

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 26 January 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	Development Site At 77-79 Jermyn Street and 34-36 Duke Street, St James's, SW1		
Proposal	Complete demolition of 77-79 Jermyn Street and 34-36 Duke Street and erection of new 7 storey retail (A1 & A3) and office (B1) building with additional basement levels and roof top plant.		
Agent	CBRE		
On behalf of	Crown Estate		
Registered Number	15/07661/FULL	Date amended/ completed	18 August 2015
Date Application Received	18 August 2015		
Historic Building Grade	Unlisted		
Conservation Area	St James's		

1. RECOMMENDATION

<p>1. Do members consider that the planning benefits in the scheme are sufficient to outweigh the loss of the existing building in its entirety?</p> <p>2. Subject to 1. above grant conditional permission subject to the views of the Mayor and a S106 legal agreement to secure the following:</p> <ol style="list-style-type: none"> i. The provision of 980m² of residential floorspace to be made ready for occupation at 33 Bury Street prior to the occupation of any part of the development. ii. A payment of £1.46m towards the Council's affordable housing fund (payable on commencement of development and index linked). iii. A payment towards Crossrail of £230,580. iv. The applicant to comply with the Council's Code of Construction Practice, provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £30,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers. v. Employment and Training Strategy for the construction and operational phase of the development. <p>3. If the S106 legal agreement has not been completed within three months of the date of the Committee resolution, then:</p> <ol style="list-style-type: none"> a) The Director of Planning shall consider whether the permission can be issued with additional

conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not

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

2. SUMMARY

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

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

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

The key issues with this application are:

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

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

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

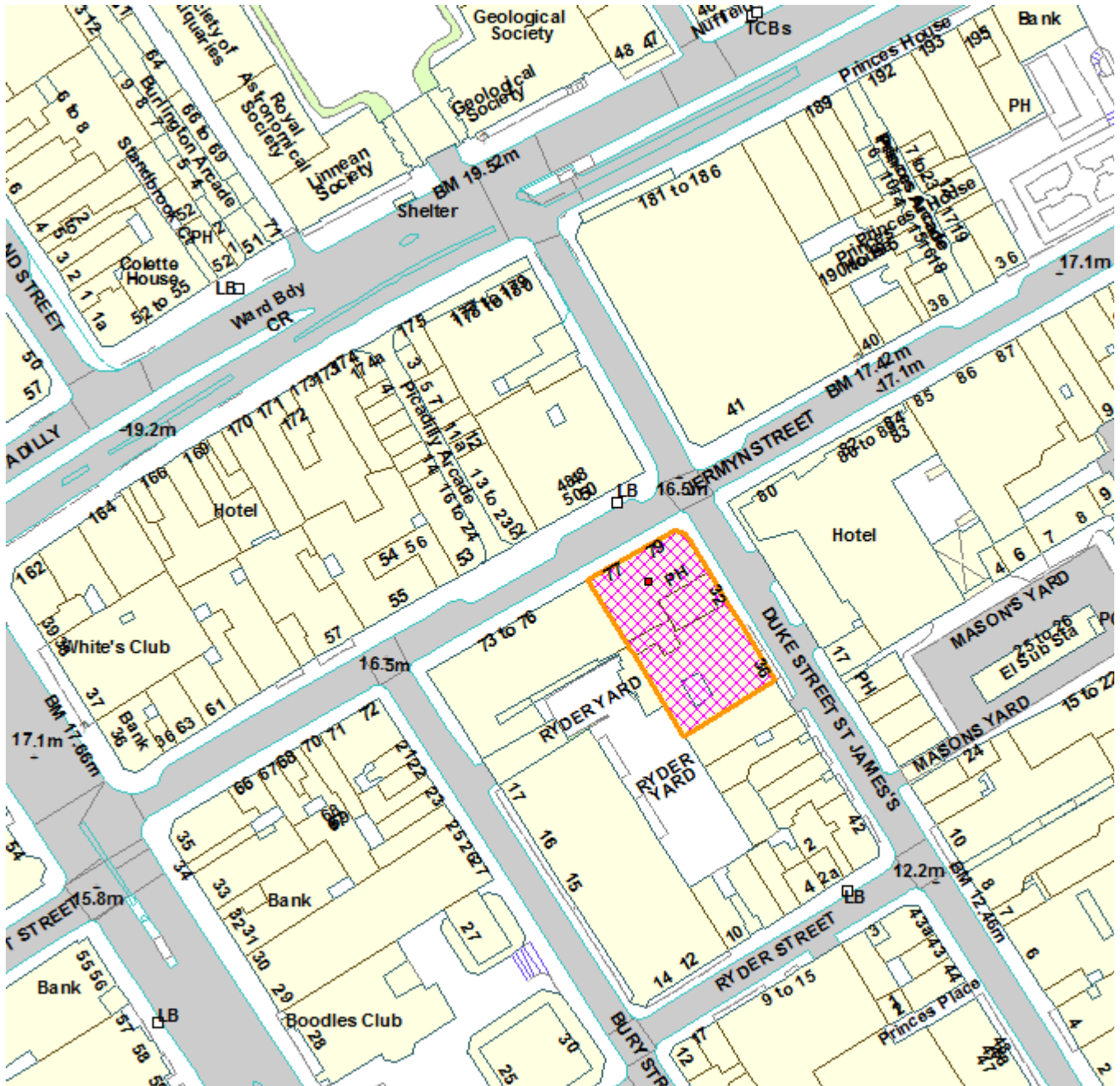
The proposed new building is taller and has greater bulk than the existing buildings, particularly at the

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

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

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

3. LOCATION PLAN



4. PHOTOGRAPHS



34-36 Duke Street elevation



77-79 Jermyn Street elevation

CONSULTATIONS

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

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

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

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

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

Thames Water Utilities Ltd
No objection.

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

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

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

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

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

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

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

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

Amenity

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

Conservation and design

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

Land use

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

Highways

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

Other

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

PRESS ADVERTISEMENT / SITE NOTICE: Yes

5. BACKGROUND INFORMATION

5.1 The Application Site

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

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

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

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

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

The applicant is the Crown Estate.

5.2 Recent Relevant History

None for the application site.

Other relevant history

33 Bury Street

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

6. THE PROPOSAL

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

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

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

7. DETAILED CONSIDERATIONS

7.1 Land Use

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

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

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

Office use

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

Retail use

The scheme proposes a Class A1 shop use (529m²) and a Class A1 shop or Class A3 restaurant use (574m²) at ground and lower ground floor levels. New retail floorspace in the Core CAZ is supported by policies S6 and S21 of Westminster's City Plan: Strategic Policies. The overall increase in A1 retail floorspace is therefore welcome in policy terms.

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

The concerns about the loss of gallery floorspace at 34 Duke Street are noted. The gallery space is currently occupied by The Fine Art Commission. Policy S2 of Westminster's City Plan: Strategic Policies seeks to protect and promote specialist uses and functions which in St James's are considered to be private members' clubs, art galleries and niche retail. The scheme proposes an overall increase in A1 retail across the site of 244m² and up to 809m² if the dual alternative A1/A3 space is used for A1 shop purposes. It is possible that some or all of this A1 floorspace could be occupied by a gallery.

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

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

The scheme could provide up to 574m² of Class A3 restaurant floorspace. UDP Policy TACE 10 applies to proposals for large entertainment uses over 500m² and states that permission will be for such uses only in exceptional circumstances. However given the existing restaurant and pub uses, there will be a net reduction in entertainment floorspace across the site of 260m². The proposed large entertainment use is therefore considered acceptable in these circumstances subject to recommended conditions to control opening hours, to deal with cooking fumes and to secure an appropriate operation management plan.

Mixed use policy

The scheme generates a total commercial uplift of 1647m². Policy S1 of Westminster's City Plan: Strategic Policies states that "where proposals increase the amount of commercial floorspace by more than 200m² or more, or in the case of A1 retail by 400m² or more, the provision of an equivalent amount of residential floorspace will be required on site where the Council considers this to be appropriate and practical". The supporting text states that where on site provision of residential floorspace is not considered acceptable or practical, a cascade of other options, including the use of land use swaps or residential credits will be considered as detailed in the City Management Plan.

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

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

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

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

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

The applicant's case on mixed use.

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

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

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

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

Given the above, the applicant proposes to provide 980m² of new residential floorspace at 33 Bury Street under Part B of Policy COM 2. The residential accommodation will be at second, third and fourth floor levels and will provide 6 units arranged as 1 x 1 bed, 3 x 2 bed and 2 x 3 bed. As the provision of off-site residential at 33 Bury Street only partly meets Policy COM 2, the applicant proposes to make up the shortfall of 666m² through a financial contribution under Part D of the policy. The payment in lieu required by policy is £1.46m.

Assessment of the applicant's case.

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

7.2 Townscape and Design

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

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

The Jermyn Street Building

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

The Duke Street Buildings

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

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

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

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

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

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

The design of the new building

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

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

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

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

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

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

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

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

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

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

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

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

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

7.3 Residential Amenity

Policy ENV13 of the UDP relates to protecting amenities, daylight and sunlight, and environmental quality. Policy ENV 13 (D) states that the City Council will resist proposals which result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. Policy ENV 13 (E) goes on to state that developments should not result in a significant increase in sense of enclosure, overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use. Policy ENV 6 seeks to protect noise sensitive properties from noise disturbance.

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

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

Daylight

The City Council generally has regard to the standards for daylight and sunlight as set out in the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight' (as revised 2011). The applicant's consultant Anstey Horne has carried out the necessary tests using the methodology set out in the BRE guidelines on the nearest, most affected residential properties, namely 16 Duke Street, 17 Duke Street, 2-10 Ryder Street and 76 Jermyn Street. The assessment considers the impact of the development on the vertical sky component (VSC) and daylight distribution available to windows in these properties. VSC is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the BRE guidelines state that the window will have the potential to provide good levels of daylight. The BRE guidelines state that reductions of over 20% of existing daylight levels are likely to be noticeable.

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

Window	Room use	Floor level	Existing VSC	Proposed VSC	Loss VSC	% Loss VSC
W1/401	Living Room	1st	10.70	8.50	2.20	20.56
W4/401	Bedroom	1st	17.73	14.05	3.68	20.76
W5/401	Bedroom	1st	18.85	14.67	4.18	22.18
W6/401	Bathroom	1st	20.11	15.22	4.89	24.32
W7/401	Bedroom	1st	21.03	15.24	5.79	27.53
W8/401	Bedroom	1st	21.39	14.90	6.49	30.34
W5/402	Bedroom	2nd	22.26	17.69	4.57	20.53
W6/402	Bathroom	2nd	23.75	18.27	5.48	23.07
W7/402	Bedroom	2nd	24.68	18.10	6.58	26.66
W8/402	Bedroom	2nd	25.10	17.58	7.52	29.96
W6/403	Bathroom	3rd	28.01	22.08	5.93	21.17
W7/403	Bedroom	3rd	28.89	21.60	7.29	25.23
W8/403	Bedroom	3rd	29.21	20.73	8.48	29.03
W7/404	Bedroom	4th	32.39	24.70	7.69	23.74
W8/404	Bedroom	4th	32.60	23.53	9.07	27.82
W8/405	Bedroom	5th	35.28	26.23	9.05	25.65

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

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

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

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

Sunlight

In respect of sunlight, the BRE guide suggests that a dwelling will appear reasonably well sunlit provided that at least one main window wall faces within 90° of due south and it receives at least a quarter of annual probable sunlight hours (APSH), including 5% of APSH during the winter months. As with the tests for daylighting, the guidelines recommend that any reduction below this level should be kept to a minimum; if a window will not receive the amount of sunlight suggested, and the available sunlight hours is less than 0.8 times their former value, either over the whole year or just in winter months, then the occupants of the existing building will notice the loss of sunlight; if the overall annual loss is greater than 4% of APSH, the room may appear colder and less cheerful and pleasant. The applicant's assessment shows that 6 windows within the rear of 76 Jermyn Street do not meet the BRE guidelines serving living rooms, kitchens and a bedroom. The reduction in the amount of APSH varies from 22.2% to 31.3% however the level of APSH retained for each affected window is considered reasonable for this central London location. For this reason the impact on sunlight is considered acceptable.

Sense of enclosure

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

Loss of privacy

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

Noise and Disturbance

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

7.4 Parking/Serviceing

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

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

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

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

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

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

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

7.5 Economic Considerations

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

7.6 Access

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

7.7 Other UDP/Westminster Policy Considerations

Plant

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

Sustainability

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

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

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

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

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

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

The applicant proposes 52m² of roof mounted Photovoltaic (PV) panels and 10m² solar hot water panels. Full details can be secured by condition. This is set to achieve a further reduction of 6 tonnes per annum (3%) in regulated CO₂ emissions compared to a 2013 Building Regulations compliant scheme.

Overall it has been calculated that a reduction of 36 tonnes in regulated CO₂ emissions compared to a 2013 Building Regulations compliant scheme can be achieved equivalent to an overall saving of 21%. This falls short of the London Plan target of 40%. The GLA has requested that the shortfall of 23.2 tonnes of CO₂ per annum should be mitigated off site. The applicant has not agreed to this and given that the Council does not have a policy on carbon off setting it is not considered appropriate to refuse the scheme for this reason.

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

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

7.8 London Plan

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

7.9 National Policy/Guidance Considerations

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

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

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

7.10 Planning Obligations

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

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

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

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

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

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

- i. The provision of 980m² of residential floorspace to be made ready for occupation at 33 Bury Street prior to the occupation of any part of the development.
- ii. A payment of £1.46m towards the Council's affordable housing fund (payable on commencement of development and index linked)

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

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

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

7.11 Environmental Impact Assessment

Environmental impact issues have been covered elsewhere in this report.

7.12 Other Issues

Construction impact

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

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

Crime and security

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

8. BACKGROUND PAPERS

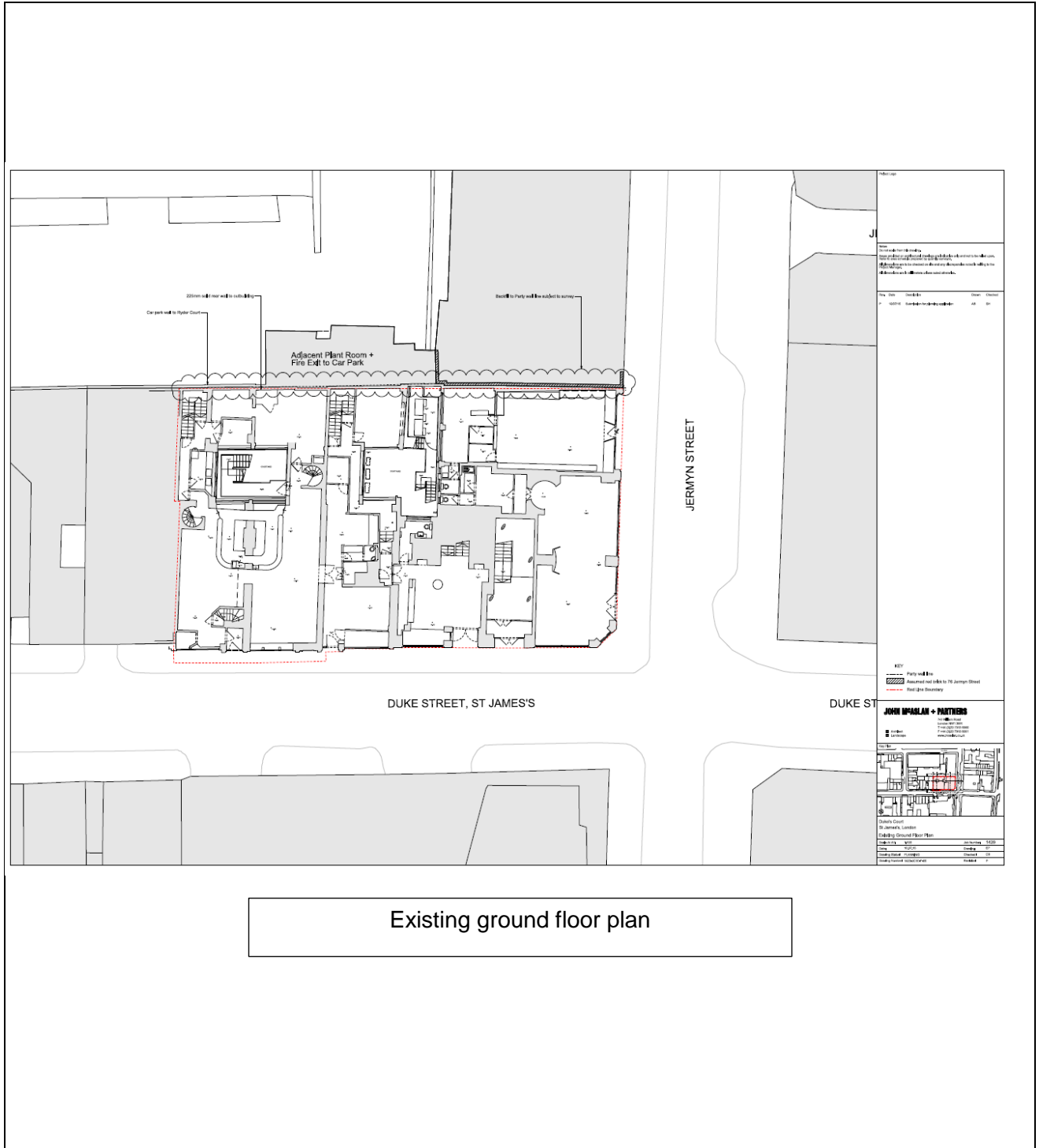
1. Application form
2. Response from Highways planning Manager dated 9 October 2015.
3. Responses from Environmental Health dated 23 November 2015.
4. Response from Premises Management and Environmental Sciences dated 4 November 2015.
5. Response from Designing Out Crime Officer dated 7 September 2015.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

Selected relevant drawings

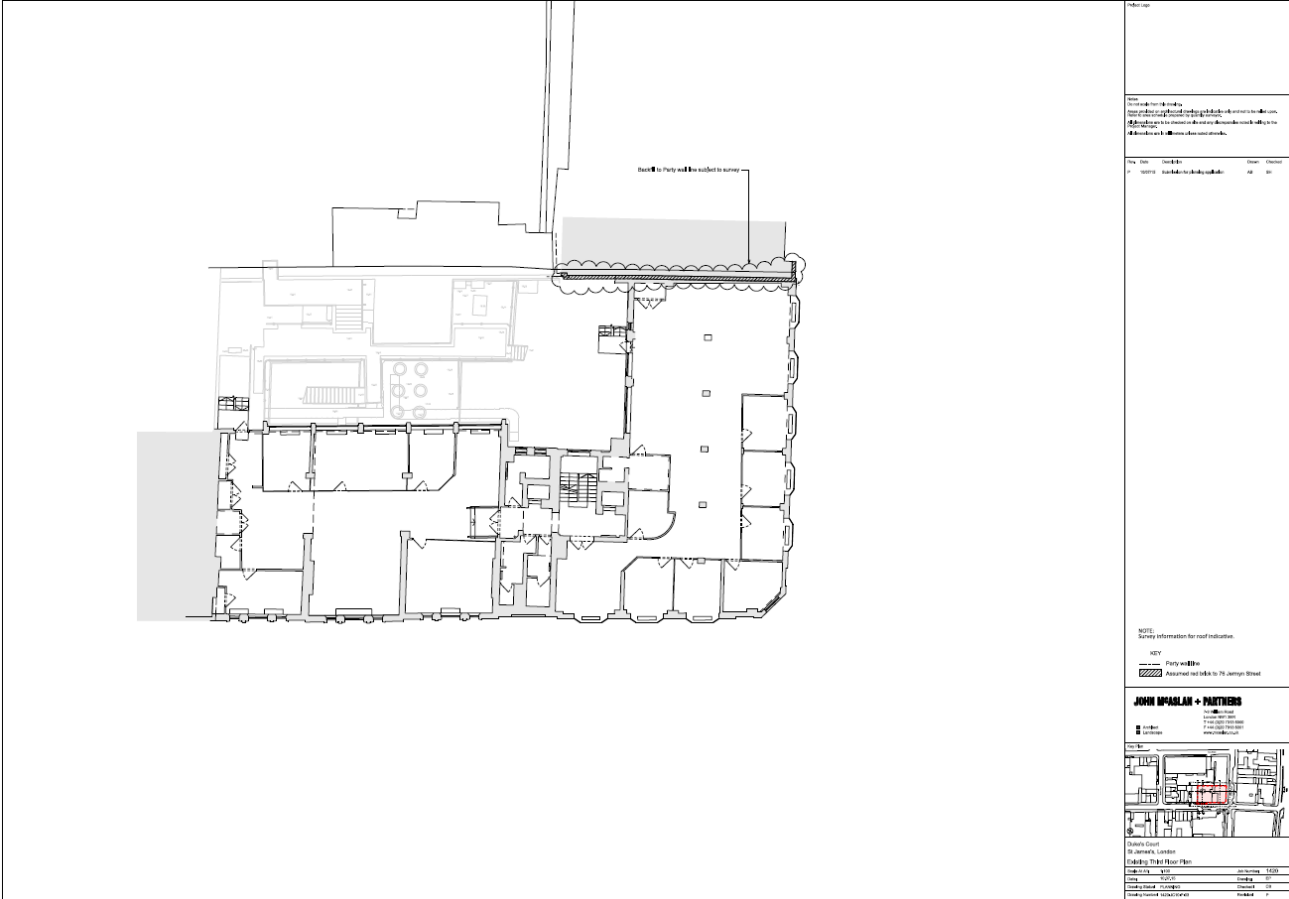
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

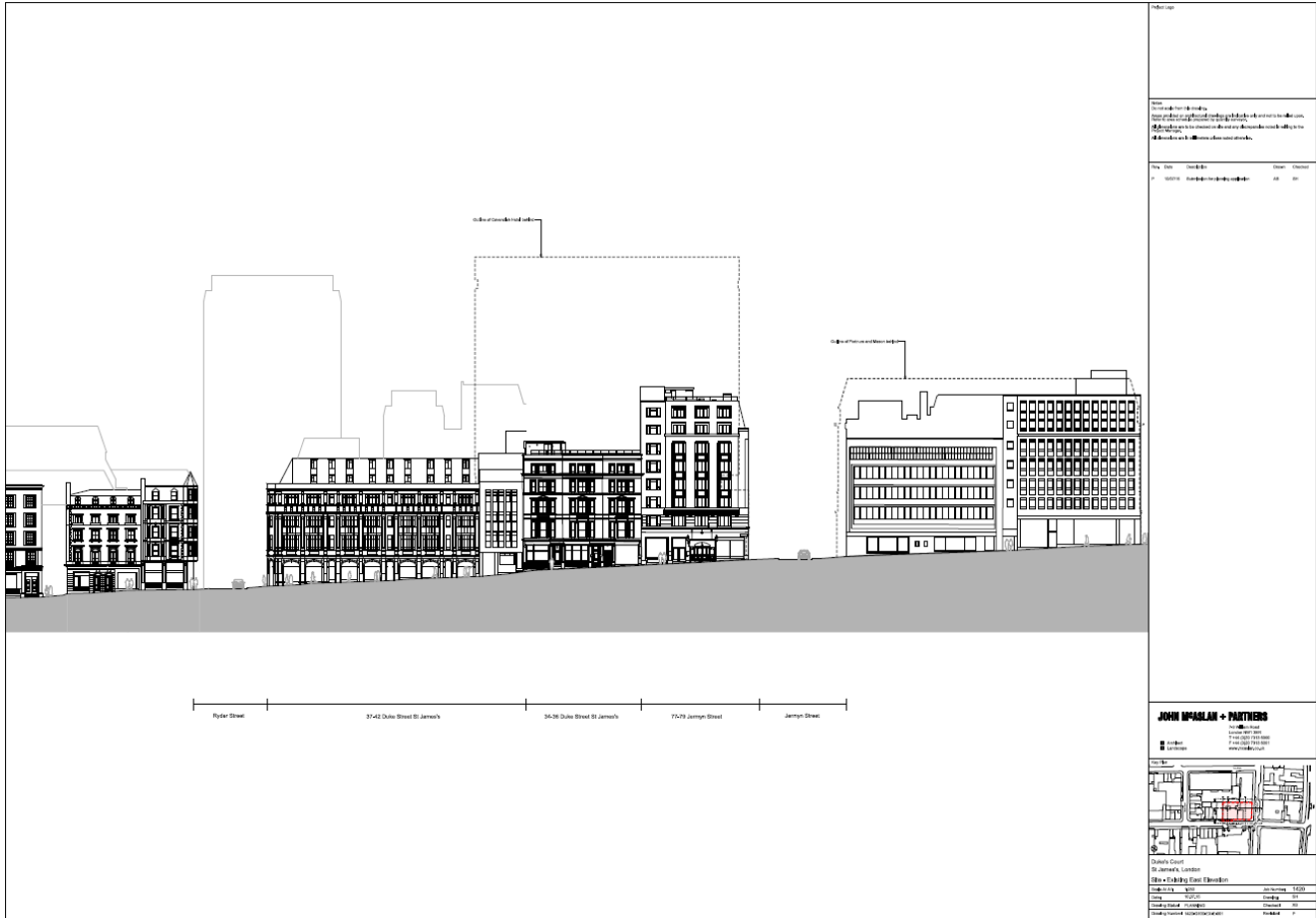
KEY DRAWINGS



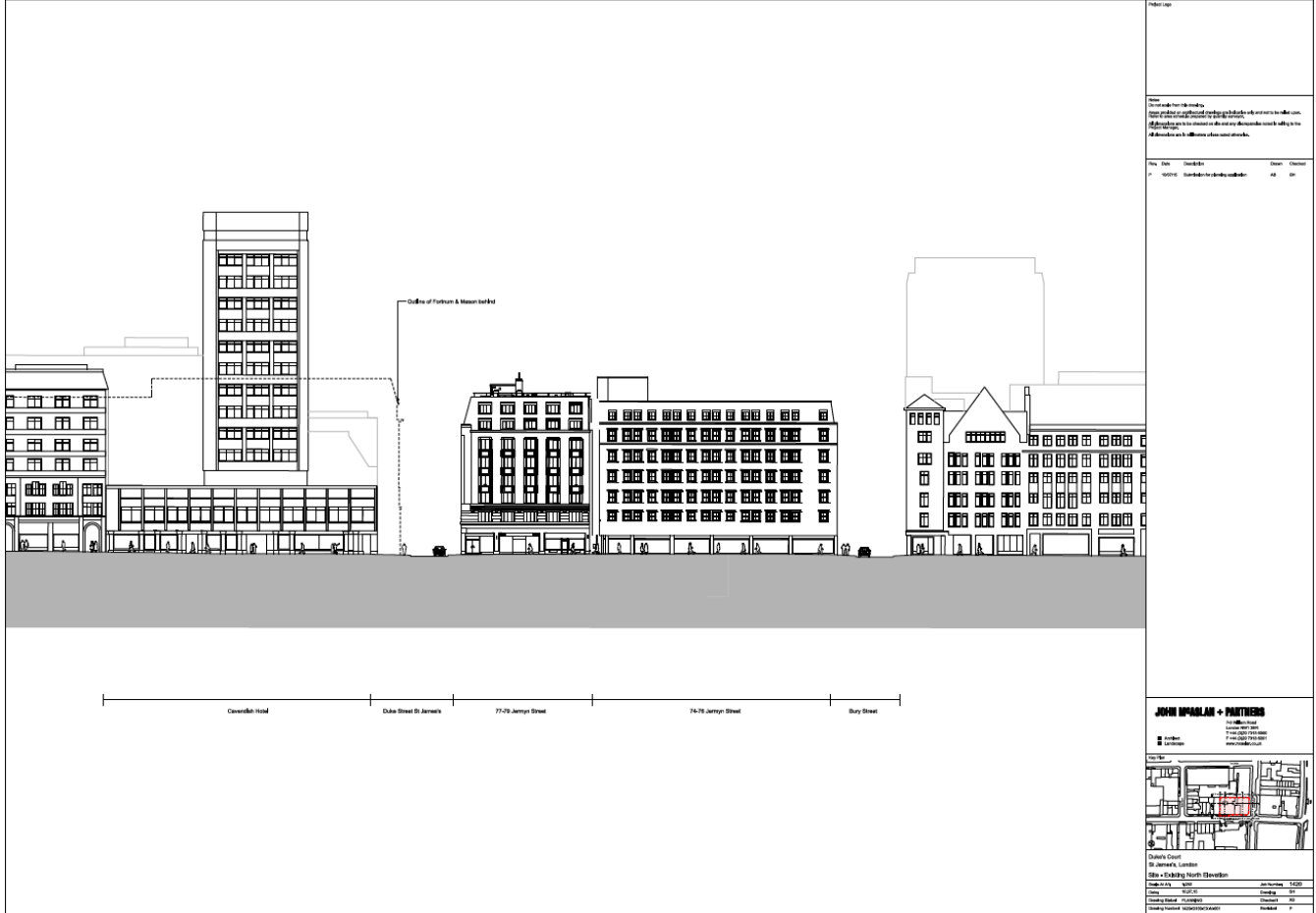
Existing ground floor plan



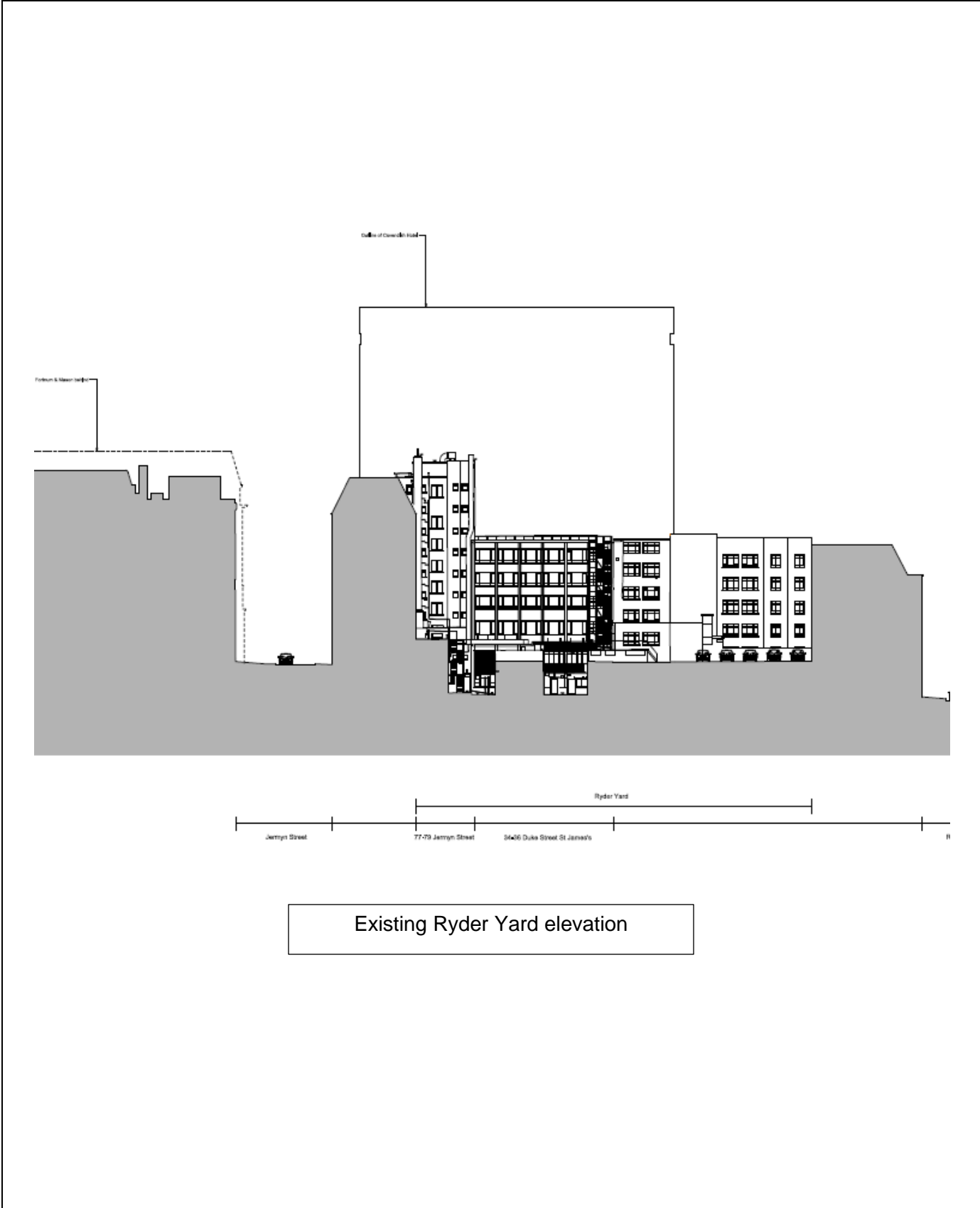
Third floor level – A typical upper floor plan

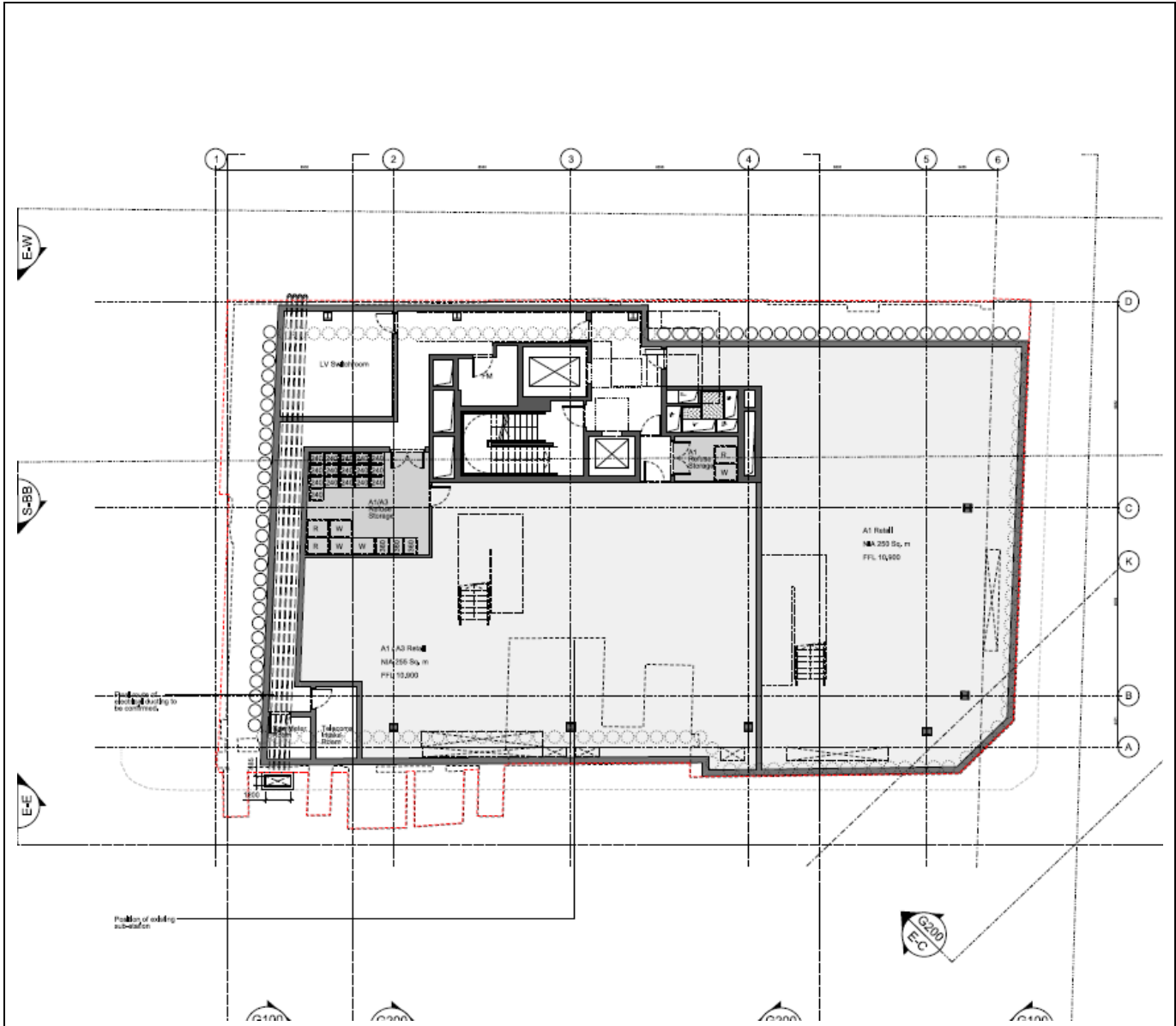


Existing Duke Street elevation

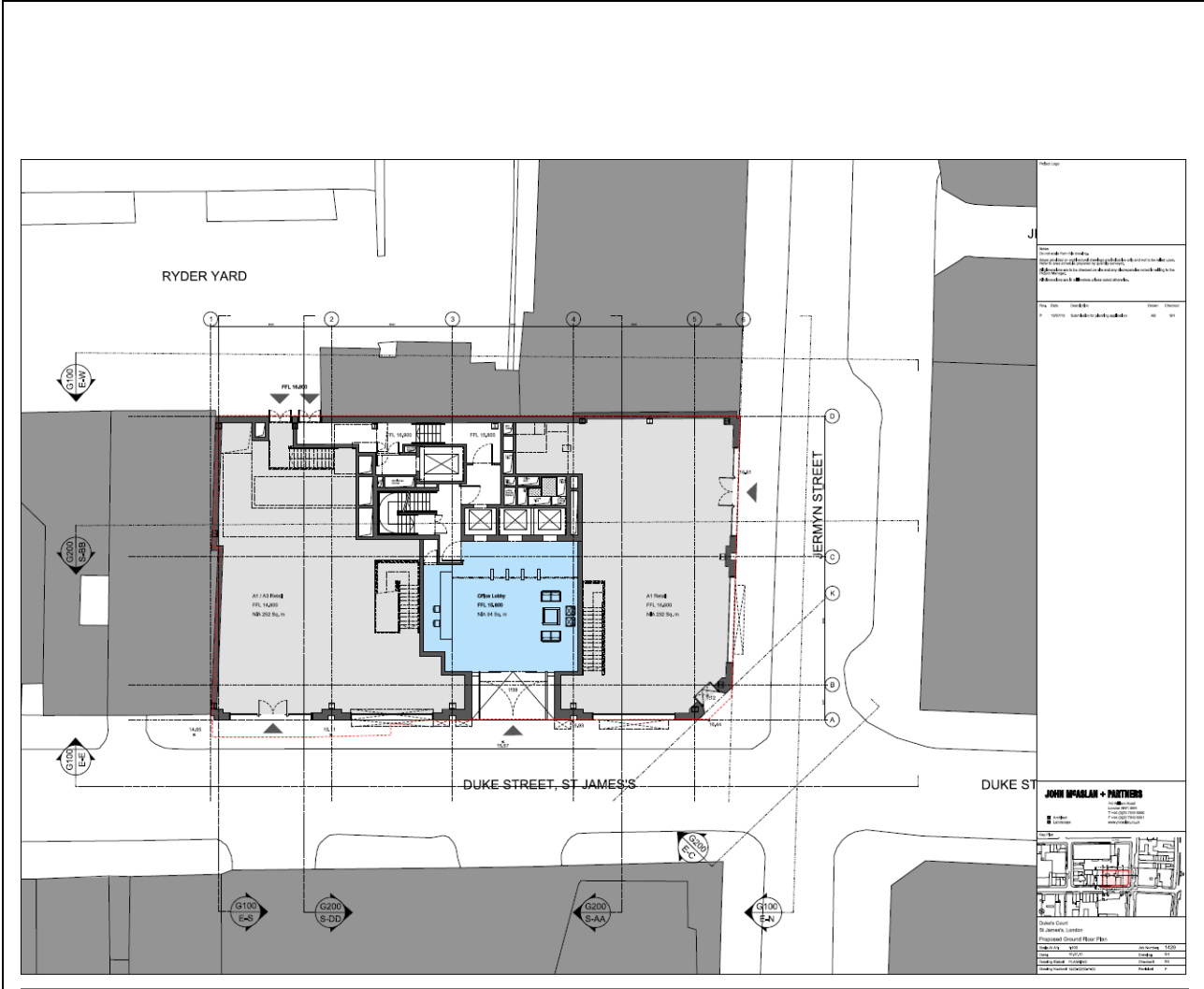


Existing Jermyn Street elevation

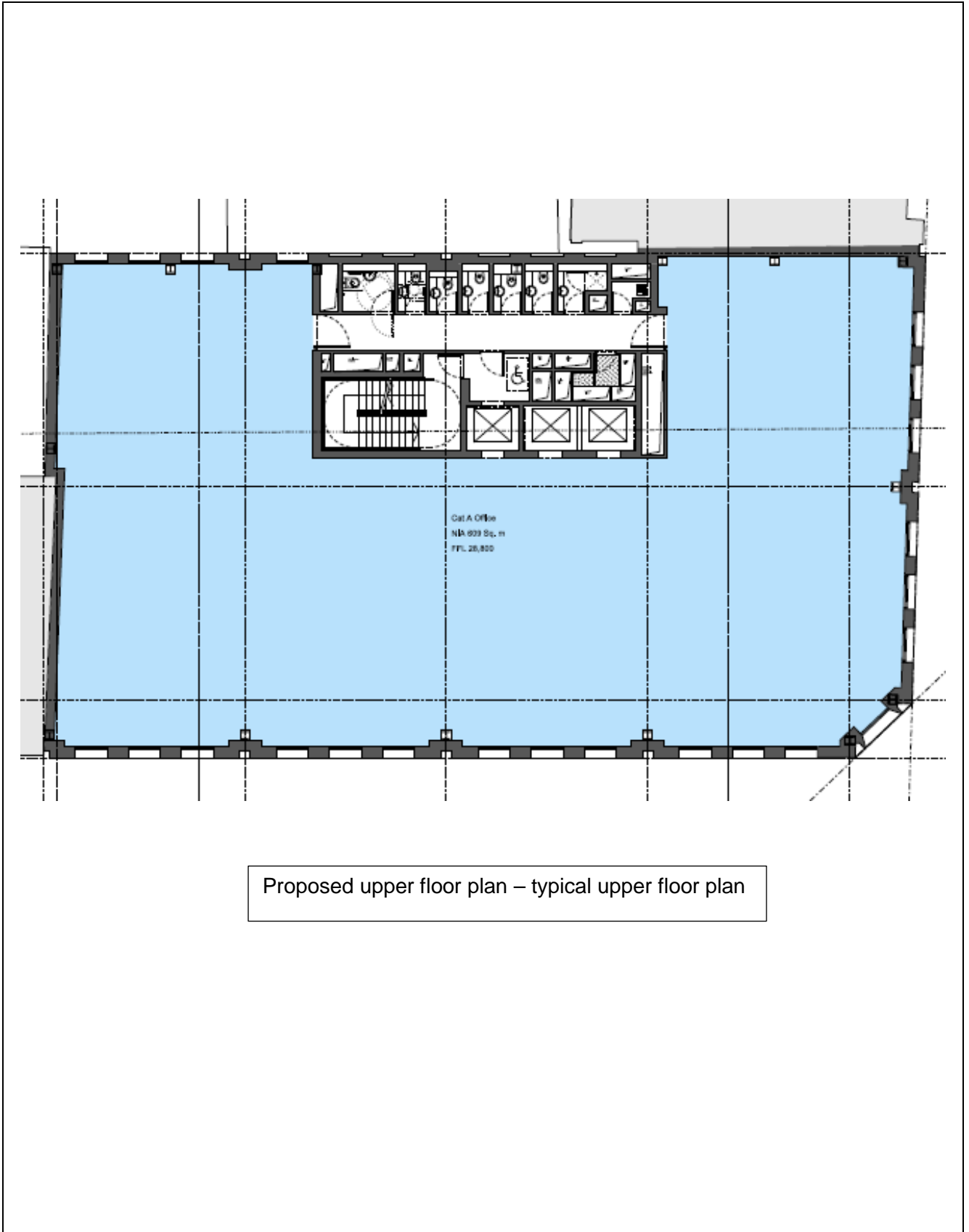




Proposed Basement 01



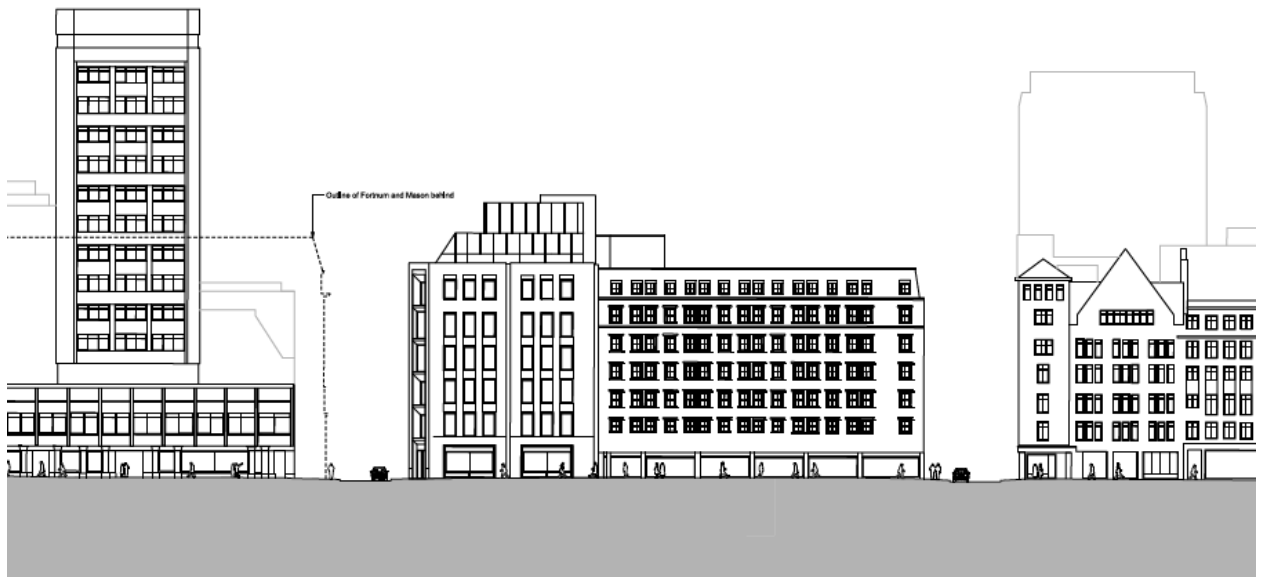
Proposed ground floor plan



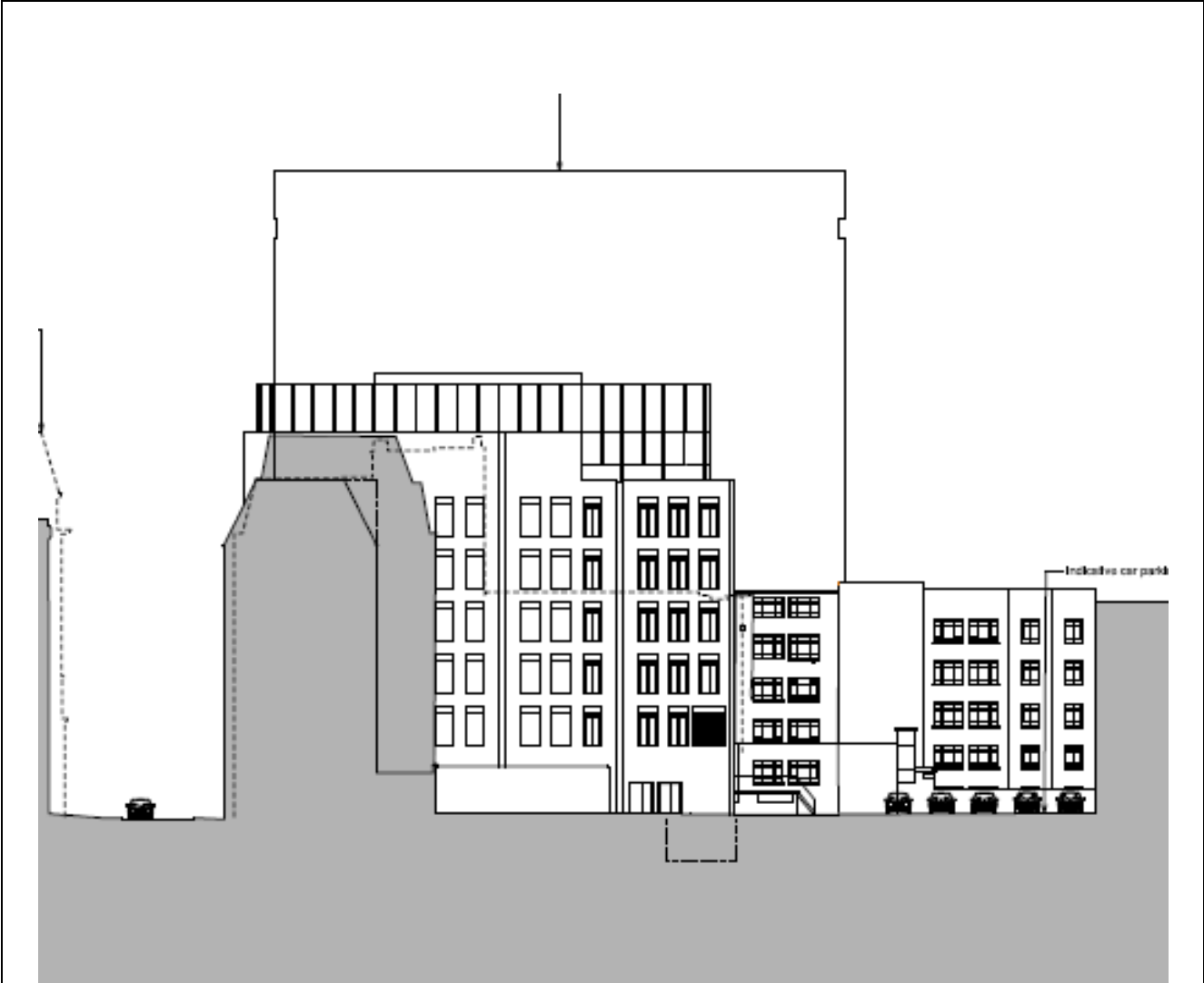
Proposed upper floor plan – typical upper floor plan



Proposed Duke Street elevation



Proposed Jermyn Street elevation



Proposed Ryder Yard elevation



Visual – corner of Jermyn Street and Duke Street



Visual - looking north along Duke Street

DRAFT DECISION LETTER

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

Case Officer: Matthew Mason

Direct Tel. No. 020 7641 2926

Recommended Condition(s) and Reason(s):

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

Reason:

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

- 2 You must carry out any building work which can be heard at the boundary of the site only: ,
 - * between 08.00 and 18.00 Monday to Friday; ,
 - * between 08.00 and 13.00 on Saturday; and,
 - * not at all on Sundays, bank holidays and public holidays. , Noisy work must not take place outside these hours unless except as may be exceptionally agreed by other regulatory regimes such as the police, by the highways authority or by the local authority under the Control of Pollution Act 1974.

Reason:

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

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

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

Reason:

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

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

Reason:

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

- 5 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council.

The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:; (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing LA90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

- 15 You must provide the waste stores for the office and retail uses as shown on the approved drawings before anyone moves into the property. You must clearly mark it and make it available at all times to the occupiers of the building. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

- 22 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

Reason:

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

- 23 You must apply to us for approval of detailed plans of the following parts of the development:, i) windows at a scale of 1:10, ii) external doors at a scale of 1:10, iii) details of the office entrance including gates at a scale of 1:50 with details at 1:10, iv) details of any public art, You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these details.

- 23 Reason:

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

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning

documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 You are advised that the construction logistics plan must include details of the cycle safety measures that will be implemented during demolition and construction such construction vehicles being fitted with side-bars, blind spot mirrors and cycle detection equipment.
- 3 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
 - i.. The provision of 980m² of residential floorspace to be made ready for occupation at 33 Bury Street prior to the occupation of any part of the development.,
 - ii. A payment of £1.46m towards the Council's affordable housing fund (payable on commencement of development and index linked).
 - iii. A payment towards Crossrail of £230,580,
 - iv. The applicant to comply with the Council's Code of Construction Practice, provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £30,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers,
 - v. Employment and Training Strategy for the construction and operational phase of the development.
- 4 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge., If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/> , **You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**
- 5 The revised design of shopfront required by condition 20 of this permission should more closely reflect the traditional detailing and materials of period timber shopfronts, which are a typical feature of the St James Conservation Area.
- 6 You are advised that secure cycle parking within the development for the office and retail uses should be provided to the standards set out in the Further Alterations to the London Plan.

Item No.

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