

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 19 July 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>18 Wells Street, London, W1T 3PG,</b>		
<b>Proposal</b>	Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and two residential units (Class C3) over fifth and sixth floors. Installation of plant at rear ground floor levels and at main roof level with associated screening. Creation of terraces/balconies at first to sixth floor levels.		
<b>Agent</b>	Rolfe Judd Planning		
<b>On behalf of</b>	Berners-Allsopp Estate		
<b>Registered Number</b>	16/02143/FULL	<b>Date amended/ completed</b>	9 March 2016
<b>Date Application Received</b>	9 March 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	East Marylebone		

## 1. RECOMMENDATION

<p>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:</p> <p>a) Provision of £941,000 towards public realm improvements in the vicinity of the site;</p> <p>b) Highways works</p> <p>c) The costs of monitoring the S106 agreement.</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:</p> <p>(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</p> <p>(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>
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## 2. SUMMARY

The application site relates to an unlisted building situated within the East Marylebone Conservation Area. The building comprises retail use over the basement and ground floor and office use on the three floors above.

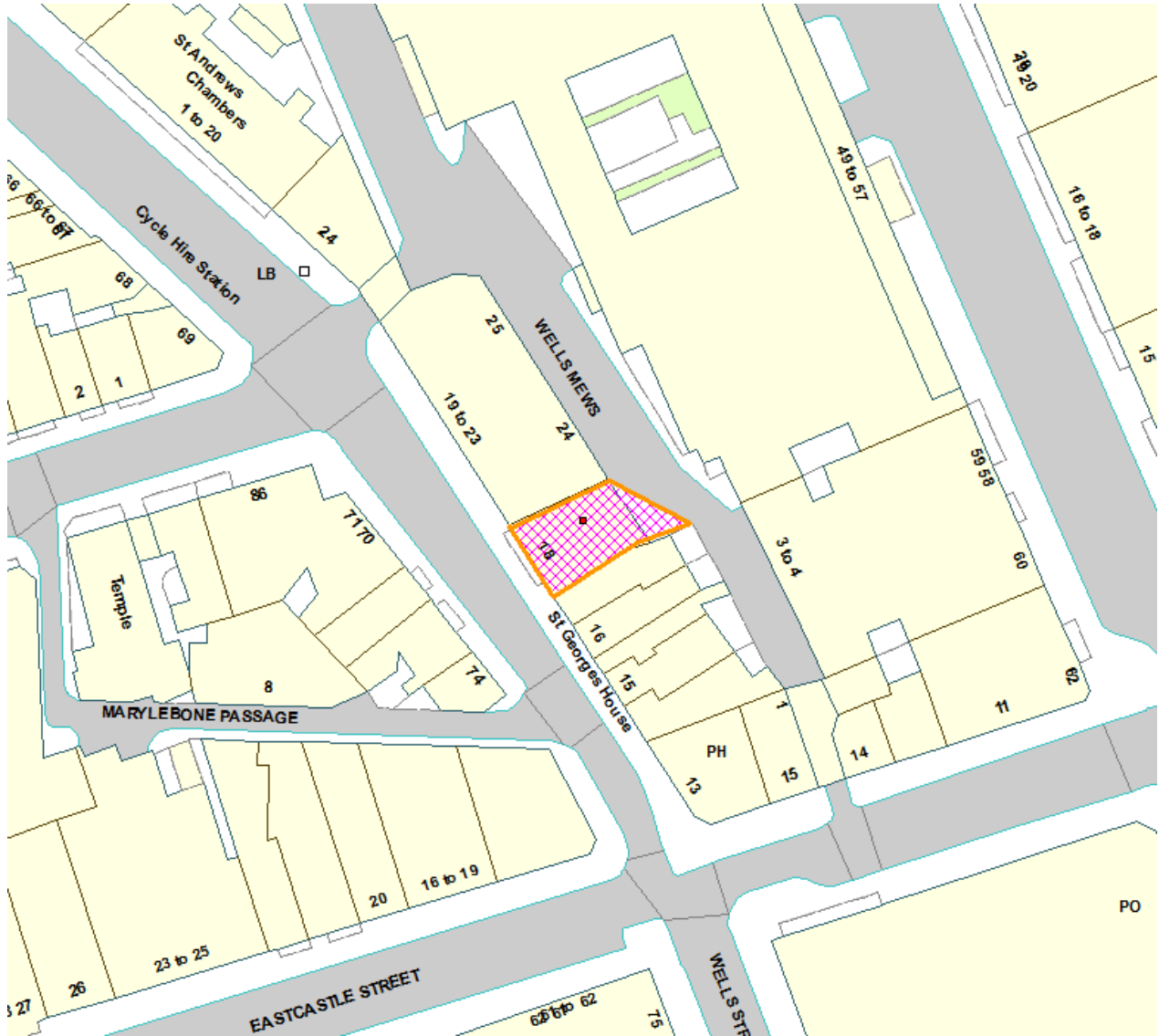
In February 2016, two applications were considered by Planning Applications Committee for this site. Both schemes were the same in terms of the detailed design, height and bulk, but the proposed uses differed. This is set out in detail in the main report, but to summarise, a fully residential scheme was approved and the part office, part residential scheme was refused.

Permission is sought for the resubmission of the part office, part residential scheme. The proposals therefore include the demolition of the existing building comprising lower ground, ground and six upper floors and construction of a new building for use of the lower ground and ground floor for retail purposes, to use the first to fourth floors for office purposes and two residential units over fifth and sixth floor levels. The design, height and bulk are the same as previously considered in February 2016.

This proposal would be linked to an approved scheme on Berners Street. The office uplift as per Policy S1 will be matched by the proposed residential uplift. Two residential units are now proposed and this therefore overcomes the previous reason for refusal.

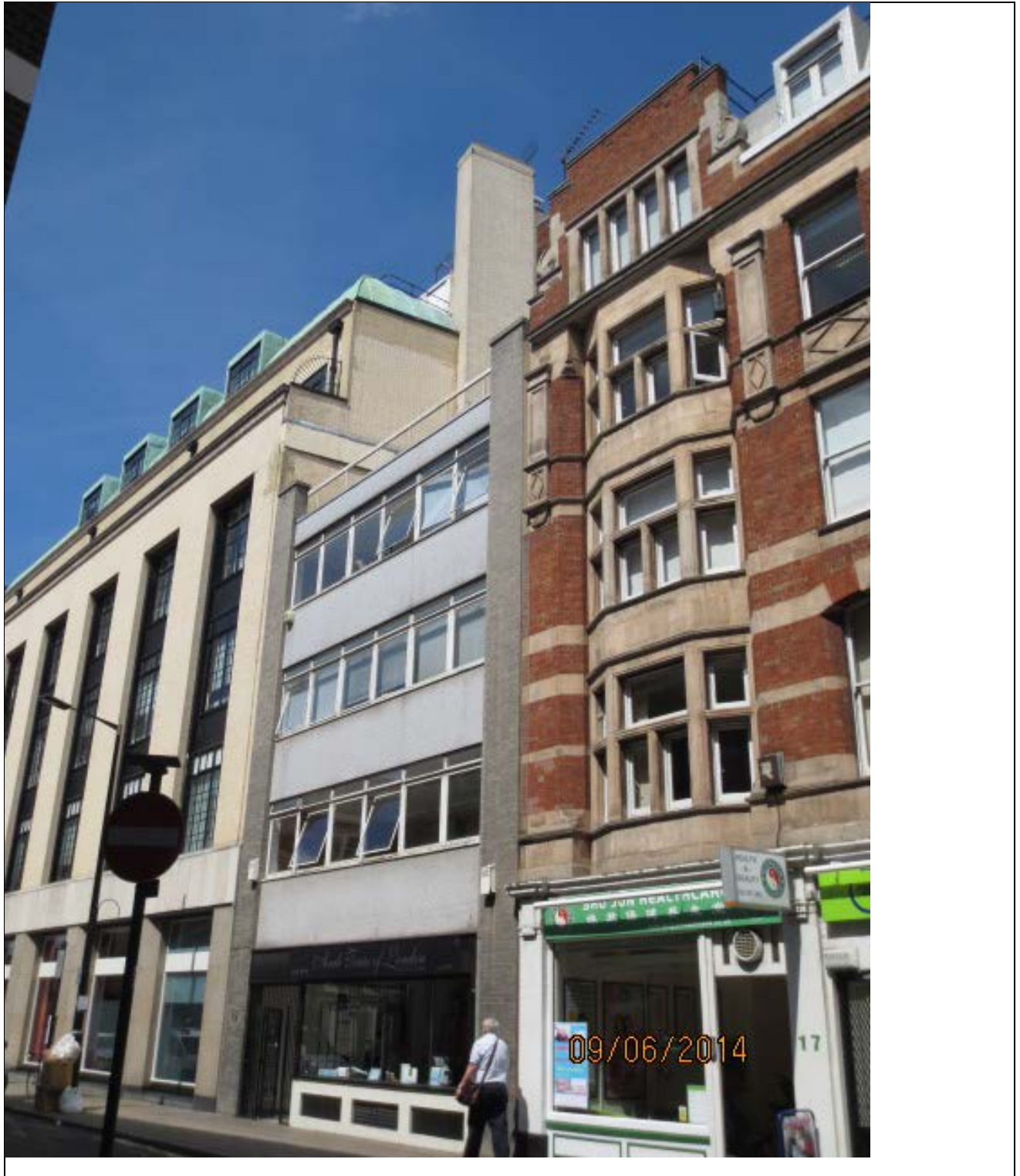
The application is recommended for approval and now complies with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan).

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### HISTORIC ENGLAND

Do not wish to comment.

### FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

### ENVIRONMENTAL HEALTH

No objection

### CLEANSING

Objection – further drawings required to ensure that there are separate stores for commercial and residential part of the development.

### HIGHWAYS PLANNING

No objection

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 53

Total No. of replies: 1

No. of objections: 1 received on the following grounds:

#### Design

- Proposed façade does not enhance the streetscape.
- Proposed height of the building is not in keeping in the area.

#### Amenity

- Impact of light into office space.

#### Other

- Disruption caused by the demolition and rebuilding.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

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

To the rear of the site is Wells Mews where there is an entrance to the NCP car park within the mews. The nearest residential properties are located to the south above the public house on the corner of Eastcastle Street and Wells Street.

The building is located within the East Marylebone Conservation Area.

## 6.2 Recent Relevant History

### 18 Wells Street

Planning permission was refused on 2 March 2016 for the demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and a duplex residential unit (Class C3) on the fifth and sixth floor. Installation of plant and associated screening at rear ground floor levels and at main roof level. Creation of terraces/balconies at first to sixth floor levels.

This application was refused on two grounds:

- Your development would lead to a reduction in the number of residential units which would not meet S14 of Westminster's City Plan: Strategic Policies adopted November 2013 which seeks to optimise housing delivery. We do not consider that the circumstances of your case justify an exception to our policy; and
- Your proposal would result in a commercial uplift which is not match by an increase in residential floorspace. This would not comply with Policies COM2 and CENT 3 of our Unitary Development Plan that we adopted in January 2007 and Policy S1 of the Westminster's City Plan: Strategic Policies that we adopted in November 2013.

Had the 2016 application been considered acceptable, a payment of £1,533,574 towards the City Council's affordable housing fund would have been secured by a S106 legal agreement in line with UDP Policy CENT 3 and COM2.

On the same date an application was also considered for the demolition of 18 Wells Street and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of part basement and ground floor levels as retail accommodation (Class A1) and part basement, ground and the first to sixth floor levels as five residential units (Class C3).

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

### 41-44 Berners Street

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

The two applications granted on the 10 April 2015 were linked as part of a land use swap to ensure that the existing residential floorspace/units and the commercial uplift at 41-44

Berners Street were offset at 18 Wells Street. This application was policy compliant and therefore there was no financial contribution.

## 7. THE PROPOSAL

The application is a re-submission of the previously refused application for the demolition of the existing building and the erection of a building comprising lower ground, ground and first to sixth floor levels, the installation of plant and associated screening at rear ground floor levels and at main roof level and creation of terraces/balconies at first to sixth floor levels. The design of the proposed scheme is the same as that previously approved in March 2016.

The below land use table sets out the approved combined land use figures for the approved Berners Street scheme granted in 2015 and the current proposals.

The 2016 residential consent for 18 Wells Street is not included as the applicants have confirmed that they are unlikely to pursue this scheme.

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

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

This was a policy compliant scheme at the time of the decision as it was assessed under the previous mixed use policy, where the uplift in commercial floorspace was matched by the uplift in residential floorspace.

The current application proposes to use the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and two residential units (Class C3) over the fifth and sixth floors. The proposed residential units will be in the form of 1 studio flat and a two bedroom unit. The office and residential elements of the scheme will share the same entrance.

### Current application and the approved 41-44 Berners Street land use table.

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

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Offices

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

#### Mixed Use

The previously refused scheme was refused on two grounds, the loss of the residential unit, which will be addressed below. The second reason for refusal related to the uplift of commercial floorspace not being matched by the increase of residential floorspace. This second reason for refusal was in accordance with the relevant policies at the time of determination, namely, UDP Policies CENT3 and COM2 and replaced Policy S1 of the City Plan. The uplift in commercial was 934sqm which equated to a required contribution towards affordable housing of £1,533,574. The applicants agreed to make this payment but wanted the monies to be directed to public realm. This is the reason the application was refused as it did not comply with policy.

From the 7<sup>th</sup> June 2016 the City Council is taking the Mixed Use Revision into account as a material consideration with significant weight in determining planning applications (see 8.7 below).

Policy S1 (3) states that for development within the Core CAZ, the Named Street, and Opportunity Areas, which includes net additional B1 office floorspace: B) where the net additional floorspace is:

- i) between 30% and 50% of the existing building floorspace, and
- ii) more than 400sqm, residential floorspace or an equivalent payment in lieu will be provided, equivalent to the net additional B1 office floorspace, less 30% of the existing building floorspace. The residential can be provided: on-site; off-site; by mixed use credits or as a payment in lieu.

The existing office floorspace comprises 2,606sqm and as a result of the proposals there is an increase of office floorspace of 945sqm which represents 36% of the existing building floorspace, thereby triggering the above policy. In order to calculate the net additional B1 office floorspace, 30% of the existing floorspace has to be taken from the net additional floorspace, which results in 164sqm. The proposed residential uplift is 163sqm, resulting in a shortfall of 1sqm. It is considered that this is acceptable and the proposal complies with Policy S1.

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



### **Residential**

City Plan Policy S14 aims to protect all residential land. There are two existing residential units at 41-44 Berners Street (160m<sup>2</sup>). This application provides two residential units over the fifth and sixth floor levels (323m<sup>2</sup>). As there is now no loss in the number of residential units the proposal is acceptable and overcomes the previous reason for refusal.

The proposed housing would provide one 2-bed (74sqm) and one studio unit (52sqm). No three bedroom units are proposed. However, given the small number of units proposed in the overall scheme and that neither of the flats currently provided at 41-44 Berners Street is family sized, the mix is considered acceptable. Both the units would comply with the minimum space standards as set out in the London Plan.

The office and residential elements of the scheme will share the same entrance. The City Council requires where physically possible that separate access to residential and commercial uses is provided. This is not an ideal situation and as this is a new build development separate entrances should have been designed within the new building. However, there is no policy requirement to ensure the entrances are separate and the City Council could not sustain a reason for refusal on these grounds.

### **Retail**

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

## **8.2 Townscape and Design**

The design of the building has been approved previously. The top two floors and plant area are set back progressively from the Wells Street frontage to reduce their visual impact.

An objection has been received relating to the height and bulk of the proposed building has been received. As permission has previously been granted for the scheme it is not considered that the objection is sustainable to justify a reason for refusal.

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

## **8.3 Residential Amenity**

The proposed height and bulk have previously been approved. The nearest residential property is located on the corner of Eastcastle Street and Wells Street which is at sufficient distance to not be materially affected by the proposed development.

An objection has been received from the occupier of the office space on the top floor of 72 Wells Street which lies opposite the application site stating that that proposed building is too tall and will reduce the amount of light received into his working studio. Office floorspace is not afforded the same protection as residential properties and therefore do not need to be tested for loss of daylight and sunlight. The height and bulk of the proposed

building is the same as consented earlier this year. Therefore the objection is not considered sustainable to justify a reason for refusal.

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

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

There would be no car parking provision. UDP Policy TRANS23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased to 'stress levels'. The UDP parking standards would normally require one parking space per residential flat. As per the previous application as the two existing flats would be at 41-44 Berners Street would be lost, there is no net gain in residential units.

Cycle parking is proposed at basement level. A condition is recommended to secure the cycle parking.

#### **8.5 Economic Considerations**

Any economic benefits generated are welcomed.

#### **8.6 Access**

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

#### **8.7 Other UDP/Westminster Policy Considerations**

The Basement Revision and Mixed Use Revision to the City Plan were submitted to the Secretary of State in December 2015. The independent examination was held in March 2016. Following the examination, a further consultation was held between 20 April and 5 June 2016, inviting responses to the proposed main modifications. Having considered the responses, none of the matters raised bring forward new issues which were not considered by the Inspector at the examination hearings in March.

Therefore, in accordance with Paragraph 216 of the National Planning Policy Framework, the Council will take the Basement Revision and Mixed Use Revision into account as a material consideration with significant weight in determining planning applications, effective from Tuesday 7 June 2016. One exception applies, in relation to the Basement Revision, specifically the application of the Code of Construction Practice [Policy CM28.1 Section A2b], which will be applied from the date of publication of the Code of Construction Practice document, likely to be at the end of June.

The implications of the revisions to the City Plan for the development subject of this report are outlined elsewhere in the report

## 8.8 London Plan

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

## 8.9 National Policy/Guidance Considerations

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

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

## 8.10 Planning Obligations

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

The applicant has confirmed that they are willing to fund £941,000 towards the enhancement of the public realm in Berners Street as a goodwill gesture. This payment will be secured as part of a S106 legal agreement and is not material to the consideration of the planning merits of the proposals and has no weight in the decision making process.

The estimated CIL payment is: £102,142.97

## 8.11 Environmental Impact Assessment

Not applicable.

## 8.12 Other Issues

An objection has been received on the potential disturbance during the construction process. A Construction Management Plan has been submitted with the application,

however this document is outline only. It is noted that a more robust CMP has been approved for the demolition and rebuilding, but this has not been submitted with this application. A condition is therefore recommended to ensure that a CMP is submitted.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Historic England (Listed Builds/Con Areas), dated 19 April 2016
3. Response from Cleansing, dated 19 April 2016
4. Response from Highways Planning, dated 19 April 2016
5. Response from Environmental Health, dated 5 May 2016
6. Letter from occupier of 72 Wells Street, London, dated 30 April 2016

(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 THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

10. KEY DRAWINGS

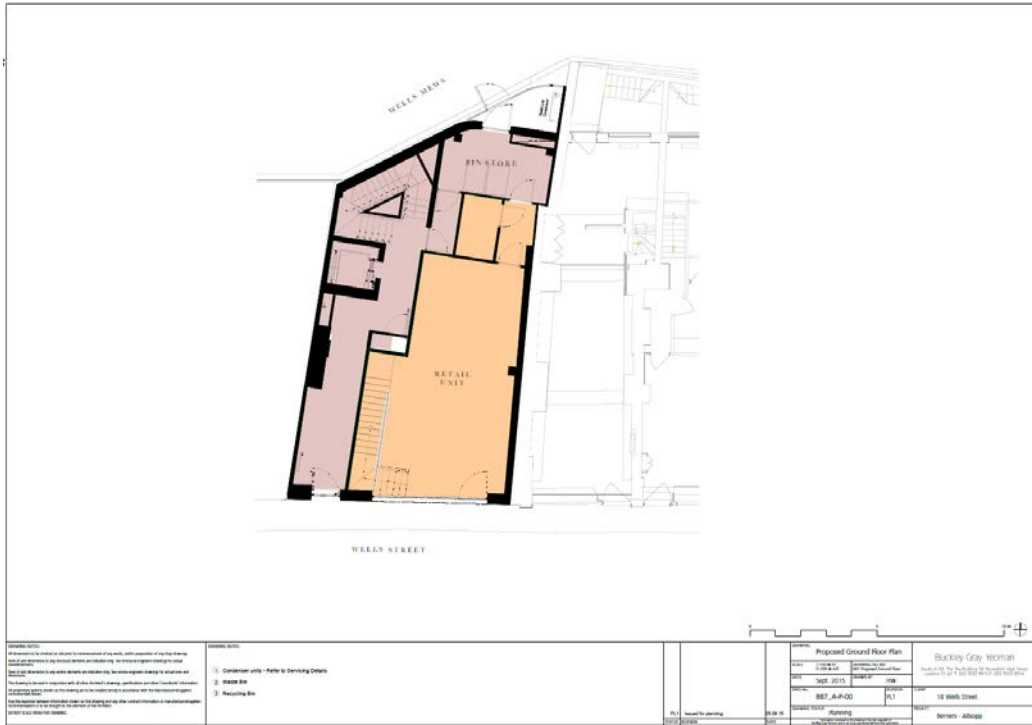
Proposed front elevation



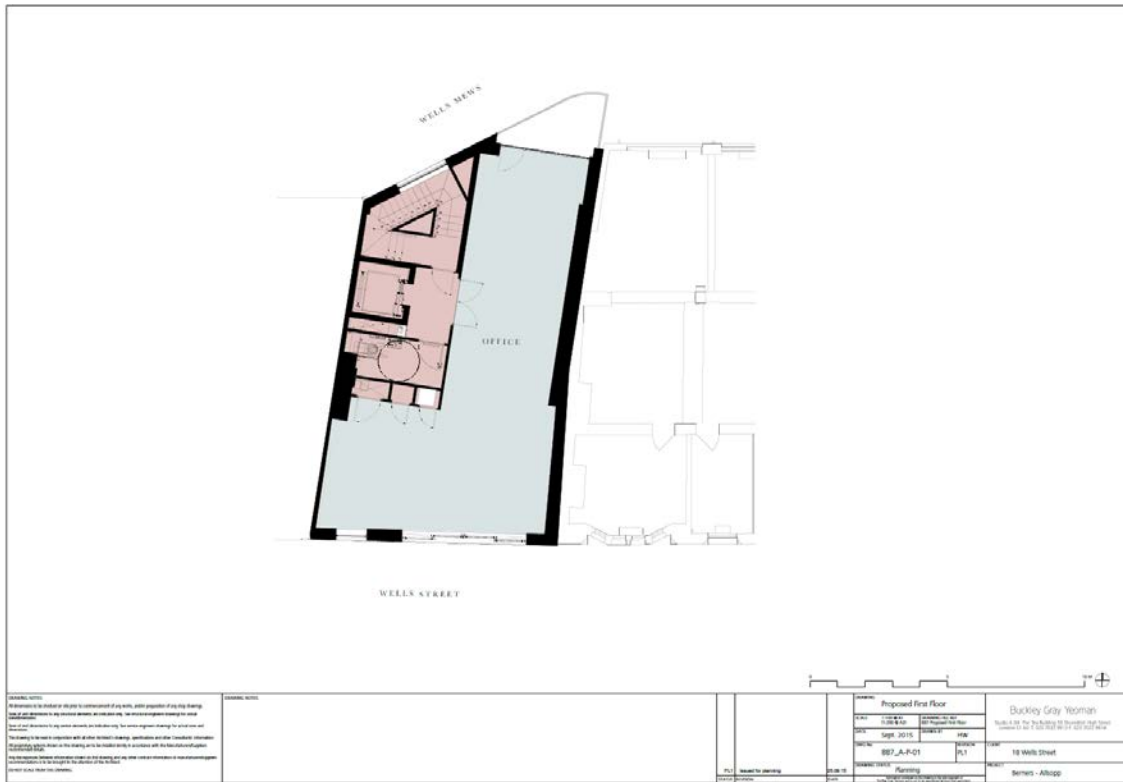
Proposed rear elevation



Proposed ground floor plan



Proposed first floor plan

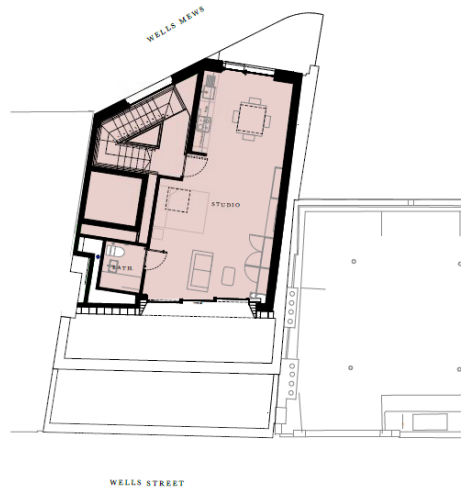


### Proposed fifth floor plan



<b>GENERAL NOTES:</b> 1. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 2. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 3. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 4. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 5. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 6. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 7. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 8. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 9. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 10. All dimensions are to be taken as indicated on this plan, unless otherwise specified.	<b>GENERAL NOTES:</b> 1. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 2. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 3. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 4. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 5. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 6. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 7. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 8. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 9. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 10. All dimensions are to be taken as indicated on this plan, unless otherwise specified.	<b>Proposed Fifth Floor Plan</b>	<b>Buckley Gray Yeoman</b> Studio 204 The New Building 50, Strand, London WC2N 2EE London: +44 (0)20 7520 7020 Mobile: +44 (0)7734 502171
		<b>Rev</b> 1.1 2.1	<b>Date</b> 12.08.16 08.09.16
<b>Project</b> 887_A-P-05		<b>Client</b> Planning	<b>Location</b> 19 Wells Street
<b>Author</b> Barnes - A/Shop		<b>Scale</b> 1:100	

### Proposed sixth floor plan



<b>GENERAL NOTES:</b> 1. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 2. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 3. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 4. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 5. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 6. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 7. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 8. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 9. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 10. All dimensions are to be taken as indicated on this plan, unless otherwise specified.	<b>GENERAL NOTES:</b> 1. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 2. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 3. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 4. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 5. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 6. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 7. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 8. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 9. All dimensions are to be taken as indicated on this plan, unless otherwise specified. 10. All dimensions are to be taken as indicated on this plan, unless otherwise specified.	<b>Proposed Sixth Floor Plan</b>	<b>Buckley Gray Yeoman</b> Studio 204 The New Building 50, Strand, London WC2N 2EE London: +44 (0)20 7520 7020 Mobile: +44 (0)7734 502171
		<b>Rev</b> 1.1	<b>Date</b> 12.08.16
<b>Project</b> 887_A-P-05		<b>Client</b> Planning	<b>Location</b> 19 Wells Street
<b>Author</b> Barnes - A/Shop		<b>Scale</b> 1:100	

**DRAFT DECISION LETTER**

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

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

**Reference:** 16/02143/FULL

**Plan Nos:** 887\_A-DE-00 PL1, 887\_A-DE-01 PL1, 887\_A-DE-02 PL1, 887\_A-DE-03 PL1, 887\_A-DE-04 PL1, 887\_A-DE-LG PL1, 887\_A-DE-RF PL1, , 887\_A\_EE PL1, 887\_A-EW PL1, 887\_A-P-00 PL1, 887\_A-P-01 PL1, 887\_A-P-02 PL1, 887\_A-P-03 PL1, 887-A-P-04 PL1, 887\_A-P-05 PL2, 887\_A-P-06 PL2, 887\_A-P-LG PL1, 887\_A-P-RF PL, 887\_A-S\_AA PL1

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

**Recommended Condition(s) and Reason(s):**

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

Reason:

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

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

Reason:

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

- 3 You must apply to us for approval of detailed drawings (at scales 1:20 and 1:5) of the following parts of the development:

1. Front façade - typical details
2. Rear façade - typical details



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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

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

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

Reason:

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

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

Reason:

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

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

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

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

Reason:

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

- 9 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved either:
- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or
  - (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

CMP must be submitted.

No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority. The plan shall provide the following details:

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

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

Reason:

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

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

Reason:

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

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

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the retail use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of

any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

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

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

Reason:

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

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

Reason:

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

### **Informative(s)**

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

Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at:  
[www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form** **immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

**Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

- 3 Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year). (I38AB)

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