

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 03 October 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	17-18 Thayer Street, London, W1U 3JX		
Proposal	Installation of an air conditioning unit and acoustic enclosure within rear lightwell.		
Agent	Hepher Grincell		
On behalf of	Mr Star Class (Hinde House) Ltd		
Registered Number	17/05573/FULL	Date amended/ completed	5 July 2017
Date Application Received	23 June 2017		
Historic Building Grade	Unlisted		
Conservation Area	Portman Estate		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

17 and 18 Thayer Street are unlisted buildings in the Portman Estate Conservation Area. The application site lies on the western side of the street and forms part of a larger block known as Hinde House consisting of mixed retail at ground and basement floors with residential units on the upper floors.

Permission is sought for the installation of an air conditioning unit within an acoustic enclosure on the first floor roof of No. 18 Thayer Street. The unit is to serve the recently extended retail unit at the ground floor of No. 17 from 09:00 to 20:00 daily.

The key issues in this case are:

- The impact of the proposed works on the character and appearance of this part of the Portman Estate Street Conservation Area.
- The impact of the plant operation upon the amenity of neighbouring residential properties.

Although 2m in height, the plant lies within an enclosed location and would be against an existing enclosure at the rear of 18 Thayer Street. While the plant would be seen from upper floors of some adjacent buildings, it will not be visible from street level. Objections have been received due to the unsightly appearance of the proposed plant, however, it is to be enclosed within a plant screen and a

condition is imposed to ensure it would be of a neutral colour. It is not considered that the proposal would have an adverse impact on the appearance of the existing building or the character and appearance of this part of the Portman Estate Street Conservation Area.

Objections have been received from local residents on the grounds that the plant operation will result in unacceptable noise, vibration and heat disturbance, exacerbating existing noise nuisance caused by existing plant noise and other sources. Objectors have also expressed concern regarding the accuracy of the supporting acoustic report. The acoustic report supporting this application has been assessed by the City Council's Environmental Health officer who has confirmed that they are satisfied with the assessment methodology and they consider that the proposed plant operation is likely to comply with the Council's standard noise conditions.

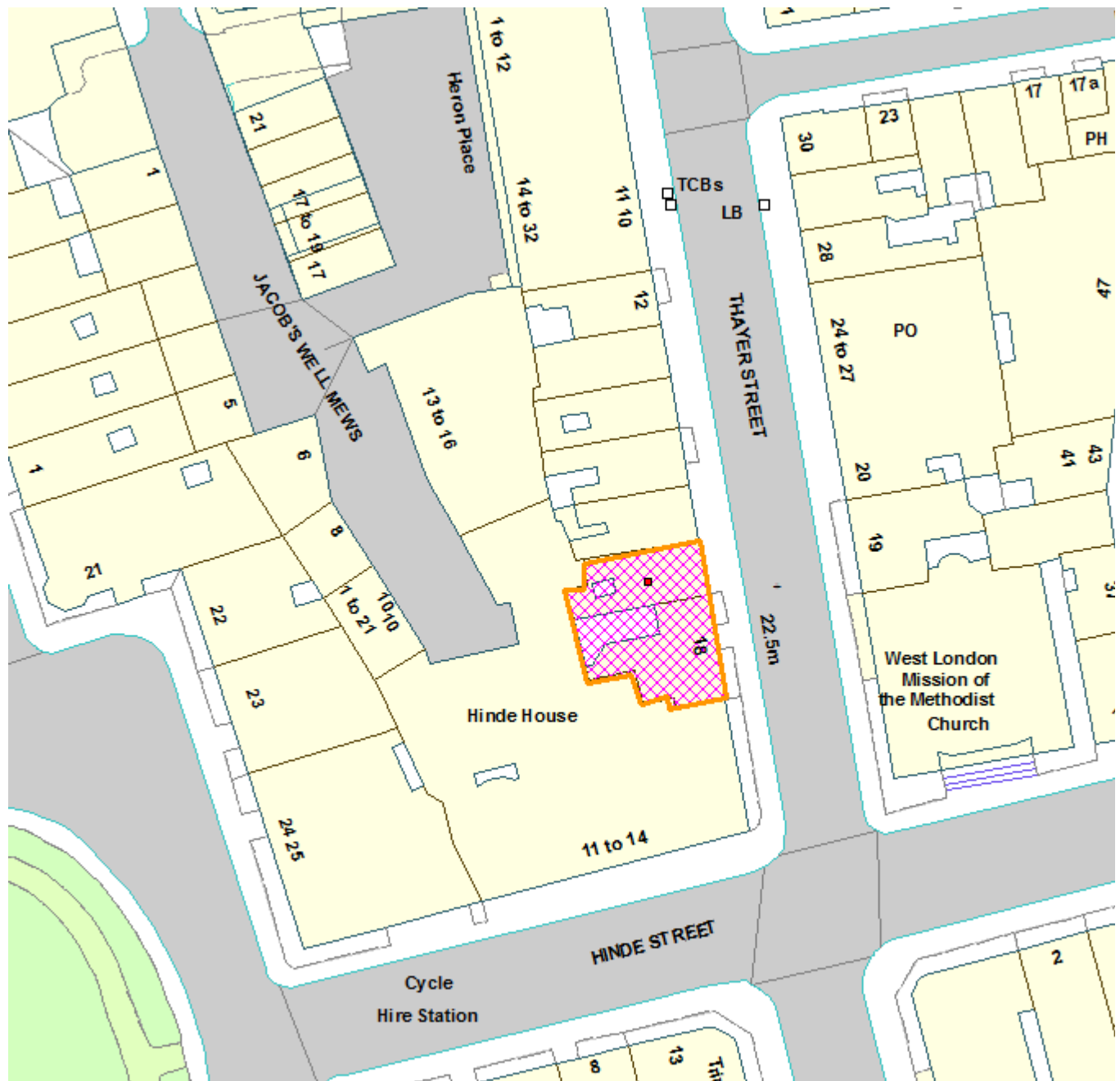
Objectors also refer to the fact that there have been noise complaints relating to both commercial activity within No. 18 Thayer Street and noise nuisance from existing plant within the courtyard to the rear of the 16-18 Thayer Street and 13-14 Hinde Street. In February this year, Westminster's Noise Team believed that a statutory nuisance existed and served a noise abatement notice under Section 80 of the Environmental Protection Act 1990 (EPA) Act. This required the occupant of 18 Thayer Street to manually adjust the speed of a basement kitchen fresh air inlet unit from 21:00 hours daily to reduce noise nuisance. Since the issuing of the notice, there have been no subsequent noise complaints.

City Plan policy S29 seeks to safeguard the amenity of neighbouring residential properties. UDP policy ENV13 sets out that permission will not be granted for development proposals which would result in a material loss of amenity to neighbouring properties by way of loss of daylight or sunlight. An objection has also been received on the grounds that units would obscure natural light to neighbouring properties. The area where the unit is proposed to be situated is enclosed by residential properties with windows facing the rear lightwell. The windows at first floor level serve non-habitable rooms with the exception of three windows to the north of the proposed enclosure. The centre point of the windows perpendicular proposed enclosure is above the height of the enclosure therefore light levels will not be impacted. The proposed enclosure is however marginally taller than the centre point of two residential windows either side of the small enclave to the north. Given the orientation and distance between the unit and these windows relative to the height of the proposed enclosure, it is not considered that the proposal would materially affect levels of light and a refusal on this basis cannot be justified.

Objections have been received from neighbouring occupants due to the potential impact on the value of surrounding residential properties; however, this is not a planning matter.

On this basis, the application is considered acceptable in design and amenity grounds and is therefore recommended for approval, subject to conditions.

3. LOCATION PLAN



4. PHOTOGRAPHS



Application Building



Existing Plant to Rear of Hide House



Proposed Location of New Enclosure

5. CONSULTATIONS

MARYLEBONE ASSOCIATION

No objection providing noise criteria can be achieved

ENVIRONMENTAL HEALTH

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 50

Total No. of replies: 15 (including two letters from one respondent)

One letter of support and 14 letters of objection received on the following grounds:

Amenity

* Existing plant causes noise nuisance which has resulted in a noise abatement notice being served

*Noise levels are likely to increase

*Noise readings are based on inaccuracies

*Loss of light

*Increase in hot air

*Vibrations

Design

* Units are unsightly

Other issues

*Impact on property value

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. HISTORY

Permission was granted for the retention of two air conditioning units and erection of acoustic enclosure on the rear groundfloor of 18 Thayer Street, on 17 November 2009 (ref: 09/06626/FULL). Although located on the roof of 18 Thayer Street, these units serve the commercial unit at the ground floor of 13 Hinde Street.

In June 2010 permission was granted for the installation of one air conditioning unit within an acoustic enclosure in rear yard at basement level on the 18 June 2010 (ref: 09/08909/FULL).

In March 2010 permission was granted for the installation of a replacement of full height kitchen extraction flue at rear and installation of one screened refrigeration condensing unit on roof of 12 Hinde Street in association with the existing restaurant use at basement level at 18 Thayer Street /13 Hinde Street and part-basement level at 14 Hinde Street. Condition 5 required a supplementary acoustic report to demonstrate the

approved plant complied with the Council's standard noise criteria within two months of the plant being installed. An enforcement case was opened in January 2011 (ref: 11/46797/H) as this had not been submitted. Subsequently a supplementary acoustic report was submitted and approved by the Council in February 2011 (ref: 10/10957/ADFULL) and the enforcement case was closed.

Planning permission was granted on 15 March 2016 (ref: 15/11732/FULL) for the Installation of a new shopfront and awning. Erection of rear infill extension at basement and ground floor level to extend existing shop (Class A1).

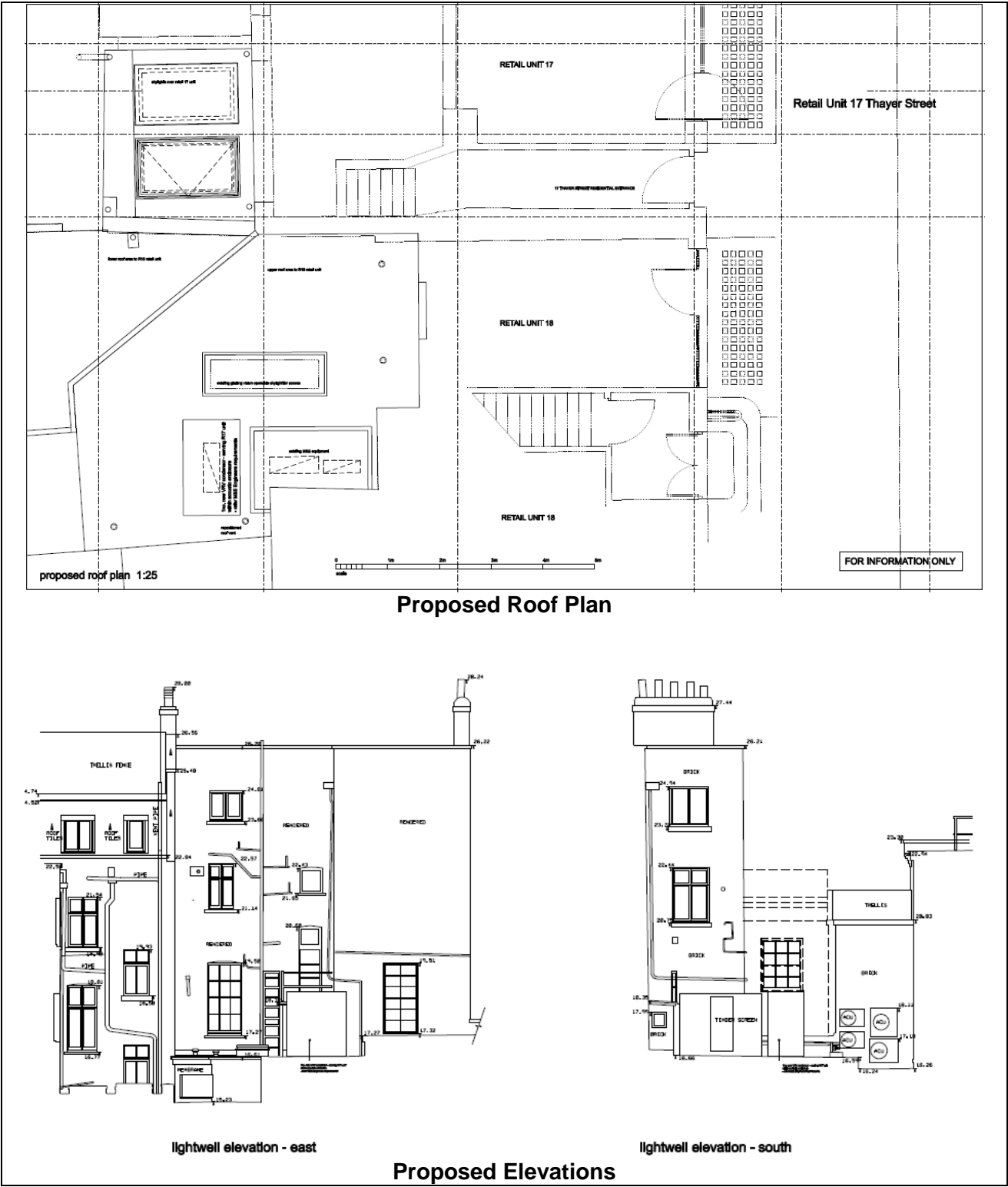
7. BACKGROUND PAPERS

1. Application form
2. Response from Marylebone Association, dated 11 July 2017
3. Response from Environmental Health, dated 03 August 2017
4. Emails from Environmental Health, dated 23 August 2017
5. Letters from or of Flat 1, 17 Thayer Street, dated 6 and 10 July 2017
6. Letter from owner of Flat 2, 17 Thayer Street, dated 11 July 2017
7. Letter from occupier of Flat 3, 16 Thayer Street, dated 10 July 2017
8. Letter from occupier of 14 Hinde Street, London, dated 10 July 2017
9. Letter from occupier of Flat 2, 17 Thayer Street, dated 11 July 2017
10. Letter from occupier of Flat 4, 16 Thayer Street, dated 11 July 2017
11. Letter from occupier of Flat 3, 18 Thayer Street, London, dated 12 July 2017
12. Letter from occupier of Flat 11, 13 Hinde Street, dated 10 July 2017
13. Letter from occupier of Flat 1, 14 Hinde Street, dated 11 July 2017
14. Letter from occupier of Flat 2, 14 Hinde St, dated 10 July 2017
15. Letter from occupier of Flat 3, 17 Thayer Street, dated 10 July 2017
16. Letter from occupier of Flat 2, 18 Thayer Street, dated 12 July 2017
17. Letter from Hinde House Management Company Ltd, London, dated 17 July 2017
18. Letter from occupier of Flat 9, 13 Hinde Street dated 16 August 2017

(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.

8. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 17-18 Thayer Street, London, W1U 3JX,

Proposal: Installation of an air conditioning unit and acoustic enclosure within rear lightwell.

Reference: 17/05573/FULL

Plan Nos: Drawings WD-303 Rev 2, WD-304 Rev 1, WD-104 Rev 4.

Case Officer: Damian Lavelle

Direct Tel. No. 020 7641 5974

Recommended Condition(s) and Reason(s)

- 1 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 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)

- 2 (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 5 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 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., , (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 LA90, 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:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) 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 (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.

- 3 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.

- 4 The acoustic enclosure panelling must be painted to match the colour of the walls next to it. You must then keep it in that condition.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must 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 the environment of people in neighbouring properties and the appearance of the site. This is in line with S25 and S28 of Westminster's City Plan (November 2016) and ENV 6, ENV 7, DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in

January 2007. (R26BE)

- 6 The plant/machinery hereby permitted shall not be operated except between 09.00 hours and 20.00 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.

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.

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.