

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 26 January 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Nightingale House, 65 Curzon Street, London, W1J 8PE,		
Proposal	Demolition of existing building and redevelopment, including excavation, to create up to three basement storeys, ground and eight storeys to be used for up to 32 residential flats, creation of a ground floor arcade link between Stratton Street and Curzon Street for use as retail and/or restaurant uses (Classes A1 and A3). Provision of up to 21 car parking spaces over the basement level, basement and rooftop plant areas. Creation of terrace/balcony areas on both elevations		
Agent	JLL		
On behalf of	LGPS Nominee (Nightingale House) Limited & LGPS Nominee (Canterbury) Limited as Trustees for the National Grid UK Pension Scheme		
Registered Number	15/07627/FULL	Date amended/ completed	18 August 2015
Date Application Received	18 August 2015		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

<p>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:</p> <p>a) Provision of £32,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate;</p> <p>b) Unallocated car parking;</p> <p>c) Car Club Membership for 25 years for all the flats;</p> <p>d) Walkway Agreement;</p> <p>e) Car Lift Maintenance;</p> <p>f) Highways alterations required for the development to occur (at no cost to the City Council); and</p> <p>g) The costs of monitoring the S106 agreement.</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:</p> <p>(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director</p>

of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

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

2. SUMMARY

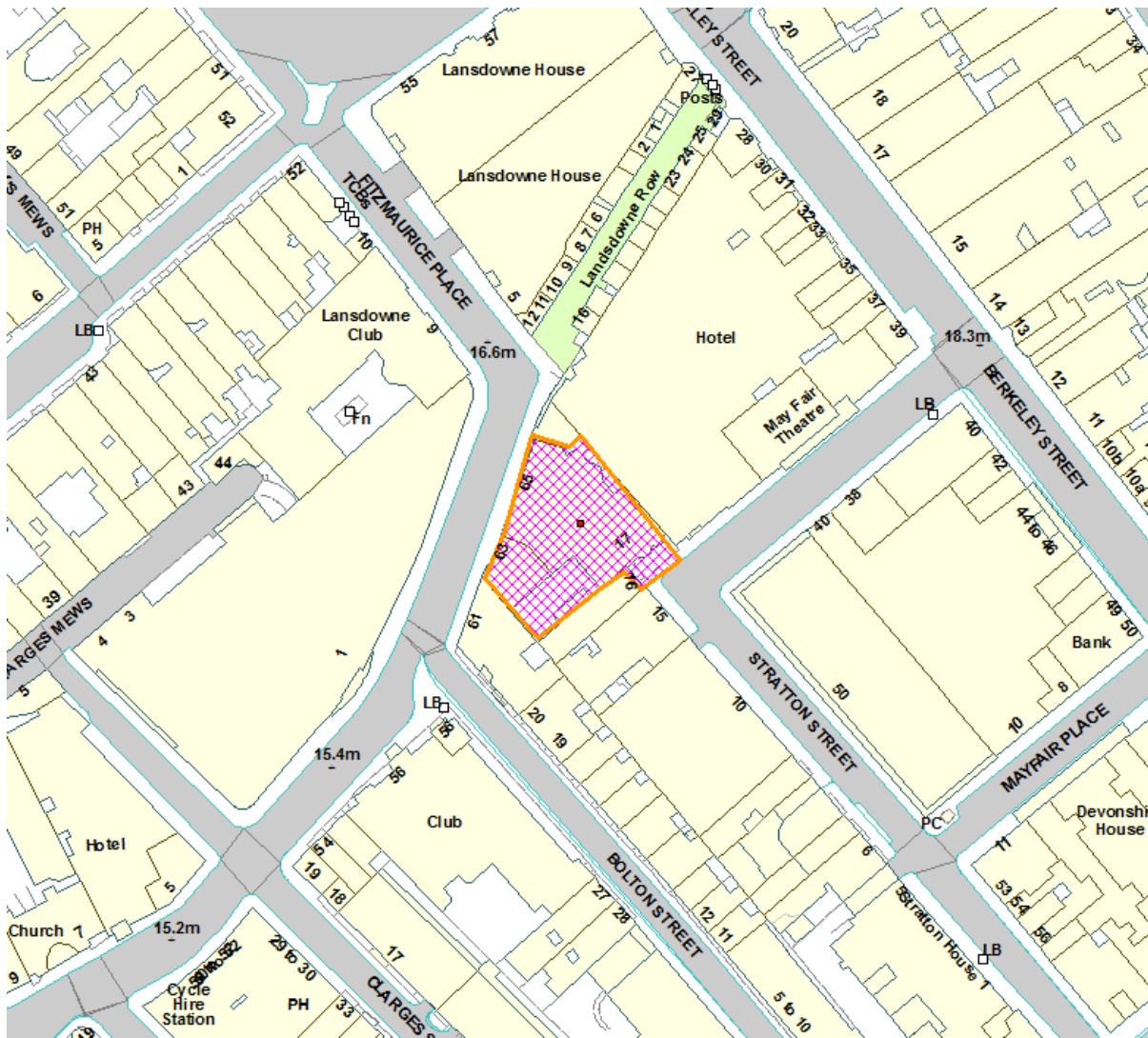
The application site comprises an unlisted office building situated within the Mayfair Conservation Area. The building has two frontages, on Stratton Street and one on Curzon Street. It is proposed to demolish and erect a new building comprising of two basement levels, lower ground, ground and eight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

The key issues for consideration are:

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

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

3. LOCATION PLAN



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4. PHOTOGRAPHS



Elevation on Stratton Street



Elevation on Curzon Street

5. CONSULTATIONS

HISTORIC ENGLAND

Do not wish to comment on the application

HISTORIC ENGLAND (ARCHAEOLOGY)

Any response to be reported verbally

GREATER LONDON AUTHORITY

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

TFL

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

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

No objection

HIGHWAYS PLANNING MANAGER

No objection

ENVIRONMENTAL HEALTH

No objection

BUILDING CONTROL

No objection

DESIGNING OUT CRIME

No objection

THE ROYAL PARKS

Any response to be reported verbally

THAMES WATER UTILITIES LTD
No objection

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

Objections raising all or some of the following:

Other

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

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

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

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

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

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

6.2 Recent Relevant History

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

63 Curzon Street

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

7. THE PROPOSAL

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

The land use table below sets out the proposal.

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

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of office use

The proposal results in the loss of 4959m² of office floorspace. The application was submitted prior to the 1st September 2015, therefore the loss of the office floorspace cannot be resisted in this instance.

Residential (unit mix and standard of residential floorspace)

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

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

Table showing the flat sizes (m2)

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

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

Affordable housing

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

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

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

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

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

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

Retail

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

Restaurant

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

The maximum size for the restaurant within the flexible floorspace is 795m². In such circumstances, given that these are 'large-sized' entertainment uses UDP Policy TACE10 applies which requires the City Council to consider carefully the potential impact on residential amenity and environmental quality, taking into account the cumulative impact with other nearby entertainment uses, and the effect on the character and function of the area.

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

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

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

8.2 Townscape and Design

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

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

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

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

Proposed design

Curzon Street

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

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

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

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

Stratton Street

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

Arcade

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

Conclusion

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

8.3 Residential Amenity

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

Daylight and Sunlight overview

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

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

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

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

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

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

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

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

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

Sense of Enclosure

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

Privacy

There are existing office windows within the lightwell shared with the nearest residential at 16 Stratton Street and there is mutual overlooking between these two properties. The existing office windows clad the whole façade but they are set away from No.16 due to an existing escape stair. The proposal will introduce a more traditional fenestration pattern but they will be built closer to the existing residential windows, therefore reducing the distance window to window. This may lead to greater mutual overlooking, but it is not considered that this is so significant to justify the refusal of the planning application.

New windows are proposed to the east lightwell which overlook the Mayfair Hotel. There is a two storey bar (Skybar) in close proximity (within the lightwell) to the boundary of the application site, the Skybar is fully glazed on all sides, including the roof. There is the potential for overlooking from customers using the Skybar into the new residential

windows at second floor level. The applicants have set back this elevation from the boundary and are proposing a 2m high screen to prevent overlooking. This is considered acceptable.

Noise

As previously mentioned the Mayfair hotel's 'Skybar' is located 3 metres from the proposed residential windows and although there are no openable windows in the 'Skybar', Environmental Health were concerned that there is the potential for noise and disturbance to the proposed residential units (internally and external amenity areas). A supplementary acoustic report has been submitted, and this recommends that suitable glazing is selected to ensure the internal noise levels are in line with the standard noise conditions. Environmental health are now satisfied with the findings in the acoustic report and do not object to the proposal subject to conditions.

Plant is proposed within the basement and at roof level. The roof top plan will be enclosed by a screen. An internal full height extract duct is proposed and this will terminate within the plant screen.

8.4 Transportation/Parking

The proposal includes the provision of 21 car parking spaces for the 32 residential units, resulting a shortfall of 11 spaces. The on-street parking pressures within 200m of this site are 55% during the nighttime and 70% during the daytime. It is expected that 32 residential units in this location would generate an additional nine vehicles, and these nine additional vehicles would increase on-street car parking to over the 80% threshold.

The applicant has indicated that they will offer car club membership for 25 years. However, the applicant has not indicated that the off-street car parking would be provided on an unallocated basis. It is considered that the 21 car parking spaces should be offered on an unallocated basis and this, in conjunction with car club membership, would be considered consistent with UDP Policy TRANS23. The unallocated parking will be secured within the S106.

Electric charging points are shown on the proposed plans and these will be secured by condition.

The GLA has objected to the scheme on the grounds of over-provision of car parking spaces, but this is not supported by the Council's own parking policy.

Cycle parking is proposed for the residential part of the development, and a total of 60 spaces are proposed. Cycle parking is also proposed for the retail and restaurant parts of the development and a total of 24 spaces are proposed and this is considered acceptable and consistent with FALP.

The basement car parking is accessed via a single car lift from Curzon Street. The car lift is set back from the building edge, but it does not provide an off-street waiting space. Concern has been raised by the Highways Planning Manager that this may lead to localised congestion. The applicant has indicated that one car lift cycle time is 1 minute

53 seconds and argues that the trip generation rates, the lift cycle times and number of car parking spaces queuing on the highway would be rare.

Concern has also been raised to the lack of pedestrian visibility splays for vehicles exiting the car park. A condition is recommended to ensure that adequate visibility splays are incorporated into the ground floor design.

The existing building incorporates off-street servicing. The proposed building relies on on-street servicing and the Highways Planning Manager concludes that the proposal is not consistent with S42 of the City Plan or TRANS20 of the UDP which require adequate off-street servicing provision. In response, the applicant has submitted a servicing management plan (SMP). It is considered that the SMP is insufficiently detailed and as such an updated SMP is required. This will be secured by condition.

The applicant is proposing a number of changes to the on-street parking restrictions, including changes to two existing taxi ranks, the applicants are in discussions with TFL regarding these changes. In Curzon Street, the existing taxi rank would be moved slightly along the frontage of the development site to accommodate the new basement car parking access. Within Stratton Street an existing taxi bay is proposed to be removed. These changes will be subject to the formal Traffic Management Order process, which is a separate legal process.

Arcade/Walkway Agreement

The pedestrian link is welcomed and the applicant has agreed that it will be secured with a formal Walkways Agreement and a two metre passage will be kept clear at all times, this will be secured via S106 to ensure that the benefit is delivered and retained. To prevent anti-social behaviour a condition is recommended to ensure that the arcade is closed between 02.00 – 07.00 daily.

8.5 Economic Considerations

The economic benefits generated by the proposal are welcomed.

8.6 Access

Level access will be provided for the retail arcade and to the residential entrance. Lift access is provided to all the residential units.

8.7 Other UDP/Westminster Policy Considerations

Basement

Objections have been received to the impact of the proposed basement excavation on neighbouring properties.

This impact of basement excavation is at the heart of concerns expressed by residents across many central London Boroughs, heightened by well publicised accidents occurring during basement constructions. Residents are concerned that the excavation of new basements is a risky construction process with potential harm to adjoining

buildings and occupiers. Many also cite potential effects on the water table and the potential increase in the risk of flooding.

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

While the Building Regulations determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely, the National Planning Policy Framework March 2012 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by land instability.

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

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

Officers consider that in the light of the above it would be justifiable to adopt a precautionary approach to these types of development where there is a potential to cause damage to adjoining structures.

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

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

This report has been considered by our Building Control officers who advised that the structural approach appears satisfactory. We are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with the integral professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the building regulations in due course. This report will be attached for information purposes to the

decision letter. It is considered that this is as far as we can reasonably take this matter under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations as cited above. To go further would be to act beyond the bounds of planning control.

The City Management Plan will include policies specifically dealing with basement and other subterranean extensions. This is at an early stage of development and will not carry any weight as a material consideration in determining planning applications until it has progressed significantly along the route to final adoption.

Construction

A number of objections have been received relating to the impact of the construction on noise, dust, health and safety and construction traffic causing congestion etc. Planning permission cannot be reasonably refused on these grounds. However, a construction management plan (CMP) has been submitted, but this does not fully address all the requirements for CMP's as set out in Appendix 2 of the adopted Basement SPD. A condition is recommended to ensure that a full CMP is submitted before works start on site.

The applicant has offered to fund the Council's Environmental Inspectorate to monitor compliance with a Site Environmental Management Plan. This contribution will be secured under a S106 legal agreement given the close proximity of the site to adjoining residential properties.

Hours of building and excavation works can also be controlled by condition. Through the use of these measures it is considered that objectors concerns about the impact of the construction process are fully addressed.

Sustainability

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture. The applicant has submitted an energy strategy setting out the measures incorporated into the proposed development in the context of sustainable design principles. The London Plan states that there should be a 35% reduction. The submitted energy assessment states that this 35 % reduction will be achieved through a range of passive design features and demand reduction measures, the demand for cooling will be minimised through solar control glazing. As there are no existing or planned district heating networks within the vicinity, the applicant has provided a commitment to ensure that the development is designed to allow for future connection to a district heating network should one become available. The proposal includes the installation of a CHP unit, which will be secured by condition. Photovoltaic panels (95sqm) are proposed at roof level and these will also be secured by condition. In conclusion the proposal complies with S28 of the City Plan and Policy 5.2 of the London Plan.

8.8 London Plan

The application is referable to the Mayor of London and a Stage 1 response has been received which is generally supportive of the scheme, however there are concerns to the level of car parking, which is covered previously in this report.

8.9 National Policy/Guidance Considerations

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

8.10 Planning Obligations

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

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

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

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

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

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

- Contribution to the Council's Environmental Inspectorate (merged services Environmental Sciences and the Environmental Inspectorate);
- Unallocated car parking;
- Car Club Membership for 25 years for all the flats;
- Walkway Agreement;
- Car Lift Maintenance;
- Highways alterations required for the development to occur (at no cost to the City Council); and
- Costs of monitoring the legal agreement.

9. BACKGROUND PAPERS

1. Application form
2. Response from Residents Society Of Mayfair & St. James's, dated 28 September 2015
3. Response from Historic England (Listed Builds/Con Areas), dated 16 September 2015
4. Response from the GLA dated 26 October 2015
5. Response from TFL dated 6 October 2015
6. Response on behalf of the Environmental Inspectorate, dated 23 September 2015
7. Letter from occupier of Designing Out Crime, dated 14 September 2015
8. Memorandum from the Highways Planning Manager dated 12 October 2015
9. Memoranda from Environmental Health dated 23 December 2015 and 7 January 2016
10. Email from Building Control dated 22 December 2015
11. Letter from occupier of 9 Fitzmaurice Place, Mayfair, dated 30 September 2015
12. Letter from occupier of Flat 16, 17 Clarges Street, dated 6 October 2015

10. Key Drawings

14-15-25002

14-15-25002

14-15-25002

Do not scale dimensions. Dimensions govern.
All dimensions are in millimeters unless noted otherwise.
Pillbrow & Partners shall be notified in writing of any discrepancies.

Sections Legend

- Head
- Headset/Lobby
- Headset
- Open
- Meeting Room
- First
- Ground
- Core

2 10/06/2015 Issue for Planning Approval
1 10/07/2015 Draft Stage 2 Plan

Author: [Name]
Checker: [Name]

Pillbrow & Partners

11 St. John Street
London EC1A 4DB
020 7463 4000
www.pillbrow.com

Nightingale House

Issue: Stage 2 Planning
Drawing No: Section BB
Project No: 14-15-25002

Scale: 1:100
Author: [Name]
Checker: [Name]

14-15-10100

14-15-10100

14-15-10100

Do not scale dimensions. Dimensions govern.
All dimensions are in millimeters unless noted otherwise.
Pillbrow & Partners shall be notified in writing of any discrepancies.

Plan Colour Fill Legend

- Head
- Headset/Lobby

INDICATIVE SHOP FRONT DESIGN

2 10/06/2015 Issue for Planning Approval
1 10/07/2015 Draft Stage 2 Plan

Author: [Name]
Checker: [Name]

Pillbrow & Partners

11 St. John Street
London EC1A 4DB
020 7463 4000
www.pillbrow.com

Nightingale House

Issue: Stage 2 Planning
Drawing No: Ground Floor Plan
Project No: 14-15-10100

Scale: 1:100
Author: [Name]
Date: 24/07/2015
Checker: MN WW

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT HELEN MACKENZIE BY EMAIL AT hmackenzie@westminster.gov.uk

DRAFT DECISION LETTER

Address: Nightingale House, 65 Curzon Street, London, W1J 8PE,

Proposal: Demolition of existing building and redevelopment, including excavation, to create up to three basement storeys, ground and eight storeys to be used for up to 32 residential flats, creation of a ground floor arcade link between Stratton Street and Curzon Street for use as retail and/or restaurant uses (Classes A1 and A3). provision of up to 21 car parking spaces over the basement level, basement and rooftop plant areas. Creation of terrace/balcony areas on both elevations

Plan Nos: 1415 03099 1, 03100 1, 03101 1, 03102 1, 03103 1, 03104 1, 03105 1, 03106 1, 03107 1, 04001 1, 04002 1, 04003 1, 04004 1, 10097 2, 10098 2, 10099 2, 10100 2, 10102 2, 10101 2, 10106 2, 10107 2, 10108 2, 10109 2, 20001 2, 20002 2, 20003 2, 20004 2, 25001 2, 25002 2, 25003 2, 25004 2

Structural methodology statement dated August 2015 (INFORMATION ONLY)

Case Officer: Helen MacKenzie

Direct Tel. No. 020 7641 2921

Recommended Condition(s) and Reason(s):

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

Reason:

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

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

You must carry out basement excavation work only:

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

Noisy work must not take place outside these hours. (C11BA)

Reason:

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

- 3 Development shall not commence until a drainage strategy detailing any on and /or off site drainage works, has been submitted to and approved by the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred in the strategy have been completed.

Reason:

The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

- 4 If you provide an A3 use or uses, no more than 15% of the floor area of each of the uses shall consist of a bar or bar seating. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 5 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours 07.00 to 00.30 Monday to Saturday and 08.00 - 23.00 on Sundays. (C12DC)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 6 You must apply to us for approval of details of the ventilation system to get rid of cooking smells from the restaurant(s), including details of how it will be built and how it will look. You must not begin any restaurant use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

Reason:

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

- 7 You must apply to us for approval of a management plan to show how you will prevent

restaurant customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use.

Reason:

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

- 8 In the event that the Class A3 restaurant use is implemented , you must submit detailed drawings showing the layout of the restaurant uses before the restaurants are occupied. The drawings must include the entrances, kitchens, covers and bar areas.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 9 In the event that the Class A3 restaurant use is implemented, you must provide detailed drawings (plans and section/elevation) showing the full height kitchen extract duct indicated on your approved drawings. These details must be provided before the restaurant use commences and the approved duct shall thereafter be permanently retained for as long as the restaurant is in use.

Reason:

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

- 10 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

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

- 11 You must apply to us for approval of details of how waste is going to be stored on the site (for the residential and A uses) and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 12 Prior to occupation of retail/restaurant uses, you must submit and have approved in writing a Servicing Management Plan. The plan should identify the process, internal storage locations, scheduling of deliveries and staffing.

Reason:

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

- 13 You must apply to us for approval of details of the location of the electric charging points; one charging point must be provided for every two car parking spaces. You must not occupy the residential part of the development until we have approved what you have sent us and you have carried out the work according to the approved details.

Reason:

To promote sustainable forms of transport.

- 14 You must apply to us for approval of details of the ventilation system to get rid of vehicle exhaust emissions from the basement car park. You must not occupy the residential part of the development until we have approved what you have sent us and you have carried out the work according to the approved details.

Reason:

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

- 15 You must apply to us for approval of detailed drawings of the following parts of the development; the detailed design of the vehicle entrance/exit and adjoining walls. You must not start work until we have approved what you have sent us.

You must then carry out the work according to these detailed drawings;. (C26CB)

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

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

Reason:

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

- 17 You must apply to us for approval of a lift gate management strategy. This should include the provision of a traffic light system to the entrance to the car lift, ensure that the lift should always be returned to ground floor level to give priority to drivers entering the development, and set out a maintenance strategy to minimise downtime.

Reason:

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

- 18 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved either:

- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or
(b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

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

Reason:

To maintain the character of the Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 20 All vehicles must enter and exit the site in forward gear

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 21 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 22 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

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

- 23 You must apply to us for approval of detailed drawings at 1:10 of the following parts of the development - of a typical example of each window type and of all external doors and gates. You must not start any work on these parts of the development until we have approved what you have sent us.

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

27 **Pre Commencement Condition.**

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

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

(c) You must not use any part of the new building until we have confirmed that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

Reason:

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

- 28 No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council.

The plan shall consider the issues set out in Appendix 2 of our Supplementary Planning Document - Basement Development in Westminster. These include measures to mitigate dust and to confirm the other relevant codes and standards that you will need to comply with.

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

Reason:

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

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

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 30 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB LAmax is not to be exceeded no more than 15 times per night time from sources other than emergency sirens

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 31 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 29 and 30 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

Reason:

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

excessive ambient noise levels.

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

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed.

Phase 1: Desktop study - full site history and environmental information from the public records.

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

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

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.

(C18AA)

Reason:

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

(R18BA)

- 33 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level

should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 34 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 35 You can only use the western courtyard for sitting out purposes (in connection with the restaurant/retail use) between 07.00 - 21.00 Monday to Sunday. Outside these hours the full height doors must be fixed shut.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 In relation to Condition 15, details are required to ensure that there are adequate visibility splays for other highways users including pedestrians.
- 3 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: districtsurveyors@westminster.gov.uk. Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply.

The Equality and Human Rights Commission has a range of publications to assist you, see www.equalityhumanrights.com. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit www.cae.org.uk.

If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk

It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 4 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. If you would like more information, you can contact Ray Gangadeen on 020 7641 7064. (I54AA)
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 6 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 7 Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year). (I38AB)
- 8 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the basement and ground floor (west side only) floor can change between the retail (Class A1) and restaurant (Class A3) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)
- 9 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting

work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

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

Phone: 020 7641 2000

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

- 10 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:

* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at www.hse.gov.uk/risk/index.htm.

It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.

- 11 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.
Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:

- * Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;
- * Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;
- * Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;
- * Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
- * Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 12 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following.
- * Window cleaning - where possible, install windows that can be cleaned safely from within the building.
 - * Internal atria - design these spaces so that glazing can be safely cleaned and maintained.
 - * Lighting - ensure luminaires can be safely accessed for replacement.
 - * Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).
- More guidance can be found on the Health and Safety Executive website at www.hse.gov.uk/falls/index.htm.

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)

- 13 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 14 Condition 32 refers to a publication called 'Contaminated land, a guide to help developers meet planning requirements' - produced in October 2003 by a group of London boroughs, including Westminster. You can get a copy of this and more information from our environmental health section at the address given below.

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

Phone: 020 7641 3153

(I73AB)

- 15 Approval for this residential use has been given on the basis of façade sound insulation and ventilation mitigation measures being incorporated into the development to prevent ingress of external noise. Occupiers are therefore advised, that once the premises are occupied, any request under the Licensing Act 2003, Environmental Protection Act 1990, Control of Pollution Act 1974 or planning legislation for local authority officers to make an assessment for noise nuisance arising from external sources is likely to be undertaken only if the noise and ventilation mitigation measures installed are in operation i.e. windows kept closed and ventilation scheme utilised.
- 16 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- a) Provision of £32,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate;
 - b) Unallocated car parking
 - c) Car Club Membership for 25 years for all the flats
 - d) Walkway Agreement
 - e) Car Lift Maintenance
 - f) Highways alterations required for the development to occur (at no cost to the City Council).

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