

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 28 February 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	32 Harcourt Street, London, W1H 4HX		
<b>Proposal</b>	Installation of three air conditioning units within louvred enclosures and one kitchen fresh air supply at rear ground floor roof level and re-roofing of single pitch lean-to extension at rear first floor level with slate and zinc cladding (partially retrospective application).		
<b>Agent</b>	Dexter Building Design Ltd		
<b>On behalf of</b>	Mr J McCulloch		
<b>Registered Number</b>	16/11053/FULL & 16/11054/LBC	<b>Date amended/ completed</b>	25 November 2016
<b>Date Application Received</b>	18 November 2016		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Portman Estate		

## 1. RECOMMENDATION

1. Grant conditional permission.
2. Grant conditional listed building consent
3. Agree the reasons for granting listed building consent as set out within informative 1 of the draft decision letter

## 2. SUMMARY

This application site comprises Grade II listed building situated within the Portman Estate Conservation Area. The building's lawful use is as a public house (Class A4) and comprises lower ground, ground and three upper floors.

Retrospective permission and consent are sought for three condensing units located on the flat roof at rear ground floor level. The applications propose that all three units be housed within louvred enclosures. This is in order to address noise complaints from neighbouring residents.

Retrospective permission and consent are also sought for the retention of the kitchen fresh air supply, also located at rear ground floor level. Since submitting this application the kitchen fresh air supply duct has been attenuated to reduce its noise emissions.

Finally, these applications seek to regularise the replacement of the glass roof of the rear ground floor conservatory with a roof clad in artificial slate and the timber framed glazed walls have been replaced

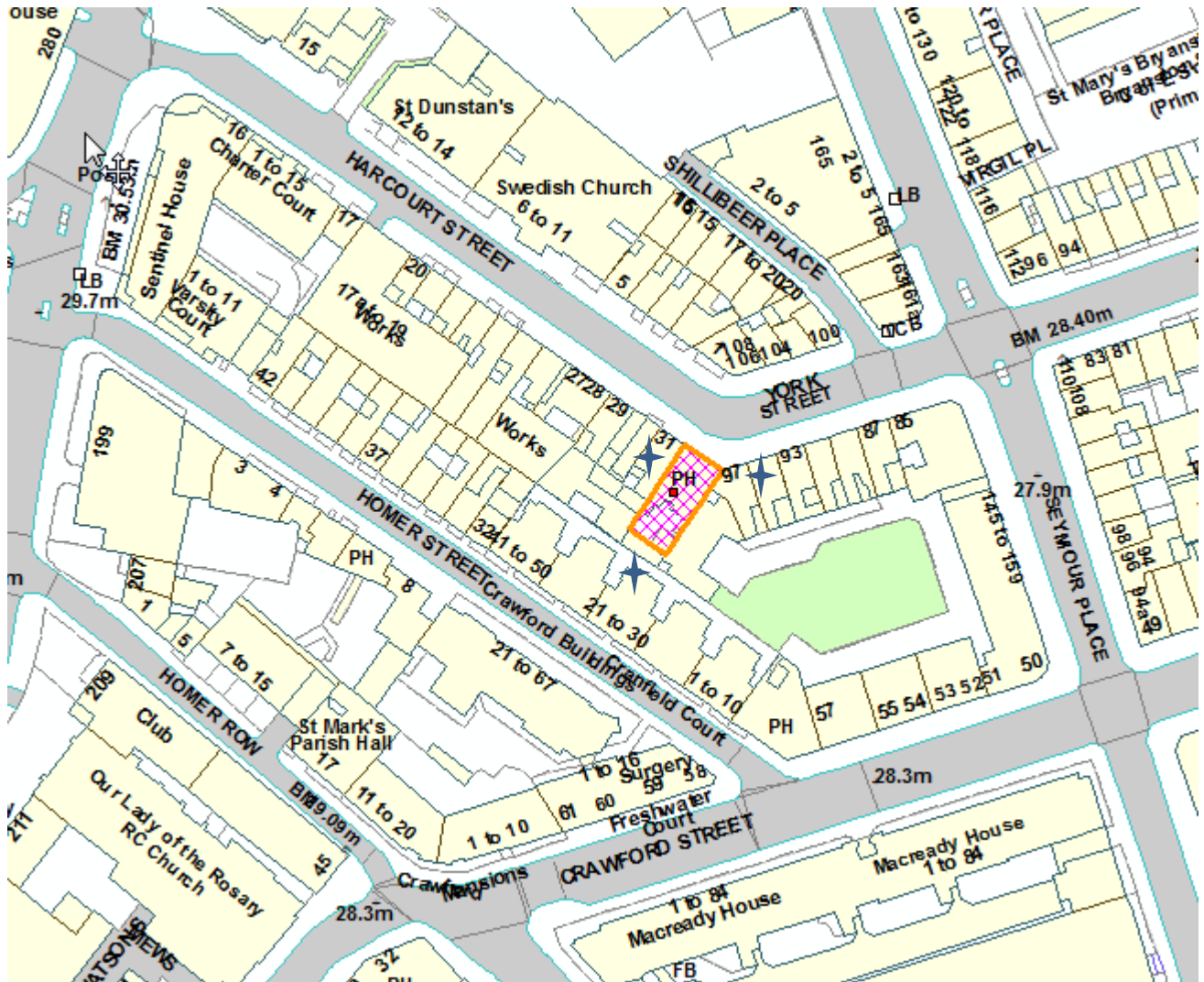
by standing seam zinc.

The key issues for consideration are:

- The impact of the proposals upon the amenity of neighbouring residents;
- The impact of the works upon both the special interest of the listed building and the character and appearance of the conservation area.

In design and historic building terms, the proposed impact is minor. The proposed noise mitigation measures are sufficient to mean that the amenity of local residents will not be harmed. The proposed works are therefore considered to be acceptable in design and conservation terms and, subject to conditions, the proposal is also considered acceptable in amenity terms, complying with the policies set out in the Unitary Development Plan (UDP) and Westminster City Plan.

### 3. LOCATION PLAN



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★ Location of neighbouring objects

4. PHOTOGRAPHS









## 5. CONSULTATIONS

### HISTORIC ENGLAND:

Did not consider it necessary to be notified.

### THE MARYLEBONE ASSOCIATION:

Any response to be reported verbally

### ENVIRONMENTAL HEALTH:

No objection subject to conditions

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. consulted: 32

No. of response: 3

3 letters of objection received on the following grounds:

#### Amenity

- Noise nuisance from the use of plant. Complaints have also been made to the planning enforcement team.
- Noisy customers all day long to the front of the premises and patrons leaving at 1am.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

No. 32 is a Grade II listed property located on the south western side of Harcourt Street comprising lower ground, ground and three upper floors. The site is located within the Portman Estate Conservation Area. The lawful use of the premises is a public house (Class A4) throughout.

The site is located outside the Core Central Activities Zone (but within the Central Activities Zone).

### 6.2 Recent Relevant History

*Applications for the 'erection of a single storey rear extension at lower ground floor level and alterations to the front elevation including the removal of redundant advertising. Installation of a new rear high level extract duct in connection with the existing public house and internal alterations at all floor levels' were granted on 27 October 2015.*

The unauthorised plant was installed sometime between November 2015 and March 2016. The applicant confirms the plant was installed to replace an existing unit which was located to the rear of the property prior to the construction of the extension to the rear.

## **7. THE PROPOSAL**

Planning permission and listed building consent are sought for the retention of three air conditioning units and one kitchen fresh air supply unit at rear ground floor roof level. Permission is also sought to house each of the three air conditioning unit within an acoustic enclosure.

The proposed hours of operation for the kitchen fresh air supply and the condenser unit servicing the rear extension is 11:00 to 23:30 daily. The two remaining condensing units used to cool the cellar and cold room are required to be in use 24 hours.

Retrospective permission is also sought to retain the zinc cladding and artificial slate to the lean-to extension at rear ground floor level.

All internal works relate to the new extension to the rear. No internal works are proposed to the listed building.

It should be noted that the applications for planning permission and listed building consent are partially retrospective and have been submitted following complaints to the City Council's Planning Enforcement Team from neighbouring residents in respect to the noise from the condensing units and that the lean-to rear extension at ground floor level has not built out in accordance with the plans approved in the 2015 permission / consent.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The applications raise no land use implications.

### **8.2 Townscape and Design**

The installation of the air conditioning units on the flat roof is regrettable as it may well have been possible to locate them in a more satisfactory location inside the recently completed rear extension to the building. However, now that this rear yard to the building has been completely enclosed, it is accepted that they are sited as discreetly as possible in their current location on the flat roof of the rear ground floor extension adjacent to the adjoining boundary walls. The plant will be screened in acoustic enclosures and a condition added to this permission to ensure that the enclosure colour matches the existing roof.

The cladding of the lean to rear extension in zinc is acceptable. The re-roofing in natural slate is acceptable. However, the roof has been covered in artificial slate, which is not an appropriate material for use on a listed building. The buildings on Harcourt Street, including the application site, are for the most part roofed in Welsh slate. Any changes to roofing material or additions to existing roofs should be in slate to match. Natural slate has a number of significant differences from artificial; it is thicker, has natural edges and contains a slight variance in colour. By contrast the artificial slate used here is thin, very regular in shape, and with a single colour all over. Natural slate will also weather differently to artificial slate; the latter's appearance deteriorating over time. For this reason, a



condition is recommended to be imposed requiring the artificial slate to be replaced with natural blue grey slate within three months of this permission / consent.

Subject to conditions, the works are considered acceptable in design and conservation terms and will comply with Policies DES 1, DES 6, DES 9 and DES 10. The special architectural and historic interest of the listed building and the character and appearance of the Portman Estate Conservation Area will be preserved.

### **8.3 Residential Amenity**

Three objections have been received from neighbouring residents. One objection from Cranfield Court which is to the south west of the site, a second from 31 Harcourt Street to the North West and is directly neighbouring the site and a third objection from 95 York Street to the east of the site. All objections express concerns to the noise levels from the plant. Objections also relate to vibration from the plant and to customers of the public house leaving the premises late at night and sitting outside the premises by day making noise.

The City Council has received a number of complaints relating to noise from the public house since its re-opening. Most of which relates to the renovation work recently undertaken, but some relates to the unauthorised plant that is the subject of this application.

The applicant confirms that the introduction of an in-line duct attenuator for the existing supply fan fresh air inlet has recently been completed. This has already had a positive impact on the reduction of noise and vibration from this plant.

The application seeks to retain the air conditioning units in their current location, albeit housed within acoustic enclosures in order to satisfy the City Council's noise policies. The applicant is awaiting the outcome of this application prior to installing the louvred enclosures for the three air conditioning units. Environmental Health Officers have assessed the acoustic report that was submitted with the application and consider that the proposed plant are likely to comply with the City Council's noise policy ENV 7 of the UDP subject to the installation of the acoustic enclosures. The proposals will not therefore harm the amenity of neighbouring properties once the louvred enclosures are installed. It is recommended that a condition be imposed requiring the installation of the acoustic enclosures in full within three months of permission / consent being granted. A condition is also recommended limiting the hours of use of the fresh air supply and the condenser unit servicing the rear extension to 11:00 to 23:30 daily. The two remaining condensing units used to cool the cellar and cold room and are required to be in use 24 hours.

The proposal will have no impact upon noise from customers leaving the premises late at night and therefore this objection is unsustainable.

### **8.4 Transportation/Parking**

This application does not raise any highways concerns.

## 8.5 Economic Considerations

No economic considerations are applicable for a development of this size.

## 8.6 Access

The access arrangements to the public house remain unchanged.

## 8.7 Other UDP/Westminster Policy Considerations

None.

## 8.8 London Plan

This application raises no strategic issues.

## 8.9 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.

## 8.10 Planning Obligations

Planning obligations are not relevant in the determination of this application.

The proposal is not CIL-liable.

## 8.11 Environmental Impact Assessment

The scheme is of insufficient scale to require an Environmental Impact Assessment.

## 8.12 Other Issues

None

## 9. BACKGROUND PAPERS

1. Application form
2. Response from Environmental Health, dated 7 December 2016
3. Response from Historic England, dated 5 December 2016
4. Letter from occupier of Flat 2, 31A Harcourt Street, dated 10 December 2016
5. E-mail from occupier of 95A York Street dated 21 December 2016
6. E-mail from occupier of 28 Cranfield Court, Homer Street dated 21 December 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: MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)

# 10. KEY DRAWINGS

**Condenser Schedule-**

1. JE Hall - JEHF-0115-B1-M-1
2. Danfoss - DP-MPHM0125CPOOG
3. Fujitsu - AOYG30-36LETJ
4. Supply Air Helios - GBW5004

**1 Roof Plan** Scale: 1:50

**2 Elevation** Scale: 1:100

**3 Elevation** Scale: 1:50

**4 Elevation** Scale: 1:100

**Dexter**  
Building Design Ltd

Dexter Building Design Ltd  
Unit 5, Victoria Grove  
Barnet, EN3 4AB  
Tel: 01723 446 446  
E: [enquiries@buildingdesign.co.uk](mailto:enquiries@buildingdesign.co.uk)  
[www.buildingdesign.co.uk](http://www.buildingdesign.co.uk)

**Works at The Harcourt**  
The Harcourt  
Harcourt Street - London

**PHILIP JONES**  
CONSTRUCTION

Revision no. \_\_\_\_\_  
Project No. \_\_\_\_\_  
Client File \_\_\_\_\_  
Drawn \_\_\_\_\_  
Checked \_\_\_\_\_  
Date 11/09/2018  
Scale A1: 1/100

Proposed Plans

**A112**

**DRAFT DECISION LETTER**

**Address:** 32 Harcourt Street, London, W1H 4HX

**Proposal:** Installation of three air conditioning units within louvered enclosures and one kitchen fresh air supply at rear ground floor roof level, increased insulation to flat roof at rear and re-roofing of single pitch-lean to extension at rear first floor level with slate and zinc cladding.

**Reference:** 16/11053/FULL

**Plan Nos:** A112, environmental noise survey report and plant noise assessment (Report No. 361119 issue 2)

**Case Officer:** Shaun Retzback

**Direct Tel. No.** 020 7641 6027

**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 Except for piling, excavation and demolition work, 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. You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and not at all on Saturdays, Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 (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 (November 2016), 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.

- 4 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.

- 5 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. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 6 The artificial slate used to clad the roof of the rear lean-to extension shall be replaced by natural blue grey slate within three months of this permission.

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 (November 2016) and DES 1, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 7 The fresh air supply (Helios GBW 500/4) hereby permitted shall not be operated except between 11:00 hours and 23:30 hours daily.

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 (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 8 The condenser (Fujitsu model AOYG36LETL) serving the rear extension shall not be operated except between 11:00 hours and 23:30 hours daily.

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 (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 9 You must install the louvred acoustic enclosures, coloured French grey as shown on the approved drawings and detailed in the environmental noise survey report and plant noise assessment (Report No. 361119 issue 2) within three months of the date on the decision notice. You must then maintain it in the form shown for as long as the machinery remains in place.

Reason:

To protect the environment of people in neighbouring properties and the appearance of the site. This is in line with S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007. (R13CC)

### 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 (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 3 Conditions 3 and 4 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 4 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following., \* Window cleaning - where possible, install windows that can be cleaned safely from within the building., \* Internal atria - design these spaces so that glazing can be safely cleaned and maintained., \* Lighting - ensure luminaires can be safely accessed for replacement., \* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission)., More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/falls/index.htm](http://www.hse.gov.uk/falls/index.htm)., , Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use.

If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (180CB)

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.

**DRAFT DECISION LETTER**

**Address:** 32 Harcourt Street, London, W1H 4HX

**Proposal:** Installation of three air conditioning units and one kitchen fresh air supply at rear ground floor roof level within louvred enclosures re-roofing of single pitch-lean to extension at rear first floor level with slate and zinc cladding.

**Reference:** 16/11054/LBC

**Plan Nos:** A112.

**Case Officer:** Shaun Retzback

**Direct Tel. No.** 020 7641 6027

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

- 1 The works 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 Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 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)
- 4 The artificial slate used to clad the roof of the rear lean-to extension shall be replaced by natural

blue grey slate within three months of this permission.

**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 (November 2016) and DES 1, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 5 You must put up the louvred acoustic enclosures, coloured French grey as shown on the approved drawings and detailed in the environmental noise survey report and plant noise assessment (Report No. 361119 issue 2) within two months of the date on the decision notice. You must then maintain it in the form shown for as long as the machinery remains in place.

**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 (November 2016) and DES 1, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

**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 March 2016, Westminster's City Plan (November 2016), 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 and 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. (159AA)

- 3 We know that the work to install artificial slate cladding to the lean-to roof been completed. This type of slate is considered unacceptable in design terms. We may take legal action to have the work removed and the building restored to natural blue grey slate should you not comply with Condition 4 of this consent.

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.