential units. The applicant has confirmed that opening hours of the retail unit are to be Monday to Friday 09:00 until 18:00 and a condition is included to require this. This will ensure that no customers are within the

premises at hours when residents would expect a quieter environment.

#### **Customer Noise -**

The Lyndsay Ingram gallery at No. 20 Bourdon Street is proposing to occupy the new retail floorspace which this proposal would provide. Some objectors have commented to say that the existing gallery hosts opening events which result in customers causing a noise disturbance outside the premises and conflicts with traffic movements given the narrow nature of the street. Conversely, some residents have written in support saying the current gallery causes no issues and they welcome the expanded gallery space. The City Council has no records of noise complaints reported at the property besides a report in 2018 of the art gallery moving bins at 00:30 at night. The proposal is for retail accommodation and as detailed in the land use section a condition is proposed to restrict the use as retail within Class E. Whether the floorspace is used as an art gallery or some other retail accommodation could not be controlled and an 'event' for a product launch or an 'opening' such as might ordinarily happen at a commercial art gallery would still be acceptable for a retail unit.

A condition has been agreed with the applicant to limit the opening hours of the premises to between 09:00 and 18:00 Monday to Friday, therefore it is not considered any 'events' would be happening at hours when noise would not be ordinarily expected from street level. Objectors have also commented on the potential for conflict between any customers outside the premises and vehicle movements. However, the same degree of conflict would be expected for any pedestrians walking down the street and given the nature of the street with a 180° bend 70m to the west, traffic naturally has to travel incredibly slowly.

# 9.6 Transportation, Accessibility & Servicing

# **Highway Impact**

The loss of off-street car parking resulting from the proposal accords with the City Plan 2019-2040 Policy 27, which encourages car free living to promote use of more sustainable modes of transport.

The Highways Planning Manager has reviewed the proposal and considers that given the small size of the unit, the change of use to retail is unlikely to result in a significant increase in the pedestrian or vehicular traffic movements within the mews. The site is also within a Controlled Parking Zone so anyone driving to visit the unit or servicing the premises will be subject to the on-street parking / loading restrictions.

A number of objectors have commented on the potential for the use to result in additional traffic movements resulting from servicing with corresponding impacts on the movements of other vehicles and pedestrian safety as well as additional noise and disturbance. Photographs have been provided to show vehicles servicing the current Lyndsay Ingram Gallery. Given the objections that have been received from neighbouring residents and the potential for servicing vehicles needing to move large art works a condition is included to require the submission of a Servicing Management Plan prior to occupation of the unit.

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An informative is attached to advise the applicant that the Servicing Management Plan will need to demonstrate how the proposed servicing would 'minimise the impact of the proposed development on the highway network, so as not to have a significantly detrimental impact on other highway users (including pedestrians). The SMP should clearly 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, in this case. It should clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to other highway users. The SMP should be responding to the physical layout of the site and provide robust procedures for any future occupant to follow, to ensure servicing occurs in an efficient manner. This will also ensure any future management company or occupant is clearly aware of their responsibilities.'

The applicant has agreed to a condition to restrict the hours of servicing to between 08:00 and 18:00 daily. This will ensure that no servicing of the unit would take place at times that would disturb residents.

Whilst it is acknowledged that the pavement outside the unit is narrow, the exterior door would be prized open during the hours of operation. Given the proposed secondary door is set back from the street frontage and the door is centrally located, it is considered that any oncoming traffic while be readily visible from within the application premises. As such, it is not considered that the proposal will have a material impact on pedestrian safety.

# **Accessibility**

Level access will be provided throughout the premises which is noted and welcomed.

#### Waste & Recycling Storage

The Waste Projects Officer has requested further information to detail the provision of suitable waste and recycling storage facilities within the demise of the unit. A condition is included to require an amended floorplan be submitted to show this.

# 9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending. The new retail floorspace proposed is expected to generate 2 – 3 jobs above the existing garaging use. The increase in jobs supported by this site will help to promote opportunities for local employment and will lead to increased spending in existing nearby shops and services and other town centre uses.

#### 9.8 Other Considerations

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Concern has been expressed about whether a suitable level of toilet facilities have been provided in the unit. The retail unit would measure 89m² and one toilet is provided. Whilst not necessarily a planning consideration this would be satisfactory for a retail unit of this small size and is highly unlikely to result in any issues when the unit is in operation.

# 9.9 Environmental Impact Assessment

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

# 9.10 Planning Obligations & Pre-Commencement Conditions

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

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition. No pre-commencement conditions are proposed.

#### 10. Conclusion

Whilst concerns have been raised about the suitability of the street for the introduction of a retail use and possible impacts on residential amenity and highways concerns the proposal has been deemed acceptable in land use, highways and amenity grounds and it is recommended that planning permission is granted subject to relevant safeguarding conditions.

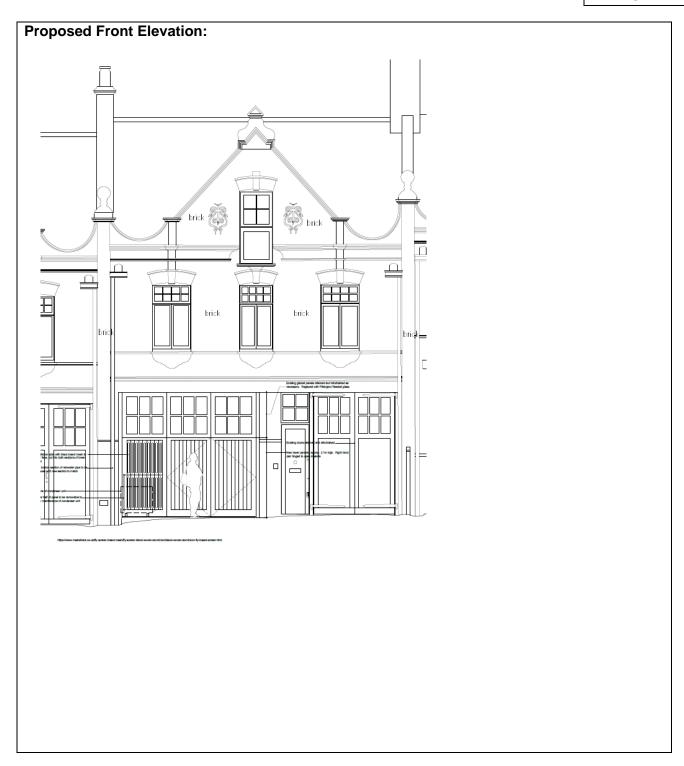
As such, the proposal is considered acceptable, mindful of policies 2, 7, 14, 15, 16, 24, 25, 27, 29, 33, 37, 38, 39, 40 and 43 of the City Plan 2019-2040 and policies MSG and MR6 of the Mayfair Neighbourhood Plan and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAMIAN LAVELLE BY EMAIL AT dlavelle@westminster.gov.uk

# 11. KEY DRAWINGS





#### DRAFT DECISION LETTER

Address: 16 Bourdon Street, London, W1K 3PH

**Proposal:** Use of the ground floor as a retail unit (Class E(a)), alterations to the ground floor

front elevation including the installation of a louvre to serve an air conditioning unit.

Reference: 22/07219/FULL

Plan Nos: Acoustic Report dated 27th June 2022. Drawings: SK/11 RevA, SK/12 RevA, SK/13

RevA, TPS/2228/G/M/O2.

Case Officer: Matthew Giles Direct Tel. No. 07866040155

Recommended Condition(s) and Reason(s)

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

#### Reason:

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

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

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

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

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

#### Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

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

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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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

(1) Where noise emitted from the proposed plant and machinery will not contain tones or 4 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 in writing 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 LAegTm, 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 in writing 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 LAegTm, 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 written 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. (C46AC)

#### Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as

5

set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

The plant/machinery hereby permitted shall not be operated except between 07:00 hours and 19:00 hours daily. (C46CA)

#### Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the Environmental Supplementary Planning Document (February 2022). (R46CC)

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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

#### Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

7 You must install the acoustic mitigation measures associated with the condenser unit as detailed in the acoustic report and retain these features for as long as the unit remains in place.

# Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13AD)

You must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not occupy the retail use hereby approved until we have approved what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark them and make them available at all times to everyone using the retail unit. You must not use the waste and recycling store for any other purpose. (C14GB)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

The design and structure of the building 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. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

#### Reason:

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, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49BB)

You must use the property only for retail. You must not use it for any other purpose, including any within Class E of the Town and Country Planning (Use Classes) Order 1987 as amended September 2020 (or any equivalent class in any order that may replace it). (C05AC)

#### Reason:

To ensure that the development is carried out in accordance with the use sought and assessed, to ensure that the parts of the building are not used for other uses within Class E that may have different or unacceptable waste storage, servicing, air quality, amenity or transportation requirements and / or impacts in accordance with Policies 16, 17, 18, 24, 26, 28, 29, 25, 32, 33 and 37 of the City Plan 2019 - 2040 (April 2021).

11 No live or recorded music is permitted to be played within the ground floor premises.

#### Reason:

To protect the environment of people in neighbouring properties, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R21AD)

Prior to the occupation of the development, you shall submit and have approved in writing by the local planning authority, a detailed servicing management strategy for the development. All servicing shall be undertaken in accordance with the approved strategy.

#### Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

13 Customers shall not be permitted within the ground floor premises hereby permitted

## outside of the following hours:

o 09:00 and 18:00 Monday to Friday.

#### Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021).

- 14 Servicing of the retail unit shall only take place between the following hours:
  - o 08:00 and 18:00 Monday to Friday.

#### Reason:

To protect the environment of people in neighbouring properties, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13BD)

## Informative(s):

- In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is also a condition of the London Building Acts (Amendment) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application for street naming and numbering, and to read our guidelines, please visit our website: www.westminster.gov.uk/street-naming-numbering. (I54AB)
- You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 4 Conditions 4 and 5 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)

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5 With regard Condition 12 of this planning permission a robust and focused Servicing Management Plan should demonstrate how the proposed development would minimise the impact of the proposed development on the highway network, so as not to have a significantly detrimental impact on other highway users (including pedestrians). The SMP should clearly 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, in this case. It should clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to other highway users. The SMP should be responding to the physical layout of the site and provide robust procedures for any future occupant to follow, to ensure servicing occurs in an efficient manner. This will also ensure any future management company or occupant is clearly aware of their responsibilities.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

#### DRAFT DECISION LETTER

Address: 16 Bourdon Street, London, W1K 3PH

**Proposal:** Alterations to the ground floor front elevation including the installation of a louvre to

serve an air conditioning unit and internal alterations.

Reference: 22/07220/LBC

Plan Nos: Acoustic Report dated 27th June 2022. Drawings: SK/11 RevA, SK/12 RevA, SK/13

RevA, TPS/2228/G/M/O2.

Case Officer: Matthew Giles Direct Tel. No. 07866040155

Recommended Condition(s) and Reason(s)

The works 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 scribe all new partitions around the decorative tile work.

#### Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

#### Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

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## Informative(s):

- SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations. The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF. In reaching this decision the following were of particular relevance: Policies 38, 39 and 40 of the City Plan 2019 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.
- You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:
  - \* any extra work which is necessary after further assessments of the building's condition;
  - \* stripping out or structural investigations; and,
  - \* any work needed to meet the building regulations or other forms of statutory control.

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents. It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

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 6

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date	Classification For General Rele	ase
Report of	ort of Ward(s) involved		ł
Director of Town Planning &	ector of Town Planning & Building Control  Knightsbridge & Belgravia		Belgravia
Subject of Report	15 Cliveden Place, London, SW1W 8LA		
Proposal	Application 1 Variation of condition 1 of planning permission dated 7 July 2020 (RN: 20/01382/FULL) for: Retention of an air conditioning unit in an acoustic enclosure within the rear garden and rear double-doors to rear elevation at lower ground floor level. Namely, to change the acoustic enclosure to a louvred system (retrospective).  Application 2 Installation of louvred acoustic housing under stairs in rear garden (retrospective).		
Agent			
On behalf of	Marc Walters		
Registered Number	Application 1 RN:22/04454/FULL  Application 2 RN:22/04832/LBC	Date amended/ completed	5 July 2022
Date Application Received	5 July 2022		
Historic Building Grade	II		
Conservation Area	Belgravia		
Neighbourhood Plan	Not applicable		

## 1. RECOMMENDATION

# Application 1:

1. Grant conditional permission.

## Application 2:

- 1. Grant conditional listed building consent.
- 2. Agree the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.

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#### 2. SUMMARY & KEY CONSIDERATIONS

The application site is a Grade II listed terraced house within the Belgravia Conservation Area. Permission and consent are sought for the retention of an acoustic enclosure to an existing air conditioning unit that was approved in July 2020 which is located beneath external stairs in the rear garden.

The key considerations in this case are:

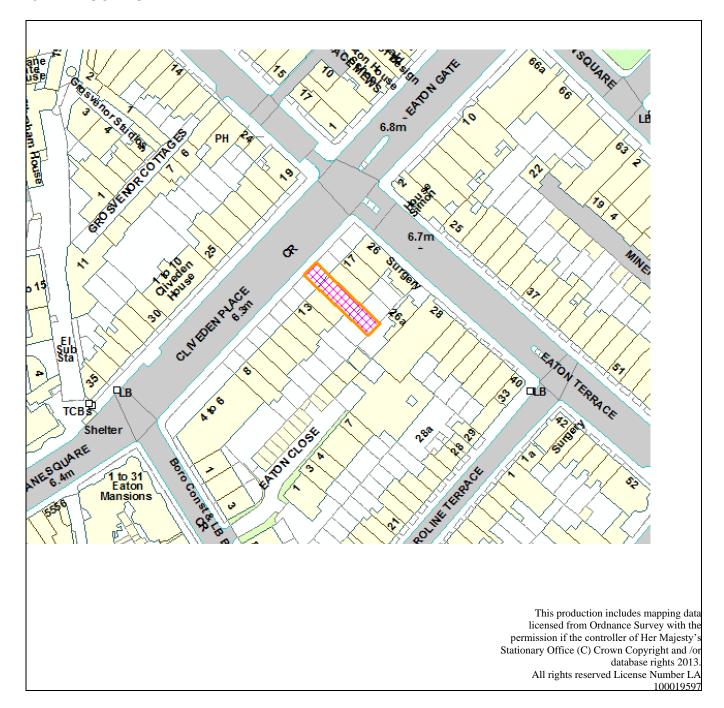
- The impact of the proposed works on the listed building and on the character and appearance
  of the Belgravia Conservation Area.
- The impact on the amenity of neighbouring residential properties.

A neighbouring resident has raised an objection on the grounds that the air conditioning unit with the new louvred enclosure installed generates noise disturbance which harms their quality of life.

An acoustic report has been submitted in support of the application to demonstrate that the installed air conditioning unit housed within the new louvred enclosure complies with the Council's standard noise conditions. The Council's Environmental Health officer has also visited the site and taken measurements from the neighbouring property with the unit operating at full load which showed that there is no measurable difference in the noise levels when the unit is switched off or running at full load, and as such the plant complies with the standard noise condition.

Accordingly, the proposal is considered acceptable in heritage, design and amenity terms and the applications are recommended for approval subject to the conditions as set out in the draft decision letter.

## 3. LOCATION PLAN



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# 4. PHOTOGRAPHS



Front elevation



Louvred enclosure beneath external staircase to rear

#### 5. CONSULTATIONS

## 5.1 Application Consultations

## BELGRAVIA RESIDENTS' ASSOCIATION:

Any response to be reported verbally.

#### THE BELGRAVIA SOCIETY:

Any response to be reported verbally.

#### BELGRAVIA NEIGHBOURHOOD FORUM:

Any response to be reported verbally.

#### **ENVIRONMENT HEALTH:**

No objection. The applicant submitted an acoustic report which demonstrates that the mechanical plant housed within the louvred enclosure is likely to comply with the standard noise conditions. Despite this there has been further adverse comment from the neighbour suggesting that they continue to be disturbed by noise from the unit.

A site visit was conducted on Monday 12 June 2023 between 1630hrs and 1800hrs involving the applicant and his acoustic consultant (KP Acoustics) and the neighbouring resident. The measurements show that there is no noticeable difference between when the outdoor condensing unit plant is running (at full load) and not running. Subjectively, when there is no extraneous sound and you listen hard for the sound of the unit, it is possible to detect some faint plant noise. However, there is no measurable difference in the noise levels and as such the plant is likely to be compliant with the standard planning condition.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 16 Total No. of replies: 1 No. of objections: 1 No. in support: 0

One letter of objection received from neighbouring resident on the following grounds:

## Amenity

- The equipment and new louvred enclosure are already installed and they have experienced its operation which generates noise disturbance harmful to their quality of life.
- Permission allowing the external air conditioning unit should not have been granted.
- Whilst the removal of the wood barrier is welcome, the new acoustic report does not reduce the noise enough for it to comply with the requirement to be 10dB below the ambient noise level as the unit is still audible.
- The acoustic report omits reference of the wind and ambient temperatures when the readings were taken, the nature of the garden, the impact of location of the unit and queries the day and timing when the readings were taken. The report

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does not demonstrate that the unit operates at no more than 24dB and queries the efficiency of the acoustic enclosure.

PRESS NOTICE/ SITE NOTICE:

Yes

## 5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. No community engagement was caried out with regards to this proposal.

### 6. WESTMINSTER'S DEVELOPMENT PLAN

## 6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## 6.2 Neighbourhood Planning

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

## 6.3 National Policy & Guidance

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

#### 7. BACKGROUND INFORMATION

## 7.1 The Application Site

15 Clivedon Place is a Grade II listed building located on the South side of Cliveden Place which is within the Belgravia Conservation Area. The property comprises lower ground, ground and three upper floors and is in use as a single family dwelling house.

## 7.2 Recent Relevant History

In June 2017, planning permission and listed building consent were granted for the use of the property as a single-dwelling house, the erection of replacement extensions at lower ground and ground floor levels with roof terrace above at first floor level, landscaping works to the garden and internal alterations (RN: 17/00697/FULL & 17/00698/LBC).

In July 2020, planning permission and listed building consent were granted for the retention of an air conditioning unit in an acoustic enclosure within the rear garden and rear double-doors to the rear elevation at lower ground floor level (RN: 20/01382/FULL & 20/01383/LBC).

#### 8. THE PROPOSAL

Planning permission and listed building consent were granted for the retention of an air conditioning beneath the external staircase in the rear garden in July 2020. Following complaints from a neighbouring resident about noise, the timber enclosure approved was replaced with metal acoustic louvres. Permission and consent are now sought for the retention of the new louvred enclosure.

#### 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

Not applicable.

## 9.2 Environment & Sustainability

Not applicable given the scale of the proposal.

## 9.3 Biodiversity and Greening

Not applicable.

## 9.4 Townscape, Design & Heritage Impact

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

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA Act') requires that "In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Section 66 of the LBCA Act requires that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Section 72 of the LBCA Act requires that "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 requires that where development will have a visibly adverse effect upon a conservation area's recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

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

The louvred enclosure has been installed beneath metal steps to the rear of the property, which is attached to a later extension. Given their position, and finish and colour, the louvres do not look incongruous and are not considered to harm the significance of the host listed building, or the character or appearance on the conservation area.

## 9.5 Residential Amenity

City Plan 2019-2040 Policy 7 (Managing Development for Westminster's People) seeks to ensure proposals are neighbourly by protecting and enhancing amenity, prevenient unacceptable impacts such as in terms of loss of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking as well as protecting local environmental quality.

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Policy 33 (Local Environmental Impacts) of City Plan 2019-2040 seeks to protect the local environment from adverse impacts from developments such as from pollution, noise and vibration, odour, land contamination and construction impacts.

The approved air conditioning unit and new louvred enclosure is located under an existing external staircase and will not therefore impact on the light, privacy or cause a sense of enclosure to neighbouring properties.

A neighbouring resident has raised an objection on the grounds that the air conditioning unit with the new louvred enclosure installed generates noise disturbance which harms their quality of life.

As shown in the planning history section of this report, planning permission was granted in July 2020 for the installation of an external air conditioning unit with screening. The acoustic report originally submitted in support of that application had shortcomings (errors in how the information was presented and lack of testing of sound levels from the plant). Following two holding objections from the Council's Environmental Health officer, a revised acoustic report was submitted and a letter from their acoustic consultant providing information on testing of sound levels from the plant. The information provided was considered acceptable by the Council's Environmental Health officer as the most noise-sensitive window was correctly identified and the design noise level criteria was likely to meet the Council's standard noise and vibration conditions, which were attached to the permission.

This application follows an enforcement investigation due to a potential breach of compliance with the noise condition attached to the July 2020 planning permission. To overcome noise concerns the applicant has removed the timber enclosure approved in July 2020 and replaced this with a new metal louvred enclosure which is the subject of this application.

An acoustic report has been submitted in support of the application showing that the installed mechanical plant housed within the louvred enclosure is likely to comply with the Council's standard noise condition.

However, given the nature of the objection on noise nuisance grounds due to the operation of the unit, a site visit was conducted on Monday 12 June 2023 between 1630hrs and 1800hrs involving the Council (Environmental Health and Planning Officers), the applicant and his acoustic consultant (KP Acoustics) and the neighbouring resident. The Environmental Health officer suggested a late night visit given that ambient noise levels may be lower, but the objector felt that late afternoon was the best time to carry out the test.

The objector was informed by the Environmental Health officer prior to the site visit that wind speed and direction only really become more of an issue at greater distances. Given the proximity of the most noise-sensitive window to the noise source it is unlikely to impact upon the measured noise levels (but wind speeds >5m/s (12mph) or with gusts >10m/s (22mph) or heavy rain would not be suitable conditions for noise monitoring).

With regards to the design level of 24 dB(A), the objector was advised that it will not actually be possible to measure 24 dB(A). The acoustic report submitted with the July

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2020 permission, shows that the ambient noise levels do not fall below 40 dB even including the night-time period. Whilst it is conceivable that the ambient noise levels could be a little lower since the report does refer to heavy rain overnight during the measurement, it is certainly unlikely that they would fall much lower than those measured. In accordance with planning policy the design level is derived from a level of 10 dB below the lowest measured background noise level of 34 dB  $LA_{90}$  (15 min).

The purpose of the test carried out was to show compliance or not with the planning condition. The planning condition (identified as No.3 on the July 2020 permission) states that the plant is required to operate at least 10 dB below the background noise level at one metre away from any noise sensitive window (receiver point). The method for testing was to measure the background noise (over a 15 minute period) with the plant off and then for the plant to be switched on and for further measurements to be taken over a similar period. To demonstrate compliance the unit should not noticeably impact upon the background noise level.

The internal air conditioning units in each room of 15 Cliveden Place were set to operate at maximum cooling. Noise measurements were taken by the Environmental Health officer outside the patio doors to the neighbouring property with the outdoor unit both on and off. The measurements taken, set out below, show that there was no noticeable difference between the outdoor condensing unit when it was running (at full load) and not running.

	LAeq, 3min (Ambient)	
	,	LA90, 3 min (Background)
Plant ON	43.5 dB	41.2 dB
Plant OFF	44.4 dB	41.3 dB

Subjectively, the Environmental Health Officer has also confirmed that when there is no extraneous sound and you listen hard for the sound of the unit, it is possible to detect some faint plant noise; however, there is no measurable difference in the noise levels and as such the plant is likely to be compliant with the standard planning condition. Environmental Health therefore raise no objection to the retention of the louvred acoustic screen.

An informative is attached to the application clarifying that it is the applicant's responsibility to ensure that the plant is maintained to ensure that it continues to comply with the noise conditions.

## 9.6 Transportation, Accessibility & Servicing

Not relevant in the determination of the application.

## 9.7 Economy including Employment & Skills

Not relevant in the determination of the application.

### 9.8 Other Considerations

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None.

## 9.9 Environmental Impact Assessment

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

## 9.10 Planning Obligations & Pre-Commencement Conditions

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

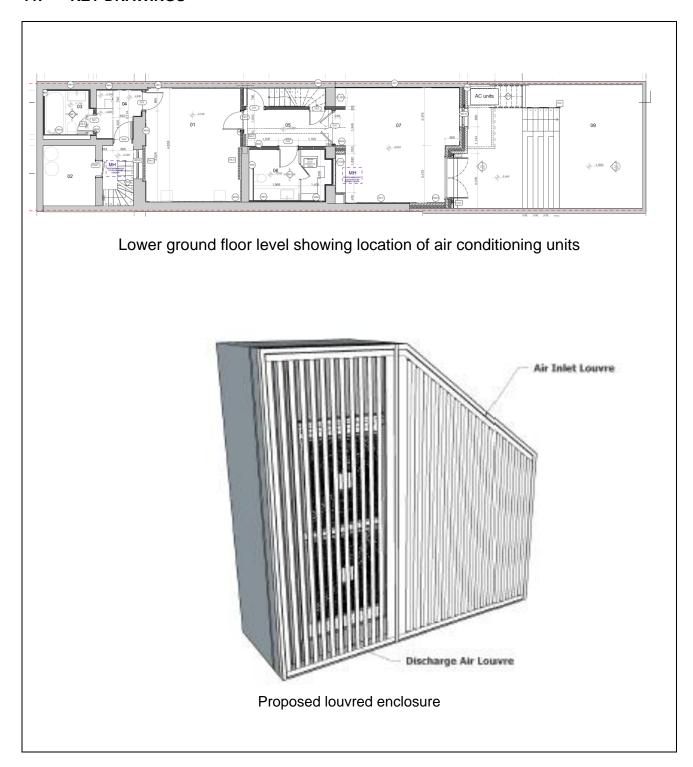
#### 10. Conclusion

The proposal is in accordance with policies 7, 33, 38 and 39 of Westminster's City Plan 2019-2040 and therefore, a recommendation to grant conditional permission and listed building consent would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JULIA ASGHAR BY EMAIL AT jasghar@westminster.gov.uk.

# 11. KEY DRAWINGS

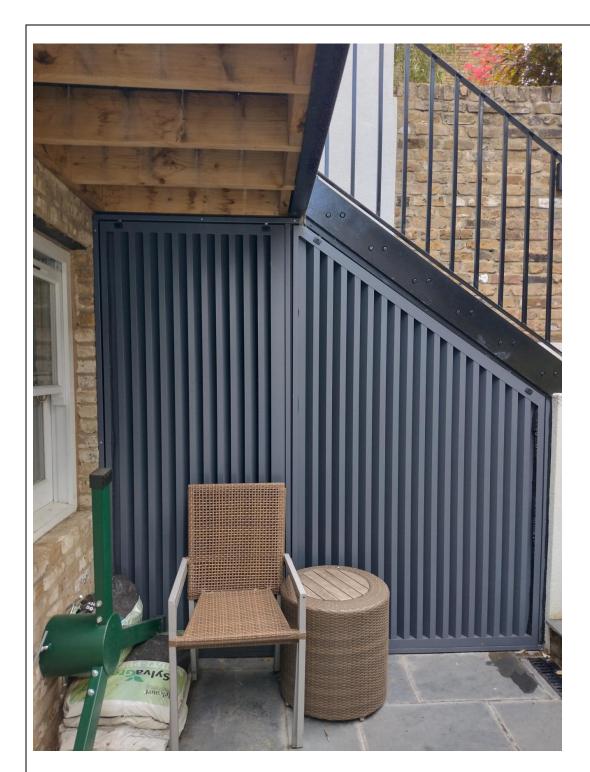




Approved plant screen July 2020.



Proposed louvred enclosure



Acoustic enclosure

#### DRAFT DECISION LETTER

Address: 15 Cliveden Place, London, SW1W 8LA

Proposal: Variation of condition 1 of planning permission dated 07 July 2020 (RN:

20/01382/FULL) for: Retention of an air conditioning unit in an acoustic enclosure within the rear garden and rear double-doors to rear elevation at lower ground floor level. Namely, to change the acoustic enclosure to a louvred system

(retrospective).

Reference: 22/04454/FULL

**Plan Nos:** A100; 20093.220524.L3 dated 24 May 2023; 20093.230629.L4 dated 29 June 2023;

photographs of housing; 5 un-numbered drawings showing air inlet louvres by

Environ Group Ltd; acoustic enclosure manufacturer's specifications.

Case Officer: Aurore Manceau Direct Tel. No. 07779567368

Recommended Condition(s) and Reason(s)

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.

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

(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 Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

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

#### Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

## Informative(s):

- In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Conditions 3 and 4 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

#### DRAFT DECISION LETTER

Address: 15 Cliveden Place, London, SW1W 8LA

**Proposal:** Installation of louvred acoustic housing under stairs in rear garden (retrospective).

Reference: 22/04832/LBC

Plan Nos: A100; photographs of housing; 5 un-numbered drawings showing air inlet louvres

by Environ Group Ltd; acoustic enclosure manufacturer's specifications.

For information only:, Design and access statement dated January 2017; Heritage

statement Ref: 2015/5135 (b) dated January 2017.

Case Officer: Aurore Manceau Direct Tel. No. 07779567368

## Recommended Condition(s) and Reason(s)

The works 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:

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

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

#### Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Belgravia Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

# Informative(s):

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SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF.

In reaching this decision the following were of particular relevance: Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:
  - \* any extra work which is necessary after further assessments of the building's condition;
  - \* stripping out or structural investigations; and
  - \* any work needed to meet the building regulations or other forms of statutory control.

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents.

It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

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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# BACKGROUND PAPERS - 15 Cliveden Place, London, SW1W 8LA, 22/04454/FULL

- 1. Application form
- 2. Response from Plant And Equipment, dated 4 August 2022
- 3. Letter from occupier of 16 Cliveden Place, London, dated 24 July 2022

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CITY OF WESTMINSTER				
PLANNING	Date	Classification		
APPLICATIONS SUB COMMITTEE	8 August 2023	For General Rele	ase	
Report of		Ward(s) involved		
Director of Town Planning & Building Control		Lancaster Gate		
Subject of Report	7 Caroline Place, London, W2 4AW			
Proposal	Installation of 1 air conditioning unit in the rear garden, housed in an acoustic enclosure.			
Agent	Studio McLeod			
On behalf of	Mr Hadrien de Montferrand			
Registered Number	22/08515/FULL	Date amended/ completed	16 December 2022	
Date Application Received	16 December 2022			
Historic Building Grade	Unlisted			
Conservation Area	Bayswater			
Neighbourhood Plan	Not applicable			

### 1. RECOMMENDATION

**Grant Conditional Permission** 

#### 2. SUMMARY & KEY CONSIDERATIONS

The application proposes the installation of an air conditioning unit within an acoustic enclosure and timber screening in the rear garden of this single family dwelling.

Objections have been received from Councillor Ormsby, the Bayswater Residents Association and 8 neighbours on grounds including noise disturbance, the proposal being contrary to the Councils carbon reduction aim and design.

The key considerations in this case are:

- The impact of the proposal on the character and appearance of the building and the Bayswater Conservation Area.
- The impact on the amenity of neighbouring residential properties.
- The acceptability of the proposals in sustainability terms.

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The proposal is considered to be acceptable and would accord with policies within Westminster's City Plan 2019 - 2040 (April 2021).

## 3. LOCATION PLAN



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# 4. PHOTOGRAPHS



Aerial photograph showing rear of application site



Photograph of the rear of the property

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#### 5. CONSULTATIONS

## 5.1 Application Consultations

### WARD COUNCILLOR ORMSBY

Cllr Ormsby objects to the application on the grounds that the installation of the air conditioning units does not meet the Councils policy to minimise carbon impacts and create conditions to reduce energy consumption, plus the potential noise impact on residents in this quiet residential location. The councillor has requested that if the application is not recommended for refusal it is taken to Committee for member scrutiny and resident representation.

#### BAYSWATER RESIDENT'S ASSOCIATION

Objection on the grounds of noise disturbance especially at night and environmental impact.

#### **ENVIRONMENTAL HEALTH:**

No objection to the proposals, subject to conditions securing the specified noise attenuation measures including louvered acoustic enclosure.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 8 Total No. of replies: 8 No. of objections: 8 No. in support: 0

Eight objections were received by nearby residential occupiers on the following grounds:

#### Design

- Properties within the Masefield Estate are within the Conservation Area and maintain uniformity in their properties.

#### Amenity

- Air conditioning units will cause noise nuisance to neighbours especially at night.

#### **Environment**

- Contrary to Council's carbon reduction aim
- Alternative more environmentally friendly options should be used to cool the property

#### Other

- Request that the application is considered at Committee
- The nearest windows identified in acoustic report are incorrect

#### PRESS NOTICE/ SITE NOTICE:

Yes

## 5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. No community engagement was caried out with regards to this proposal.

#### 6. WESTMINSTER'S DEVELOPMENT PLAN

## 6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## 6.2 Neighbourhood Planning

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

## 6.3 National Policy & Guidance

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

#### 7. BACKGROUND INFORMATION

## 7.1 The Application Site

The application relates to a detached property in use as a single family dwelling located within the Bayswater Conservation Area. The building was constructed post-war in a Neo-Georgian style and consists of buff colour brick, panelled timber doors, timber three over three sash windows and a crown roof form. The street is largely characterised by mews form properties.

## 7.2 Recent Relevant History

#### 03/03735/FULL

Erection of a full width conservatory at rear ground floor level, a dormer window within the rear roof slope and replacement of garage door.

Application Permitted 11 September 2003

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#### 21/07355/FULL

Rear dormer roof extension and new rooflights, infill extension to ground floor rear; alterations to windows and doors on all elevations.

Application Permitted

10 March 2022

### 22/06235/FULL

Variation of condition 5 of planning permission dated 6th August 2021 (RN: 21/07355/FULL) for the rear dormer roof extension and new rooflights, infill extension to ground floor rear; alterations to windows and doors on all elevations. Namely, to allow the installation of openable windows for natural ventilation at first floor side (south) elevation instead of the approved fixed window.

**Application Permitted** 

24 October 2022

#### 8. THE PROPOSAL

Planning permission is sought for the installation of an air conditioning unit within an acoustic enclosure and timber screening, adjacent to a rear garden boundary of this single family dwelling.

The proposal has been amended during the course of consideration to remove a roof light to the front roof slope from the application and to correct a typo in the submitted acoustic report.

#### 9. DETAILED CONSIDERATIONS

## 9.1 Land Use

The property is a single family dwelling. The proposal does not involve any change of use or increase in floorspace.

## 9.2 Environment & Sustainability

### **Sustainable Design and Energy Performance**

Policy 38D of the City Plan 2019-2040 states that "development will enable the extended lifetime of buildings and spaces and respond to the likely risks and consequences of climate change by incorporating principles of sustainable design, including: 1. use of high-quality durable materials and detail; 2. providing flexible, high quality floorspace; 3. optimising resource and water efficiency; 4. enabling the incorporation of, or connection to, future services or facilities; and 5. minimising the need for plant and machinery".

Policy 36 states that the council will promote zero carbon development and expects all development to reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change. All development proposals should follow the principles of the Mayor of London's energy hierarchy although only major development should be net zero carbon and demonstrate through an energy strategy how this target can be achieved.

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Objections have been received on the grounds that the use of mechanical plant is contrary to the Council's carbon reduction aim and that more environmentally friendly options should be used.

The applicant has submitted a Sustainability Statement with their application. They have explained that an air conditioning unit is required to address issues of overheating within the house, which have not been able to be rectified with other measures. They point out that the recent planning permission (ref: 21/07355/FULL) was built following sustainable design principles, upgrading property whilst converting a one-bedroom two-storey house into a five-bedroom three-storey home. The applicant has set out how they have followed the London Plan Energy Hierarchy tiered approach to reduce carbon dioxide emissions in the renovation of the property. They state that energy demand has been reduced through the installation of additional windows and rooflights (to enhance natural and through ventilation) and the draughtproofing of the new and existing windows and doors.

To reduce the need for heating and cooling, insulation to the property has been increased such that the house exceeds all minimum u-values for building fabric. This has included replacing glazing with higher thermal performance glazing, the installation of cavity wall insulation, lining all external walls with insulation (lining the previously uninsulated cavity walls) and increasing the insulation to the roof. Despite these upgrades, due to the limitations of the existing building, the applicant expects excess solar gain to result in overheating during the summer.

The applicant has stated that they have investigated the use of an air source heat pump system for heating, hot water, and cooling to the property but this was not practical due to the size of the acoustic enclosure required for this type of installation within the garden. Therefore, the proposed condenser unit was considered the only practical option to deliver the necessary cooling of the property during summer months.

The applicant notes that they have also recently submitted applications to install external solar louvres to the existing ground floor extension which they state was to reduce solar gain, and therefore reduce the need for mechanical plant, and to build a pitched roof to the garage of the property to house plant equipment for a ASHP system. However, these proposals were withdrawn following concerns raised by the Council on design grounds. It should however be noted that the roof extension application did not include any plant and the internal space was shown as "storage" space on the proposed floorplans.

## Air Quality

The site is not within an Air Quality Focus Area and no Air Quality Assessment is required as part of the application.

#### Flood Risk & Sustainable Drainage

The site is not located within a Surface Water flood Risk Hotspot or within a flood zone.

## **Environment & Sustainability Summary**

On balance, it is considered that the installation of the air condensing unit is acceptable

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due to the small environmental impact it will have and the fact that the applicant has investigated alternative options to achieve the necessary cooling of the property. Therefore, it is not considered reasonable to refuse planning permission on sustainability grounds.

## 9.3 Biodiversity & Greening

Policy 34B of the City Plan requires that "developments will, wherever possible, contribute to the greening of Westminster by incorporating trees, green walls, green roofs, rain gardens and other green features and spaces into the design of the scheme.

It is recognised that the proposal does not provide any opportunities for significant greening. The roof of the enclosure has an area of less than 2sqm and it is not considered that this would provide sufficient biodiversity benefit to require a green roof is used. Providing such a feature would also require an increase in the height of the enclosure which would increase its visual presence.

The applicant has stated that the existing concrete slab foundation below the hard landscaping and a fixed concrete bench structure to the rear garden will be removed. With a lawn, permeable finishes, and planting installed in their place, to reduce surface water run off, lower risk of flash flooding, and increase biodiversity. This is welcomed.

### 9.4 Townscape, Design & Heritage Impact

## **Legislative & Policy Context**

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

Policy 39 of the Westminster City Plan 2019-2040 (April 2021) requires development to conserve features that contribute positively to the settings of conservation areas and take opportunities to enhance their settings, wherever possible.

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

An objection has been received on the grounds that the proposals will be detrimental to the Masefield Estate and Conservation Area, which currently maintains a great deal of uniformity. However, because of its discreet location and limited visibility it is considered that the proposal would not have any significant impact on the uniformity of nearby properties.

The proposed acoustic enclosure will be accommodated adjacent to and below the height of the existing timber boundary fence and screened in timber matching that fence, therefore it will be largely hidden from views and is considered to preserve the appearance of the building and the character and appearance of the conservation area.

The application is therefore considered compliant with Policies 38 (design principles), 39 (heritage) and 40 (townscape and architecture) of the City Plan and is recommended for approval.

## 9.5 Residential Amenity

Policy 7 of the City Plan seeks to protect surrounding residences from unacceptable loss of daylight/ sunlight, sense of enclosure, loss of privacy and noise. Policy 33 aims to minimise local environmental impacts of development. Policy 38C of the City Plan requires that all development, introduces measures that reduce the opportunity for crime and anti-social behaviour, promoting health, well-being and active lifestyles through design and ensuring a good standard of amenity for new and existing occupiers.

## **Daylight & Sunlight and Sense of Enclosure**

The proposed acoustic enclosure will be accommodated adjacent to and below the height of the existing timber boundary fence, therefore it will have no significant impact on daylight and sunlight or sense of enclosure on neighbouring properties.

## Privacy

The proposal would have no loss of privacy implications on neighbouring properties.

#### Noise & Vibration

Objections have been received on the grounds of the potential for the air conditioning unit to cause noise nuisance to neighbours, especially at night. One of the objections noted that the submitted acoustic report stated the incorrect address at the nearest affected residential window. The originally submitted report did reference the incorrect address in paragraph 5.2. However, the applicant has confirmed that this was a typographical error and has since issued a report with this reference corrected. In the updated report, the closest noise sensitive receiver was identified in the correct position.

The City Council's Environmental Health officer has assessed the planning compliance noise report and confirms that the measurements and calculations in the report are all accurate and references the correct nearest noise sensitive location.

The Environmental Health officer has raised no objection to the proposals on environmental noise or nuisance grounds, subject to the imposition of standard noise and vibration conditions including the installation of noise mitigation measures. It is therefore considered that the proposals meet the Council's requirements in terms of noise and vibration, and are considered to be acceptable in terms of noise and amenity.

#### 9.6 Transportation, Accessibility & Servicing

The proposal has no transport, accessibility or highways implications.

## 9.7 Economy including Employment & Skills

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

### 9.8 Other Considerations

None.

## 9.9 Environmental Impact Assessment

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

## 9.10 Planning Obligations & Pre-Commencement Conditions

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

#### 10. Conclusion

The proposal is considered acceptable in design, conservation, sustainability and amenity terms. The proposed air condensing unit and acoustic enclosure are considered to protect the character and appearance of the conservation area.

As such, the proposal is considered acceptable, mindful of policies 7, 33, 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

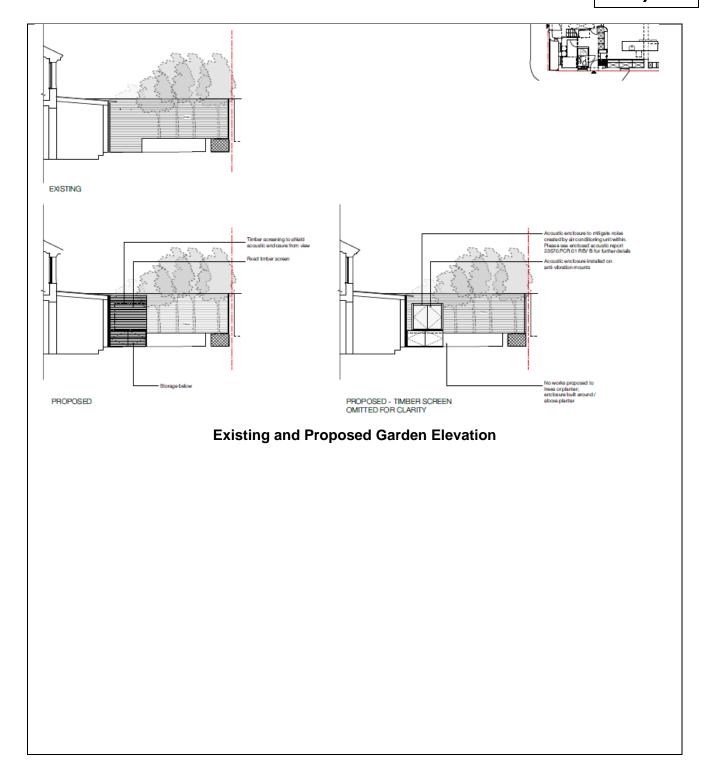
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT kdavies1@westminster.gov.uk

# 11. KEY DRAWINGS



Item No.



#### DRAFT DECISION LETTER

Address: 7 Caroline Place, London, W2 4AW

**Proposal:** Installation of 1 air conditioning unit in the rear garden, housed in an acoustic

enclosure.

Reference: 22/08515/FULL

**Plan Nos:** Location Plan; Site Plan: 250-SU-400; 250-SU-401; 250-SU-402; 250-SU-403; 250-

SU-404A; 250-SU-405; 250-SU-406; 250-SU-407; 250-SU-408; 250-SU-409; 260-PL-400A; 260-PL-401: 260-PL-402A: 260-PL-403A: 260-PL-404A: 260-PL-405A; 260-PL-409A: Sustainability Statement dated 4th May; Acoustic Report Rev C; Planning Statement and Design and Access Statement; Heritage Statement;

Case Officer: Richard Langston Direct Tel. No. 07866 036470

## Recommended Condition(s) and Reason(s)

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.

Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: , o between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , o not at all on Sundays, bank holidays and public holidays. , , You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and , onot at all on Saturdays, Sundays, bank holidays and public holidays. , , Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

#### Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

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

#### Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

4 (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 in writing 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 in writing 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 written 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. (C46AC)

## Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the

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Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

#### Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

You must install the acoustic attenuation measures detailed in Section 6 of your Planning Compliance Report reference 3570.PCR.01 Rev C before you use the machinery. You must then maintain the attenuation measures in the form specified for as long as the machinery remains in place.

#### Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13AD)

## Informative(s):

- In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 HIGHWAYS LICENSING:, Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of

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that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at <a href="https://www.westminster.gov.uk/quide-temporary-structures">www.westminster.gov.uk/quide-temporary-structures</a>.

CONSIDERATE CONSTRUCTORS:, You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.

BUILDING REGULATIONS:, You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at www.westminster.gov.uk/contact-us-building-control

You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

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.