

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
ADDENDUM REPORT OF Director of Planning		Ward(s) involved West End	
Subject of Report	Fenton House, 55-57 Great Marlborough Street, London, W1F 7JX		
Proposal	Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual/alternative retail or restaurant (Class A1/A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (Site includes 54 Great Marlborough Street)		
Agent	Turley		
On behalf of	Marlborough House Ltd		
Registered Number	15/03432/FULL	Date amended/ completed	20 April 2015
Date Application Received	20 April 2015		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission subject to a S106 legal agreement to secure:

- i) a contribution of £4,499,000 towards the City Council's affordable housing fund (index linked and payable upon commencement of development)
- ii) compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £33,000.
- iii) Lifetime car club membership (25 years) for the occupants of each new dwelling.
- iv) monitoring costs

2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution then:

- 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.

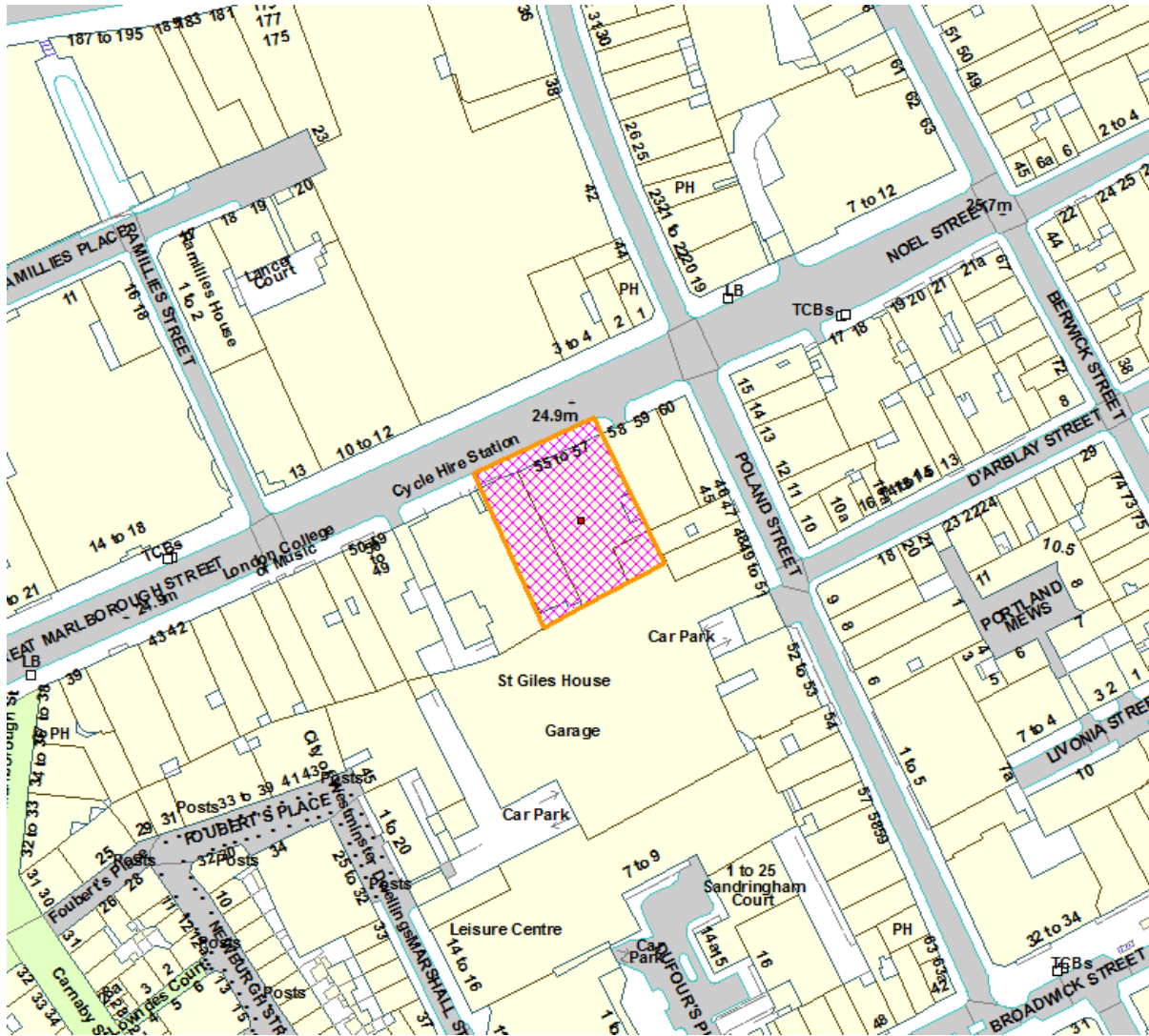
2. SUMMARY

This scheme which seeks permission demolish Nos. 54-57 Great Marlborough Street behind their retained facades and for the erection of a new eight storey building (with single basement) for use as retail, restaurant and residential accommodation was presented to Committee on 17 November 2015. Committee resolved to grant conditional permission subject to the completion of a S106 agreement to secure a contribution towards affordable housing, submission of a Site Environmental Management Plan with an annual cap of £33,000 and lifetime car club membership for the occupants of each new flat. Prior to completing the legal agreement, a letter from one of the occupants of St Giles House (the adjoining site) was received, stating that planning permission should not be granted as they had produced their own daylight study which showed different impacts on their adjoining property compared to the daylight report submitted by the applicant. A further letter sent on behalf of the adjoining sound recording studio has also been received that submits that the noise and vibration impacts of the development upon the adjoining business has not been robustly assessed. The application is therefore being reported back to Committee for reconsideration of these issues.

With regard to the daylight losses, the report submitted by the occupier of Flat 32 (by UBS) submits that the existing No Sky Line (NSL) contours have been significantly underestimated. The applicant has recalculated NSL losses using the information submitted by UBS and concludes that No Sky Line losses would be less than 20% and in compliance with BRE guidance.

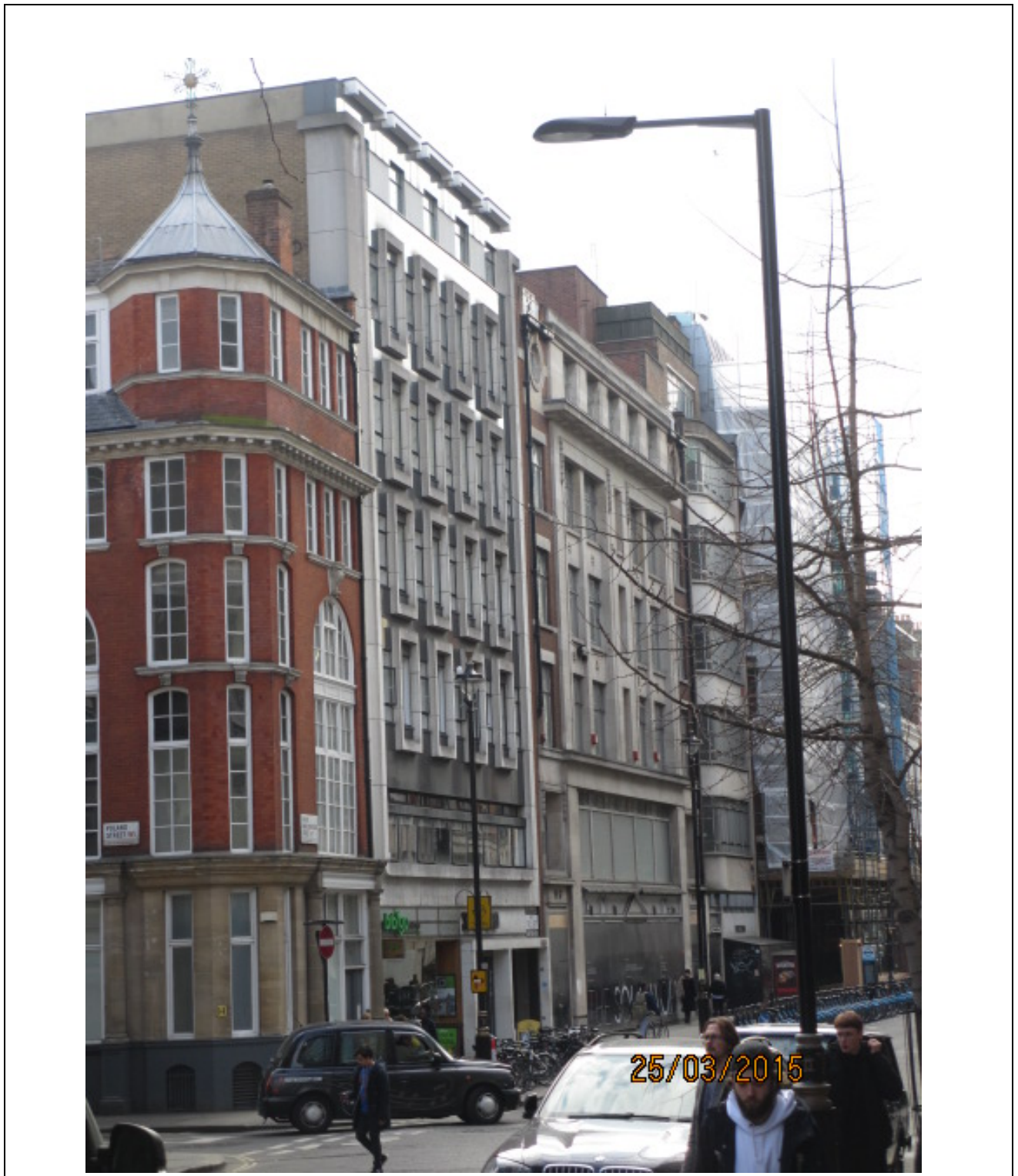
With regard to noise during construction, this issue was fully set out in the original report to Committee (appended to this report) and is discussed again in further detail in the main body of this report. Approval is recommended subject to conditions and a S106 agreement to secure a contribution towards affordable housing, submission of a Site Environmental Management Plan with an annual cap of £33,000 and lifetime car club membership for the occupants of each new flat.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

ADDITIONAL AND LATE REPRESENTATIONS RECEIVED AFTER THE PREVIOUS REPORT WAS WRITTEN (BUT REPORTED VERBALLY AT THE COMMITTEE ON 17 NOVEMBER 2015)

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

One letter of objection on the grounds that the proposal is detrimental to the conservation area, would result in loss of office space and is contrary to planning policy that resists office to residential.

ADDITIONAL REPRESENTATIONS RECEIVED AFTER THE APPLICATION WAS CONSIDERED AT THE COMMITTEE ON 17 NOVEMBER 2015

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

Two letters of objections on the following grounds:

- * Daylight and Sunlight reports underestimate the likely loss of light
- * Impact of noise and vibration impacts of the development on the adjoining sound recording studio have not been robustly assessed.

6. BACKGROUND INFORMATION

This application for the demolition of 54-57 Great Marlborough Street behind their retained facades and for the erection of a new eight storey building (with single basement) for use as retail, restaurant and residential accommodation was presented to Committee on 17 November 2015. Committee resolved to grant conditional permission subject to the completion of a S106 agreement to secure a contribution towards affordable housing, submission of a Site Environmental Management Plan with an annual cap of £33,000 and lifetime car club membership for the occupants of each new flat.

Prior to completing the legal agreement, a letter from one of the occupiers of St Giles House (the adjoining site) was received, stating that planning permission should not be granted as they had produced their own daylight study which showed different impacts on their adjoining property compared to the daylight report submitted by the applicant. A further letter sent on behalf of the adjoining sound recording studio has also been received that submits that the noise and vibration impacts of the development upon the adjoining business has not been robustly assessed. The application is therefore being reported back to Committee for reconsideration of these issues.

These issues are set out in further detail below.

7. DETAILED CONSIDERATIONS

Sunlight/Daylight

When the application was last considered, the report submitted with the application by Point 2 Surveyors indicated that only two windows would have been adversely affected

by more than the 20% recommended in the BRE guidelines. The windows were both at fourth floor level within the adjoining St Giles House. One window was shown to experience a 40.6% loss in No Sky Line (NSL) and the other was shown to experience a loss of 65.1% in NSL. Good levels of VSC however of between 22.78 and 27.46% were to be retained. The original report to Sub-Committee, appended to this report, states that whilst these losses would have been over 20%, as the windows affected serve bedroom accommodation (which the BRE guidelines state as being less important in relation to daylighting distribution than main living rooms), and are served by north facing windows which are particularly small compared to the size of the rooms they serve, it was considered that within this urban built-up location, the levels of daylighting retained were acceptable and the impact was not considered sufficient to justify a refusal. Given this, it was considered unreasonable to refuse this scheme given the losses involved.

Since the application was last considered the developer of the adjoining site has produced their own sunlight/daylight study by UBS which shows that these bedrooms would experience losses of between 57% and 59% NSL. UBS believe that this is because existing NSL levels have been inaccurately plotted and have re-calculated NSL values using a light meter.

The applicant's daylight consultants argue that a light meter is not the appropriate method of calculating NSL values as the NSL contour is merely a point at which the sky can or cannot be seen. Point 2 also argue that use of a light meter is not referred to in current BRE guidance but nevertheless have re-calculated NSL losses using the information submitted by UBS. Point 2 contend that if existing NSL levels penetrate deeper into a room (as suggested by UBS), then the proposed NSL results would also need to be altered proportionally in accordance with this. Using the existing NSL values provided by UBS, Point 2 subsequently concludes that No Sky Line losses would be less than 20% and in compliance with BRE guidance.

The NSL values used by the applicant's daylight consultants are almost identical to those that have been calculated in the adjoining Poland Street hotel scheme (by the same daylight consultants) which has been subject to an on-site assessment. This application is considered elsewhere on this agenda.

The residents of Flat 32 have been re-consulted following receipt of the revised sunlight/daylight study and any comments will be reported verbally at the Committee.

Noise disturbance during the course of construction

A further objection has been received on behalf of the operators of the post-production sound studios in 51-53 Great Marlborough Street on noise grounds, primarily on the basis that the extent of demolition and construction works would result in significant disturbance in respect of noise, vibration and dust generation affecting the objectors' ability to carry out their business. The sound recording studio has specifically requested clarification on the following points:

1. Whether the Council accepted the Environmental Sciences Officer's view that the proposed vibration levels (within the submitted CMP) would not be acceptable for a noise sensitive business; and

2. If so, whether the Council decided that the SEMP could in practice achieve lower levels of noise and vibration that would be sufficient to protect GCRS and upon what evidence it reached that conclusion.

On point 1, the original report to committee sets out that *“The Environmental Sciences Officer has advised that whilst the proposed vibration level are **not appropriate** for a noise sensitive business, **lower levels will be imposed through the SEMP.**”*

On Point 2, officers are of the view that Environmental Sciences have sufficient recourse through the S61 (Control of Pollution Act) and SEMP process to ensure that appropriate levels will be met and that the developer will be required to reduce noise and vibration impact to reasonable levels taking into consideration Best Practicable Means, and this may include specific action in relation to GCRS. It is likely such mitigation could be delivered through a number of mitigation methods; not just by controlling noise and vibration absolute levels e.g. working times, ‘quiet periods’, stakeholder engagement, working time agreements amongst other methods.

The letter from GCRS also refers to the matter of the issue of the ‘Soundproofing’ of their premises, and that the reference to this within the committee report has misled the committee. The original committee report does draw a conclusion that, as a result of the likely GCRS sound proofing, the internal noise levels within GCRS will be lower than what will be expected within the adjacent residential. As the Council’s main remit under NPPF is to protect residential and other noise-sensitive receptors (schools, hospitals etc...) and that this relates to “Health and Quality of Life” it is expected that GCRS will receive a better internal noise level than the residential dwellings beside it and in terms of noise levels the Council will find it very difficult to go beyond the UK standards and typical levels associated with protection of “Health and Quality of Life”. However, as stated above, this is not to say that the possible impact upon GCRS is ignored and the Council will seek reasonable mitigation for noise sensitive businesses taking into consideration Best Practicable Means.

It is considered that the approach set out in the original committee report is robust, and subject to the requirement for an SEMP and with the applicant’s commitment to entering into a S61 agreement, it is considered that the issue of construction noise has been satisfactorily addressed.

8. BACKGROUND PAPERS

1. Application form and letter from applicant’s daylight and sunlight surveyors dated 5 February 2016
2. Letters from occupier of 51-53 Great Marlborough Street dated 17 November and 17 December 2015
3. Letter from occupier of Apt 32, 16, Marshall Street, dated 25 January 2016

Selected relevant drawings

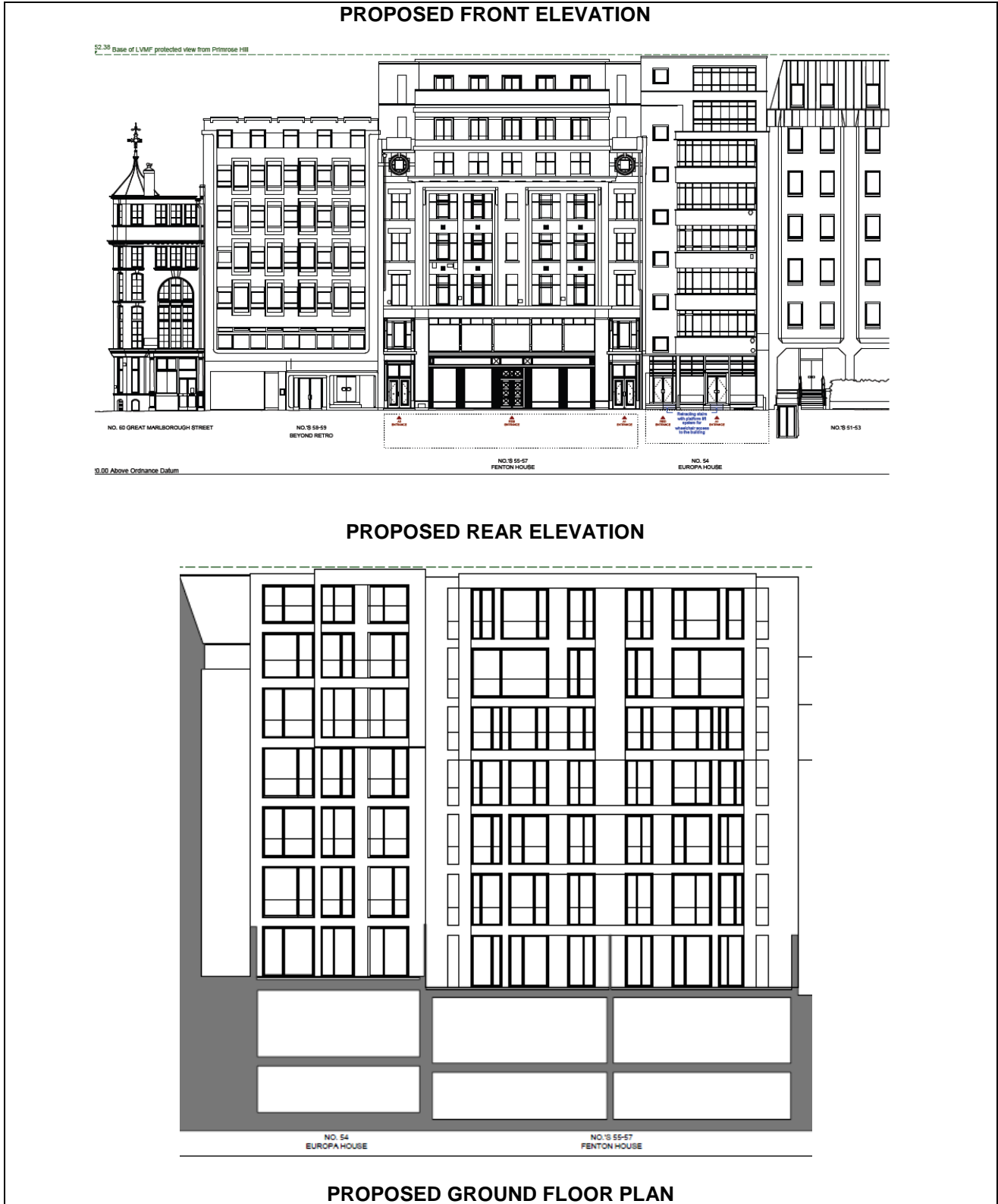
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council’s website)

Item No.

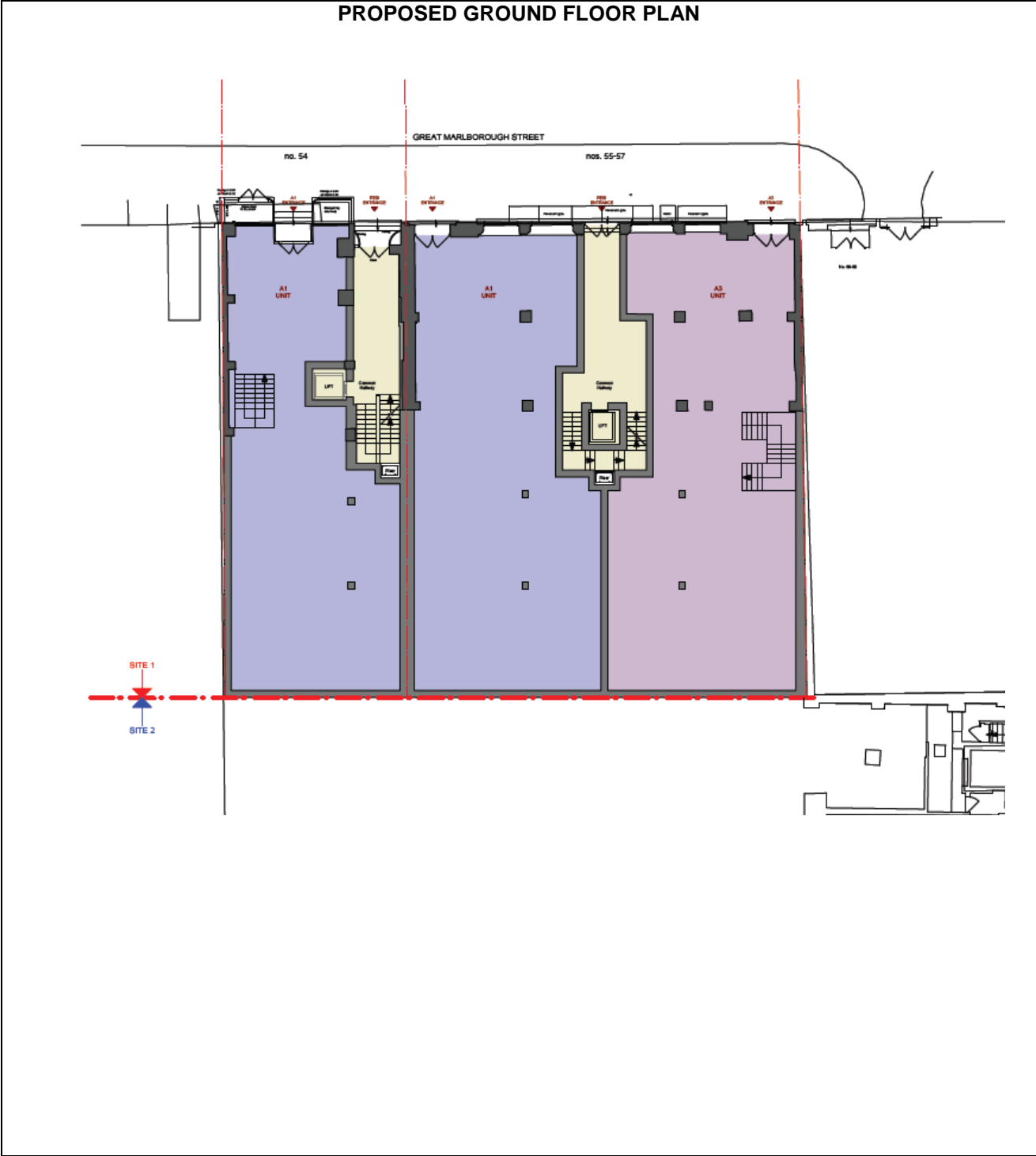
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IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT JOSEPHINE PALMER ON 020 7641 2723 OR BY EMAIL AT CentralPlanningTeam@westminster.gov.uk

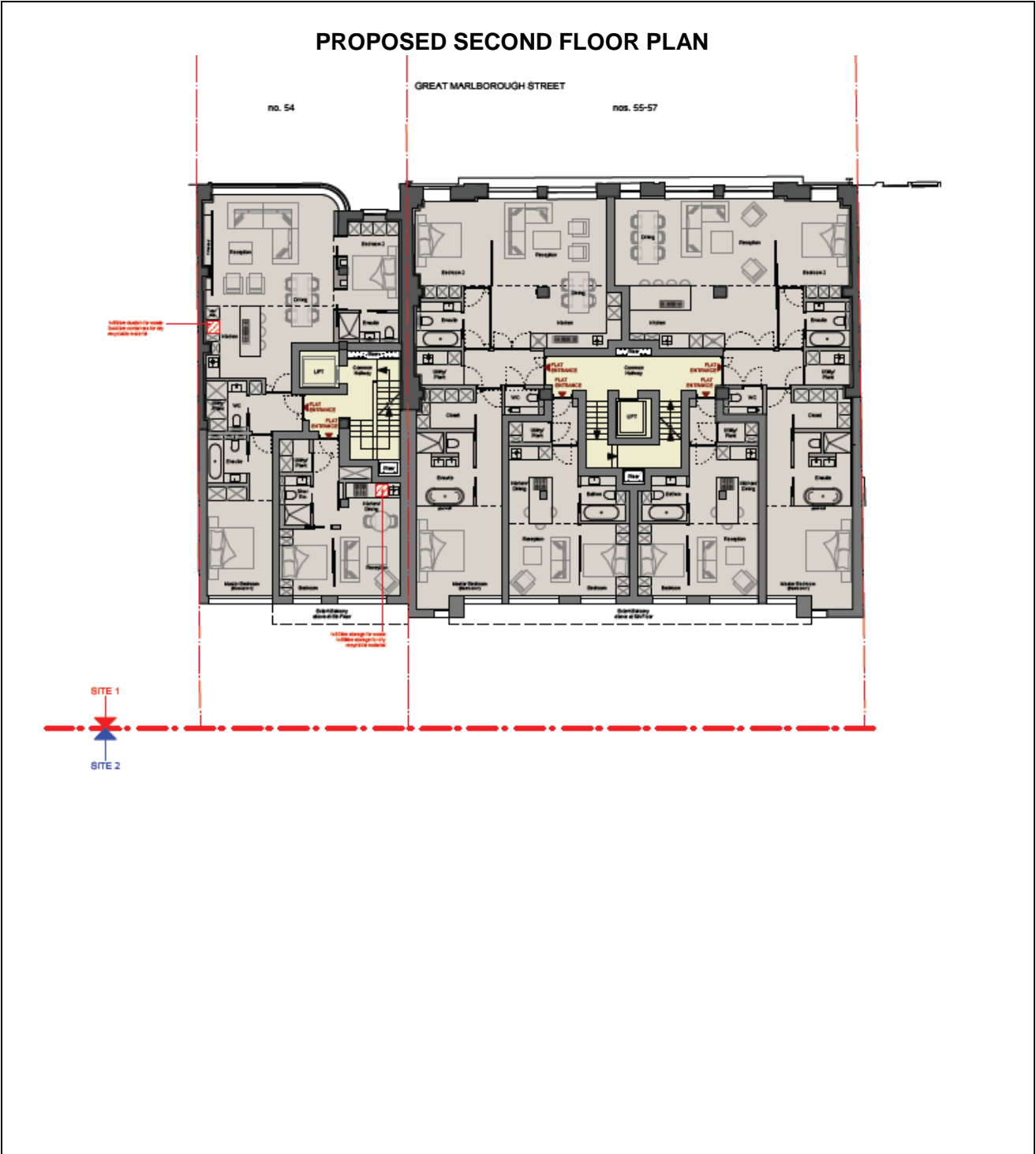
9. KEY DRAWINGS



PROPOSED GROUND FLOOR PLAN



PROPOSED SECOND FLOOR PLAN



DRAFT DECISION LETTER

Address: Fenton House, 55-57 Great Marlborough Street, London, W1F 7JX,

Proposal: Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual/alternative retail or restaurant (Class A1/A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (Site includes 54 Great Marlborough Street)

Reference: 15/03432/FULL

Plan Nos: DM.001, 002, 003, 004, 005, 006, 007, 008, 009, 201, 202, 203; PR.001, GA.100, PR.002, 003, 004, 005, 006, 007, 008, 009, 010 Rev B, 011 Rev B, 201.1 Rev A, 201.2, 202.1, 202.2, 203, 204, 205.1, 300.1, 300.2, 301.1, 301.2

Case Officer: Josephine Palmer

Direct Tel. No. 020 7641 2723

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. (C11AA)

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 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 Soho 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)

- 4 You must apply to us for approval of detailed drawings of the following parts of the development:

1. Typical details of extensions, 2. New windows , 3. Alterations to street entrances,

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho 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)

- 5 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)

- 6 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building facing the street unless they are shown on drawings we have approved. (C26MA)

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 Soho 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)

- 7 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on any of the terraces on the Great Marlborough facade of the building. (C26OA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho 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)

- 8 (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.

- 9 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.

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

Reason:

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

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

Reason:

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

- 12 The three and four 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 at least three separate rooms capable of being occupied as bedrooms.

Reason:

To make sure that the development is completed and used as agreed, and to make sure that it meets H5 of our Unitary Development Plan that we adopted in January 2007. (R07AB)

- 13 You must apply to us for approval of a revised basement plan showing a minimum of 45 cycle parking spaces. The cycle spaces must be provided prior to occupation and thereafter 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.

- 14 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number GA.100. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

Reason:

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

- 15 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the living roof hereby approved to include construction method, layout, species and maintenance regime., , You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

Reason:

To protect and increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43CB)

- 16 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application., , photovoltaic panels at main roof level, , You must not remove any of these features. (C44AA)

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 You must apply to us for approval of details of a servicing management plan for the retail units and dual use retail/restaurant use (if implemented) identifying the process, storage locations, scheduling of deliveries and staffing for servicing purposes. The uses must not commence until we have approved what you have sent us.

Reason:

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

- 18 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it) the Class A1 retail accommodation hereby approved shall not be used as a food retail supermarket, outlet or similar.

Reason:

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

- 19 In the event that the dual use unit is used for Class A3 restaurant purposes, no more than 15% of the floor area shall consist of a bar or bar seating. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

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

- 20 In the event that the dual use unit is used for Class A3 restaurant purposes, you must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours 08.00 to midnight Monday to Sunday.

Reason:

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

- 21 In the event that the dual use unit is used for Class A3 restaurant purposes, you must provide detailed drawings showing a lobby with a self-closing entrance door. These details must be provided before the restaurant use commences and the approved lobby and doors shall installed and thereafter be permanently retained for as long as the restaurant is in use.

Reason:

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

- 22 You must apply to us for approval of details of the following parts of the development - the treatment of the boundaries to the rear of the site, including any fencing. 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. (C26DB)

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)

- 23 In the event that the dual use unit is used for Class A3 restaurant purposes, you must not allow more than 125 customers into the restaurant at any one time (including any customers waiting at a bar, if provided).

Reason:

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

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 to contact Richard McEllistrum (Transport for London) on 0203 054 8966 to discuss whether construction works require the suspension of the Cycle Hire Station on Great Marlborough Street. You will need the consent of Transport for London for such a suspension.
- 3 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.**

- 4 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work., , Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974., , 24 Hour Noise Team, Environmental Health Service, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP, , Phone: 020 7641 2000, , Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)
- 5 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 6 Conditions 8_9 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 7 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 8 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 9 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 an affordable housing contribution, compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £33,000, Lifetime car club membership (25 years) for the occupants of each new dwelling.

, 1. Application form , 2. Letter from Historic England dated 21 May 2015, 3. Email from Historic England (Archaeology) dated 1 June 2015 , 4. Email from Transport for London dated 7 May 2015, 5. Email from Crossrail dated 18 May 2015, 6. Email from the Soho Society dated 12 May 2015, 7. Memorandum from Highways Planning Manager dated 22 May 2015, 8. Memoranda from Environmental Health dated 1 June 2015 and email dated 2 November 2015, 9. Letters on behalf of the occupiers of 51-53 Great Marlborough Street dated 26 May, 8 and 30 September and 22 October 2015, 10. Letter from Marshall Street Regeneration Ltd, 18 Marshall Street dated 19 June 2015, 11. Letter on behalf of the occupier of 51 Great Marlborough Street dated 3 June 2015, ,

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.

MINUTES 17 NOVEMBER 2015

1 FENTON HOUSE, 54 & 57 GREAT MARLBOROUGH STREET, W1

Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual / alternative retail or restaurant (Class A1 / A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (SITE INCLUDES 54 GREAT MARLBOROUGH STREET) and should include 57 Great Marlborough Street.

Late representations from Turleys, DP9 and Carole Humphreys were circulated.

RESOLVED:

1. That conditional permission be granted subject to a S106 legal agreement to secure:
 - i) a contribution of £4,499,000 towards the City Council's affordable housing fund (index linked and payable upon commencement of development)
 - ii) compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £33,000, the SEMP to avoid a negative impact on the recording studio.
 - iii) Lifetime car club membership (25 years) for the occupants of each new dwelling.
 - iv) monitoring costs
2. That if the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution then:
 - 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

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 17 November 2015	Classification For General Release	
Report of Director of Planning		Wards involved West End	
Subject of Report	Fenton House, 55-57 Great Marlborough Street, London, W1F 7JX		
Proposal	Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual/alternative retail or restaurant (Class A1/A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (Site includes 54 Great Marlborough Street)		
Agent	Turley		
On behalf of	Marlborough House Ltd		
Registered Number	15/03432/FULL	TP / PP No	TP/10098/8908/ 12038
Date of Application	20.04.2015	Date amended/ completed	20.04.2015
Category of Application	Major		
Historic Building Grade	Unlisted		
Conservation Area	Soho		
Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Within Central Activities Zone		
Stress Area	Within Stress Area		
Current Licensing Position	Not Applicable		

1. RECOMMENDATION

Refuse permission - affordable housing grounds.





**FENTON HOUSE, 55-57 GREAT MARLBOROUGH STREET, W1
(includes 54 GREAT MARLBOROUGH STREET)**

2. SUMMARY

Permission is sought to demolish Nos. 54-57 Great Marlborough Street behind their retained facades and for the erection of a new eight storey building (with single basement) for use as retail, restaurant and residential accommodation. In 2012 permission was granted for the demolition of these buildings and the erection of a seven storey building for office, retail and restaurant purposes. That scheme also involved buildings at the rear on Poland Street but these buildings no longer form part of the current proposals.

The key issues are:

- The scale, massing and detailed design of the new buildings;
- The acceptability of the proposal in land use terms.
- The introduction of a new restaurant within the West End Stress Area;
- The impact on neighbours in terms of daylight, overlooking and sense of enclosure.

Objections have been received on land use (specifically the loss of showroom, light industrial and retail uses, the lack of on-site affordable housing and the introduction of a new restaurant use), design and amenity grounds.

The proposed development provides a mixed use development of good architectural quality that will contribute to the character and function of the area. However, the proposed financial contribution in lieu of affordable housing on site is inadequate, and is not supported by the City Council's independent viability consultants. The application is therefore recommended for refusal on these grounds.

3. CONSULTATIONS

HISTORIC ENGLAND

Do not wish to offer any comments.

HISTORIC ENGLAND (ARCHAEOLOGY)

No objections raised.

SOHO SOCIETY

Objection - loss of office space and changing policy position noted. Development provides no on-site affordable housing despite retaining two building cores. Object also to a large new A3 use in the West End Stress Area because of the threat to residential amenity, including the prospective residents of the proposed development.

CROSSRAIL

No objections raised.

TRANSPORT FOR LONDON

Requests that consultation is carried out with TfL if the Cycle Hire station on Great Marlborough Street is to be affected during construction.

ENVIRONMENTAL HEALTH

No objection subject to conditions relating to plant operation and noise levels within the new flats, including a requirement for supplementary noise reports.

Separate objection to the creation of remote rooms.

HIGHWAYS PLANNING MANAGER

Recommends refusal on the grounds of lack of car parking.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 227; Total No. of Replies: 6 (from three respondents)

Objections received on the following grounds:

Design

- Proposal seeks the demolition of unlisted buildings of merit.
- The Council's emerging office policy cannot justify or support the demolition of the buildings for a residential use.
- The previous permission was considered to bring a number of economic benefits to justify the harm caused by the demolition of the buildings.
- The additional two storeys to 55-57 and the additional storey to 54 is out of keeping with the scale and massing, character and scale of buildings within the vicinity.

Land Use

- Loss of offices and light industrial uses and impact on the Creative Industries Special Policy Area.
- The redevelopment of the Poland Street buildings at the rear of the site do not form part of this application and should not be used to off-set the loss of office space on this site.
- The application should be refused in accordance with paragraph 14 of the NPPF because the harm arising from the loss of office space demonstrably outweighs any benefit of granting planning permission.

Amenity

- Daylight report is not based on figures previously agreed for neighbouring developments; no layout drawings and NSL contours for rooms assessed and not possible to ascertain whether results are based on correct details.
- Daylight report only assesses the impacts of loss of light on residential buildings and not neighbouring commercial buildings.
- Loss of light to adjoining terraces and recording studios.
- Loss of rights to light.
- Proposal should not take into account any future increase in height of the Poland Street flank wall (Site 2) as no details have been submitted for this part of the site.
- Noise impact during construction on neighbouring recording studios.
- The Addendum Noise Report identifies that the construction of the proposed development would have a significant adverse impact on the use of the adjoining sound recording studios.
- Noise levels during construction should accord with the levels agreed during construction of Crossrail

Other Issues

- Insufficient detail has been submitted to assess the impact of the height of boundary walls/screens on the adjoining building. Details of this should be reserved by condition.
- The developer should adopt 'Considerate Contractor' guidelines.

ADVERTISEMENT/SITE NOTICE: Yes

4. BACKGROUND INFORMATION

4.1 The Application Site

The application site comprises two buildings, Nos. 54 and 55-57 Great Marlborough Street which are located on the south side of Great Marlborough Street close to the junction with Poland Street. Both buildings are identified as unlisted buildings of merit within the Soho Conservation Area. No. 54, known as Europa House, is seven storeys in height, with a recessed plant room whilst 55-57 (Fenton House) is six storeys in height, also with a recessed plant room. Both buildings are currently vacant. No.54 was formerly in use as showroom accommodation at basement and ground floor levels and office accommodation above and No. 55-57 was in retail use at basement and ground floor levels with office and light industrial (sound recording and post-production studio uses) on the upper levels.

The surrounding area has a mixture of mainly commercial uses, although the rear of the site lies close to the recently redeveloped Soho car park, now known as the Marshall Street development, a residential redevelopment scheme. There are also other residential properties at 1, 2 and 58-59 Great Marlborough Street and 9 Poland Street. In 2014 permission was granted for four flats at 3-4 Great Marlborough Street and permission has also recently been granted, subject to the completion of a S106 legal agreement, for the residential conversion of 52-53 Poland Street.

Immediately to the rear of the site lies 49-50 Poland Street, a six storey office building, and an application has recently been submitted for the demolition of this building for hotel use.

The site is within the Core Central Activities Zone. It is also located within the Creative Industries Special Policy Area (SPA) as defined in the Unitary Development Plan (UDP). This SPA designation is not included within the City Plan.

4.2 Relevant History

54 Great Marlborough Street

4.06.1951 – planning permission granted for the erection of a new building for use as shop, workrooms and offices.

55-57 Great Marlborough Street

03.09.1980 – planning permission granted for the use of ground floor as shop, showrooms, storage and ancillary offices.

14.10.1983 – planning permission granted for the use of basement and ground floors as emergency medical and dental clinic.

2.10.1987 – planning permission granted for the use of first floor as sound recording studio (subject to a condition limiting the use to sound recording studio purposes only and to a personal condition for the Bridge Facilities Company).

30.03.1988 – planning permission granted for the use of fifth floor as office accommodation (Class B1).

54-57 Great Marlborough Street, 47 and 49-50 Poland Street

In February 2012 permission was granted for the demolition and redevelopment of 54 and 55-57 Great Marlborough Street to provide a seven storey building for offices, retail and restaurant purposes at rear ground floor level; new facade to upper floors of 49-50 Poland Street and use of first to fourth floors for offices, fifth floor as residential and erection of new

sixth floor for residential purposes and use of rear ground floor for studio/workshop use; refurbishment of 47 Poland Street for use as retail at basement and ground floor level and residential on the upper floors.

That permission was subject to a legal challenge, subsequently dismissed, and as a result remains extant until February 2016.

5. THE PROPOSAL

The proposals seek the demolition of the existing buildings on Great Marlborough Street, behind their retained facades, and the erection of a new eight storey building (with single basement) for use as retail, restaurant and residential accommodation. Two retail units are proposed at ground and basement floors with a single restaurant also at these levels. A mix of 27 one, two, three and four-bedroom flats is proposed over the upper floors with rear terraces at first floor and balconies at fifth and sixth floors.

6. DETAILED CONSIDERATIONS

6.1 Land Use

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

Use	Existing (m2)	Proposed (m2)	Change (+ or - m2)
Class B1	2,975	0	-2,975
Nil use	344	0	-344
Showroom	466	0	-466
Residential	0	3,762	+3,762
Retail (Class A1)	713	586 (if the A3 use is implemented)	-127
		1,085 (if all 3 units are occupied for A1 retail purposes)	+372
Restaurant (Class A3)	0	499	+499
Total (m2 gross)	4,498	4,847	+349

6.1.1 Loss of Offices

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

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

There are no policies within the UDP or City Plan which safeguard the existing office use. However, the City Council recognises that adopted development plan policies relating to office and mixed use policies are out of date and that, given recent pressures to convert office buildings to residential use, there is now an under-supply of office accommodation within the borough, eroding the character of commercial areas and resulting in a need to protect existing

office floorspace. However, this objective still needs to be balanced against the requirement to provide new homes. Consequently, interim measures, (set out in an initial statement dated 1 March 2015), have been drawn up in relation to the consideration of applications involving the replacement of offices with new residential floorspace, (and applications for the provision of new office floorspace). From 1 September 2015, any such applications will be determined under a 'presumption in favour of sustainable development' in line with national policy. This means that within the Core CAZ (and in other specified locations) housing is no longer acceptable in principle where it results in the loss of office floorspace. A further statement (dated 22 July 2015) confirmed that the loss of offices will be acceptable where they are to other commercial uses, or outside of the Core CAZ or other specified locations.

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

6.1.2 Retail Use

Three retail units are proposed at basement and ground floor levels onto Great Marlborough Street. If all three units were to be occupied for Class A1 retail purposes the proposals would provide a net increase of 372m² of retail floorspace. This is welcomed. However, the applicant has applied for the dual/alternative use of the one of these units for restaurant purposes and therefore potentially only two of the units would be occupied for retail purposes. In this scenario, only 586m² of retail floorspace would be provided representing a reduction of 127m² compared to that existing.

Both the UDP and City Plan seek to protect the retail role and function of CAZ. Policy SS4 states that 'development schemes should provide at least the same amount of retail floorspace as was there before, and should provide for at least the same amount of A1 use as was there before. The size and type of units must be appropriate to the character and function of the street.'

Whilst the loss of retail floorspace would be strictly contrary to Policy SS4 the new retail floorspace would be better configured than the existing retail unit on the site. The existing accommodation is a relatively long linear ground floor retail space which contains a large amount of storage at basement level. The newly configured units would, however, be superior in qualitative terms consisting of more open floorplates. In addition, there will be an increase to the amount of retail frontage to Great Marlborough Street and an overall net increase of two retail units (as currently only one retail unit exists at 55-57 Great Marlborough Street exists).

6.1.3 Loss of Showroom Use

The proposals also involve the loss of 466m² of showroom accommodation (located at basement and ground floor levels at 54 Great Marlborough Street). Policy COM12 of the UDP states that, outside the East Marylebone Special Policy Area the loss of wholesale showrooms at ground floor will not normally be granted where the showroom contributes to the character and function of the area. The Policy further states that 'in other cases, planning permission will be granted where the proposed use is as a retail shop, or a use appropriate for a street level location, generating passing trade and providing a direct service to customers, if the proposed use is within an area which would benefit from its introduction.' Whilst some 240m² of showroom use is being lost at ground floor level, the area is not one that is characterised by other showroom uses, and the former occupiers of the showroom, Steilmann, have now vacated No.54 and are now understood to operate from a property in Bolsover Street. Given that the proposals relate to an isolated unit, it is not considered that the showroom use makes a significant contribution to the character and function of the area.

In these circumstances, and given that the entire ground floor of No.54 is to be replaced with an 'active' retail frontage, it is considered that the loss of the former showroom use is acceptable in this instance.

6.1.4 Restaurant Use

The proposal also involves the potential introduction of a new restaurant providing 499m² of entertainment floorspace.

UDP Policy TACE 9 states that within Stress Areas permission will only be granted for restaurant uses (between 150m² and 500m²) where the City Council is satisfied that the proposed development has:

1. No adverse effect, (nor, taking into account the number and distribution of entertainment uses in the vicinity, any cumulatively adverse effect) upon residential amenity or local environmental quality as a result of:
 - a) noise
 - b) vibration
 - c) smells
 - d) increased late night activity, or
 - e) increased parking and traffic; and
2. No adverse effect on the character or function of its area.

Policy S24 is similarly worded.

The site is within a predominantly commercial location close to Oxford Circus and the major shopping areas of Regent Street and Oxford Street. There is some residential accommodation in the vicinity, the nearest being on the upper floors of the adjacent building at 58-59 Great Marlborough Street and opposite the site at 1 and 2 Great Marlborough Street. Permission has been granted for the use of 3-4 Great Marlborough Street as four residential flats, and this permission is currently being implemented.

The Soho Society has objected to the new restaurant floorspace commenting that a large entertainment space within the West End Stress Area would have an adverse impact on residential amenity.

The restaurant proposals are speculative with no end-user identified, and therefore it is not possible at this time to consider the likely impact by assessing the track record of the intended occupier. However, had the application been considered acceptable, conditions would have been used to control the opening times and activity to limit the impact. Conditions could have been imposed to ensure that the use would essentially be a sit-down restaurant (limited to 125 covers) with any ancillary bar limited to a small part of the premises (i.e. 15%) and these bars could be used only by diners before and after meals. The hours of opening would also have been restricted to the terminal hour of midnight with breakfast opening at 08.00hrs. The main entrance doors at ground floor level would also have been required to be self-closing within an enclosed lobby to minimise noise escape.

Notwithstanding the size of the premises, the number of covers is relatively modest and in this location, and given the proposed hours of use, it is not considered that the proposals would have a material impact on the living conditions of neighbouring residents nor local environmental quality. In these circumstances, the objection from the Soho Society cannot be supported.

A full height duct is proposed to service the kitchen area, which would be routed through the building, which Environmental Health consider acceptable, and is discussed in further detail below.

It is accepted that the proposed restaurant use will help to enliven the street frontage which, along this part of Great Marlborough Street, which is characterised by a number of non-public uses. In addition, the introduction of a new restaurant facility on the fringes of London's prime shopping streets, would serve to support the wider retail function of the area as set out in Policy S7 of the City Plan. Although there are other restaurants in the vicinity, it is not considered that the proposal will create an adverse cumulative impact, given the dispersed nature of these premises along the street

6.1.5 Mixed Use Policy

Given that there would be an overall net reduction in commercial floorspace on this site, the Council's mixed use policies do not apply in this instance. However, the applicant has requested that the increase of residential floorspace on this site (3,762m²) is used as a 'credit' for the recent hotel application submitted on the rear part of the site (47-50 Poland Street).

However, there is no policy basis to accept this and had the application been considered acceptable Committee's views would have been sought on this issue.

6.1.6 Light Industrial Use

Concerns have been raised on the grounds of loss of Soho's traditional light industries, including sound recording and post-production studios, a number of which previously operated from the Great Marlborough Street buildings.

The site lies within the Creative Industries Special Policy Area (CISPA) within the UDP wherein light industrial uses are protected. Policy COM8 states that 'proposals for redevelopment, rehabilitation or other development affecting premises containing light industrial floorspace will not be granted planning permission where:

1. the site is located within the Creative Industries Special Policy Area
2. this would result in the loss of industrial activities which contribute to the character and function of the area.

Although the site is located within the CISPA as defined in the UDP, this SPA designation has not been included within the City Plan. The City Plan recognises that protecting and enhancing the Creative Industries is a priority, however, it also acknowledges that such uses do not fall within a specific use class and they therefore require a customised approach. Further, the City Plan defines Creative Industries as both light industrial (Class B1(c)) and Creative Services (architects, advertising agencies, graphic design and media design) (Class B1) and recognises that a significant amount (63%) of Creative Industries operate from B1 use class units. The relevant office policy (Policy S20) states that new office development will be directed to the Core Central Activities Zone and refers to, where appropriate, the provision of a range of business floorspace including workshops and studios, however, it does not specifically protect light industrial uses.

The buildings are now vacant. However, there were a number of sound recording and production uses within 55-57 Great Marlborough Street, but only the first floor of this building was subject to a restrictive condition that protected those former uses (some 344m²). This floor is subject to a personal planning permission to a sound recording studio use, The Bridge, but they have vacated the premises. As such, the first floor is considered to have a 'nil' planning use and again no protected light industrial use would be lost from this building. As such there is no protected light industrial floorspace on the site to which Policy COM 8 would apply. In these circumstances, objections to the loss of the light industrial use/floorspace cannot be supported.

6.1.7 Proposed Residential

The residential element of the scheme is contained within the upper floors of the buildings accessed from two entrances from Great Marlborough Street. In total 27 flats are provided (nine x 1-bedroom, nine x 2-bedroom flats, seven x 3-bedroom and two x 4-bedroom flats), resulting in a mix of unit sizes complying with the 33% threshold of the UDP. The proposed flats are, with the exception of the four bed duplex apartments, relatively modest in size and it is considered that the application is in accordance with Policy S14 City Plan which seeks to optimise the number of residential units on development sites.

The new flats would generally provide a good standard of accommodation in terms of unit size and layout and some would benefit from private amenity space in the form of balconies or larger terraces. All the units meet the space standards set out within the London Plan. The majority of the flats (18) are dual aspect however all the 1-bedroom flats are single aspect. These flats are however south-east facing and would benefit from good levels of lighting. Each flat would also be provided with a heat recovery unit to provide fresh air and ensure that each apartment would not become overheated.

All residential units are compliant to lifetime homes standards in line with London Plan policy, and all are wheelchair accessible, provided through a level entrance into the residential building with lift access to all floors. This exceeds the 10% of units policy requirement.

Policy ENV 6 of the UDP states that the City Council will require residential developments to provide adequate protection from existing background noise. The need to insulate the new residential properties from existing background noise to the daytime and night time levels required by ENV 6 has been identified in the submitted Noise Assessment report. Environmental Health officers recommend that the City Council's standard internal noise conditions are imposed to ensure an adequate protection against external noise. The report also proposes mitigation measures including the upgrading of windows, installation of secondary glazing, and other measures in order to provide an acceptable residential environment. The applicant intends to provide an alternative source of ventilation to enable residents to close windows if they so chose. There is no objection to their provision, but had the application been recommended for approval, a condition would have been recommended requiring the residential windows to remain openable. Residents would then be able to decide for themselves whether to rely on the acoustic ventilation or to open their windows for ventilation.

Environmental Health officers also raise concerns relating to 'remote rooms' however this is a matter for the Building Regulations and the remote room escape issue can be addressed at the detailed design stage of the Building Regulations submission.

6.1.8 Affordable Housing

Policy S16 relates to affordable housing. It requires that proposals of 10 or more new residential units, or over 1000m² of additional residential floorspace will be expected to provide a proportion of the floorspace as affordable housing. The proportion required will be determined by the City Management Plan which is unlikely to be adopted for some time and the draft is not sufficiently advanced to use for development management purposes. In the meantime we have published an Interim Guidance Note, originally for the purposes of the public inquiry into the Core Strategy.

The expectation of the London Plan, the UDP and the City Plan is that affordable housing should be provided on site. Policy S16 states "Where the Council considers that this is not practical or viable, the affordable housing should be provided off-site in the vicinity. Off site provision beyond the vicinity of the development will only be acceptable where the Council

considers that the affordable housing provision is greater and of a higher quality than would be possible on or off site in the vicinity, and where it would not add to an existing localised concentration of social housing..."

The scheme results in an increase in residential floorspace of 3,762m² (GEA). Applying the Interim Guidance, a scheme of this size is expected to provide 25% of its floorspace as affordable housing, which equates to 941m². If this were to be met by a financial payment in lieu, this would generate a requirement for £4,498,516.

The applicant has submitted a viability report in support of their proposals and initially argued that the scheme could not viably provide either on or off-site affordable housing or a payment in lieu. This report has been assessed by Cluttons, the consultants acting on behalf of the City Council. They agree that it would not be practical or viable to provide the affordable housing units on site, however, they conclude that the scheme can support the full PIL contribution of £4.49m whilst remaining viable. In this regard, the comments made by the Soho Society are not supported.

There has been considerable discussion between the two consultants and there remains a significant difference in opinion between the two parties most notably on values and fit-out costs. The applicant is convinced that the advice put forward by Cluttons is not supported by sufficient evidence, that the comparable scheme that Cluttons refer to has only been based on brochure photographs and that they have taken an unrealistic position on fit-out costs.

The applicant also believes that if the permission given to the DCLG to appeal against the High Court's decision on Vacant Building Credit (VBC) is successful and the VBC is reinstated, given that the buildings have been vacant for a number of years, it is unlikely that the uplift in floorspace would trigger any substantial payment in lieu. However, the VBC did not apply (as in this case) to buildings made vacant for the sole purpose of redevelopment and to buildings covered by an extant or recently expired planning permission for the same or substantially the same development. Whilst it is not clear at this stage whether the VBC will be re-introduced, there is no reason to believe that the previous exclusions would not apply.

The applicant is of the view that if the full payment in lieu is applicable, that the site may not be redeveloped and the benefits of their restoration will not be seen. They argue that they are able to offer a payment of £1.5m towards affordable housing, and this is made on the basis that they would not seek to review this offer under a Section 106 appeal procedure. They have also asked that a second opinion on Cluttons work is sought.

In defence of their advice, Cluttons have argued that their opinion is robust and their judgement is fair and based on current evidence and values. It is not considered that a review of their work is considered necessary.

Given the advice from the Council's valuation consultants, the applicant's offer of £1.5 million which is £2.99 million short of the full PIL contribution is not considered to be compliant with policy and therefore the application is recommended for refusal on affordable housing grounds.

6.2 Design and Conservation

The proposal retains the existing street facades, which make a positive contribution to the character and appearance of this part of the Soho Conservation Area. Although planning permission has been granted for the replacement of these buildings with a high quality modern building, the retention of the facades is welcomed and acceptable. Their retention will preserve and enhance the character and appearance of the conservation area. The existing windows will be replaced and the detailed design of the new windows should be controlled by condition.

The key issue is the proposed roof level extensions. Objections have been received with respect to the proposed height and bulk. At no. 54 it is proposed to replace the existing roof level plant areas with a new floor of accommodation, with only a slight increase in height and bulk. This is considered acceptable.

At No. 57 two extra floors are proposed. This is a significant increase in height and bulk but the floors are set back progressively from the street frontage to reduce their visual impact. The total height will be very similar to that proposed at No. 54, and slightly lower than the building to the west, No. 51-53.

The buildings to the east, at the junction with Poland Street, are lower and there is a longer view along Great Marlborough Street from the east where the proposed top floor of No. 57 will be visible above the roof line of these buildings. However, the visual impact is relatively small and not considered to be harmful to the conservation area. The new floors are design in a style compatible with the existing facades, which is appropriate and compliant with Policies DES 5 and DES 6.

The buildings lie within the London View Management Framework (LVMF) Protected Vista from Primrose Hill to the Palace of Westminster. However, the proposed extensions lie just below the level of the development plane of the strategic view (LVMF View 4 A.2). Therefore there is no impact on this view.

It is considered that given the above, the proposals are acceptable in terms of the impact on the appearance of the retained facades of the buildings, and on the character and appearance of the Soho Conservation Area. The proposals will not harm that character and appearance. They comply with the urban design and conservation policies set out in the Unitary Development Plan, including DES 1, DES 5, DES 6, DES 9 and DES 14.

6.3 Amenity

The closest affected residential properties are within the Marshall Street development to the immediate south of the site. There are also residential flats on the upper floors of 1 and 58-59 Great Marlborough Street. New flats are also under construction at 3-4 Great Marlborough Street.

6.3.1 Daylighting/Sunlighting

A daylight and sunlight report has been commissioned by Point 2 Surveyors which examines the impact on daylight and sunlight conditions to the adjacent residential properties. An addendum sunlight/daylight report has also been submitted which identifies the room layouts and windows within the neighbouring property.

6.3.1.i Daylighting

The report considers the Vertical Sky Component (VSC) and No Sky Line (NSL) in accordance with the BRE guidance. 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 advise that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The NSL assesses daylight distribution by measuring the area of the room from which there is visible sky. If there are reductions from existing NSL values of more than 20% then the change is likely to be noticeable.

The sunlight/daylight assessment submitted with the application demonstrates that five windows would be adversely affected by more than the 20% recommended in the BRE

guidelines. These are all windows at fourth floor level within the Marshall Street development. These windows would experience NSL losses of between 40.6% and 65.1%. They would however retain good levels of VSC of between 22.78 and 27.46%. Whilst these losses would be over 20%, the windows affected serve bedroom accommodation which the BRE guidelines state as being less important in relation to daylighting distribution than main living rooms. These are also north facing windows which are particularly small compared to the size of the rooms and as a result this does impact on light penetration and partially explains why it is only NSL that is adversely affected to these rooms. Larger windows would have allowed light to penetrate more deeply than the windows that have been installed. The losses would be similar to those deemed acceptable under the extant scheme for this site.

It is considered that within this urban built-up location, the levels of daylighting retained are acceptable and the impact is not considered sufficient to justify a refusal. Given this, it is considered unreasonable to refuse this scheme given the losses involved.

The residential accommodation at 1, 3-4 and 58-59 Great Marlborough Street all retain satisfactory daylighting levels.

6.3.1.ii Sunlighting

With regard to impact on levels of sunlight, the BRE guidance state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours (APSH), including at least 5% of annual winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former value. The habitable windows to the flats within the Marshall Street development facing the application site do not face within 90 degrees of due south and therefore are not required to be analysed for the purposes of loss of sunlight under the BRE guidelines.

With regard to the residential flats at 1, 3-4 and 58-59 Great Marlborough Street, one kitchen/living/dining area at first floor within 3-4 Great Marlborough Street would experience a 25% loss of winter sunlight hours (from 4% to 3%). This room would however retain excellent overall annual probable sunlight hours of 55% and it is not considered that the loss of winter hours would adversely impact on the quality of sunlight to this property to warrant refusal. All other windows within these properties will retain satisfactory values in terms of annual sunlight hours.

6.3.1.iii Other Adjoining Properties

The adjoining sound recording studios at 51-53 58-59 Great Marlborough Street has raised a number of concerns including the fact that the report fails to address the impacts on their property, the reduction in sunlight and daylight to their terraces and on the grounds that the proposal would impact on Rights to Light. Whilst the report has not addressed the impact of light issues on 51-53 Great Marlborough Street, the City Council's policy for protecting daylight and sunlight is primarily aimed at protecting the living standards of residents, and it is not considered that a reason for refusal could be sustained on the grounds of loss of light or increased sense of enclosure to existing commercial windows. The concerns raised on the grounds of loss of established Rights to Light is a private matter between the two parties.

6.3.2 Sense of Enclosure/Overlooking

Policy ENV13(F) states that where developments result in an unacceptable increase in the sense of enclosure, planning permission will be refused. Policy S29 states that the Council will resist proposals that result in an unacceptable loss of residential amenity.

The proposed new building where it fronts Great Marlborough Street will be approximately the same height as the existing plant room at 54 Great Marlborough Street but the new building

will project further at the rear than the existing buildings. Whilst the proposed new building would clearly be of a greater bulk than that existing, it is not considered that given the relationship with adjoining and adjacent residential flats that there would be any adverse increased sense of enclosure or increased overlooking.

6.3.3 Roof Terraces

Roof terraces are proposed at first floor and balconies at fifth and sixth floor levels. It is not considered that in these locations that use of these terraces and balconies by residents would result in unacceptable noise, disturbance or overlooking.

An adjoining office occupier at 51 Great Marlborough Street has raised concerns on the grounds that details of the boundary screens have not been provided and that this information is required to determine the impact on their property. The office occupier has windows at first floor level which currently face the rear wing of 54 Great Marlborough Street. These windows would face onto the terrace areas of the first floor flats and whilst no details of the boundary treatment have been submitted, it is not considered that the relationship with the adjoining office building would be materially different to the existing situation. Details of the boundary treatment would have been reserved by condition had the application been acceptable.

6.3.4 Noise

UDP Policies ENV6 and ENV7 deal with the subject of noise pollution and vibration both from new uses, internal activity and the operation of plant. The policies require the potential for any disturbance to be ameliorated through operational controls and/or attenuation measures. Policy S32 requires disturbance from noise and vibration to be contained.

Under Policy ENV6, new developments are expected to incorporate design features and operational measures to minimise and contain noise levels in order to protect noise sensitive properties. Where developments adjoin other buildings, the applicant is required to demonstrate that, as far as reasonably practicable, schemes will be designed and operated to prevent the transmission of audible noise or vibration through the fabric of the building. The application is supported by an acoustic report.

6.3.4.1 Noise from the development

6.3.4.1 Plant noise

Plant is proposed at basement level and within existing vaults for the new ground and basement floor commercial uses. To ventilate the restaurant at ground and basement floor level a full height duct is proposed rising internally through the building. The detailed design of the precise plant required and details of the duct have yet to be finalised. An acoustic report has been submitted as part of the application which includes background noise surveys around the site and, from this are set targets for the operation of the new plant which must be below existing background noise levels.

The Environmental Health officer has assessed the submitted acoustic report and raises no objection to the proposals subject to conditions relating to plant noise and vibration. On this basis, it is not considered that the plant operation would adversely affect the amenities of existing, or future, residents.

6.3.4.2 Noise disturbance during the course of construction

An objection has been received on behalf of the operators of the post-production sound studios in 51-53 Great Marlborough Street on noise grounds, primarily on the basis that the extent of demolition and construction works would result in significant disturbance in respect

of noise, vibration and dust generation affecting the objectors' ability to carry out their business. The objector refers to a policy requirement to reduce noise generated, so far as it is practical, to the Lowest Observed Adverse Effect Level (LOAEL) and notes that this requirement also applies during the construction phase.

National Planning Policy Guidance on Noise (6 March 2014), to which the objector refers, requires local planning authorities to take account of the acoustic environment and, in doing so, to consider whether or not a significant adverse effect, or an adverse effect, is likely to occur and whether or not a good standard of amenity can be achieved. The guidance refers to the Explanatory Note of the Noise Policy Statement for England, which states that the assessment of noise disturbance would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the Significant Observed Adverse Effect Level (SOAEL – the level above which significant adverse effects on health and quality of life occur) and the Lowest Observed Adverse Effect Level (LOAEL – the level above which adverse effects on health and quality of life can be detected) for the given situation. The Explanatory Note acknowledges that it is not possible to establish a single objective noise-based measure that defines SOAEL, as this is likely to be different for different noise sources, for different receptors and at different times.

The objector contends that, due to the nature of their business, LOAEL is the level at which they can operate without any material effect on their business, and that SOAEL is the level at which they could no longer use their studios. In the absence of any assessment of the construction or operational impacts in relation to LOAEL or SOAEL, the objector contends that it is not possible to ascertain whether or not the proposal complies with national planning policy. Furthermore, even if it can be demonstrated that the impact of the development process, or the completed development, falls between LOAEL and SOAEL, unless it has been shown that all possible mitigation will be employed to reduce the noise impact to the LOAEL, the development is contrary to national noise policy and should be refused.

However, the stated vision set down in the Explanatory Note is to “promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development”, with the aim to “avoid significant adverse effects on health and quality of life”, to “mitigate and minimise adverse impacts on health and quality of life” (and to, “where possible, contribute to the improvement on health and quality of life”). The Note addresses the impact of “neighbour noise” including construction noise, and human reactions to it including sleep deprivation etc. It is primarily weighted towards the consideration of the impact of noise upon residential amenity rather than with the impact of noise upon commercial activity.

Nevertheless, the application building is adjacent to a flat at sixth floor at 58-59 Great Marlborough Street and in close proximity to flats in Marshall Street. The Note sets out a requirement for developers to avoid significant adverse impact on health and quality of life and, where the impact lies somewhere between LOAEL and SOAEL, “to take all reasonable steps to mitigate and minimise adverse effects on health and quality of life whilst also taking into account the guiding principles of sustainable development”. However, the Note is clear that “this does not mean that such adverse effects cannot occur”. It also sets out the “need to integrate consideration of the economic and social benefit of the activity or policy under examination with proper consideration of the adverse environmental effects, including the impact of noise on health and quality of life. This should avoid noise being treated in isolation in any particular situation i.e. not focussing entirely on the noise impact without taking into account other related factors”.

The applicant's Acoustic Consultants have submitted an updated report dealing with the issue of construction noise. This report has been assessed by officers from the Council's

Environmental Sciences Team. The report refers to the noise impact in relation to the relevant British Standard, which is the code of practice for noise and vibration from open sites.

Limits have been suggested, in relation to noise from demolition and construction activities in accordance with British Standard Guidance. As these limits would be applicable to the flats immediately adjacent to the site, it is considered likely that the received noise level at the sound studio, which is likely to be soundproofed to protect the use from external noise sources, would be significantly lower. In addition, the applicant has confirmed that a commitment has been made to enter into a S61 agreement (Control of Pollution Act), ensuring that the quietest machinery is used, with silencers, and that acoustic screening is employed wherever possible. Noise and vibration monitoring will also take place continuously. The Environmental Sciences Officer has advised that whilst the proposed vibration levels are not appropriate for a noise sensitive business, lower levels will be imposed through the SEMP. The SEMP will also need to show how impacts on the studio are being reduced. The Council also expects the developer to do everything possible to engage and liaise with the neighbouring residents and businesses. Had the application been recommended for approval, a Site Environmental Management Plan (SEMP) would have been required which would have required the applicant to provide details of noise and vibration (including predictions, managing risks and reducing impacts) and details of monitoring (including details of receptors, threshold values and analysis methods, procedures for recording and reporting monitoring results and remedial action in the event of any non-compliance). In addition, the applicant has also agreed to an annual contribution of £33,000 towards the Council's Code of Construction Practice and towards monitoring of the SEMP. In these circumstances, it is considered that the issue of construction noise has been satisfactorily addressed.

6.4 Transportation/Parking

In terms of servicing, Policy TRANS 20 states that the City Council will require convenient access to premises for service vehicles and will normally require that "vehicular servicing needs of developments are fully accommodated on-site and off-street ... sufficient to cater for the size, type and frequency of arrival of the vehicles likely to be servicing the development". Policy CS41 is similarly worded.

The applicant has submitted a Transport Statement in support of the application. The applicant estimates that the proposed retail and restaurant elements of the development will be serviced on average by 10 service vehicles daily. The Highways Planning Manager believes these figures to be robust and considers that the impact of servicing from Great Marlborough Street will not be significantly worse than the existing situation. In order to ensure that servicing of the development is effectively managed, had approval been recommended a Servicing Management Plan would have been secured. The plan should identify process, storage locations, scheduling of deliveries and staffing arrangements, as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. The plan would clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants.

The Highways Planning Manager is concerned that the proposed shopping floorspace could be used as a foodstore or supermarket since such uses have particular servicing requirements dependent on deliveries by very large articulated vehicles which would be difficult to accommodate on street. These uses could be precluded by planning condition.

Parking/Cycle Storage

No off-street parking is provided on site. Policy TRANS23 (B) states that for new residential developments the City Council may take into account the additional demand for on-street parking arising from the development and will normally consider there to be a serious deficiency where additional demand would result in 80% or more of available legal on-street parking places being occupied during the day. In these circumstances the City Council would

normally seek to resist the proposal unless the potential impact of the additional cars being parked on the street in the vicinity can be mitigated.

The evidence of the Council's most recent daytime parking survey (Buchanan's 2006) indicates that the parking occupancy of Resident's Bays and Shared Use Bays within a 200m radius of the main site is 78%. Overnight the pressure reduces to 26%.

It is acknowledged that the site has a high level of public transport accessibility, though it is important to note that households within the West End ward with one or more cars is 29% (2011 Census figures). Whilst this is lower than the city average, the above figures indicate that residents in the area do own cars, along with the fact that during the day residential bays have a high level of occupancy.

Overall, parking pressures in this location remain below stress levels but it is likely that the parking situation will deteriorate as a result of the proposed development and parking mitigation measures would therefore be necessary if approval had been recommended. The applicant has agreed to provide lifetime car club membership (25 years) for each of the proposed flats. These measures are considered acceptable and could be secured by legal agreement.

Cycle parking is provided in two separate areas at basement level providing a total of 33 spaces. The Highways Planning Manager calculates that the proposed residential flats would require a total of 45 cycle parking spaces and considers that, if there were some alteration to the two cycle stores, these spaces could be provided at basement level. An additional 6 cycle spaces are required for the retail and restaurant uses, and these could be provided within the basement vaults.

6.5 Economic Considerations

The economic benefits generated are welcomed.

6.6 Access

Level access from street level is restricted as the existing entrances have steps above pavement level, the steps are original and form part of the original fabric of the building. The applicant had addressed this through the provision of a platform lift. These measures comply with Document M of the Building Regulations. There is full level access within the building and in all other respects the residential units will meet Lifetime Homes Standards. Accessible wc facilities will be provided within the new restaurant.

6.7 Other UDP/Westminster Policy Considerations

Waste and recycling storage areas are located at basement floor level. These arrangements are considered to be acceptable in principle under UDP Policy ENV11.

6.8 London Plan

The proposal does not raise strategic issues and does not have significant implications for the London Plan.

6.9 Planning Obligations

The City Council's approach to and priorities for planning obligations are set out in our Supplementary Planning Guidance (SPG) on Planning Obligations adopted January 2008. Planning obligations can serve to mitigate the land use impacts arising from a development either on the development site, in the wider locality, or where the development will increase

local demands for facilities and services or where it is important to integrate the new development into the new community and environment so that it is more sustainable.

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

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

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

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

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

In this case, the principal 'Heads of Terms' of the legal agreement would, if approval had been recommended, have sought to secure the following:

- i) a financial contribution towards the City Council's affordable housing fund (index linked and payable upon commencement of development)
- ii) compliance with the City Council's Code of Construction Practice and submission of a SEMP (Site Environmental Management Plan) with an annual cap of £33,000.
- iii) Lifetime car club membership (25 years) for the occupants of each new dwelling.
- iv) monitoring costs

6.10 Environmental Assessment including Sustainability and Biodiversity Issues

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture. 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 NPPF establishes a presumption in favour of sustainable development. London Plan Policy 5.3 also requires developments to achieve the highest standards of sustainable design, with Policy 5.2 seeking to minimise carbon emissions through a 'Be Lean, Be Clean and Be Green' energy hierarchy.

A BREEAM pre-assessment has been carried out on the proposed flats in the building and it is predicted that, if enhancement measures are introduced, the proposed flats could achieve a BREEAM Excellent rating.

The energy efficiency and sustainability initiatives of the site have been optimised to address the Mayor's Energy Hierarchy and to address the requirements of policies in Chapter 5 of the London Plan and Westminster's City Plan Policy S28. The applicant's Energy Statement states that with the installation of a CHP engine, passive design measures and energy efficiency measures that the building's total CO2 emissions are predicted to show a reduction of 23% over Building Regulations Part L 2013 baseline emissions, which is welcomed. It is also proposed to introduce PV panels on the roof.

To encourage biodiversity a green roof is proposed which would be in accordance with Policy S38 of the City Plan and UDP Policy ENV 17.

6.11 Other Issues

TfL advise that it may be problematic to construct the development without impacting on the cycle hire station on Great Marlborough Street in front of the site. This is dealt with by informative.

One of the objectors also raises concerns on the grounds that the proposal should not take into account of any future increase in height of the Poland Street flank wall (Site2). Site 2 however does not form part of these proposals.

6.12 Conclusion

The proposed development provides a mixed use development of good architectural quality that will contribute to the character and function of the area. However, the proposed financial contribution in lieu of affordable housing on site is inadequate, and is not supported by the City Council's independent viability consultants. The application is therefore recommended for refusal on these grounds.

BACKGROUND PAPERS

1. Application form
2. Letter from Historic England dated 21 May 2015
3. Email from Historic England (Archaeology) dated 1 June 2015
4. Email from Transport for London dated 7 May 2015
5. Email from Crossrail dated 18 May 2015
6. Email from the Soho Society dated 12 May 2015
7. Memorandum from Highways Planning Manager dated 22 May 2015

8. Memoranda from Environmental Health dated 1 June 2015 and email dated 2 November 2015
9. Letters on behalf of the occupiers of 51-53 Great Marlborough Street dated 26 May, 8 and 30 September and 22 October 2015
10. Letter from Marshall Street Regeneration Ltd, 18 Marshall Street dated 19 June 2015
11. Letter on behalf of the occupier of 51 Great Marlborough Street dated 3 June 2015

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT PAUL QUAYLE ON 020 7641 2547 OR BY E-MAIL pquayle@westminster.gov.uk

DRAFT DECISION LETTER

Address: Fenton House, 55-57 Great Marlborough Street, London, W1F 7JX

Proposal: Demolition and redevelopment behind retained street facades at 54 and 55-57 Great Marlborough Street to provide a new building comprising basement, ground and first to seventh floor levels. Use of the part basement and ground floor levels as two retail units (Class A1) and one dual / alternative retail or restaurant (Class A1 / A3) unit at part basement and ground floor levels. Use of part basement and ground and the entire first to seventh floor levels as residential accommodation comprising 27 units with associated terraces at rear first floor and balconies at fifth and sixth floor levels. Excavation at basement level, the provision of a green roof at main roof level and installation of plant in the basement and at seventh floor level. (SITE INCLUDES 54 GREAT MARLBOROUGH STREET)

Plan Nos: DM.001, 002, 003, 004, 005, 006, 007, 008, 009, 201, 202, 203; PR.001, GA.100, PR.002, 003, 004, 005, 006, 007, 008, 009, 010 Rev B, 011 Rev B, 201.1 Rev A, 201.2, 202.1, 202.2, 203, 204, 205.1, 300.1, 300.2, 301.1, 301.2

Case Officer: Josephine Palmer

Direct Tel. No. 020 7641 2723

Recommended Reason for Refusal:**Reason:**

- 1 The proposal fails to make adequate provision for affordable housing which would not meet S16 of Westminster's City Plan: Strategic Policies adopted November 2013 which seeks a proportion of new residential floorspace as affordable housing, and policy H4 of our Unitary Development Plan that we adopted in January 2007. We do not consider that the circumstances of your case justify an exception to our policy.

Informative(s):

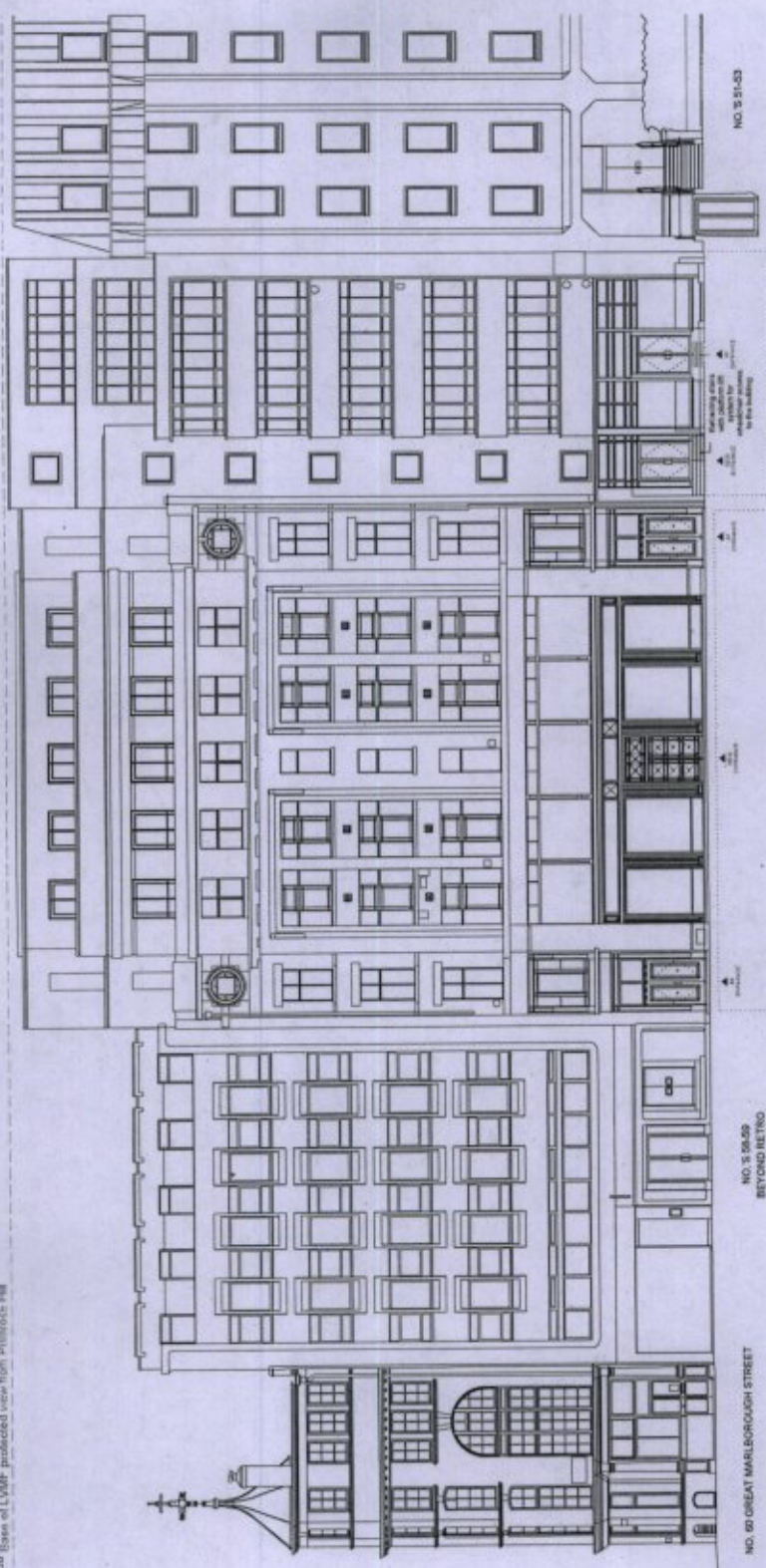
- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's 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, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition further guidance was offered to the applicant at the validation stage and by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable.

Required amendments: A revised affordable housing offer

- 2 In the event that you resubmit a revised application for this site, you are advised to contact Richard McEllistrum (Transport for London) on 0203 054 8966 to discuss whether construction works require the suspension of the Cycle Hire Station on Great Marlborough Street. You will need the consent of Transport for London for such a suspension



52.38 East of LVMF produced view from Purtoise Hill



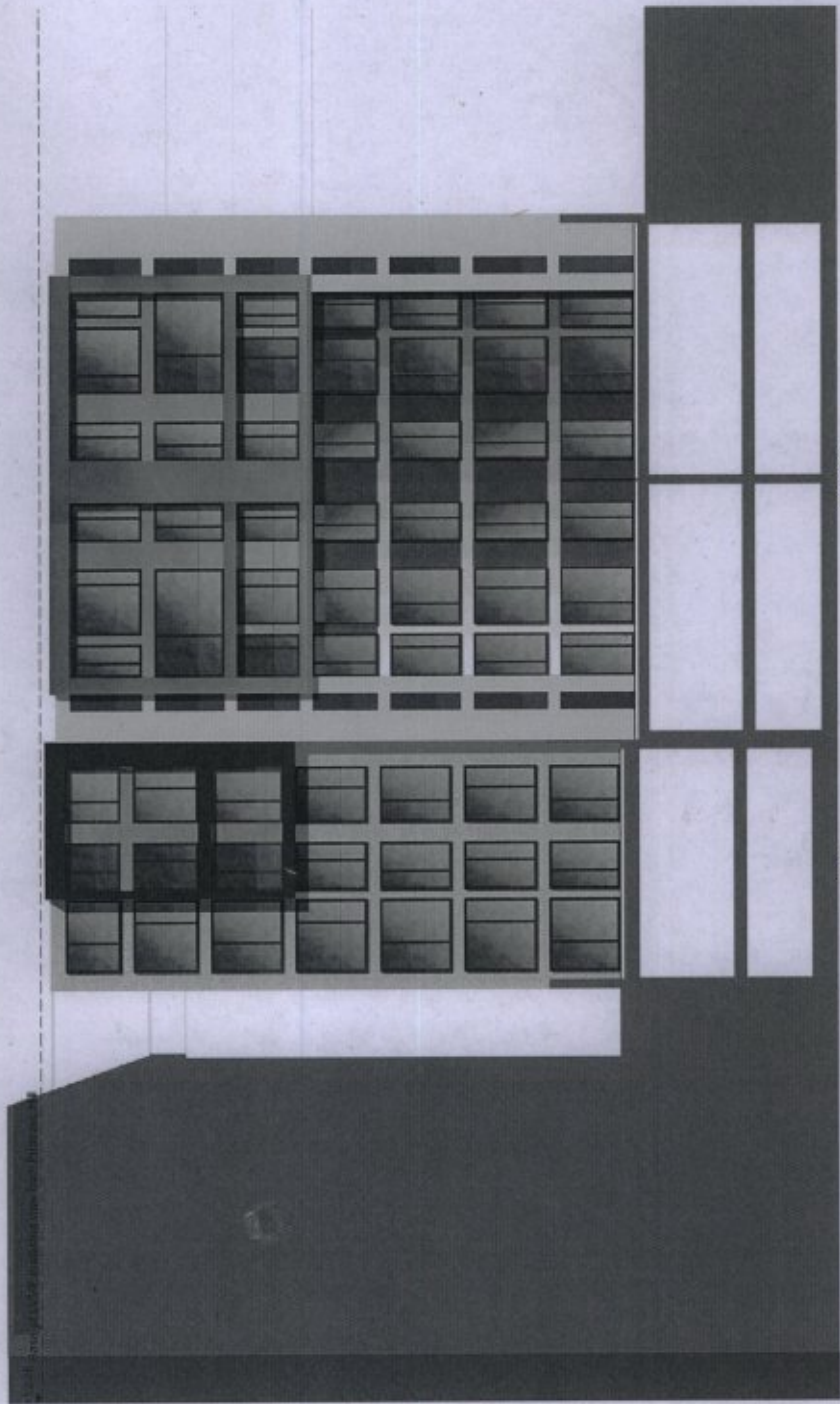
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 ALL DIMENSIONS TO BE CHECKED ON SITE.
 ALL OMISSIONS AND DISCREPANCIES TO BE REPORTED TO THE ARCHITECT IMMEDIATELY



TF ARCHITECTURE
 2-3 WOODSTOCK STREET
 LONDON W1C 2AB
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 F. 020 7052 0757
 E. info@tfarchitecture.com

CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	FRONT ELEVATION_PROPOSED
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	PR.201.1
REV.	A



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PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	REAR ELEVATION_ARTIST'S IMPRESSION_PROPOSED
DATE	01.2015
JOB NO.	452
DRWG NO.	PR.202.2
REV.	

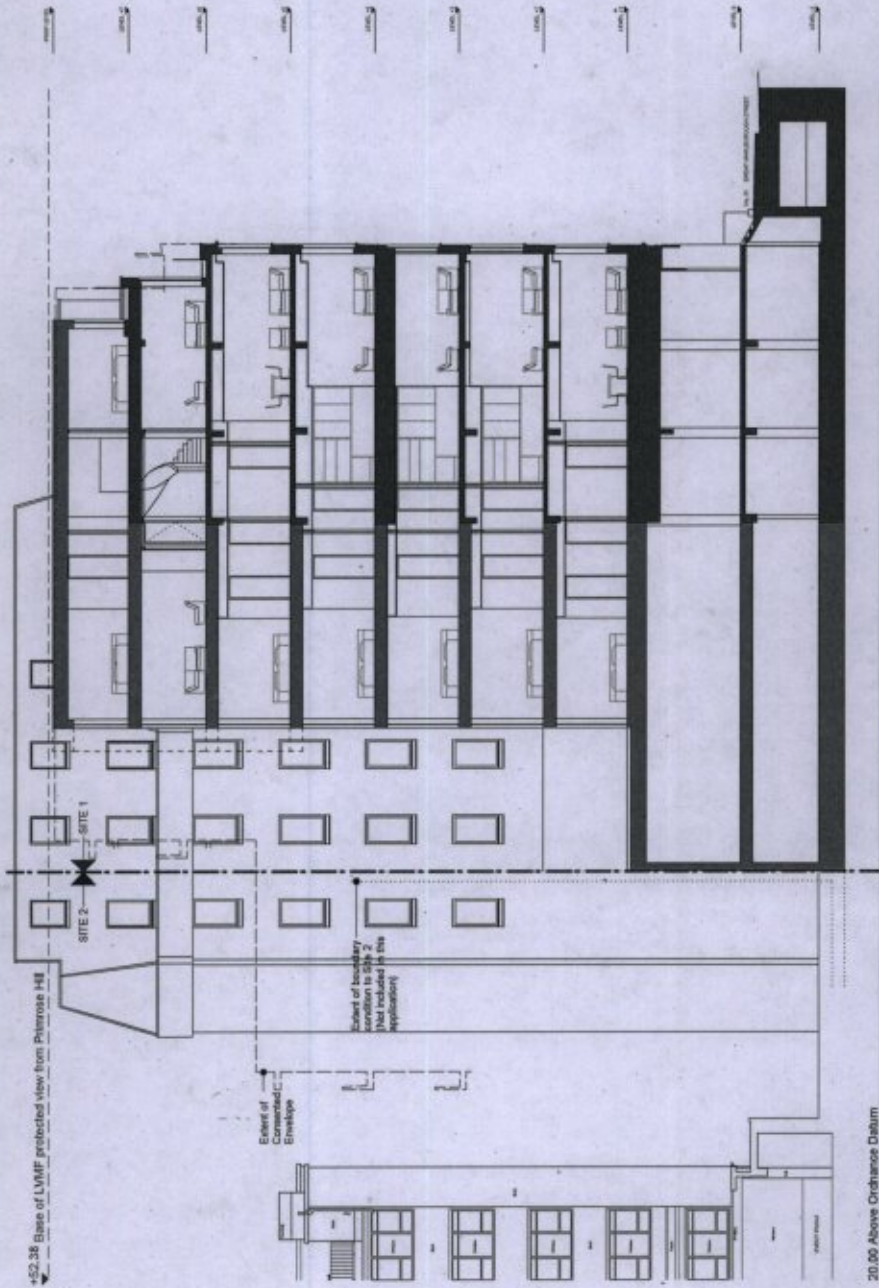
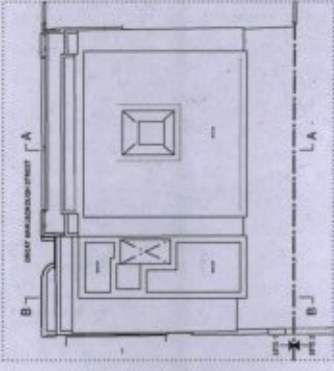
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20.00 Above Ordnance Datum

SITE PLAN



+52.38 Base of LVMF protected view from Primrose Hill

SITE 1
SITE 2

Extent of Committed Envelope

Extent of boundary condition to Site 2 (not included in this application)

20.00 Above Ordnance Datum



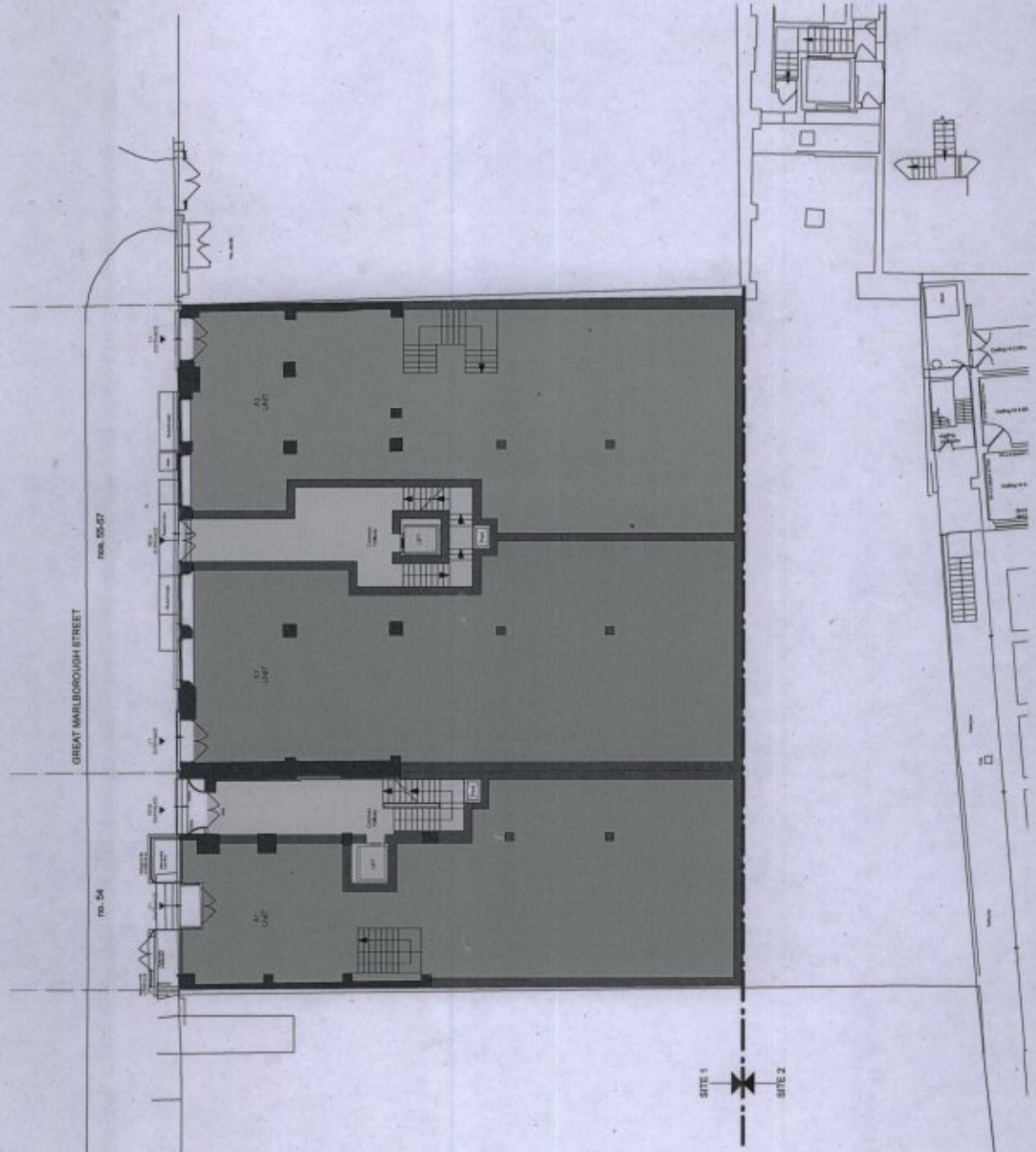
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CLIENT
PROJECT
DRAWING TITLE
DATE 01.2015

MARLBOROUGH HOUSE LTD
NOS. 54 & 55-57 GREAT MARLBOROUGH ST
PLANNING: 150410
SCALE 1:200 @ A3
JOB NO. 452
DRAWING NO. PR.204
SECTION BB_PROPOSED
REV.

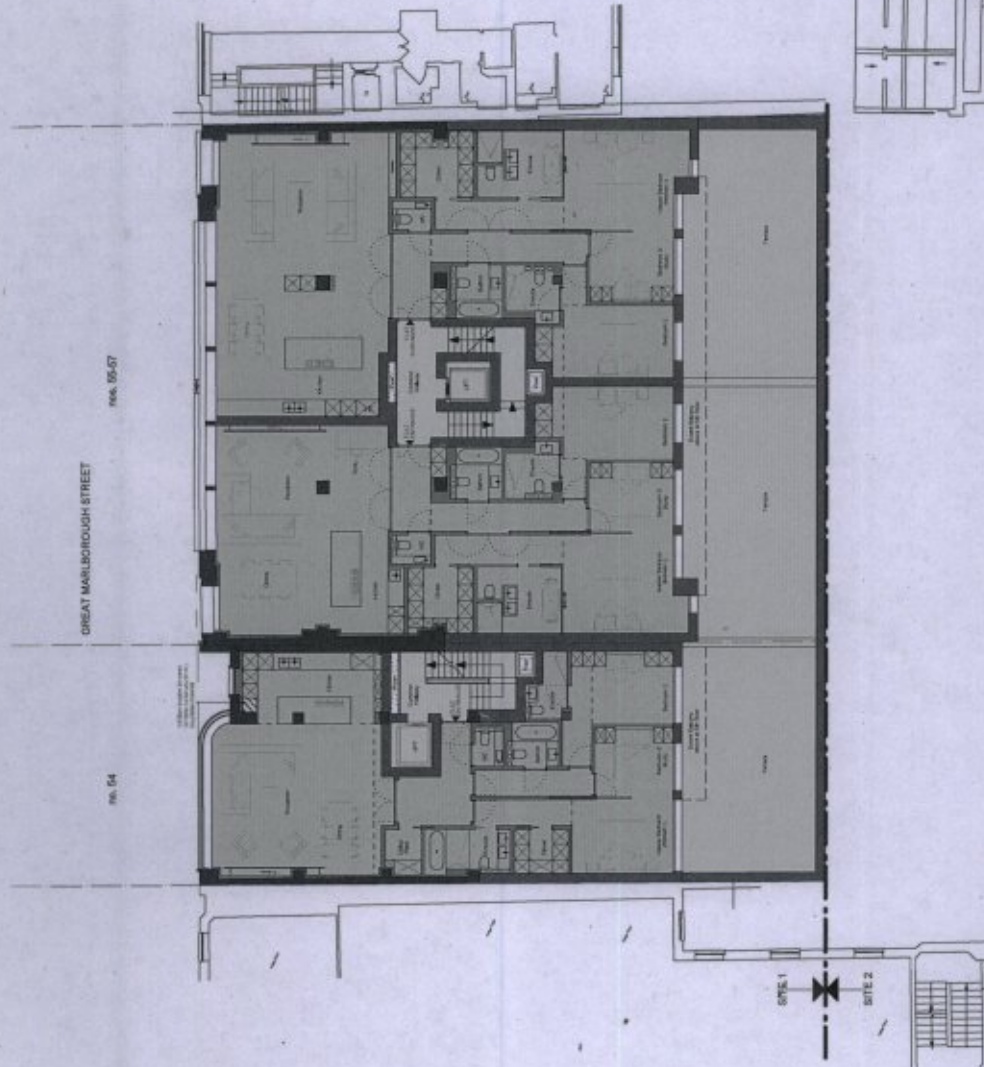


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 - ALL OMISSIONS AND DISCREPANCIES TO BE REPORTED TO THE ARCHITECT IMMEDIATELY

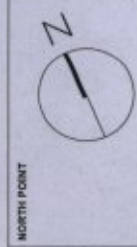


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CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410 LEVEL 0, PROPOSED
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	PPR.003
REV.	

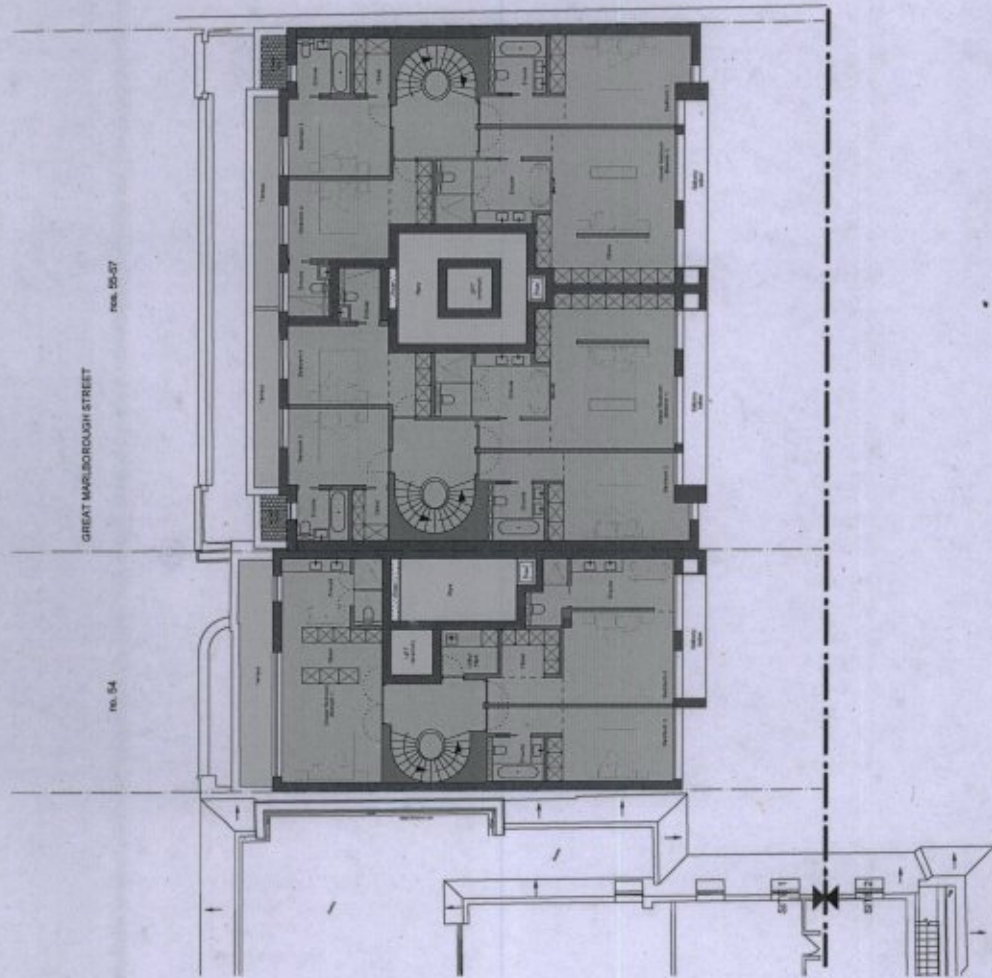
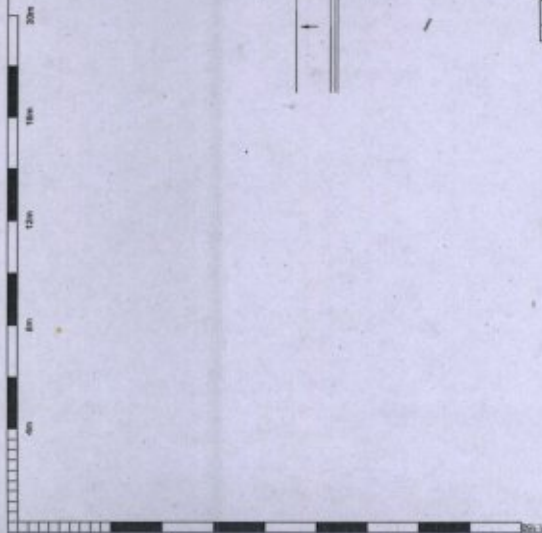


NOTES:
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 * ALL DIMENSIONS AND DISCREPANCIES TO BE REPORTED TO THE ARCHITECT IMMEDIATELY.



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 LONDON W1C 2AB
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 F. 020 7052 0757
 E. info@tfarchitecture.com

CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410 LEVEL +1, PROPOSED
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	PR.004
REV.	



NOTE:
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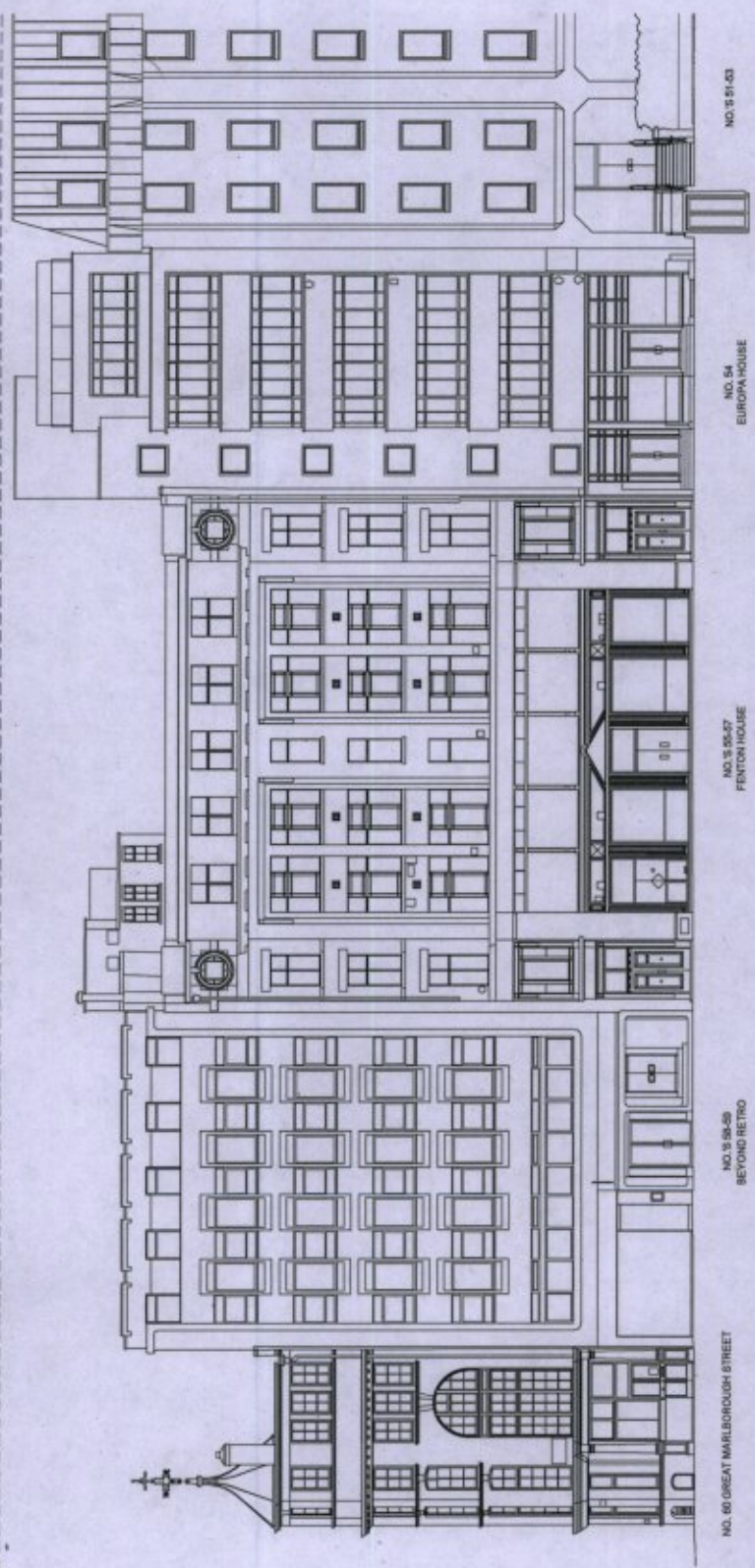


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CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	PR.010
REV.	LEVEL +7_PROPOSED



1:50 2/3 Base of LVMF protected view from Princess Hill



20.00 Above Ordnance Datum

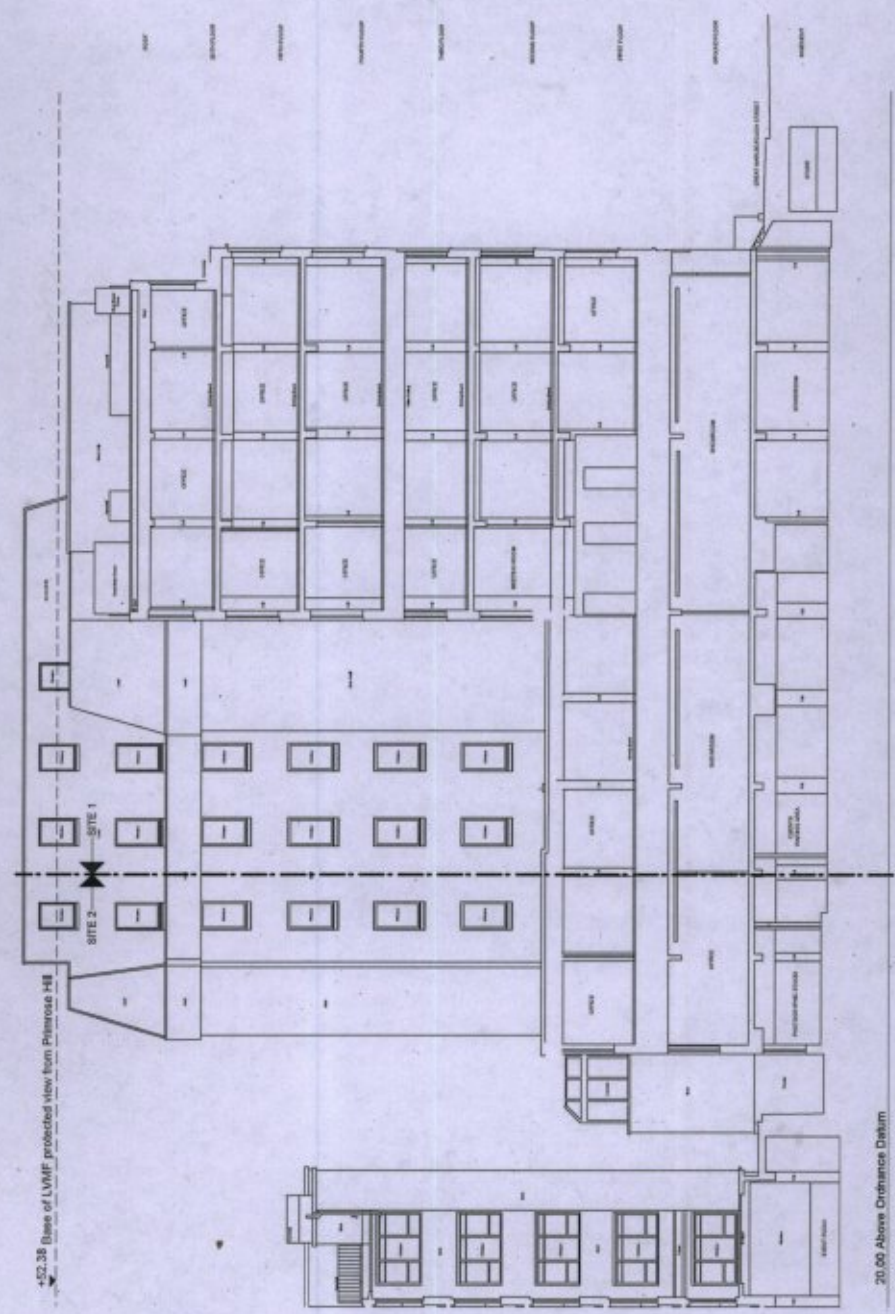
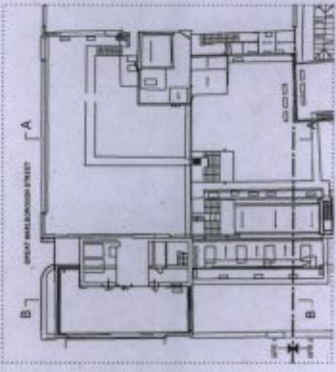
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PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	FRONT ELEVATION_EXISTING
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	EX.201.1
REV.	

SITE PLAN



+52.38 Base of LVME protected view from Pinecroft Hill

20.00 Above Ordnance Datum



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 2-3 WOODSTOCK STREET
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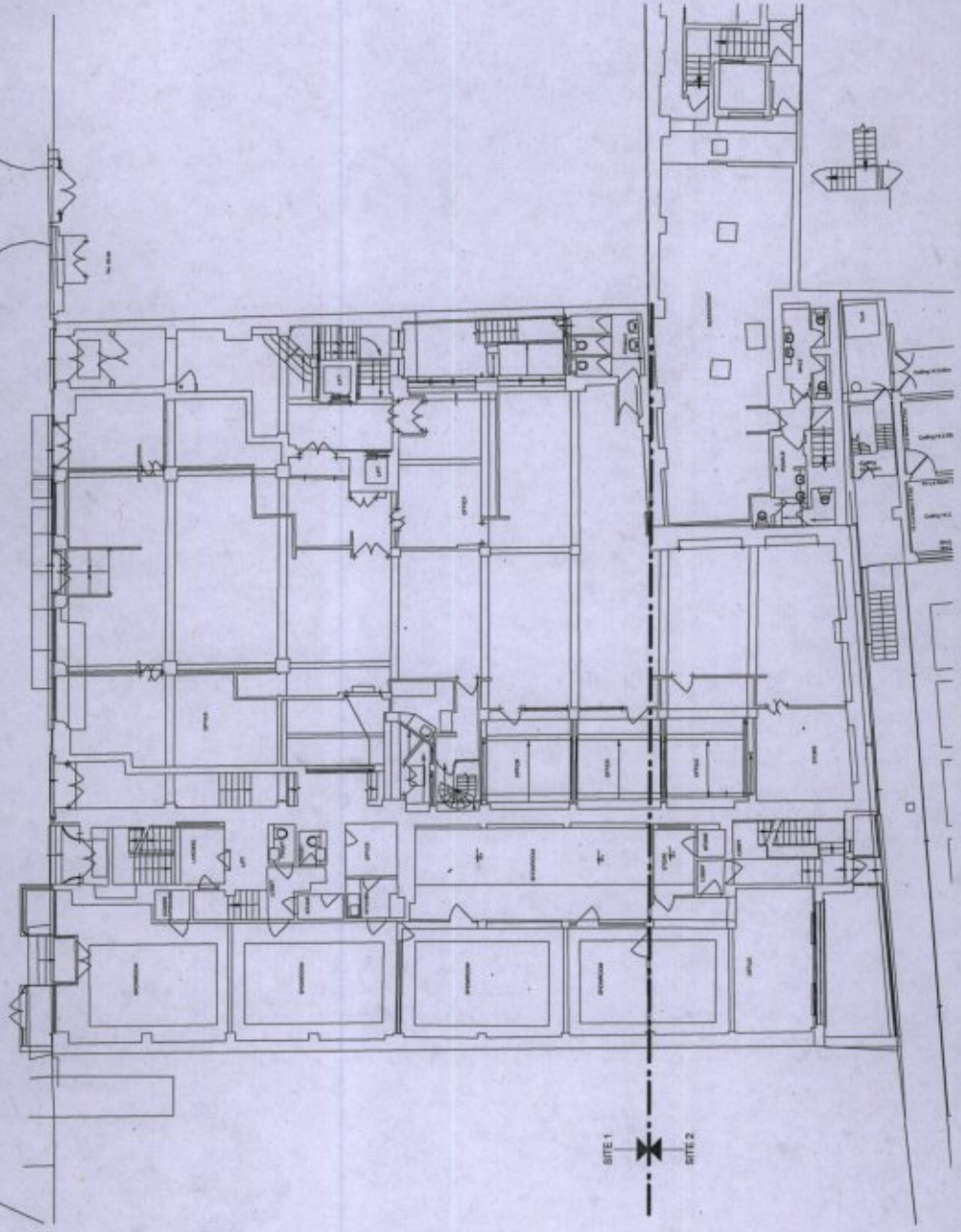
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PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410
DATE	01.2015
JOB NO.	452
SCALE	1:200 @ A3
DRWG NO.	EX.203
REV.	SECTION BB_EXISTING



GREAT MARLBOROUGH STREET

no. 54

nos. 55-57



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NORTH POINT



TF ARCHITECTURE

2-3 WOODSTOCK STREET
 LONDON W1C 2AB

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CLIENT

PROJECT

DRAWING TITLE

DATE

MARLBOROUGH HOUSE LTD

NOS. 54 & 55-57 GREAT MARLBOROUGH ST

LEVEL 0_EXISTING

EX.003 REV.

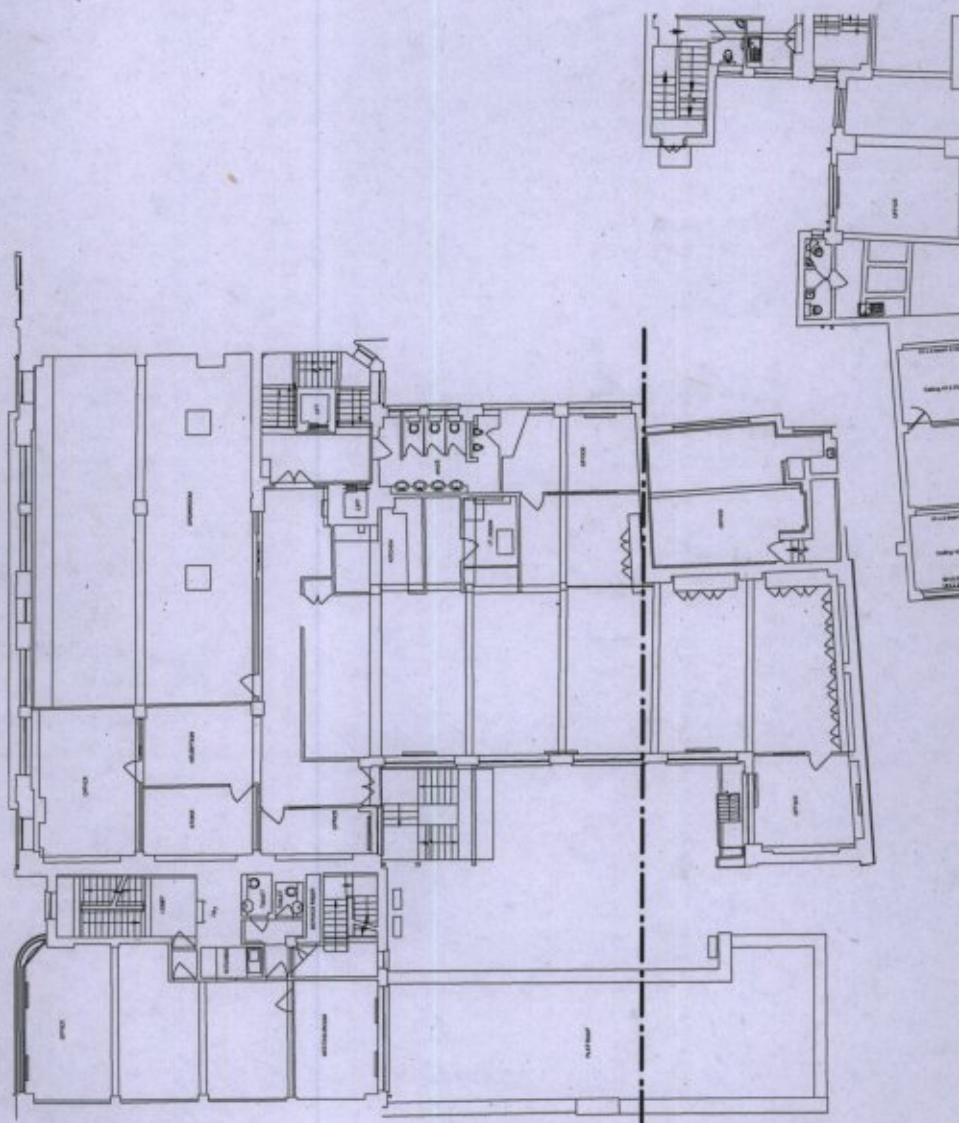
PLANNING: 150410

SCALE 1:200 @ A3

JOB NO.

452 DRWG NO.

REV.



GREAT MARLBOROUGH STREET

nos. 54

nos. 55-57



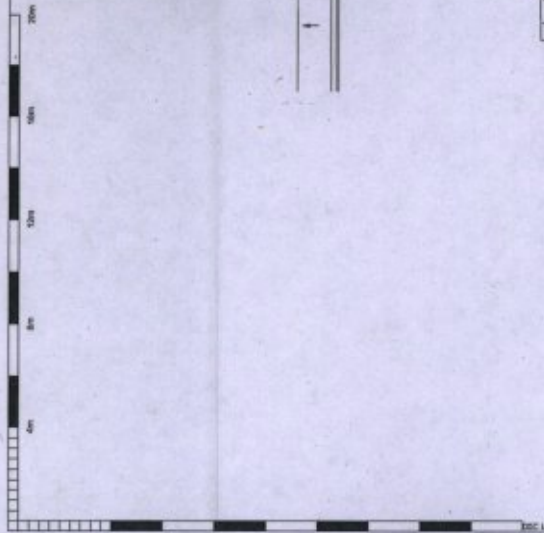
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NORTH POINT



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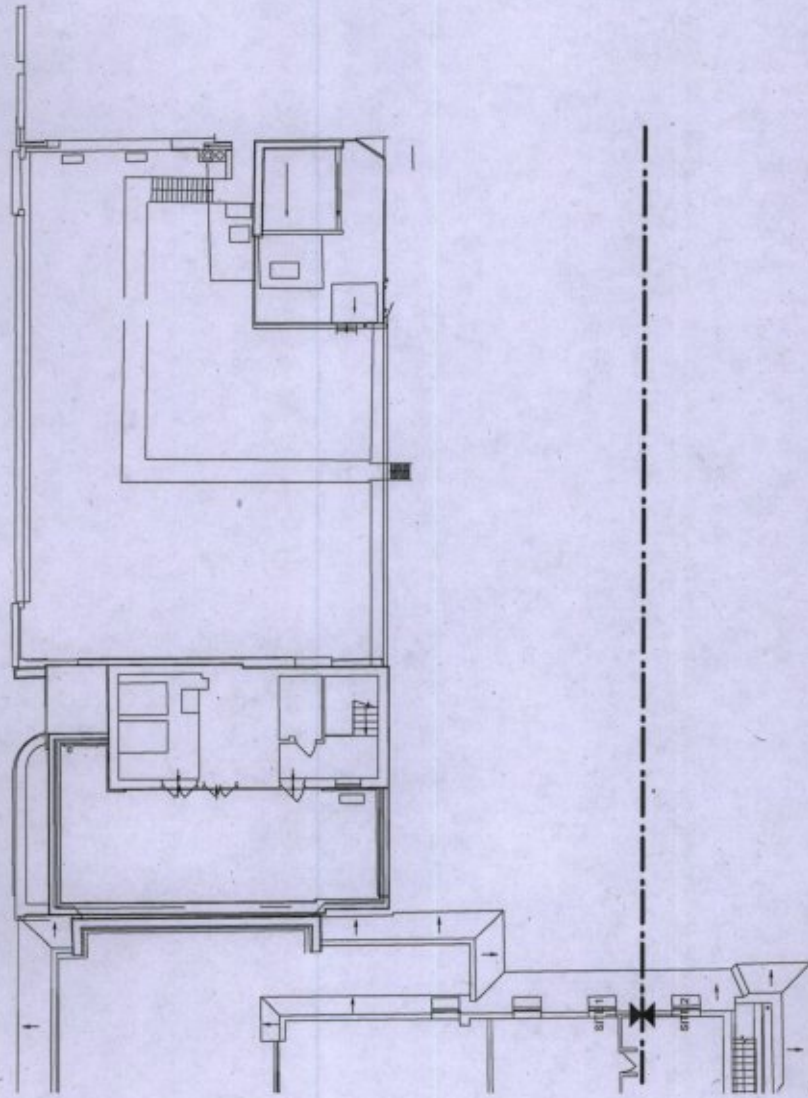
CLIENT	MARLBOROUGH HOUSE LTD
PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	EX.005
REV.	LEVEL +2_EXISTING



GREAT MARLBOROUGH STREET

nos. 54

nos. 55-57



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NORTH POINT



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PROJECT	NOS. 54 & 55-57 GREAT MARLBOROUGH ST
DRAWING TITLE	PLANNING: 150410
DATE	01.2015
SCALE	1:200 @ A3
JOB NO.	452
DRWG NO.	EX.010
REV.	LEVEL +7_EXISTING