

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 23 February 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	18 Wells Street, London, W1T 3PG,		
Proposal	<ol style="list-style-type: none"> Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and a duplex residential unit (Class C3) on the fifth and sixth floor. Installation of plant and associated screening at rear ground floor levels and at main roof level. Creation of terraces/balconies at first to sixth floor levels. Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of part basement and ground floor levels as retail accommodation (Class A1) and part basement, ground and the first to sixth floor levels as five residential units (Class C3). Installation of plant and associated screening at rear ground floor levels and at main roof level. Creation of terraces/balconies at first to sixth floor levels. 		
Agent	Rolfe Judd Planning		
On behalf of	Berners-Allsopp Estate		
Registered Number	<ol style="list-style-type: none"> 15/09880/FULL 15/09878/FULL 	Date amended/ completed	22 October 2015
Date Application Received	22 October 2015		
Historic Building Grade	Unlisted		
Conservation Area	East Marylebone		

1. RECOMMENDATION

- Refuse planning permission - loss of residential and non-compliance with the mixed use policy.
- Grant conditional permission.

2. SUMMARY

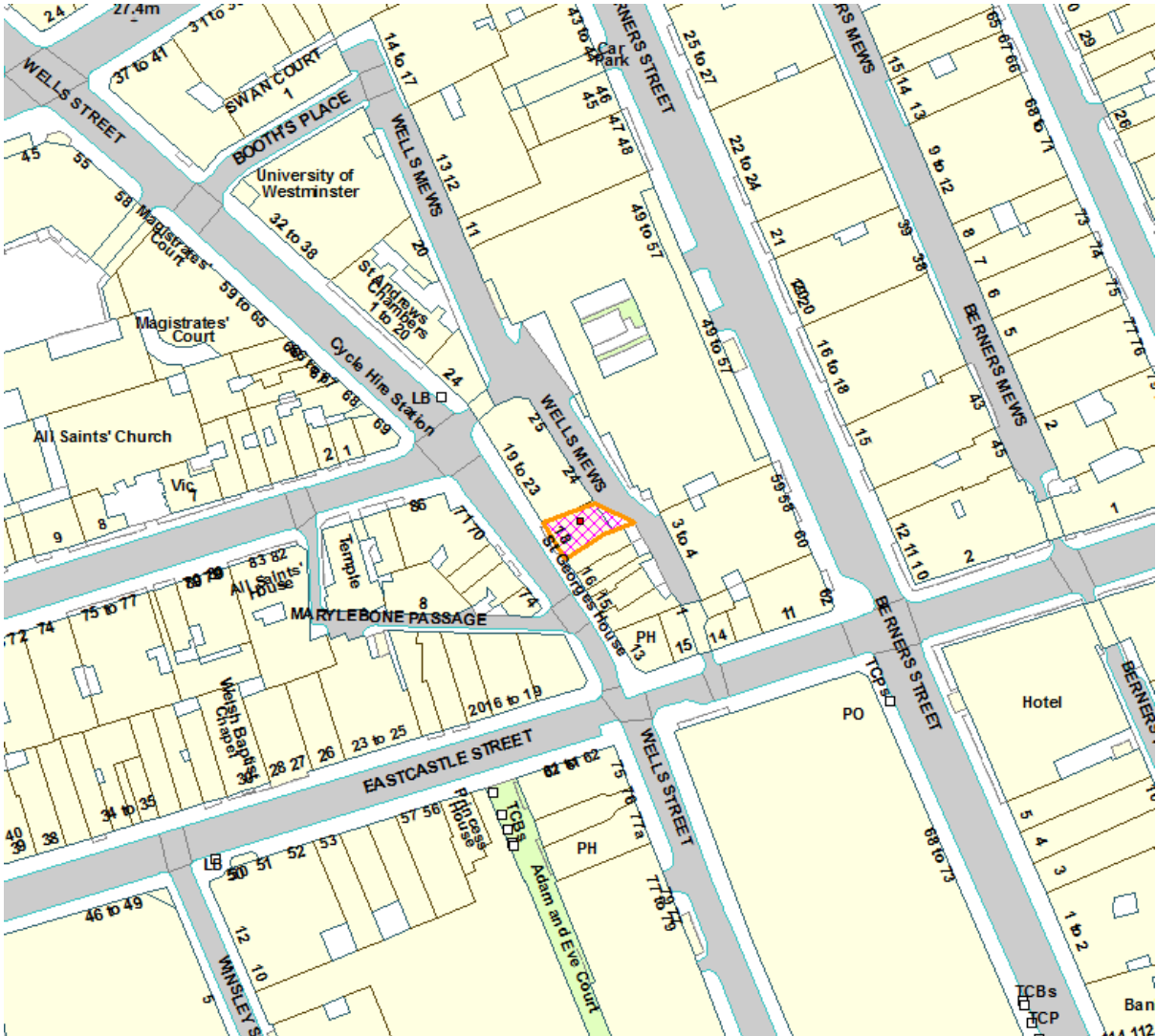
The application relates to an unlisted building situated within the East Marylebone Conservation Area. The building comprises retail use over the basement and ground floor and office use on the three floors above. Permission was granted in April 2015 for the demolition of this building and erection of a

building comprising lower ground, ground and five upper floors and use of the lower floors for retail use and four residential units over the upper floors. This permission was connected to a site on Berners Street where there was an uplift of commercial floorspace over 200m² and a loss of residential (two units). These proposals were policy compliant.

The applicant has submitted two applications, both of which include the demolition of the existing building and erection of building comprising lower ground, ground and six upper floors. The design of the building for both applications is the same, however the land use proposals differ. Application 1) proposes to use the first to fourth floors for office purposes and a residential flat over fifth and sixth floor levels. Application 2) proposes to use the first to sixth floors as five residential flats. Both of these applications would be linked to the approved Berners Street scheme. Application 2) is policy compliant, as the uplift in approved commercial floorspace is matched by the residential increase. Application 1) is not policy compliant, as the uplift in commercial is not matched by the residential increase. The applicant has offered to pay a policy compliant contribution, but instead of this payment being directed to the affordable housing fund, they want it to be directed to public realm. There is no policy justification for this. Application 1) also results in the loss of one residential unit.

Application 1) is therefore recommended for refusal and Application 2) is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

Application 1

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

ENVIRONMENTAL HEALTH

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 52

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

Application 2

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

ENVIRONMENTAL HEALTH

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 52

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This is an unlisted building comprising basement, ground and three upper floors which is in use as a shop on the two lower floors and offices on the floors above. At roof level there is a large plant room, which has a similar floor-to-ceiling height to the floors below, although it does not occupy the whole of the roof area.

To the rear of the site is Wells Mews where there is an entrance to the NCP car park within the mews.

The nearest residential properties are located to the south above the public house on the corner of Eastcastle Street and Wells Street.

The building is located within the East Marylebone Conservation Area.

6.2 Recent Relevant History

18 Wells Street

Planning permission granted on 10 April 2015 for the demolition of the existing building and erection of a building comprising lower ground, ground and first to fifth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1) and part basement, ground and the first to fifth floor levels as four residential units (Class C3). Installation of plant at rear ground floor level and at main roof level with associated screening and the creation of terraces / balconies at first to sixth floor levels.

41-44 Berners Street

Planning permission granted on 10 April 2015 for the demolition of 41-44 Berners Street and erection of a mixed use development comprising basement, ground and first to seventh floor levels. Creation of lightwells at the front and rear of the property and creation of terraces / balconies at first to seventh floor levels. Triple / alternative use of the part basement and part ground floors as retail / restaurant / showroom uses and use of the first to seventh floor levels as office accommodation (Class B1). Installation of plant with associated screening at main roof level.

The above applications were linked as part of a land use swap to ensure that the existing residential floorspace/units and the commercial uplift at 41-44 Berners Street were offset at 18 Wells Street. This application was policy compliant and therefore there was no financial contribution.

7. THE PROPOSAL

Two applications have been submitted, and these are alternative schemes to that granted permission in April 2015. The applicant wishes that these applications are linked to 41-44 Berners Street. Both applications propose the demolition of the existing building and the erection of a building comprising lower ground, ground and first to sixth floor levels, the installation of plant and associated screening at rear ground floor levels and at main roof level and the creation of terraces/balconies at first to sixth floor levels. The design of the proposed scheme is the same as that previously approved, with the exception of the erection of a sixth floor extension.

The difference between the applications relates to the land use proposals. The applicant is seeking an alternative scheme at 18 Wells Street to that granted permission in April 2015. It is therefore important to set out the approved combined land use figures for the approved Berners Street scheme and the current proposals. These are set out in the below table.

Approved 2015 land use table for 41-44 Berners Street and 18 Wells Street.

Use	Existing	Approved	+/- difference
Residential	160	720	+560
Offices	2606	3071	+465
Retail	75	140	+65
Showroom	573	0	-573
Flexible retail/restaurant/showroom	0	507	+507
Total commercial	3254	3718	+464

This was a policy compliant scheme where the uplift in commercial floorspace was matched by the uplift in residential floorspace.

Application 1) proposes to use the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and a duplex residential unit (Class C3) on the fifth and sixth floor. The offices and residential elements of the scheme will share the same entrance.

Application 1) and the approved 41-44 Berners Street land use table.

Use	Existing	Proposed	+/- difference
Residential	160	323	+163
Offices	2606	3551	+945
Retail	75	130	+55
Showroom	573	0	-573
Flexible retail/restaurant/showroom	0	507	+507
Total commercial	3254	4188	+934

Application 2) proposes to use part basement and ground floor levels as retail accommodation (Class A1) and part basement, ground and the first to sixth floor levels as four residential units (Class C3).

Application 2) and the approved 41-44 Berners Street land use table.

Use	Existing	Proposed	+/- difference
Residential	160	805	+645
Offices	2606	3071	+465
Retail	75	140	+65
Showroom	573	0	-573
Flexible retail/restaurant/showroom	0	507	+507
Total commercial	3254	3718	+464

8. DETAILED CONSIDERATIONS

8.1 Land Use

Offices

The sites are located within the Core Central Activities Zone, to where new offices are directed by City Plan Policy S18 and UDP Policy COM1. Therefore, an increase in office floorspace in this location is acceptable in principle.

Mixed use

UDP Policies CENT3 and COM2 and City Plan Policy S1 aim to encourage mixed use developments within Central Westminster, with the particular aim of including residential accommodation. It is a requirement that any increase in commercial development (especially offices) in excess of 200m² should be matched by residential provision.

Application 1) (together with the approved scheme at 41-44 Berners Street) proposes an increase in commercial floorspace of 934m² and an uplift of residential floorspace of 163m². This does not comply with the policies set out in the UDP and City Plan. The applicant has stated that the emerging mixed use policy places much greater emphasis upon retaining employment opportunities and this application will comply with that emerging policy. The new mixed use policies do not have any weight when determining planning applications, and therefore it is considered that this application should be assessed against current policies within the UDP and City Plan.

Policy COM2 states that where housing cannot be achieved, an appropriate financial contribution to the City Council's affordable housing fund is likely to be sought.

The uplift in commercial floorspace is 934m² which equates to £1,533,574. The applicants have agreed to make this payment, but instead of this being directed to the affordable housing fund, they want it to be directed towards public realm in Berners Street. It is the applicant's intention to carry out public realm works to Berners Street and there have been initial discussions with the City Council. At the current time there is not an approved public realm scheme for Berners Street and these works are not listed as a priority project. Notwithstanding this, there is no policy justification for this approach and the application is recommended for refusal as it does not comply with the mixed use policy.

Application 2) results in an increase in commercial floorspace of 464m² which would be exceeded by the uplift of 645m² residential floorspace, thereby complying with UDP Policy CENT3.

The planning permission at 41-44 Berners Street is linked to consented scheme at 18 Wells Street by Grampian condition. In the event the applicant wishes to implement Application 2) the Grampian condition would have to be varied to reflect the new application.

Residential

City Plan Policy S14 aims to protect all residential land. There are two existing residential units at 41-44 Berners Street (160m²). Application 1) provides one residential unit over the fifth and sixth floor levels (323m²). There is an increase in residential floorspace, but

the proposals result in the loss of one unit which does not comply with S14. The application is recommended for refusal on these grounds.

The proposed housing at Application 2) would provide four 2-bed and one 3-bed units – a proportion of 20% family sized dwellings which is less than the 33% normally required to meet UDP Policy H5. However, given the small number of units proposed in the overall scheme and that neither of the flats currently provided at 41-44 Berners Street is family sized, the mix is considered acceptable. All the flats would comply with the minimum dwelling space standards as set out in the London Plan and the National Technical standards.

At 163m² and 645m² the additional residential floorspace created in both applications does not require the provision of any affordable housing, being less than 1,000m².

In Application 2) the residential entrance at ground floor level is separate from the retail entrance and this is considered acceptable. However, Application 1) does not propose separate entrances for the office and residential. This means that the residential and offices will share the same entrance. The City Council requires where physically possible that separate access to residential and commercial uses is provided. This is not an ideal situation and as this is a new build development separate entrances should have been designed within the new building. However, there is no policy requirement to ensure the entrances are separate and the City Council could not sustain a reason for refusal on these grounds.

Retail

The protection and enhancement of retail shopping provision is supported under City Plan Policy S21 and UDP Policy S4. There is an existing retail unit at 18 Wells Street, which will be replaced and enlarged in the proposed development.

8.2 Townscape and Design

The design of the building has been approved previously except for the roof levels now proposed. The massing of both schemes is the same. The top two floors and plant area are set back progressively from the Wells Street frontage to reduce their visual impact.

The proposed height and bulk are considered acceptable in the context of the taller building immediately to the north. The proposed building will make an acceptable transition between the latter building and the lower buildings to the south. This complies with UDP design and conservation policies, including DES 4 and DES 9.

8.3 Residential Amenity

Planning permission has already been granted (April 2015) for two additional storeys to the existing building and extending the building line forward on Berners Mews up to the site boundary at ground to fifth floor level.

The current proposals would add an additional storey at sixth floor level plus a roof top plant room, which would make it one floor higher than the extant permission. The nearest residential property is located on the corner of Eastcastle Street and Wells Street which is at sufficient distance to not be materially affected by the proposed development.

The proposed bringing forward of the building line at ground to sixth floor on the Wells Mews frontage would have no amenity implications as there are no residential properties opposite. The rear terraces are also considered acceptable in amenity terms.

8.4 Transportation/Parking

There would be no car parking provision. UDP Policy TRANS23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased to 'stress levels'. The UDP parking standards would normally require one parking space per residential flat which, in this case, would amount to a requirement for one space in Application 1) and five spaces in Application 2). As per the previous application as the two existing flats would be at 41-44 Berners Street would be lost, there is no net gain in residential units in Application 1) and the net gain is three residential flats in Application 2) meaning that the car parking deficiency is three spaces. It is not considered that the deficiency of three spaces is so great that refusing permission on these grounds would be justified.

Cycle parking is proposed at basement level for both applications. This will be secured by condition for Application 2).

8.5 Economic Considerations

Any economic benefits generated are welcomed.

8.6 Access

Level access is provided for the retail unit for both applications, and for the residential/office entrance. Lift access is then provided for the upper part of the development.

8.7 Other UDP/Westminster Policy Considerations

Not applicable.

8.8 London Plan

The proposal is not considered to raise any London-wide strategic planning matters.

8.9 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 these applications are considered to be consistent with the NPPF unless stated otherwise.

8.10 Planning Obligations

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.

As set out above, the applicants wish to make a contribution towards the provision of public realm rather than a contribution to the affordable housing fund. There is no policy justification for this and this would not comply with the CIL Regulations.

8.11 Environmental Impact Assessment

Not applicable.

8.12 Other Issues

Not applicable.

9. BACKGROUND PAPERS

Application 1

1. Application form
2. Response from Environmental Health, dated 9 November 2015

Application 2

1. Application form
2. Response from Environmental Health, dated 9 November 2015

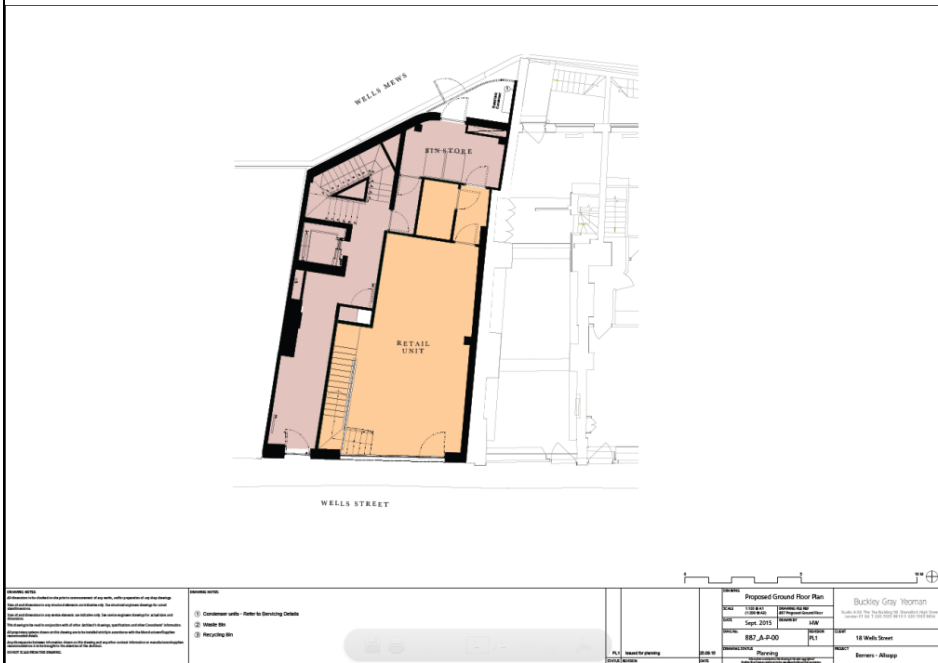
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council’s website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT PAUL QUAYLE BY EMAIL
AT pquayle@westminster.gov.uk

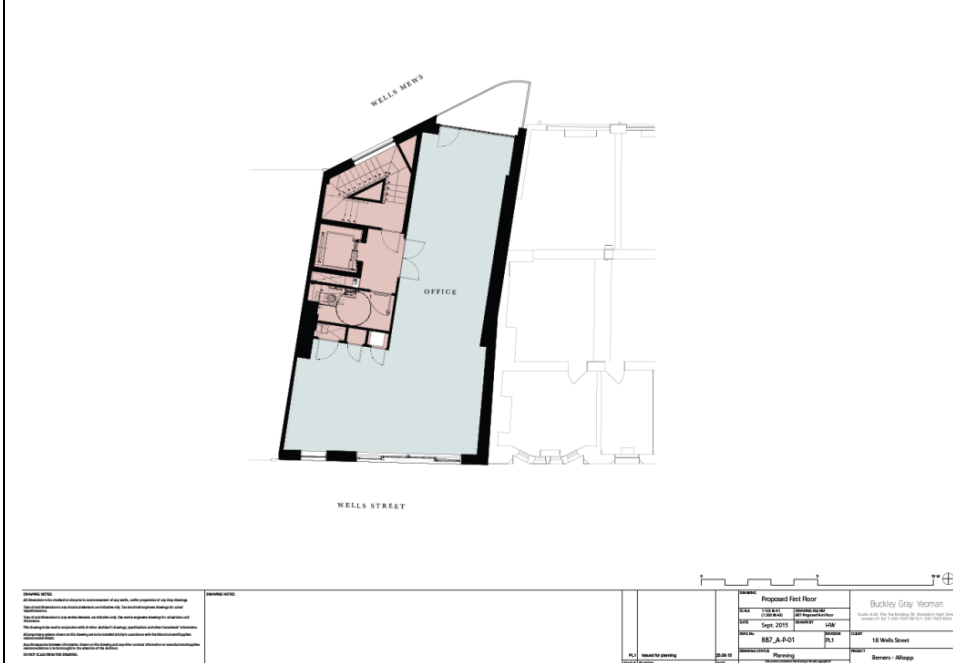
10. KEY DRAWINGS

Application 1 – retail, office and residential scheme

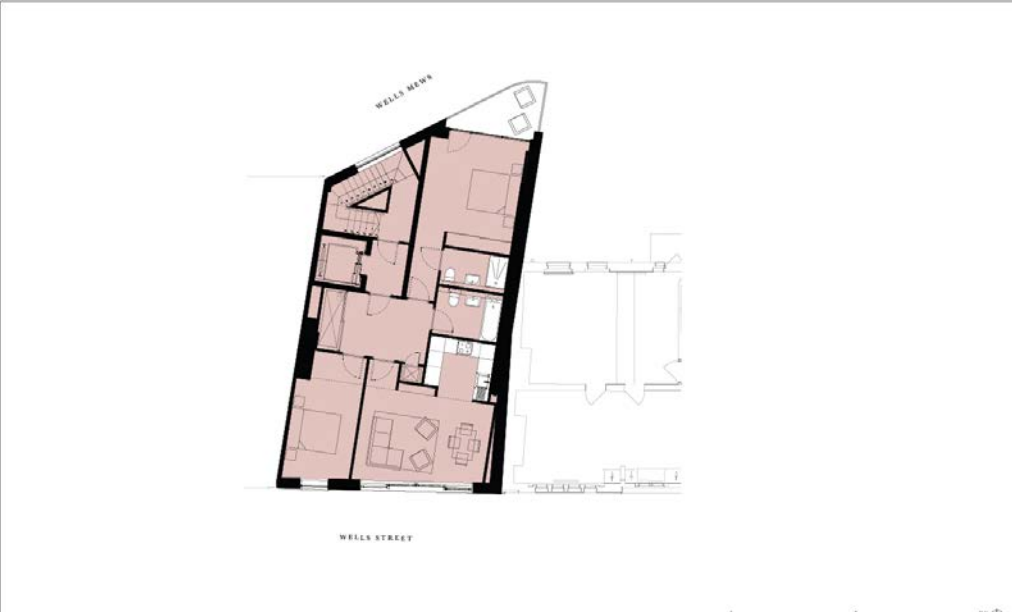
Proposed Ground Floor



Proposed First Floor



Proposed fourth floor plan



<p>PROPOSED FLOOR PLAN</p> <p>DATE: 10/15/15 DRAWN BY: [Name] CHECKED BY: [Name] PROJECT: [Name]</p>	<p>Proposed Fourth Floor Plan</p>	<p>Buckley Gray Woman</p>	
	<p>DATE: Sept. 2015</p>	<p>DATE: [Date]</p>	<p>DATE: [Date]</p>
	<p>PROJECT: [Name]</p>	<p>PROJECT: [Name]</p>	<p>PROJECT: [Name]</p>
	<p>PROJECT: [Name]</p>	<p>PROJECT: [Name]</p>	<p>PROJECT: [Name]</p>

Proposed fifth floor



<p>PROPOSED FLOOR PLAN</p> <p>DATE: 10/15/15 DRAWN BY: [Name] CHECKED BY: [Name] PROJECT: [Name]</p>	<p>Proposed Fifth Floor Plan</p>	<p>Buckley Gray Woman</p>	
	<p>DATE: Sept. 2015</p>	<p>DATE: [Date]</p>	<p>DATE: [Date]</p>
	<p>PROJECT: [Name]</p>	<p>PROJECT: [Name]</p>	<p>PROJECT: [Name]</p>
	<p>PROJECT: [Name]</p>	<p>PROJECT: [Name]</p>	<p>PROJECT: [Name]</p>

Applications 1 and 2 - Proposed front and rear elevations



Front

<p>GENERAL NOTES</p> <p>1. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>2. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>3. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>4. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>5. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>6. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>7. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>8. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>9. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>10. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p>	<p>LEGEND</p> <p>1. Masonry Brickwork</p> <p>2. Metal Siding</p> <p>3. Timber Frame Windows</p> <p>4. Concrete Stone</p> <p>5. Glass Brick</p> <p>6. Glass</p> <p>7. Paint Finish</p>	<p>2D Color Coding</p>	<p>Proposed West Elevation</p> <p>DATE: 10/14/15 TIME: 10:00 AM BY: [Signature] TITLE: [Title]</p> <p>PROJECT: 887_B-01V SHEET: 01 SCALE: 1/8" = 1'-0"</p> <p>PROJECT LOCATION: 18 Walk Street PROJECT NAME: Bucky Gray Woman CLIENT: [Name] ARCHITECT: [Name]</p>	
			<p>PL: [Name] DATE: [Date]</p>	



Rear

<p>GENERAL NOTES</p> <p>1. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>2. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>3. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>4. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>5. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>6. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>7. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>8. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>9. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p> <p>10. Elevation is shown for informational purposes only. It is not intended to be used for construction.</p>	<p>LEGEND</p> <p>1. Masonry Brickwork</p> <p>2. Metal Siding</p> <p>3. Timber Frame Windows</p> <p>4. Concrete Stone</p> <p>5. Glass Brick</p> <p>6. Glass</p> <p>7. Paint Finish</p>	<p>2D Color Coding</p>	<p>Proposed East Elevation</p> <p>DATE: 10/14/15 TIME: 10:00 AM BY: [Signature] TITLE: [Title]</p> <p>PROJECT: 887_B-01E SHEET: 01 SCALE: 1/8" = 1'-0"</p> <p>PROJECT LOCATION: 18 Walk Street PROJECT NAME: Bucky Gray Woman CLIENT: [Name] ARCHITECT: [Name]</p>	
			<p>PL: [Name] DATE: [Date]</p>	

DRAFT DECISION LETTER (APPLICATION 1)

Address: 18 Wells Street, London, W1T 3PG,

Proposal: Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and a duplex residential unit (Class C3) on the fifth and sixth floor. Installation of plant and associated screening at rear ground floor levels and at main roof level. Creation of terraces/balconies at first to sixth floor levels.

Plan Nos: 887_A-DE--LG PL1, 00 PL1, 01 PL1, 02 PL1, 03 PL1, 04 PL1, RF PL1, 887_EX-E-EW PL1, 887_EX-E-EE PL1, 887_A-P-LG PL1, 00 PL1, 01 PL1, 02 PL1, 03 PL1, 04 PL1, 05 PL1, 06 PL1, RF PL, 887_A-S_AA PL1, 887_A-EW PL1, 887_A-EE PL1

Case Officer: Helen MacKenzie

Direct Tel. No. 020 7641 2921

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

Reason:

- 1 Your development would lead to a reduction in the number of residential units which would not meet S14 of Westminster's City Plan: Strategic Policies adopted November 2013 which seeks to optimise housing delivery. We do not consider that the circumstances of your case justify an exception to our policy.

Reason:

- 2 Your proposal would result in a commercial uplift which is not match by an increase in residential floorspace. This would not comply with Policies COM2 and CENT 3 of our Unitary Development Plan that we adopted in January 2007 and Policy S1 of the Westminster's City Plan: Strategic Policies that we adopted in November 2013

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.
- 2 You are advised that there is no planning justification to allow for an affordable housing contribution to be directed to a public realm payment. Furthermore, this would not comply with the CIL Regulations.

DRAFT DECISION LETTER (APPLICATION 2)

Address: 18 Wells Street, London, W1T 3PG,

Proposal: Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of part basement and ground floor levels as retail accommodation (Class A1) and part basement, ground and the first to sixth floor levels as five residential units (Class C3). Installation of plant and associated screening at rear ground floor levels and at main roof level. Creation of terraces/balconies at first to sixth floor levels.

Plan Nos: 887_A-DE--LG PL1, 887_A-DE--00 PL1, 887_A-DE--01 PL1, 887A-DE--02 PL1, 887_A-DE--03 PL1, 887_A-DE--04 PL1, 887_A-DE--RF PL1, 887_EX-E-EW PL1, 887_EX-E-EE PL1, 887_B-P-00 PL1, 887_B-P-01 PL1, 887_B-P-02 PL1, 887_B-P-03 PL1, 887_B-P-04 PL1, 887_B-P-05 PL1, 887_B-P-06 PL1, 887_B-P-RF PL, 887_B-S_AA PL1, 887_B-EW PL1, 887_B-EE PL1

Case Officer: Helen MacKenzie

Direct Tel. No. 020 7641 2921

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

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

Reason:

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

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 3 You must apply to us for approval of detailed drawings (at scales 1:20 and 1:5) of the following parts of the development:
 1. Front façade - typical details
 2. Rear façade - typical details

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

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

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

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 5 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.

- 6 (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.

- 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 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:

- the balustrade to the front fifth and sixth floor level to be positioned behind the parapet wall

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

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

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

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

Reason:

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

- 10 You must 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 East Marylebone 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)

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

Reason:

To protect family accommodation as set out in S15 of Westminster's City Plan: Strategic Policies adopted November 2013 and H 5 of our Unitary Development Plan that we adopted in January 2007. (R07DC)

- 12 **Pre Commencement Condition.** Notwithstanding the details submitted in the Construction Management Plan dated September 2015, this is not considered sufficient, therefore a detailed CMP must be submitted.

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 as local planning authority. The plan shall provide the following details:

- (i) a construction programme including a 24 hour emergency contact number;
- (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;
- (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);
- (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and
- (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works.

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.

- 13 You must put up the plant screen shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 14 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity

within the retail use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

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

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

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

Reason:

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

- 15 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and

make them available at all times to everyone using the building. (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)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.
If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>
Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>.
You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.

- 3 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)

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.