

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 17 May 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>St Mark's Church, North Audley Street, London, W1K 6DP</b>		
<b>Proposal</b>	Use of the property for sui generis purposes, comprising a mix of retail (Class A1) on the ground floor, first floor/balcony as restaurant (Class A3, including external roof terrace at front first/balcony level), part of basement for ancillary back of house functions for both the retail and restaurant uses, and part use of basement as community space (Class D1) with access from Balderton Street; single storey extension to north west part of building, extension to south east corner and corridor and duct void extension to the rear; installation of various items of mechanical plant including kitchen extract; internal alterations throughout.		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	Grosvenor West End Properties		
<b>Registered Number</b>	15/10458/FULL 15/10459/LBC	<b>Date amended/ completed</b>	16 November 2015
<b>Date Application Received</b>	10 November 2015		
<b>Historic Building Grade</b>	Grade I		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

For Committee's consideration:

1. Does the Committee consider that the benefits of restoring the building and the applicant's offer for a community space in part of the basement, and arrangements for running and financing it, are sufficient to overcome the loss of most of the lawful Class D1 social and community use?;

2. Subject to 1. above, and referral to the Secretary of State for Communities and Local Government, grant conditional permission and conditional listed building consent subject to a legal agreement to secure the following:

- i) complete restoration and refurbishment of the building before any of the approved uses commence;
- ii) setting up of a committee to manage the community space and guarantee its long-term running costs on behalf of local groups/residents at nil cost;
- iii) Monitoring costs of £500 for each of the above clauses.

3. If the S106 legal agreement has not been completed within two months, 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.

4. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter..

## 2. SUMMARY

St Mark's Church is a Grade I listed building that was officially made redundant by the Church of England in 1974. For a number of years it was on Historic England's Register of Buildings at Risk: although it was taken off this list after some repair works were carried out, it still requires a significant investment to fully repair and restore it. There is a long planning history to find acceptable alternative uses that would secure this repair and restoration. The last proposals, in 2010, and for which the building has been used, were for its use as a venue, conference and exhibition centre with some community use and worship. The use remained within Class D1, but was largely a private use with limited public access.

The building was purchased in 2014 by the Grosvenor Estate: their current proposals involve the mixed use of the building primarily for retail and restaurant purposes. Part of the basement would be retained for community use, with the applicant proposing to set up a committee to manage this use, and to finance it. Internal and external alterations are proposed, including significant restoration works.

The key issues in this case are:

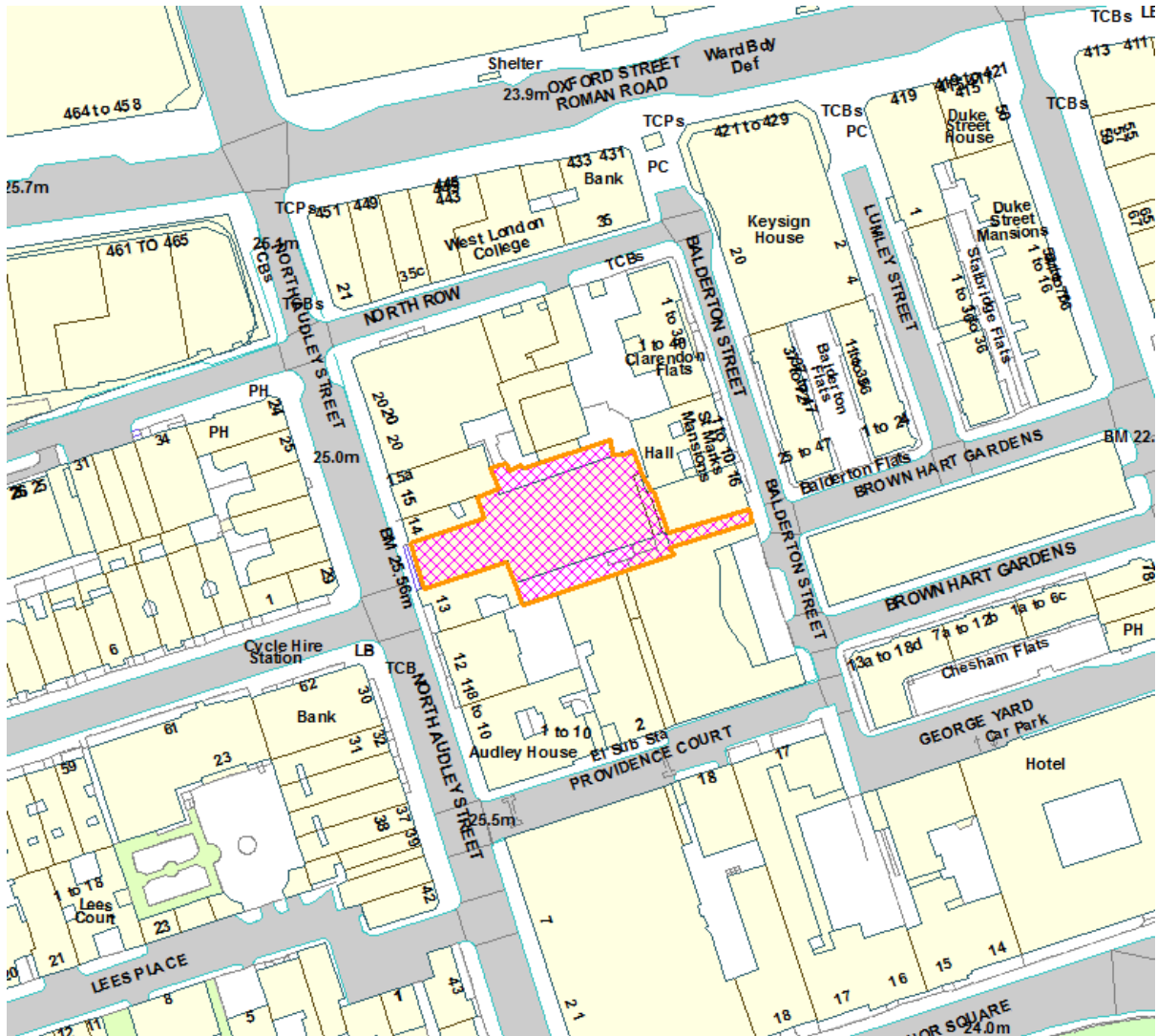
- Whether the proposed mixed use is acceptable in land use terms, in particular whether the proposed community offer is sufficient to offset the substantial loss of Class D1 social and community floorspace;
- The proposed alterations and their impact upon the special architectural and historic character of this Grade I listed building.

The significant loss of the community floor space is regrettable but needs to be balanced against the need for commercial retail and restaurant uses that will help finance the restoration of the building (estimated by the applicant to be approximately £4m). There would also be a genuine element of community use, albeit one that is restricted to part of the basement. It is also accepted that the proposals will mean that this important listed building is open to the general public in a way that has not been possible for some years. It is noted that there are representations both objecting to and in support of the proposals.

Given the complexities of the site and the sensitivity of the current proposals, the Committee is asked

to consider whether the benefits are sufficient to allow the current applications. It is noted that the Secretary of State for Communities and Local Government has requested that the Council does not issue any decision until he has considered whether to call in the application, following a request from an unknown third party.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT (NATIONAL PLANNING CASEWORK UNIT)

Advise that they have received a request that the Secretary of State call in the application – if the Planning Committee resolve to approve the application then the Council should not issue the decision notice until the Secretary of State has considered whether or not to call in the application.

### ENGLISH HERITAGE

Comment in detail about some of the key works and conclude that whilst there is some harm to the listed building, which is by no means insignificant, it is less than substantial, that the majority of the works are reversible and do not entail removal of important fabric;

Consider that the conservation gains of the scheme are significant and include the creation of a viable use for the building – consider that the harm would therefore be mitigated by the heritage benefits;

Have issued Authorisation for the Council to approve the listed building application, subject to a condition requiring further details to be submitted about some of the proposed works.

### THE VICTORIAN SOCIETY

Objection: considers that the mix of uses could work (subject to more details), no objection to the external extensions and welcome the proposed restoration works – but concerned about the insertion of the staircase and lift to access the restaurant in the gallery having a detrimental impact on the main body of the church and request that alternative options are investigated;

Also object to the applied skirting to the new gallery front, as having a detrimental impact on the building's interior, and disappointed about the general lack of detailed information.

### THE GEORGIAN GROUP

Any response to be reported verbally.

### COUNCIL FOR BRITISH ARCHAEOLOGY (LONDON AND MIDDLESEX ARCHAEOLOGICAL SOCIETY)

Although they welcome the restoration and reuse of the building they strongly object to the scheme on the grounds of the proposed restaurant's use of the balconies and the impact of this on the fabric and character of the building, and that the staircase and lift appear to be a "massive intrusion" into the nave area.

### SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS

Any response to be reported verbally.

### TWENTIETH CENTURY SOCIETY

Any response to be reported verbally.

### ANCIENT MONUMENTS SOCIETY

Any response to be reported verbally.

**CROSSRAIL**

No objection subject to a condition requiring the submission of detailed design and construction method statements for ground floor structures, foundations and basements [the site is within the Crossrail Safeguarding Zone].

**DESIGNING OUT CRIME OFFICER**

No objection to the proposals and happy to provide further information on Secured by Design standards to the developer or any interested party as appropriate throughout the lifetime of the scheme.

**THE RESIDENTS' SOCIETY OF MAYFAIR AND ST. JAMES'S**

No objection: support the applicant's proposal, believe that the area is already well served by several churches and express concern about the intervention of other interested parties opposing the current proposals.

**GROSVENOR MAYFAIR RESIDENTS' ASSOCIATION**

Any response to be reported verbally.

**MAYFAIR ACTION GROUP**

Any response to be reported verbally.

**HIGHWAYS PLANNING MANAGER**

No objection in principle but requests the submission of a service management plan prior to occupation, and would like to see some cycle parking provision.

**ENVIRONMENTAL HEALTH**

No objection subject to conditions controlling plant and the use of the roof terrace next to the tower.

**CLEANSING MANAGER**

No objection in principle subject to further details being provided.

**HOLY TRINITY BROMPTON**

Objection, on the following grounds:

- Loss of the Class D1 social and community facility - the lawful use of the church is D1, as a social and community use that is protected by London Plan and City planning policies. There is no justification for its loss in planning policy terms.
- Consider that the lawful use is viable, as demonstrated by the most recent mix of commercial venue use and church use, and that the proposed uses are simply a means of commercial exploitation.
- Consider that the best use for a listed building is the use for which it was designed, namely as a church.
- The internal and external alterations will cause harm to this Grade I listed building, and believe that more alterations are likely to be required in shop fitting the space.

- Do not believe that the backlog of repairs can be argued as part of the benefits of the scheme nor that it is a planning matter as the lease has repair obligations – consider the issue is thus one of the freeholder (the London Diocese) enforcing these obligations.
- Suggest that the “restoration” that is claimed to be part of the scheme is, in reality, no more than the carrying out of the extensive repairs that Grosvenor have chosen to take on.
- Consider that the community space in the basement is no more than a token gesture.
- Consider that the public entry to the community space is via Balderton Street and will not give access to the main space.
- Also clarify that the applicant met them in April 2015, to offer them the proposed community space in the basement (subject to payment of rent) but have not offered to negotiate the use of the whole building as a church. Advise that what was offered at the time was unattractive partly because of the size of the space and partly on financial grounds.

#### SAVE ST. MARK'S CAMPAIGN (SUCCESSOR TO SAVE ST. MARK'S ACTION GROUP)

Objection, on the same grounds as Holy Trinity Brompton outlined in detail above, and also:

- Consider the proposed commercial uses are contrary to Council planning policy, in particular policy TACE 10 which states that entertainment uses (including restaurants) over 500 sqm will only be permissible in exceptional circumstances and that the mixed commercial use of most of the building is contrary to City Plan policy S1 which requires an equivalent amount of residential floorspace;
- Consider that the public benefits do not resolve the servicing problem, and that most servicing will continue from North Audley Street rather than via Balderton Street.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 297; Total No. of replies: 4, all in support of the proposals.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

St Mark's Church is a Grade I listed building, located within the Mayfair Conservation Area and the Core Central Activities Zone (CAZ). Built between 1825 and 1828 by JP Gandy-Deering and re-modelled by Sir Arthur Blomfield in 1878, it is located on the east side of North Audley Street, with only its front (west-facing elevation) presenting a

street-facing elevation. The building extends back from the street nearly the entire block and there is a separate access to the basement/crypt level from Balderton Street via a tunnel passage. As well as the basement crypt, there is the main ground floor, a galleried first floor and roof space. The gross floorspace is 2,145 sqm. The lawful use is Class D1 non-residential institutional use.

The church was formally made redundant by the Church of England (Diocese of London) and closed for public worship in June 1974. The legal effects of consecration were finally removed in November 1994. The building was vacant for this 20 year period and fell into a state of some disrepair. From 1994 until 2008 it was leased to the Commonwealth Christian Fellowship, a free Evangelical Church. Originally lessees of the building, they had been unable to do the significant repair and restoration works the building requires and for several years the Diocese allowed them to remain in a caretaker capacity. Their occupation continued on an occasional basis after a long lease was sold to Hammer Holdings, who used the building as a venue, conference and exhibition centre with some community use and worship, all within Class D1. This use partly continued after the Grosvenor Estate bought the long lease in 2014, when the Commonwealth Christian Fellowship moved to 1 Marylebone Road in 2014.

According to the current applicant, the current existing use is a private commercial events space run by 'One Events', the group behind some of London's largest corporate and private events. There are typically two events per week; occasionally this rises to five events per week. The space can hold up to 500 people who arrive for an event at a specific time of evening. Daytime and lunchtime events also take place. The private events are by invitation only.

The building had been on English Heritage's Buildings at Risk Register since 1988 but following some limited repairs it was taken off the List. The Council published an adopted Planning Brief in September 2003 to help resolve the future use of the building by encouraging proposals for its use (which include A1 retail and A3 restaurant). The Brief remains a material consideration but is of limited weight and is mainly to provide guidance.

## 6.2 Relevant Planning History

April 1979 - Planning permission and listed building consent refused for alterations and use as a shopping arcade on grounds of adverse impact on the special architectural and historic interest of the building.

October 1984 - Permission refused for use as a restaurant and local residents meeting room on grounds of traffic and parking, residential amenity and absence of off-street servicing facilities.

August 1986 - Permission granted for retail art gallery (unimplemented).

August 1986 - The Planning Applications Sub-Committee also considered applications for planning permission and listed building consent for use as a restaurant, retention of sound studios in vaults and various alterations. It was determined that had appeals not been lodged, the proposals would have been refused on grounds of parking and traffic, residential amenity, lack of off-street servicing and lack of details with regard to the proposed works. In February 1987 the appeal was dismissed however, only on the



grounds that the listed building consent was insufficiently detailed. The Inspector considered that restaurant use was acceptable in principle, that the impact on residential amenity could be controlled by conditions, and that parking and servicing would not be seriously problematic.

March 1988 - Permission and listed building consent granted for alterations and use as an art auction house and gallery and venue for related educational activities (unimplemented).

June 1988 - Determination made that use as a museum does not constitute development.

October 1990 - Permission and listed building consent refused for extensions and use as offices. Refusal was on design, office policy and residential policy grounds (the scheme would have resulted in the loss of residential accommodation at an adjacent property included as part of the proposals).

October 1993 – Applications considered for planning permission and listed building consent for use as a restaurant, installation of a fire escape and ventilation duct and other internal and external alterations. The Sub-Committee decided that, had appeals not been made, listed building consent would have been refused on the grounds of an adverse impact on the special Architectural and historic interest of the building and planning permission would have been refused on additional grounds of an adverse impact on residential amenity. The appeals were withdrawn.

November 2000 - The Planning Applications Sub-Committee considered applications for internal and external alterations including new escape stairs, new roof plant and signage and mixed use of premises as (Class B1) offices and for the provision of community facilities including concerts, exhibitions and public worship. The Committee deferred the applications requesting further information on the level and type of community use and the applicants business plans for the proposal and for officers to investigate an alternative scheme being advocated by local amenity societies. The applications were eventually withdrawn a year later.

September 2003 - The Council published an adopted Planning Brief for the site.

April 2006 – An Application for a Certificate of Lawfulness issued in respect of the proposed use of the building as a complementary medical health centre ("wellness health and therapy centre") being primarily (but not exclusively) therapeutic thermal treatments in the basement and adjoining outside area, and holistic/alternative medical treatments (including health counselling, stress management, homeopathy, etc.) on ground and first floor/balcony levels, with ancillary maintenance, laundry and changing areas, cafe and kitchen and dispensing and retail areas.

April 2008 – An Application for a Certificate of Lawfulness issued in respect of the proposed use of the premises as a venue and conference centre including use for worship, religious purposes and community use, all within Class D1.

December 2008 – Planning permission and listed building consent refused on land use and historic building grounds for 'Change of use from Class D1 church use to a composite use of Class D1 Non-residential Institutional Use (specifically complementary medical

health centre use) and Class D2 Assembly and Leisure Use (specifically recreational use), including ancillary retail area, with internal and external alterations including staircase extension, structures within garden area, railings and gates on North Audley Street frontage and internal sub-division.'

December 2009 – following a Public Inquiry, the appeals against the December 2008 refusals were dismissed.

June 2009 – planning permission and listed building consent granted for the installation of new entrance gates in the front portico and handrails on the steps.

August 2010 – planning permission and listed building consent granted for Internal and external alterations and works of repair/conservation/decoration to facilitate use as a venue, conference and exhibition centre with some community use and worship within Class D1 (with retained use of tunnel leading to Balderton Street for servicing/fire escape), including external escape stairs, kitchen infill extension, kitchen extract duct/plant at east end of building and decking and railings on roof of main entrance (next to tower) to create roof terrace.

## **7. THE PROPOSAL**

The proposals are for the use of the ground floor as Class A1 retail use (1,498 sqm) and the first floor as Class A3 restaurant use (554 sqm), retention of Class D1 floorspace (265 sqm) at part basement, and use of the remaining part of the basement as ancillary back of house space for the Class A1 and Class A3 uses (included as part of the floorspace figures given above). The proposed extensions result in the creation of an additional 172 sqm (increasing the overall floorspace from 2,145 sqm to 2,317 sqm).

The key physical alterations are as follows:

- Alterations to the existing upper galleries by over-laying the existing rakes with a platform for the placing of tables and chairs, and to use the space as a restaurant (approximately 140 covers). The rakes will be retained beneath, as will much of the ducting and air conditioning pipework. The works will be entirely reversible and the historic rakes will be retained underneath.
- In order to access the upper gallery levels, it is proposed to install a new flight of stairs from the northern side of the nave alongside a new platform lift. The staircase is proposed to be translucent and will read as a wholly modern intervention, albeit one which could be demounted in the future.
- At lower ground floor level, in the crypt, minor alterations are proposed to accommodate a new kitchen and back of house area, including provision of WCs etc. The applicant considers this area as a suitable location for minimal intervention due to fabric having been previously removed under historic permissions. It is proposed to install a new wall in the centre of the space which corresponds with the line of the central vault running east-west along the length of the church. The proposed wall would not cut across any of the existing vaults.
- The proposals also include two new external extensions. A single storey extension will be built on the northern side of the west entrance, containing plant. In the original submission this extension was two storeys, with the second level containing WCs (now relocated), but the extension has been reduced by one

storey to overcome an adverse impact on the new residential accommodation being built as 15 North Audley Street.

- The second extension is proposed to be located in the south east corner of the site and will house plant.
- A service corridor is also built at the rear of the site.
- The main area of plant are in the north courtyard and south east corner extensions, where the high level kitchen extract is also located.

Whilst some works of repair have been carried out in the recent past, a considerable amount of work remains to be done to fully secure the building fabric and restore the building. The current proposals therefore include the following:

- Renewing the Roof and making the building water tight;
- Restoration of the front façade and external walls;
- Restoration of the Alter Chancel area and reredos;
- Restoration of the two chapels on the ground floor;
- Restoration of the font, surrounding painting and panels;
- Stained glass windows to be cleaned and restored, and some uncovered where they have been previously boarded over;
- Reinstatement of the lost roof vents, an important feature from the overall architecture of the building;
- Reinstatement of the damaged basement chapel and its alter, with the restoration of the tiled floor, walls, and memorial plaques;
- Restoration of the bell tower.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **8.1.1 Loss of Majority of the Class D1 social and community floorspace**

The lawful use of St. Mark's church is Class D1 non-residential institutional use. Class D1 encompasses a wide range of non-residential institutions, and groups together buildings which are visited by the public for a wide range of purposes on a non-residential basis. It includes the provision of education, adult training centres, museums, art galleries, public halls and exhibition halls, conference centres as well as uses in connection with public worship or religious instruction. Crucially, these uses can be provided in both a public and private capacity.

The last relevant permission was for the carrying out of limited enabling works in connection with the existing lawful use for Class D1 purposes, specifically as a venue and conference centre including use for worship, religious purposes and community use. The previous applicant had indicated that the intention was to use the building for commercial lettings to professional bodies, companies etc for seminars and one-day and half-day training events, press launches, AGMs and the like, in accordance with the Certificate of Lawfulness that was granted in April 2008. The Council was satisfied that the applicant had demonstrated that their proposed use fell within the same D1 Use Class for which the Certificate had been issued. A key consideration was the continued partial use of the

building for religious purposes. The applicant had agreed to enter a rolling annual licence with the Commonwealth Christian Fellowship.

The current applicant argues that the building has most recently been used as a 'private commercial' social and community use, with limited access for the general public. Whilst officers do not accept the applicant's argument that the building does not have an 'open' D1 use (i.e. in theory it could still be used for any use that fell within Class D1), it is accepted that public access is generally restricted.

The existing lawful D1 use of the building is a use that is defined by the City Council's adopted development plan policies as being a social and community use. Policy SOC1 in the Unitary Development Plan (January 2007) (UDP) and Policy S34 in Westminster's City Plan: Strategic Policies (November 2013) both seek to protect existing social and community uses. Policy SOC1(E) in the UDP adopted in 2007 states,

*Proposals which involve the redevelopment or change of use of community facilities will be required to include adequate replacement facilities. Where the facility is surplus to the needs of the existing provider, any new development on the site should include an alternative community facility. Where adequate replacement facilities are not proposed then the City Council will refuse planning permission for this type of proposal.*

Policy S34 in the more recently adopted City Plan expands upon Policy SOC1. Therefore, where there is conflict between the two policies, the requirements of Policy S34 in the City Plan must take precedence. Policy S34 states with

*'All social and community floorspace will be protected, except where existing provision is being reconfigured, upgraded or is being re-located in order to improve services and meet identified needs as part of a published strategy by a local service provider. In all such cases the council will need to be satisfied that the overall level of social and community provision is improved and there is no demand for an alternative social and community use for that floorspace. In those cases where the council accepts a loss or reduction of social and community floorspace the priority replacement use will be residential.'*

Normally therefore it should be demonstrated that there is no demand for an alternative social and community use in the building. In the first instance it is expected that the presence of alternative social and community use demand would be ascertained by a period of marketing of the premises for their lawful planning use at a reasonable market rent/ sale value. The applicant has not undertaken a marketing exercise.

Strong objections have been received from Holy Trinity Brompton (HTB) and the Save St. Mark's Campaign to the loss of the D1 use, and specifically church use. Although the applicant states that it offered the proposed social and community space to the former organization in 2015 and that the offer was declined, HTB have clarified that what was offered at the time was unattractive partly because of the size of the space and partly on financial grounds (the space was not being offered rent free at that time), with an implication that they have not been offered use of the whole building as a church.

However, the proposals do have the support of the Residents' Society of Mayfair and St. James's and several local residents.

### **8.1.2 The applicant's argument about Partial Loss of Existing Use and their Community Offer**

The applicant considers that the existing provision is not a community use that serves the needs of the local community as it is a private commercial use. The proposed community space will deliver a use that can be used by anyone in the local community. It is Grosvenor's intention to create a committee from local stakeholders which will be given a long lease to run and manage the community space in the crypt. As part of the community space, Grosvenor would like to ensure that the space is utilised and managed and is on a sufficient solid footing to enable it to be a success for local stakeholders. Grosvenor proposes to therefore set up a charity to run the space.

The space will be free for use for the local community for non-profit events but if an organization wished to hire the space for a commercial use, it is envisaged that any funds received would go into the charity funds for continued upkeep and maintenance. The applicant believes that the cost for utilities would amount to circa £5,000 per annum without any further funding and therefore would be prepared to set up a fund to make sure the community space is fully funded to ensure that the first 10 years of operation are fully covered. By that time, it is envisaged that the charity would have built up sufficient funds to keep the space self-funding for the future.

The applicant envisages that the space might be used in the same way as a "village hall" with members of the local community able to book the space for free for a range of different functions; for example, a book club, a yoga class, art class, local amenity and neighbourhood society gatherings, a choral group, a small theatre group, or use for polling station during election time. The concept of this space was discussed by the applicant during its pre-application consultation process and at the public exhibition events. During those discussions, according to the applicant, the local community was supportive of the proposals and there was a very positive response towards the space and the opportunity for local residents to use it with many local residents commenting that there are limited opportunities for this space at the moment.

Public entry to the community space is via Balderton Street, as the space was designed to be a separate space with separate entrances. The Balderton Street entrance also enables there to be disabled access into the lower ground floor. Members of the public can also access the building from North Audley Street as the retail use will be open every day.

With regard to HTB's interest in the building, the applicant argues that there is no formal planning policy requirement which states that the building should be marketed when replacement community facilities are proposed. The applicant also states that HTB made no formal expression of interest to take the entire site when it was marketed some years ago. Although the applicant did offer the lower ground floor space to HTB the space was not suitable for their needs. Following the public consultation events, the applicant resolved to provide a local community space for general use, as outlined above.

The loss of the majority of the D1 floor space is a key consideration in this case, as exemplified by the strong objections that have been received. It is accepted that most recently the building has been used for 'private' D1 activities with little access to the general public. The applicant's offer for a replacement community space for use by the

general public is welcome as far as it goes, but the small size is unfortunate. The fact that the proposed retail and restaurant uses (addressed below) will enable the general public to gain access to the building is also an important factor. Given these conflicting issues, and the importance of the proposals, the Committee's views are sought on the acceptability of this aspect of the scheme.

### **8.1.3 Retail and Restaurant Uses**

The site is located within the Core Central Activities Zone, and just south of Oxford Street and the West End Special Retail Policy Area. The protection and enhancement of retail shopping provision is supported under City Plan Policies S1, S6 and S21 and UDP Policy SS 4. North Audley Street has a mix of retail and restaurant activities at ground floor level and the provision in retail floorspace is considered to be acceptable in principle. There is no specific retail occupier identified at this stage and given the special nature of the proposal the applicant is willing to agree to a condition requiring the submission and approval of a retail 'operational management statement' to be submitted about the type of retailer that will occupy these premises.

It is acknowledged that there will be minimal street presence for the proposed uses but the intention is that retail floorspace would be introduced within the entrance and narthex (vestibule) of the building, such as a flower stall and small retail coffee outlet. The applicant believes that this would be sufficient to improve the interface and relationship of the building with the streetscape on North Audley Street, creating a sufficiently active frontage.

With regard to the restaurant, City Plan Policy S24 and UDP Policies TACE 8-10 deal with entertainment uses. The TACE policies are on a sliding scale in which developments where TACE 8 is applicable would be generally permissible and where TACE 10 is applied (where the gross floorspace exceeds 500m<sup>2</sup>) only in exceptional circumstances. Given the size of the restaurant (554 sqm), it needs to be assessed against UDP Policy TACE 10. The applicant's suggestion that as the actual trading area is 209 sqm meaning it should be considered against the less onerous policy TACE 8 is not accepted, as all restaurant space, including back of house areas and kitchens, etc, need to be taken into account. However, the applicant does state that if TACE 10 is applicable, there are exceptional circumstances that warrant approval.

City Plan Policy S24 requires proposals for new entertainment uses to demonstrate that they are appropriate in terms of type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. The policy states that new large-scale late-night entertainment uses of over 500 sqm will not generally be appropriate within Westminster.

The policies aim to control the location, size and activities of entertainment uses in order to safeguard residential amenity, local environmental quality and the established character and function of the various parts of the City, while acknowledging that they provide important services in the City and contribute to its role as an entertainment centre of national and international importance. There is no specific operator at the moment but the

applicant envisages a “high-end, accessible and good quality user” which would complement the retail offering.

There has been an objection that the restaurant proposal is contrary to policy TACE 10. However, although the overall restaurant floorspace is over 500 sqm, the actual capacity is relatively small, at approximately 140. Implementation of the proposal would bring the building back into active use, open to the general public and help contribute restore this important listed building. Subject to the imposition of appropriate conditions (including an operational management plan/statement) the use is considered acceptable in principle, and would not be harmful to the character and function of the area. Furthermore, the substantial building fabric would help contain any noise generated noise by diners. The applicants have requested opening hours of 7.30 – midnight Sundays to Thursdays and 7.30 - 01.00 hours on Fridays and Saturdays – given the busy nature of the area and the existing number of restaurants in the immediate vicinity, this is considered to be acceptable.

As with the retail element, there would be little street presence for the restaurant; there are restaurants immediately to the north of the site and elsewhere along the street, but the building immediately to the south is in residential use. Given the small size of the proposed restaurant and subject to conditions and the submission of an operational management plan, it is not considered that the proposals would have an adverse impact on the character, function and amenity the local environment. Nor is it considered that there would be an adverse cumulative impact.

#### **8.1.4 Mixed Use Policy**

Current UDP Policies CENT3 and City Plan Policy S1 aim to encourage mixed use developments within Central Westminster, with the particular aim of including residential accommodation. It is a requirement that any increase in commercial development in excess of 200m<sup>2</sup>, or in the case of retail or private educational, health and leisure facilities (Class D1 or D2) by 400 sqm or more, should be matched by residential provision. (It should be noted however that these policy requirements are currently subject to revisions which are likely to be adopted in the very near future.)

There has been an objection on the grounds that that the mixed commercial use of most of the building is contrary to City Plan policy S1 which requires an equivalent amount of residential floorspace. The applicant has argued that the existing Class D1 use is a private commercial use comprising 2,145 sqm of private commercial floorspace (though until 2014 it was also used for worship some of the time). In the proposal, 265 sqm will be dedicated community accommodation and 2,052 sqm retained as retail and restaurant commercial floorspace.

The Council does make a distinction between public and private social and community facilities, defined in the Glossary of the City Plan. Given this, the applicant's argue is considered to have some weight and therefore there is not a requirement in this case for the proposal to provide an equivalent amount of residential accommodation. Furthermore, it is accepted that the building is not suitable for conversion to residential use, given its listed status and the desirability of providing public access.

## 8.2 Townscape and Design

St Mark's Church is a grade I listed building in the Mayfair Conservation Area. The façade to North Audley Street has a stone portico with Ionic columns and a tower. The other facades are of plain brickwork and the main roof is slated. Internally there are three obvious phases of work; the main entrance is original (circa 1825-28 by Gandy-Deering), the main body of the church which was remodeled by Blomfield in 1878, and a World War I memorial chapel which was created in the early twentieth century in the northeast corner of the building. The basement contains a small chapel and morte-safes. The original coffin lift was removed during the refurbishment of the building a few years ago. The organ was removed many years ago but the empty cases remain.

The currently poor condition of the building is obvious and the development will repair the fabric of the building. Restoration of the basement chapel including its encaustic tile floor will also be secured by the current proposal. This will be highly beneficial to the appearance and fabric of the building the future of which will be secured for the long-term, and it is a key benefit that was not delivered by the previous, failed, scheme.

The building's special interest is derived in equal measure from its form and fabric and the effect that it creates internally. The proposed alterations will have limited external impact, but the changes internally will radically alter the appreciation of the main body of the church. There are objections, in particular from the Victorian Society, about the impact of the proposals on the historic and architectural importance of the building.

The main external alterations are at the rear of the building and involve the creation of various ducts and back-of-house spaces to service the proposed kitchens and restaurant areas. Their impact is benign in heritage asset terms, except for the link corridor at the east end which will cause some harm by casting a shadow across the bottom of the east window (a particularly fine work with glass by Eastlake). It is accepted that the corridor is essential for the restaurant to function. Given that the site is already tightly constrained, the effect of the shadow is likely to be slight, and it does not appear to be possible to form a link elsewhere or to reduce its height without making it useless. However, to mitigate the impact it is proposed to box-in and artificially light the window, which is a novel solution.

Internally, the proposed gallery restaurant will have harm the special architectural interest of the building. The staircase and lift will dominate the main body of the church, obscure views of the pulpit, and create a new focal point away from the main axis of the nave and the building's traditional focus on the altar. The tiered galleries will be retained but with a level floor created at the highest level which necessitates a new balustrade above the original one. Strong objections are raised by the Victorian Society, Holy Trinity Brompton and Save St. Mark's Campaign to this aspect of the proposal in particular, and Historic England also raise concerns.

The principle of a restaurant is acceptable in heritage asset terms and subject to refinement of the detailed design of the gallery and access arrangements, which may be secured by condition, the harm caused to the special interest of the building can be minimized. Furthermore, this less than substantial harm is comprehensively and decisively outweighed by the substantial public benefit the scheme delivers, namely full restoration of the building and its conversion to a use that allows public access to the most architecturally interesting and important spaces.



Whilst acknowledging the objections that have been received, these need to be balanced against the views of Historic England, which accepts that whilst there is some harm to the listed building, it is less than substantial, and the majority of the works are reversible and do not entail removal of important fabric. Historic England shares the view of Council officers that the conservation gains of the scheme are significant and include the creation of a viable use for the building and therefore the harm would be mitigated by the heritage benefits. On this basis, the objections are not considered to be sustainable.

Other works include the sub-division of the basement to form a community space and modifications to some of the later additions at the rear (south) side of the building in connection with servicing the new restaurant use. The basement alterations are neutral in their impact and provide a useable community space which is a public benefit. An archaeological report by MOLA has assessed the potential of the site with regard to the necessary excavation to form a lift pit in the southeastern corner of the site and found that there is no need for any further assessment or monitoring.

The applicant estimates that the repair and restoration costs would be approximately £4m. It is considered appropriate in this case to ensure that these works are carried out prior to commencement of any of the uses, and this will be secured as part of the legal agreement. Some objectors believe that the backlog of repairs cannot be argued as part of the benefits of the scheme as the lease has repair obligations and therefore it is not a planning matter; they also suggest that the “restoration” that is claimed to be part of the scheme is, in reality, no more than the carrying out of the extensive repairs that the applicant has chosen to take on. These arguments are not accepted, as it has been accepted with previous proposals that repair and restoration of this listed building is clearly an important planning consideration; attempts in the past to achieve its restoration, including when it was occupied by the Commonwealth Church, were not successful. The current applicant’s commitment to enhance the built environment has been demonstrated in the past and this is considered to be a real opportunity to secure the building’s future.

Given the special circumstances of the case, it is considered that the development will accord with UDP polices DES 1, DES 5, DES 9 and DES 10, Westminster City Plan: Strategic Polices S25 and S28 and the City Councils ‘Repairs and Alterations to Listed Buildings’ SPG.

### **8.3 Amenity**

Policy S29 of the City Plan seeks to safeguard the amenity of existing residents. Policy ENV13 of the UDP seeks to protect and improve the residential environment and resist proposals which would result in a material loss of daylight and sunlight and/or a significant increase in sense of enclosure or overlooking. Whilst the policy is primarily designed with regard to residential accommodation, the City Council may apply them to other uses, such as schools and other activities, where loss of daylight or sunlight may prejudice the present use of the premises.

The external alterations would not affect daylighting to any adjoining residential properties. The nearest potentially affected residential accommodation is at the rear of 15/15a North Audley Street, close to the proposed extension in the north west corner of the site. A newly constructed kitchen and living room faces the proposed extension, which was initially two storeys high but has been reduced to one storey to overcome concerns about potential adverse impact on residential amenity. This would be lower than the

existing part of the church building which the extension is next to and will not result in any loss of daylight nor increased sense of enclosure.

The proposed extension in the south east corner of the site is close to the recently converted hotel scheme at 8 Balderton Street. The 2-storey extension for a plant enclosure is only 2.6m away from two single aspect hotel bedrooms: whilst not ideal, given that they are only hotel bedrooms, with an expectation of limited use during daytime, this aspect of the proposal is on balance considered to be acceptable. Arguably the hotel's windows constitute an unneighbourly development, being right on the site's boundary. Conditions require submission of details of the treatment of the plant enclosure to ensure it is reflective to ameliorate the impact as much as possible, with a further restriction on the use of the flat roof immediately in front of the hotel's windows.

The proposed corridor (1.2m wide) at the rear of the site, which would connect the service kitchen of the restaurant with part of the dining area, would be very close to the rear of 16 and 18 Balderton. There are some windows in the rear of these properties but No. 16 is used as dance studios and the windows appear to have obscure glass; No. 18 is used as a teacher training venue. However, these properties are already very close to the back of the church (2.5m) and it is not considered that the corridor extension will materially worsen the situation.

There is a roof terrace at roof level next to the tower fronting North Audley Street. Given that there is residential accommodation on North Audley Street (with a window in the party wall that looks onto this terrace) it is considered to be appropriate to condition the hours this terrace is used and 09.00 to 23.00 hours Mondays to Saturdays and 9.00 to 22.00 on Sundays.

There is new mechanical plant proposed in the new extensions, in the north courtyard and at roof level to serve the restaurant kitchen: these are considered to be acceptable subject to standard conditions.

#### **8.4 Transportation/Parking/Servicing**

The site is well served by public transport. The site is within a Control Parking Zone which means anyone who does drive to the site will be subject to those controls. The Highways Planning Manager considers that the impact of the change of use on parking levels will be minimal.

The existing servicing for the site takes place on North Audley Street, as would be the case for most of the commercial properties along the street. The applicant intends that this will continue, though outgoing refuse and waste collection would take place from the Balderton Street access. One of the objectors states that the public benefits do not resolve the servicing problem, and that most servicing will continue from North Audley Street rather than via Balderton Street. No off-street servicing is provided, nor can it be given the constraints of the site. However, the Highways Planning Manager notes that the site is located within a Controlled Parking Zone and considers that the largest regular service vehicle expected to be associated with the proposed development in this location is the refuse collection or laundry vehicle. These will service this property in a similar fashion to the existing use and nearby properties.

The Highways Planning Manager is satisfied that servicing can adequately be dealt with by conditions to secure the submission of a Service Management Plan (SMP), and that no goods are left on the highway for servicing purposes. The SMP 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 applicant suggests that the servicing requirements will reduce the impact of servicing over and above the existing arrangements – when an event takes place at present, the activity is described as being very intensive. The applicant argues that the proposal will reduce this impact significantly as the pedestrian and traffic flows will be spread out evenly throughout the day, an argument which is considered to have some weight.

Seven cycle parking spaces are proposed in the tunnel that leads to Balderton Street. Although the Highways Planning Manager has requested the provision of 11 space, seven are considered to be sufficient. The proposals indicate limited provision for waste storage and a condition requires full details to be submitted.

### **8.5 Economic Considerations**

It is considered that the proposal provides an economically viable use that enables continued use of this listed building without the need for significant or potentially detrimental alterations. The proposed uses will also provide employment opportunities. On this basis the economic benefits are welcomed.

### **8.6 Access**

The configuration and historical importance of the front portico precludes the installation of a permanent ramp or other alteration for wheelchair access. Permission has previously been granted for new gates to the portico, including a pair of handrails to help access up the steps, and these have been installed.

The applicant indicates that they intend to provide disabled access through the tunnel and the crypt to the main building. This is not considered to be very satisfactory and a condition requires further details to be submitted, if necessary by a managed solution.

### **8.7 London Plan**

This application raises no strategic issues and is not referable to the Mayor of London.

### **8.8 National Policy/Guidance Considerations**

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

### **8.3 Planning Obligations**

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether

there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

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

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

From 06 April 2015, the Community Infrastructure Levy Regulations 2010 (as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account. The City Council introduced its own Community Infrastructure Levy on 1 May 2016.

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

- a) complete restoration and refurbishment of the building before any of the approved uses commence;
- b) setting up of a committee to manage the community space and guarantee its long-term running costs on behalf of local groups/residents at nil cost.

It is considered that the 'Heads of Terms' listed above satisfactorily address City Council policies. The planning obligations to be secured, as outlined in this report, are in accordance with the City Council's adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations 2010 (as amended).

## **8.9 Sustainability and Energy**

Its listed status constrains what can be done to improve the sustainability and energy features of the building. The current proposal includes limited insulation to the existing fabric, good levels of insulation to the new extensions, and refurbishment of existing windows and drought proofing. The M&E strategy includes new efficient boilers and low energy lighting.

The proposals for the heating is to replace the existing inefficient boilers with the new improved condensing gas boilers with higher energy efficiency rating that will achieve

substantial carbon savings, since a restaurant use has a high hot water demand. The current M&E Services strategy includes a new air handling unit located in the lower ground floor plant room. Mechanical ventilation will ensure compliance with the current Building Regulations requirements for Part F: Ventilation.

The high thermal mass of the existing building is likely to minimise the risk of overheating in the summer by providing a self-regulating environment. Active air conditioning has, as a result, not been included as part of the proposal, which will save energy and carbon. Low energy lighting and smart controls are proposed as part of the development.

A BREEAM Pre-Assessment Report has been conducted as part of the application proposals. A BREEAM UK 2014 Refurbishment and Fit Out (Commercial) – shell and core was undertaken to identify the sustainability measures for the project. It is anticipated that BREEAM 2014 score of 48.14% (Good) is achievable with the current design. This is considered to be a positive outcome in the context of the constraints of the Grade I listed building.

## **8.10 Conclusion**

This is the latest in a long line of proposals to secure the use of this important listed building. The concerns of objector's are noted and in land use terms the substantial reduction in Class D1 social and community floorspace is regrettable. However, it is accepted that the last use of the building has primarily been for private D1 uses with limited public access. The proposed retail and restaurants activities will mean anyone can enter the building. The applicant's offer of a replacement social and community use is limited. Given these conflicting issues, and given the importance of the proposals, the Committee's views are sought on the acceptability of the applications.

The proposed alterations are also contentious, particularly the insertion of the staircase and lift in the main body of the church building. On balance however these are considered to be acceptable, and Historic England has issued authorisation for the Council to determine the listed building application.

It is noted that the Secretary of State for Communities and Local Government has requested that the Council does not issue any decision until he has considered whether to call in the application.

## **9. BACKGROUND PAPERS**

1. Application form.
2. Emails from the National Planning Casework Unit, Department for Communities and Local Government dated 27 and 28 January 2016.
3. Letter from Holy Trinity Brompton (HTB) dated 13 January 2016.
4. Email from the Designing Out Crime Officer, Metropolitan Police, dated 11 December 2015
5. Letter from Historic England dated 15 January 2016, with completed listed building consent authorisation.
6. Letter from occupier of 62 Duke Street, London, dated 9 February 2016
7. Letter from Savills, 26 North Audley Street, dated 20 January 2016

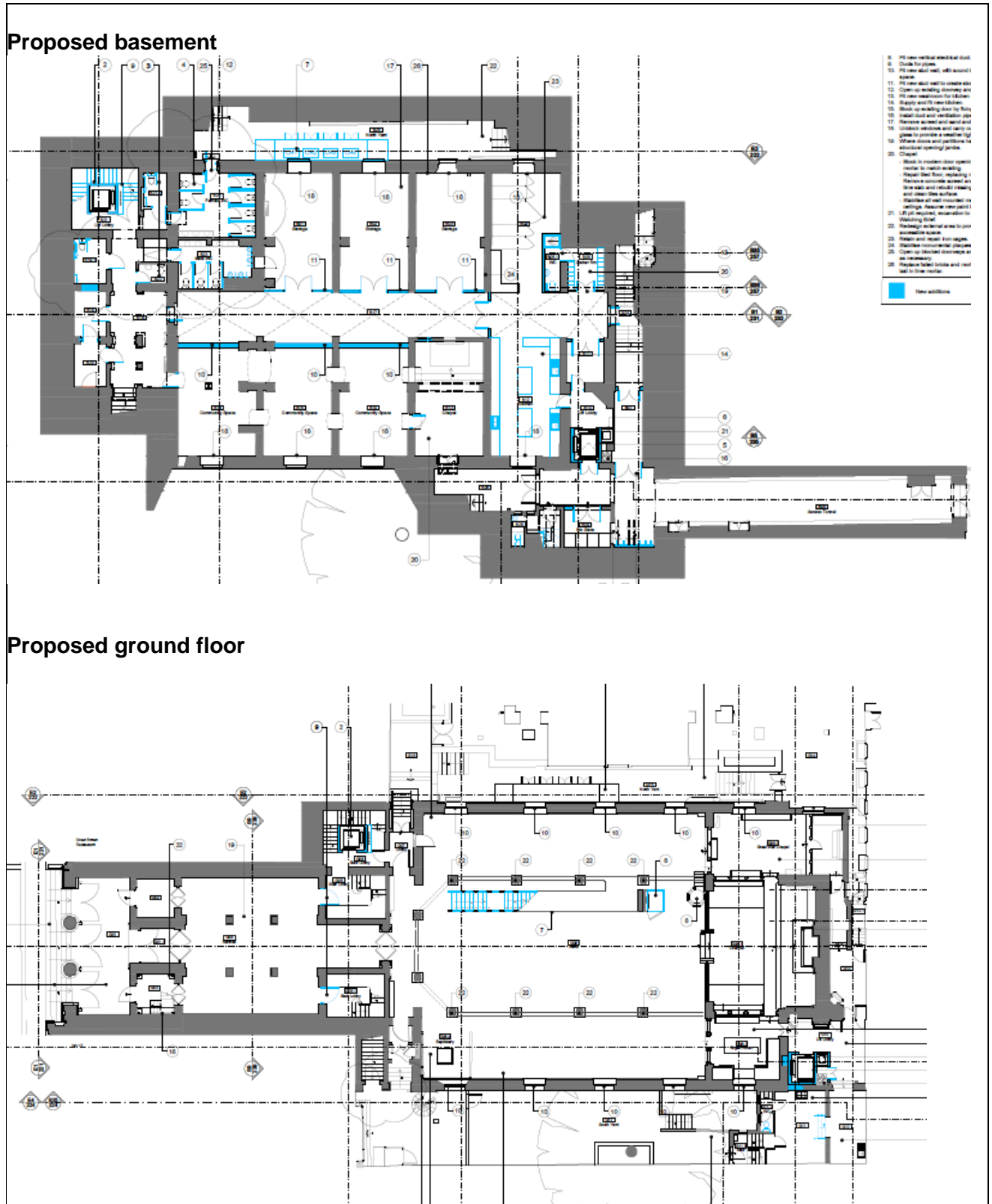
8. Letter from The Victorian Society, dated 11 January 2016
9. Email from the London and Middlesex Archaeological Society dated 20 January 2016.
10. Email from Crossrail Limited dated 2 December 2015.
11. Letter from the Chairman of the Residents' Society of Mayfair and St. James's, dated 21 January 2016
12. Email from John Parmiter Ltd on behalf of Save St. Mark's Campaign, dated 15 January 2016
13. Letter from occupier of 34 North Row, London, dated 23 February 2016
14. Letter from occupier of flat 32, 129 Park Street, dated 22 January 2016
15. Memorandum from the Highways Planning Manager dated 16 December 2015.
16. Memorandum from the Environmental Health Consultation Team dated 27 April 2016.
17. Memorandum from the Projects Officer (Waste) dated 10 December 2015.

### **Selected relevant drawings**

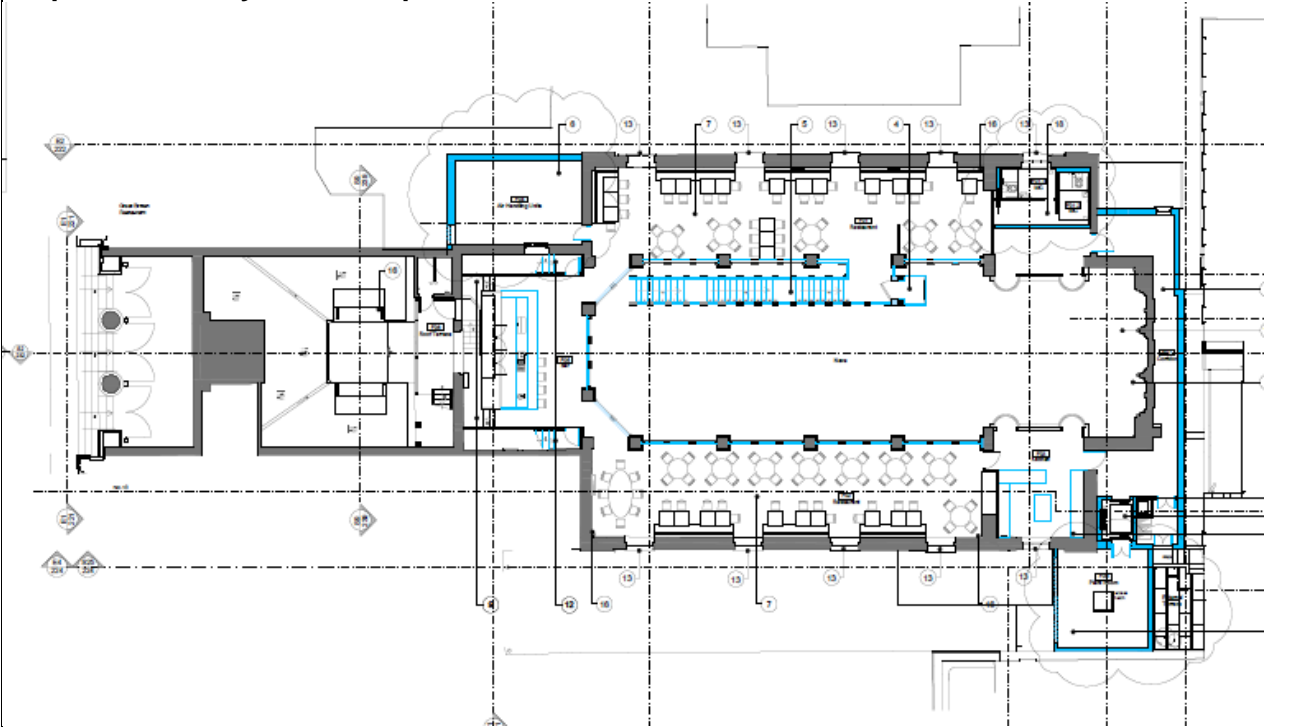
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT PAUL QUAYLE ON 020 7641 2547 OR BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

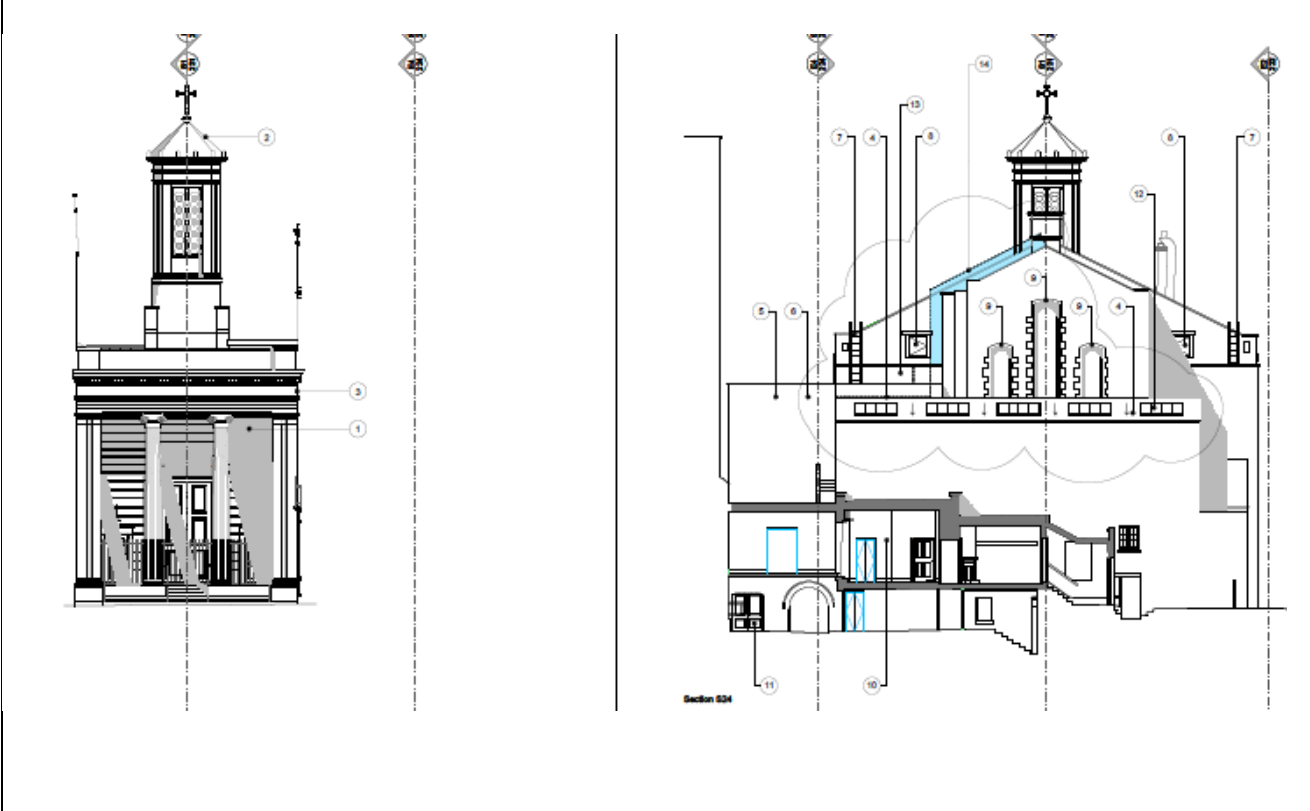
10. KEY DRAWINGS



**Proposed balcony/first floor plan**

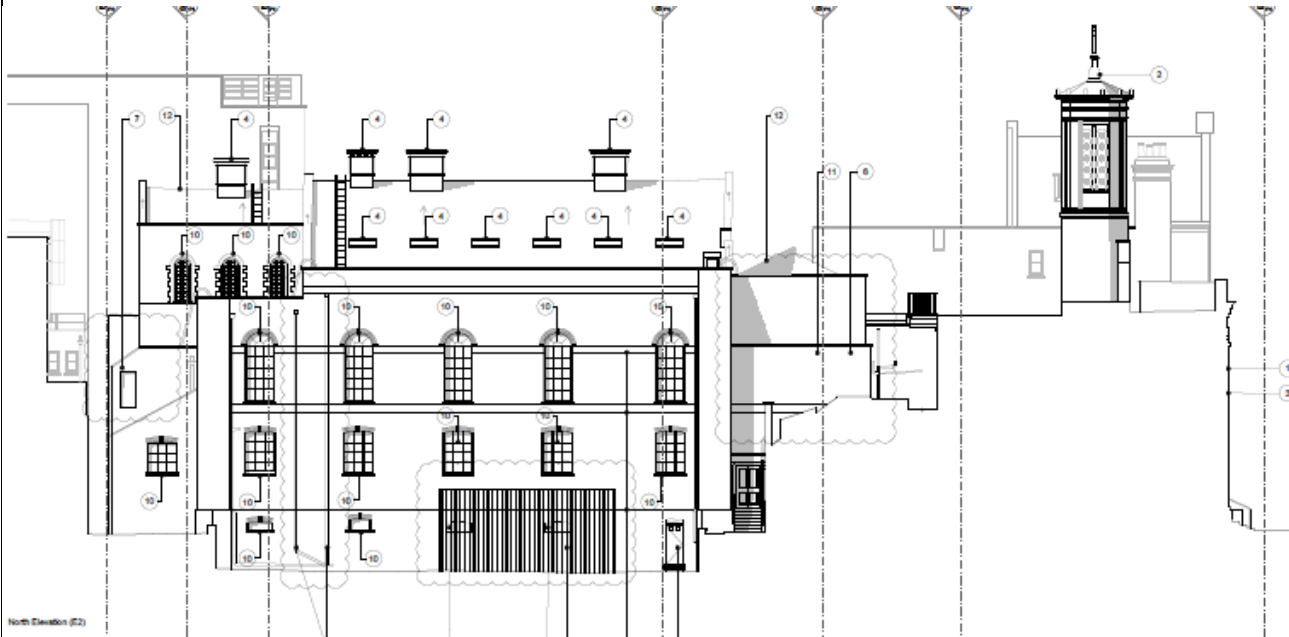


**Front and rear elevations**

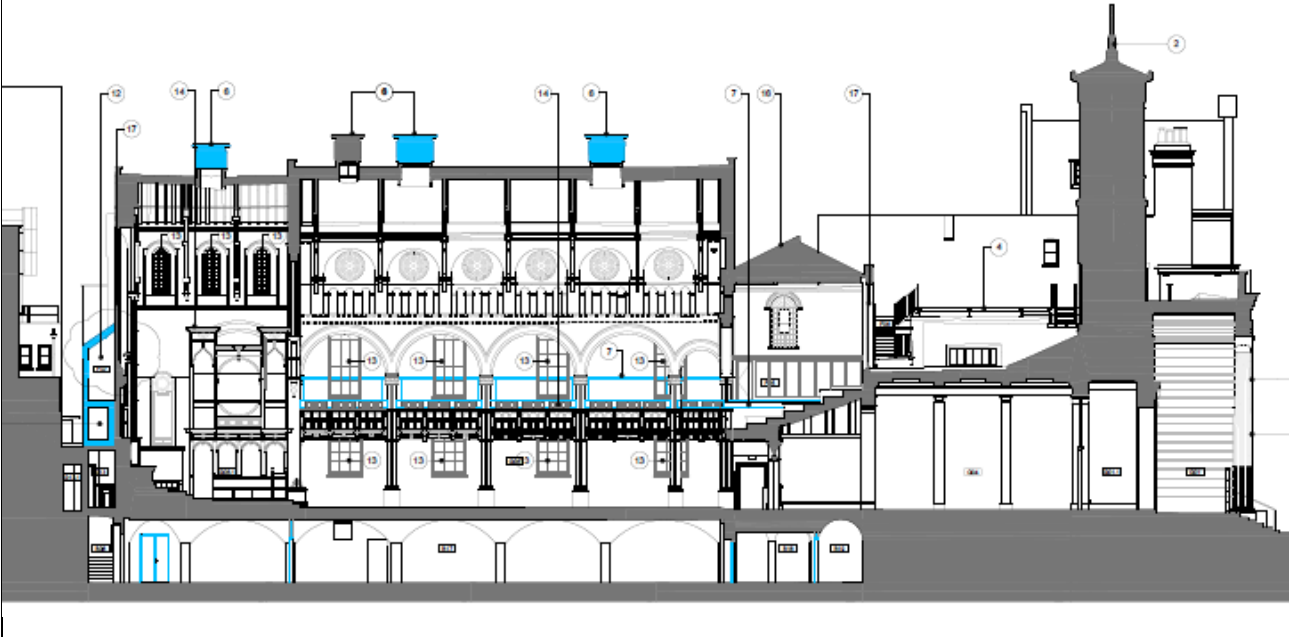




Proposed north elevation



Sections



**DRAFT PLANNING DECISION LETTER**

**Address:** St Mark's Church, North Audley Street, London, W1K 6DP

**Proposal:** Use of the property for sui generis purposes, comprising a mix of retail (Class A1) on the ground floor, first floor/balcony as restaurant (Class A3, including external roof terrace at front first/balcony level), part of basement for ancillary back of house functions for both the retail and restaurant uses, and part use of basement as community space (Class D1) with access from Balderton Street; extension to north west part of building, extension to south east corner and corridor and duct void extension to the rear; installation of various items of mechanical plant including kitchen extract; internal alterations throughout.

**Plan Nos:** Location Plan 400 Rev B; Proposed Drawings: 209 Rev C, 210 Rev B, 212 Rev C, 213 Rev D, 214 Rev C, 221 Rev C, 222 Rev C, 224 Rev C, 231 Rev C, 232 Rev C, 239 Rev C, 241 Rev B, 249 Rev C, 253 Rev A, 257 Rev A, 258 Rev A, 260 Rev A, 261 Rev A, 270 Rev A, 271 Rev A, 272 Rev A, 273 Rev A; Demolition Drawings: 509 Rev A, 510 Rev B, 512 Rev A, 513 Rev A, 514 Rev A, 521 Rev A, 522 Rev A, 524 Rev C, 531 Rev A, 532 Rev A, 539 Rev A, 549 Rev A; Design and Access Statement (Donald Insall Associates) dated October 2015.

**Case Officer:** Paul Quayle

**Direct Tel. No.** 020 7641 2547

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

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

**Reason:**

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

- 2 You must 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 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are

shown on the drawings we have approved or are required by conditions to this permission.  
(C26AA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 4 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 protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

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

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 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 unless they are shown on the approved drawings.  
(C26KA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 7 Customers to the Class A3 restaurant shall not be permitted within this part of the premises before 07.30 hours or after midnight on Sundays to Thursdays (including all bank holidays and public holidays), and not before 07.30 hours or after 01.00 hours of the following morning on Fridays and Saturdays. You must not open the Class A3 premises to customers and you must

not allow customers on the premises outside of these hours.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 8 You must not allow more than 140 customers into the Class A3 restaurant part property at any one time (including customers using the external roof terrace).

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 9 The external roof terrace (at the front part of the property next to the tower) shall only be open to customers during the following times: 09.00 - 23.00 hours on Mondays to Saturdays and 09.00 - 22.00 hours on Sundays.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 10 You must apply to us for approval of an operational management plan/statement to show how you will prevent customers who are leaving the Class A3 restaurant from causing nuisance for people in the area, including people who live in nearby buildings. You must not start any of the approved uses until we have approved what you have sent us. You must then carry out the measures included in the management plan/statement at all times that the building is in use. In the event that alternative users subsequently occupy the premises, a new operational management plan must be submitted, and approved by the Council, prior to their occupation of the building

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 11 The full height kitchen extract duct and associated plant equipment and duct work must be fully installed before the Class A3 restaurant use commences, and thereafter permanently maintained.

- 11 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)

- 12 Apart from providing access to the Class A3 restaurant or Class D1 community use, the whole of the ground floor of the premises shall only be used for Class A1 retail purposes, including ancillary activities.

Reason:

Because of the special circumstances of the case and to ensure that you achieve the proposed Class A1 retail use included in the scheme, as set out in S1, S6 and S21 of Westminster's City Plan: Strategic Policies adopted November 2013 and SS 4 of our Unitary Development Plan that we adopted in January 2007.

- 13 You must apply to us for approval of an operational management plan/statement to show how the ground floor will be used for Class A1 retail purposes, including an indicative layout and details of how it will be managed (if it comprises different retailers). You must not start any of the approved uses until we have approved what you have sent us.

Reason:

Because of the special circumstances of the case and to ensure that you achieve the proposed Class A1 retail use included in the scheme, as set out in S1, S6 and S21 of Westminster's City Plan: Strategic Policies adopted November 2013 and SS 4 of our Unitary Development Plan that we adopted in January 2007.

- 14 (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.

- 15 All of the plant/machinery hereby permitted shall not be operated except between 07.00 hours or after 00.30 hours on Sundays to Thursdays (including all bank holidays and public holidays), and between 07.00 hours or after 01.30 hours of the following morning on Fridays and Saturdays, except where plant is specifically required for refrigeration purposes.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 16 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.

- 17 There will be no live nor recorded music played or transmitted to the external roof terrace at the front part of the property next to the tower.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 18 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 16 of this permission, including details of any additional acoustic mitigation measures that are required. You must not commence any of the uses hereby approved until we have approved what you have sent us.

Reason:

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

- 19 You must apply to us for approval of details of the following parts of the development - the treatment of the plant extension in the south east corner of the site, demonstrating that the rear of the extension (facing the hotel bedroom windows) is as light reflective as possible. 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.

Reason:

To ameliorate the impact of the development on the adjoining hotel premises.

- 20 The 'External Terrace' at the rear of the plant extension in the south east corner shall only be used for maintenance purposes or as an escape in the event of an emergency.

Reason:

To ameliorate the impact of the development on the adjoining hotel premises.

- 21 You must submit a servicing management plan to us for approval prior to any of the uses commencing. This plan must identify the delivery process, storage locations, scheduling of deliveries and staffing, etc. The uses must then be carried out in accordance with the approved plan.

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)

- 22 No goods shall be left on the highway during service deliveries,

Reason:

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

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

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 24 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately, for each of the uses hereby approved. You must not commence any of the uses until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the restaurant, retail accommodation and community space. (C14EC)

Reason:

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

- 25 You must apply to us for approval of details (including detailed drawings where relevant) of how you will give people with disabilities access to all parts of the development, including access from the main entrance on North Audley Street. You must not commence any of the uses until we have approved what you have sent us. You must then carry out the work according to the approved drawings.

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

- 26 **Pre Commencement Condition.** None of the development hereby permitted shall be commenced until detailed design and construction method statements for all of the ground floor structures, foundations and basements and for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the Local Planning Authority which:-



- (i) Accommodate the proposed location of the Crossrail structures including tunnels, shafts and temporary works,
- (ii) Mitigate the effects of noise and vibration arising from the operation of the Crossrail railway within the tunnels and other structures.
- (iii) Mitigate the effects on Crossrail, of ground movement arising from development.

The development shall be carried out in all respects in accordance with the approved design and method statements. All structures and works comprised within the development hereby permitted which are required by paragraphs 1(i), 1 (iii) and 1(iv) of this condition shall be completed, in their entirety, before any part of the building[s] hereby permitted is/are occupied.

**Reason:**

As requested by Crossrail Ltd, to meet the requirements of a direction made in connection with the CrossRail Project by the Secretary of State for Transport under Articles 10 (3), 14 (1) and 27 of the Town and Country Planning (General Development Procedure) Order 1995 and as set out in S41 and S43 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 5 (E) and para 4.68 of our Unitary Development Plan that we adopted in January 2007. (R33AC)

**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 will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:
  - \* any extra work which is necessary after further assessments of the building's condition;
  - \* stripping out or structural investigations; and
  - \* any work needed to meet the building regulations or other forms of statutory control.

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents.

It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

- 3 Condition 26 meets the requirements of the 'safeguarding' directions made by the Department of Transport in relation to the CrossRail Project. If you have any questions about this project,

please write to:

Crossrail Limited  
25 Canada Square  
London E14 5LQ.  
(Telephone: 0345 602 3813)

(I56AA)

- 4 You may need separate licensing approval for the restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 5 You must make sure that any other activities taking place in the class A3 (restaurant or café) premises, such as small amounts of takeaway sales or small bar areas, are so minor that they do not alter the main use as a restaurant or café. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class A3 to a mix of uses) will have taken place, which will need a new planning permission. (I61BA)
- 6 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 7 One or more of the uses we have approved are referred to as being 'sui generis'. This means that the use or uses are not in any particular class. Any future plans to materially (significantly) change the use that we have approved will need planning permission. (I78AA)
- 8 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)
- 9 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)

**DRAFT LISTED BUILDING DECISION LETTER**

**Address:** St Mark's Church, North Audley Street, London, W1K 6DP

**Proposal:** Alterations including two storey extension, installation of internal lift and lift overrun/enclosure, installation of various items of mechanical plant, and internal alterations throughout.

**Plan Nos:** Location Plan 400 Rev B; Proposed Drawings: 209 Rev C, 210 Rev B, 212 Rev C, 213 Rev D, 214 Rev C, 221 Rev C, 222 Rev C, 224 Rev C, 231 Rev C, 232 Rev C, 239 Rev C, 241 Rev B, 249 Rev C, 253 Rev A, 257 Rev A, 258 Rev A, 260 Rev A, 261 Rev A, 270 Rev A, 271 Rev A, 272 Rev A, 273 Rev A; Demolition Drawings: 509 Rev A, 510 Rev B, 512 Rev A, 513 Rev A, 514 Rev A, 521 Rev A, 522 Rev A, 524 Rev C, 531 Rev A, 532 Rev A, 539 Rev A, 549 Rev A; Design and Access Statement (Donald Inshall Associates) dated October 2015.

**Case Officer:** Paul Quayle

**Direct Tel. No.** 020 7641 2547

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

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

Reason:

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

- 2 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 The new joinery work must exactly match the existing original work unless differences are shown on the drawings we have approved. (C27EA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.3/2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 5 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 6 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.3/2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 7 You must apply to us for approval of a detailed historic paint analysis report for the entire building including the external finishes in the portico, and a detailed specification and paint colour samples of all new paintwork and decorative finishes to be used throughout the building including the portico. You must not remove or refinish any existing paintwork or finishes until we have approved what you have sent us and you must then carry out the work according to the details we have approved.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.3/2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 8 Contrary to anything shown on or implied by the drawings hereby approved, you must not cover or remove any historic painted finishes in the portico such as (but not limited to) signs and notices painted on the walls. You must apply to us for approval of details for a scheme of recording the signs and notices painted on the walls and their preservation in situ. You must not start any work on this part of the development until we have approved what you have sent us and you must then

carry out the work according to the details we have approved.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.3/2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 9 You must apply to us for approval of detailed drawings (including details of materials) at a scale of 1:10 of the following parts of the development:

- 1) The new lift and staircase in the nave including its method of fixing to the floor (IN CONSULTATION WITH HISTORIC ENGLAND);
- 2) the new restaurant gallery floor and balustrade in the nave;
- 3) repairs to the encaustic tiled floor in the basement;
- 4) the new lift and staircase in the north stair lobby;
- 5) all new doors.

You must not start any work on these parts of the development until we have approved what you have sent us and you must then carry out the work according to the details we have approved.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.3/2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 10 You must apply to us for approval of a method statement and specification for the conservation and repair of the following parts of the building;

- 1) the Narthex Floor;
- 2) the Nave floor;
- 3) the Chancel floor;
- 4) the pulpit;
- 5) the font;
- 6) the Great War Chapel;
- 7) all the stained glass windows;
- 8) the reredos;
- 9) the organ cases;
- 10) the roof, rooflights and ventilators, including samples of the slating and leadwork, to match existing original materials and demonstrating that as many original slates as possible have been salvaged for re-instatement (IN CONSULTATION WITH HISTORIC ENGLAND);
- 11) the stonework repairs and recreation of decayed decorative elements to the west elevation to North Audley Street including the portico and tower (IN CONSULTATION WITH HISTORIC ENGLAND);
- 12) the new bell and bellframe.

You must not start any work on these parts of the development until we have approved what you have sent us and you must then carry out the work according to the details we have approved.

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.3/2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 11 The works approved are only those shown on the drawings listed on this decision letter. (C27NA)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan July 2011, Westminster's City Plan: Strategic Policies adopted November 2013, and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the character of this building of special architectural or historic interest.

In reaching this decision the following were of particular relevance:

S25 and S28 of Westminster's City Plan: Strategic Policies and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3/2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:

- \* any extra work which is necessary after further assessments of the building's condition;
- \* stripping out or structural investigations; and
- \* any work needed to meet the building regulations or other forms of statutory control.

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents.

It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)