

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 26 January 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	Harcourt House, 19 Cavendish Square, London, W1G 0PL,		
Proposal	Refurbishment of existing building, including demolition works and alterations to the rear, installation of services at new basement level, removal of roof plant and erection of roof extension at main roof level in connection with the use of part lower ground and part ground floor levels for Class D1 use and 25 residential apartments (Class C3) at part lower ground to seventh floor levels. Balconies from third to sixth floor level to the rear with terraces and plant located within an acoustic enclosure at seventh floor level and other minor external alterations to the front façade.		
Agent	DP9		
On behalf of	Harcourt Investments Ltd		
Registered Number	14/09419/FULL – 15/07700/LBC	Date amended/ completed	19 August 2015
Date Application Received	18 September 2014		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

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

2. SUMMARY

The application site involves 19 and 19A Cavendish Square, a Grade II listed building on the west side of the square. The application seeks approval for the works of refurbishment of the existing building, including the part demolition of the rear façade and roof, excavation at basement level and erection of a new roof storey for a mixed medical and residential use.

A new medical facility is proposed at part ground and basement floor accessed by a dedicated entrance on the northern side of the building. 25 flats are proposed on the remainder of the ground and upper floors.

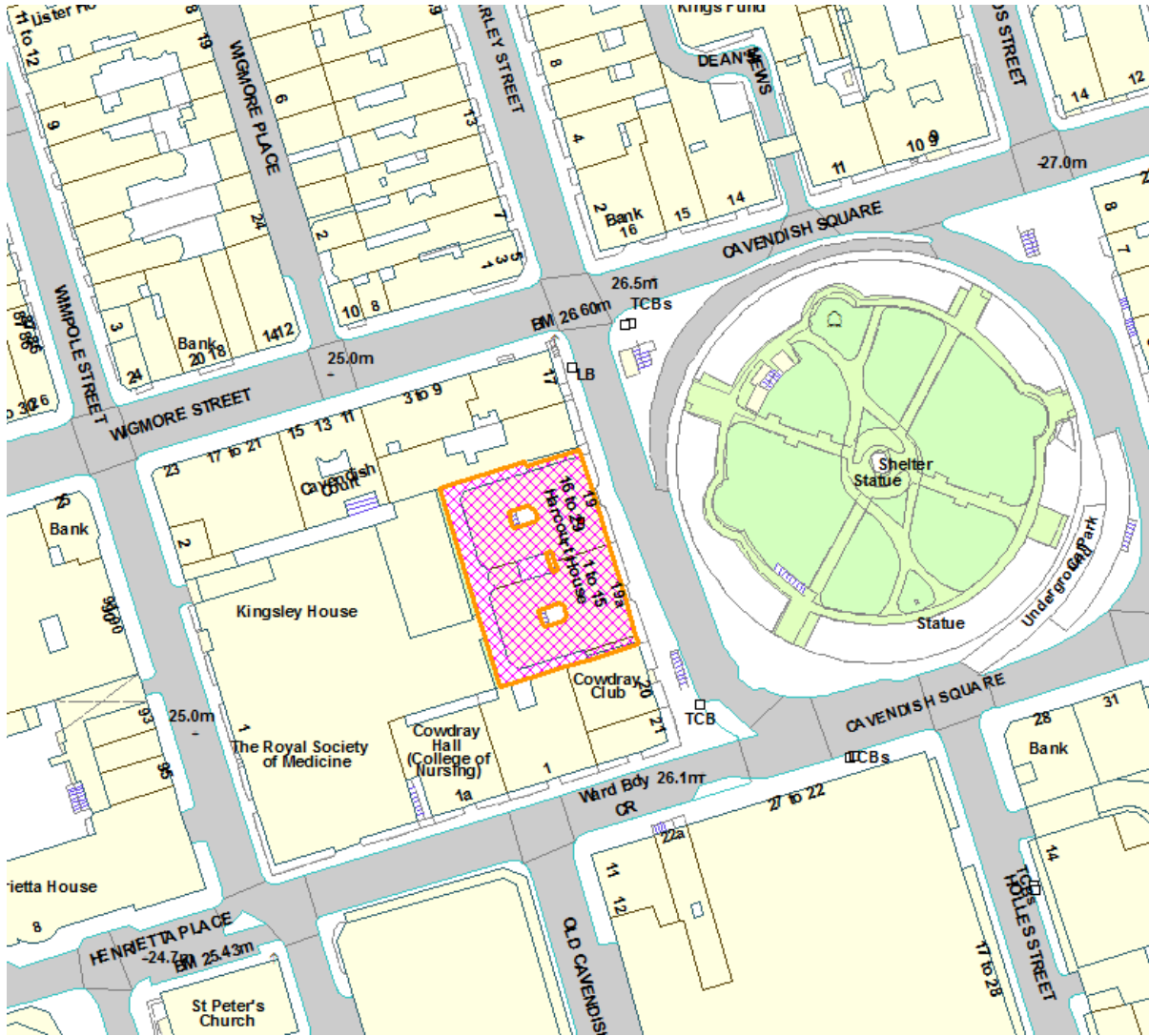
The key issues in this case are:

- * The acceptability of the proposal in land use terms including the affordable housing offer.
- * The impact of the proposed works on the character and appearance of this part of the Harley Street Conservation Area and upon the special interest of this listed, and the adjacent listed, building.
- * The principle of the loss of existing D1 floorspace and its replacement with a new medical facility.
- * The impact of the proposals on the amenities of neighbouring residents.

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

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

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

HISTORIC ENGLAND (LISTED BUILDS/CON AREAS)

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

MARYLEBONE ASSOCIATION

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

MET POLICE

Proposals meet the minimum 'designing out crime' standards.

HIGHWAYS PLANNING MANAGER

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

CLEANSING

No objections raised.

ENVIRONMENTAL HEALTH

No objections raised.

BUILDING CONTROL

Any comments to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 211

Total No. of replies: 8

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

No. in support: 2

Land Use

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

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

Design

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

Highways

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

Other

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

RE-CONSULTATION FOLLOWING REVISED PLANS

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

Heritage

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

Design

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

Amenity

- . * Overlooking from roof terraces

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

Land Use

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

Other

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

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

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

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

The building is listed Grade II.

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

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

6.2 Recent Relevant History

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

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

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

7. THE PROPOSAL

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

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

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

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

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of office use

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

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

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

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

Medical use

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

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

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

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

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

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

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

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

Residential use

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

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

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

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

Unit sizes

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

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

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

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

Residential standards

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

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

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

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

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

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

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

Affordable housing

The policy requirement

Policy S16 relates to affordable housing. It requires that proposals of 10 or more new residential units, or over 1000m² of additional residential floorspace will be expected to provide a proportion of the floorspace as affordable housing. The proportion of affordable housing sought on individual sites will be set out in the City Management Plan when it is adopted but until then is set out in an interim guidance note. For sites within Core CAZ with a residential floorspace increase of more than 2,500m² the guidance specifies a floorspace requirement of 25% or if this is proved impractical or unfeasible, the affordable housing should be provided off-site in the vicinity.

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

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

The applicant’s proposals

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

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

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

8.2 Townscape and Design

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

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

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

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

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

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

Public realm improvements

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

8.3 Residential Amenity

Daylight and Sunlight/Overlooking and Sense of Enclosure

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

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

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

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

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

8.4 Transportation/Parking

Car parking

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

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

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

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

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

Cycle parking

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

Servicing

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

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

8.5 Economic Considerations

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

8.6 Access

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

8.7 Other UDP/Westminster Policy Considerations

Plant

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

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

Refuse /Recycling

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

8.8 London Plan

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

8.9 National Policy/Guidance Considerations

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

8.10 Planning Obligations

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

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

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

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

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

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

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

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

8.11 Sustainability and Biodiversity

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

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

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

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

To encourage biodiversity, green roofs are proposed.

8.12 Other Issues

Basement works

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

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

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

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

Other issues

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

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

9. BACKGROUND PAPERS

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

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

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

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

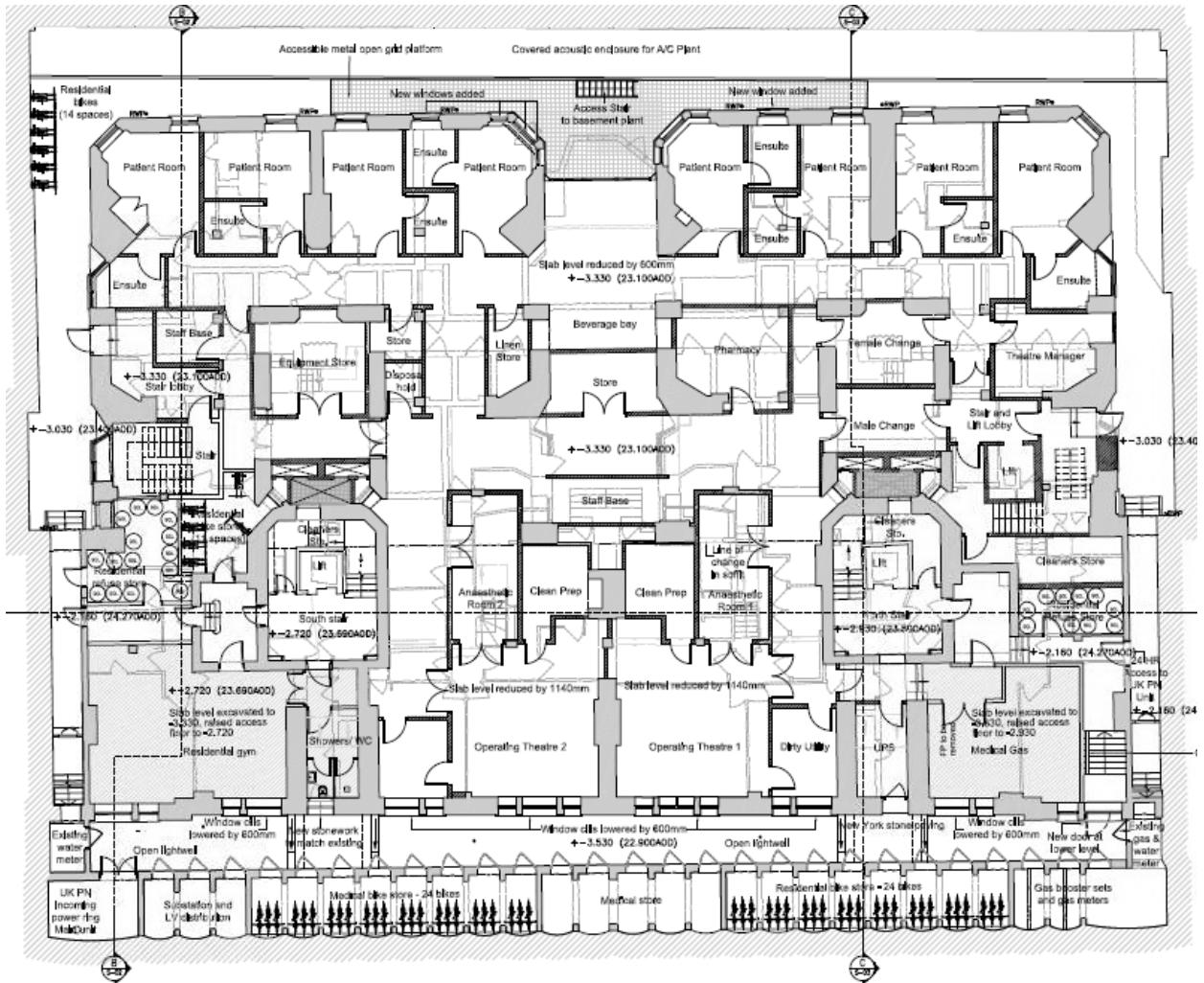
10. KEY DRAWINGS



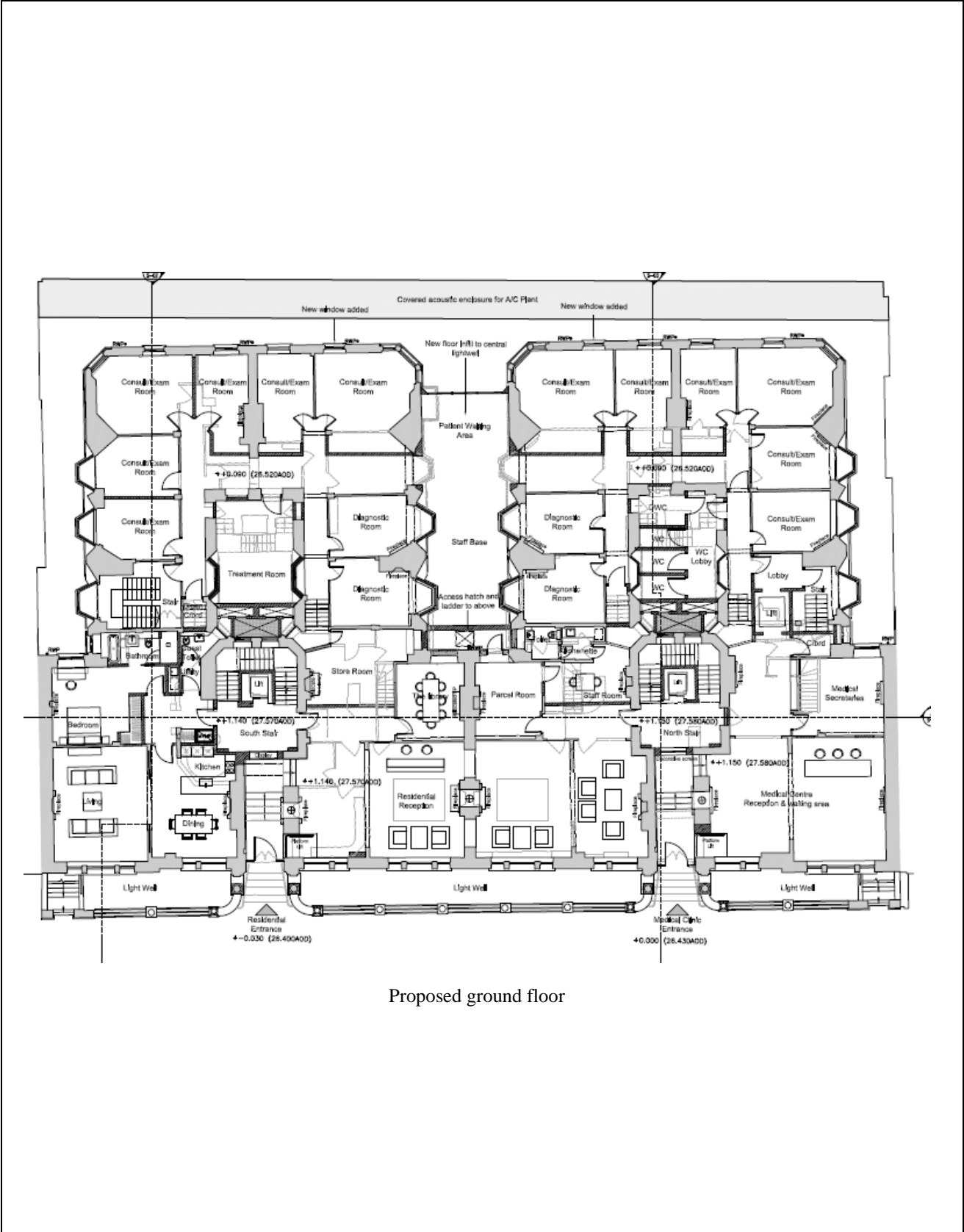
Proposed front elevation



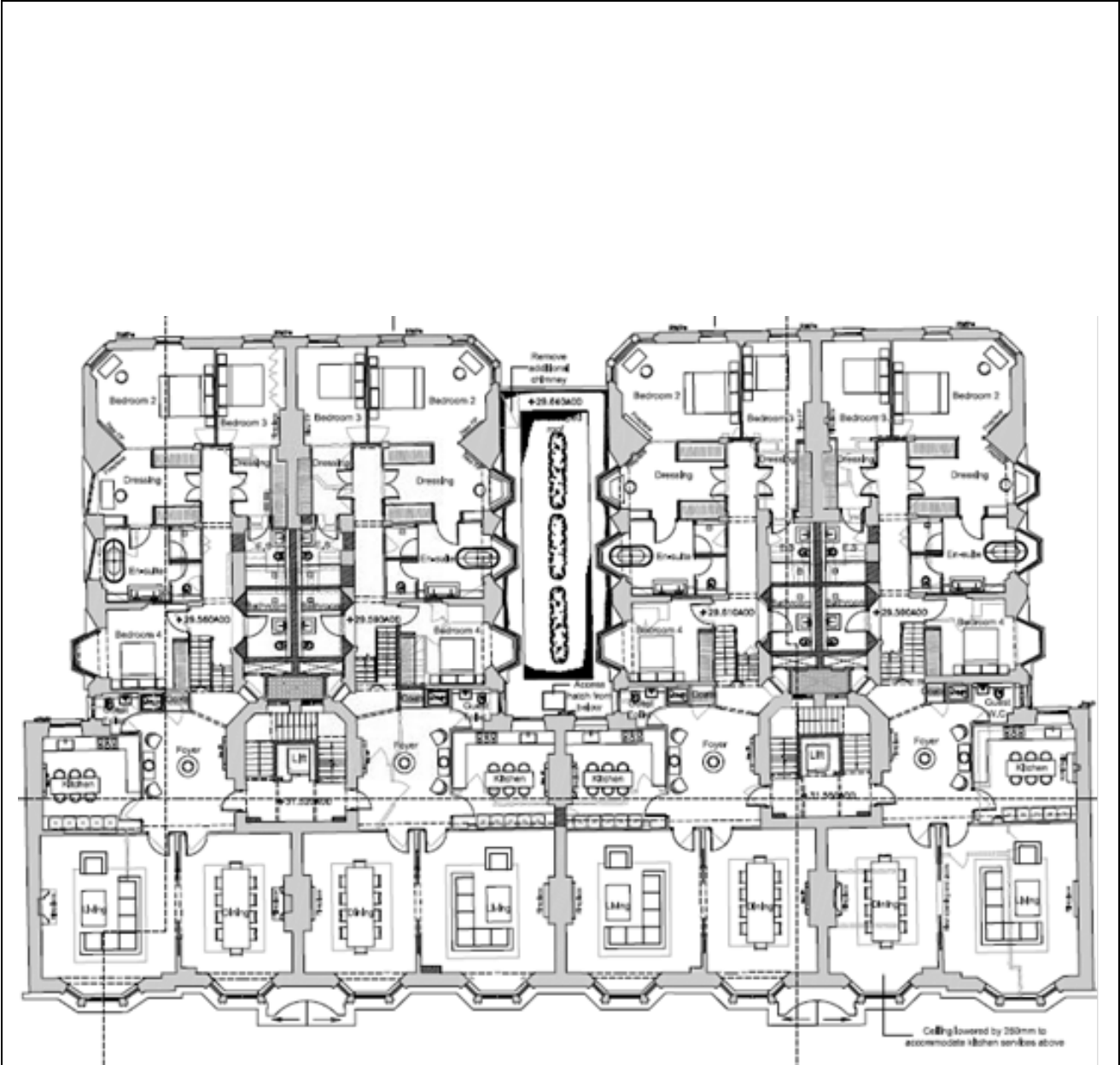
Proposed rear elevation



Proposed basement plan



Proposed ground floor



Proposed first floor

DRAFT DECISION LETTER

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

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

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

Structural methodology statement dated July 2015 (INFORMATION ONLY)

Case Officer: Jo Palmer

Direct Tel. No. 020 7641 2723

Recommended Condition(s) and Reason(s):

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

Informative(s):

1. In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

Item No.
4

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

DRAFT DECISION LETTER

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

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

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

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

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

1 Reason:

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