

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 5 March 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> Marylebone	
<b>Subject of Report</b>	<b>Second Floor Flat, 27 Wimpole Street, London, W1G 8GN</b>		
<b>Proposal</b>	Use of the second floor as a sui generis use comprising part residential and part medical accommodation for a temporary period of five years.		
<b>Agent</b>	ArchiTech		
<b>On behalf of</b>	Prof S Lingam		
<b>Registered Number</b>	23/00945/FULL	<b>Date amended/ completed</b>	28 February 2023
<b>Date Application Received</b>	14 February 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Harley Street		
<b>Neighbourhood Plan</b>	Not applicable.		

## 1. RECOMMENDATION

Grant conditional personal planning permission.

## 2. SUMMARY & KEY CONSIDERATIONS

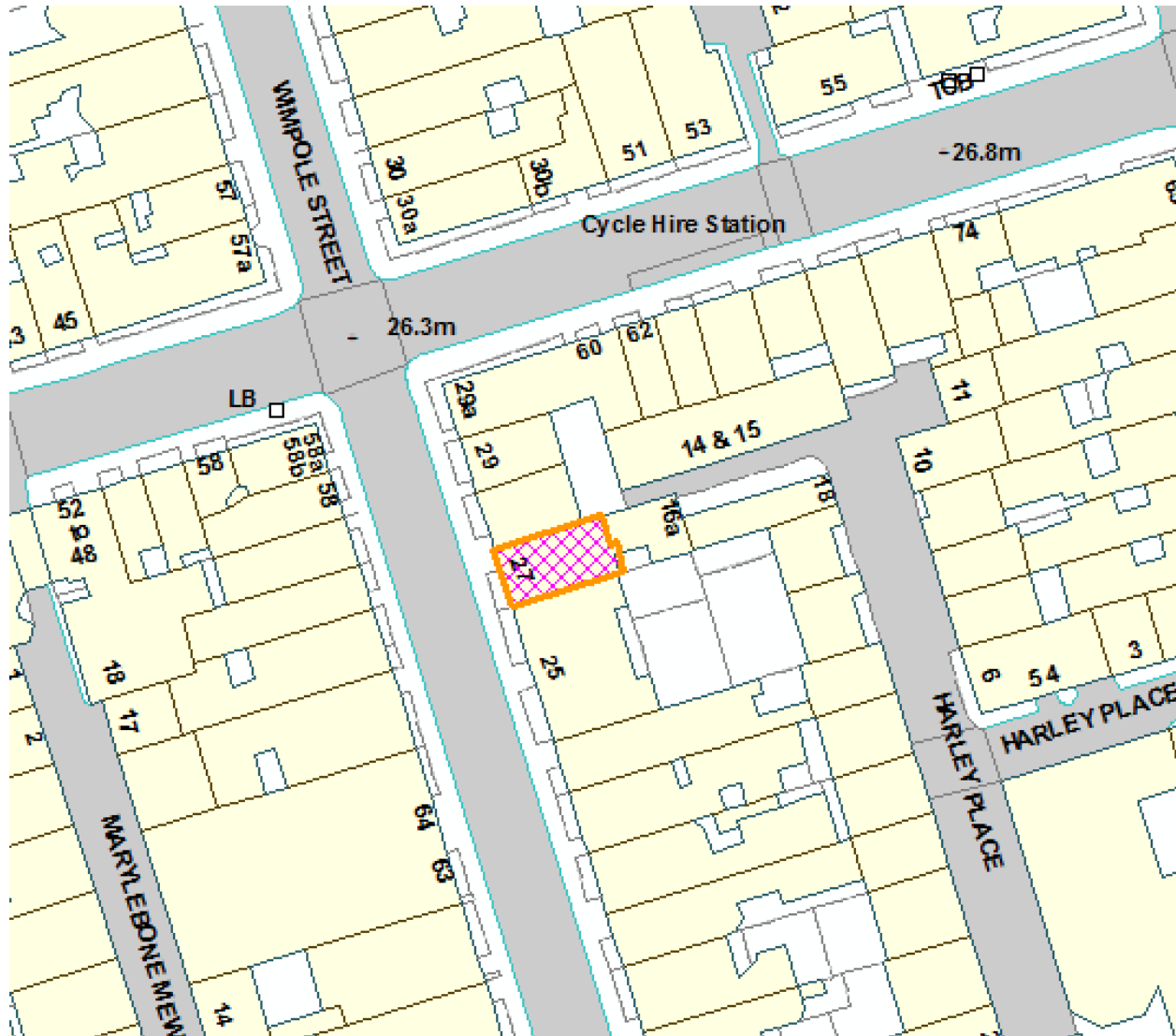
27 Wimpole Street is an unlisted building in the Harley Street Conservation Area. The building comprises lower ground, ground and first to fourth floor levels. The ground and first floor levels are used as medical accommodation, with self-contained residential units at lower ground and second floor and a maisonette at third and fourth floor levels.

Whilst the second floor has lawful use as a residential unit, the current application is for the retrospective use of this floor as a mixed medical and residential use (a sui generis use). The second-floor flat is currently used by a paediatric neurologist as their home but also from where they practice. The applicant has agreed to any consent being for a temporary period of five years.

The key consideration in this case is the acceptability of the partial loss of residential floorspace.

Whilst the permanent loss of residential floorspace would ordinarily be unacceptable in principle, in this instance approval is recommended given the location of the property within the Harley Street Special Policy Area, the temporary nature of the proposal and the fact that the occupant will continue to occupy the property as their primary residence.

### 3. LOCATION PLAN

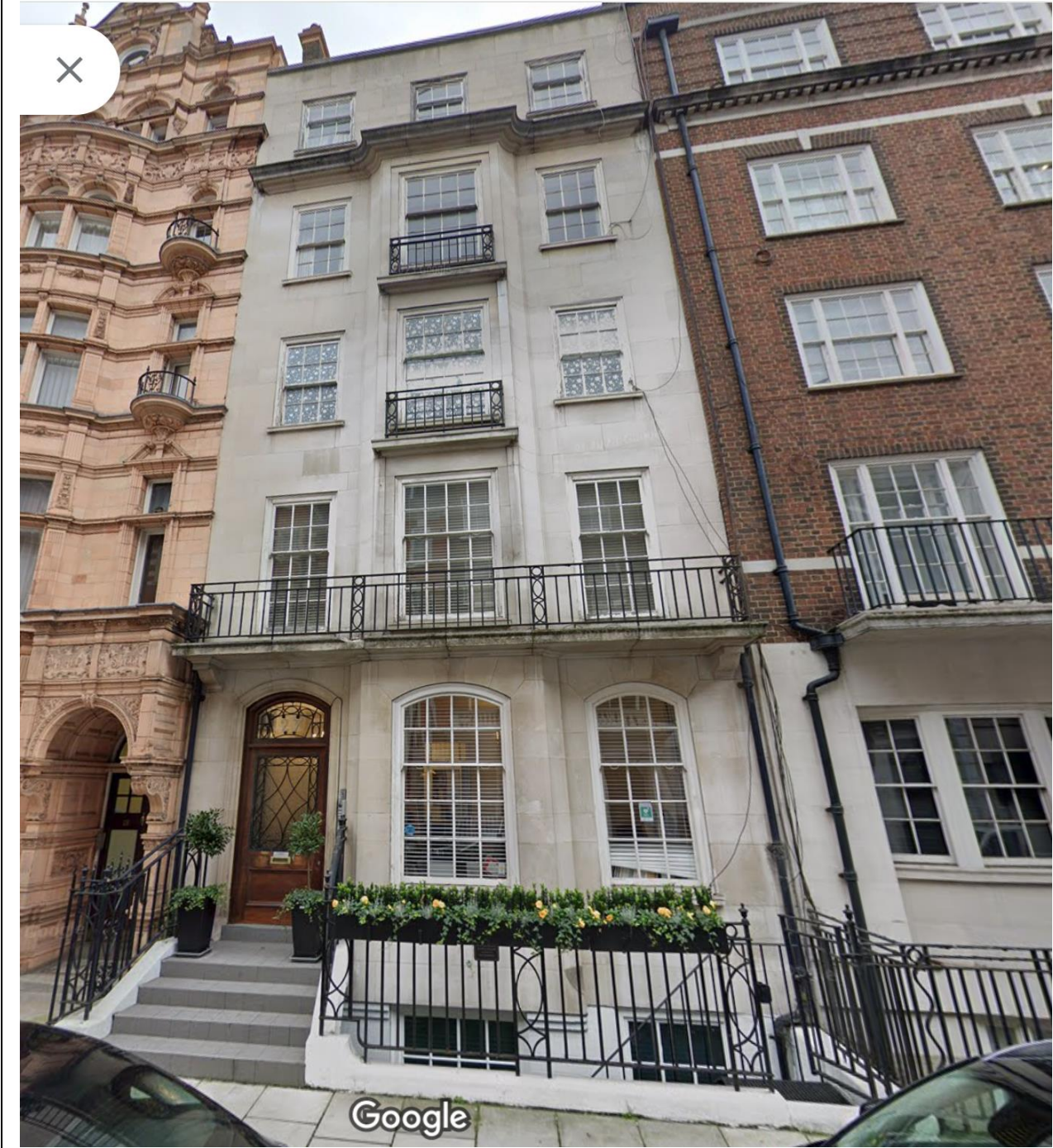


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Item No.
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4. PHOTOGRAPHS

Front elevation of the building:



**5. CONSULTATIONS**

**5.1 Application Consultations**

MARYLEBONE ASSOCIATION  
Any response to be reported verbally.

WASTE PROJECTS OFFICER  
Further information required.

HIGHWAYS PLANNING  
Acceptable subject to conditions.

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

No. Consulted: 24  
Total No. of replies: 2  
No. of objections: 1  
No. in support: 1

One letter of objection on the following grounds:

- \*Internal works within the second floor and use as a clinic during the Covid pandemic.
- \*Loss of a residential unit.
- \*Increased disturbance from noise and number of patients on the communal staircase.

PRESS NOTICE/ SITE NOTICE:  
Yes

**5.2 Applicant's Pre-Application Community Engagement**

No pre-application discussions have been carried out by the applicant with neighbours.

**6. WESTMINSTER'S DEVELOPMENT PLAN**

**6.1 City Plan 2019-2040 & London Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## 6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

## 6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

## 7. BACKGROUND INFORMATION

### 7.1 The Application Site

27 Wimpole Street is an unlisted building comprising lower ground, ground and first to fourth floor levels. The lower ground is used as a self-contained residential unit, medical floorspace is on the ground and first floors, the second floor is in residential use with a further residential maisonette on the third and fourth floor levels.

The building is sited within the Harley Street Conservation Area and the Harley Street Special Policy Area. The application relates to the change of use of the second floor of the building.

### 7.2 Recent Relevant History

Planning permission was refused on the 19th March 1991 (RN: 90/06651/FULL) for the use of the second floor to offices. The reason for refusal was:

*The proposal would result in the loss of medical consulting rooms which would be contrary to City Council as expressed in paragraph 6.51 of Chapter 6 of the City of Westminster District Plan 1982 and paragraph 5.51(i) of Chapter 5 of the City of Westminster District Plan as Agreed for Deposit August 1988, which seeks to resist the change of medical consulting rooms to other non-residential uses within the Harley Street Special Policy Area.*

Planning permission was granted on the 15th May 1998 (RN:98/02103/FULL) for the use of the second floor as a two-bedroom flat; insertion of louvres to fanlights in bathroom window at rear.

## 8. THE PROPOSAL

The application relates to the second floor of the building which has lawful use as a two-bedroom residential flat measuring 66.5sqm. The property is currently used unlawfully as a mix of medical and residential functions (a sui generis use) as it is occupied as a residence by a live-in medical practitioner. Consent is sought for a temporary five-year period whereupon the premises would revert back to use as a residential flat (Class C3).

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

#### Loss of Residential Use

City Plan Policy 8, parts C and D state:

“C. All existing residential units, uses, floorspace and land will be protected, except where:

1. the reconfiguration or redevelopment of supported or affordable housing would better meet need; or
2. non-family sized housing is being reconfigured to create family sized housing.

D. The change of use of any type of housing to temporary sleeping accommodation on a permanent basis will not be permitted.’

Para 8.1 of the Plan confirms that ‘achieving Westminster’s housing targets to help meet growing and diversifying housing need is a key priority of this plan.’

The lawful use of the second floor was established after the implementation of the planning permission for that use granted in May 1998. Prior to this the floorspace was in use as medical accommodation and there is also existing medical floorspace at ground and first floor levels of the building. Access to the residential flat at second floor level is through the reception of the medical floorspace of the floors below.

The lawful second floor residential unit measures 65sqm and approximately 30sqm is currently being used as medical floorspace, although it is noted this is in the context of the entire unit being used by one medical practitioner who also has use of the medical floorspace outside of the prescribed times for patients to visit the premises.

Given the policy context detailed above the loss of any residential floorspace is ordinarily considered unacceptable in principle. The objection that has been received to the application is from a former occupier of the maisonette at third and fourth floors within the building. They have objected to the loss of a residential unit given the policy context to protect residential units and the need for more residential accommodation within London. In this instance, whilst the proposal would result in the loss of residential floorspace, it would still retain the residential unit as the applicant still resides at the property.

#### Provision of Medical Use

The applicant has provided details of the medical use they are seeking to deliver from the property and their medical background. The applicant has the current present posts; Consultant in Paediatrics and Adolescent Medicine (with special interest in neurodevelopment and paediatric neurology); Consultant Paediatric Neurologist; First Contact Physician; Expert Medical Witness; and Director/Dean-London International Medical School and Clinics. The applicant has also held a number of posts with various NHS trusts and internationally delivering paediatric medicine, most recently from 2004 until 2019 working within the immediate vicinity from 117a Harley Street.

In the context of the City Plan, 'health and medical facilities' are deemed to be Social and Community uses. Paragraph 17.1 states that 'community infrastructure and facilities are integral to supporting people's everyday lives, being used by residents, workers and visitors, and are a vital resource to support successful places and communities.' Policy 22 'Harley Street Special Policy Area' requires:

'A. Development in the Harley Street Special Policy Area will support and enhance its continued role as an international centre of medical excellence, complemented primarily by residential use.

B. Proposals for additional floorspace to upgrade or provide new medical facilities, patient care and patient accommodation, will be supported subject to impact on townscape and heritage.

C. Medical facilities that do not fall within Class E (commercial, business and service uses) as a result of being attached to the residence of the consultant or practitioner, will be protected, unless:

1. There is no reasonable prospect of its continued use for medical use or complementary facilities, as evidenced by vacancy and appropriate marketing for a period of at least 12 months; and
2. The proposal is for high quality residential development.'

Paragraph 22.3 states, 'We will seek to protect existing and support new medical floorspace and complementary facilities in the area to ensure continuation and extension of the benefits of the clustering of these uses.'

## **Conclusion**

Whilst the protection of residential floorspace is a priority within the City Plan, the plan also seeks to protect Social and Community uses (including medical) and to support and enhance the role of the Harley Street Special Policy Area as an international centre of excellence for medicine. Given the medical background of the applicant and their long-standing association with the area, having been working from Harley Street since 2004, the proposal will enable the applicant to consolidate living and working in a single premises and retain their medical experience within the area providing a service to the local community.

The applicant has also agreed to a condition being included on any consent to require the premises to revert back to residential use five years after the date of any planning permission. Although the proposal would be contrary to the aim of increasing residential floorspace within the City, it would also conversely enable the retention of an established community use. In these circumstances the loss of residential floorspace for a temporary period of five years is acceptable but given this is only the case due to the special circumstances of the applicant a condition is proposed stating that only Professor Sundara (Sam) Lingham can carry out the approved use and that should Professor Lingham vacate the premises the second floor must revert back to residential use as a two bedroom flat (Use Class C3).



## **9.2 Environment & Sustainability**

Not relevant to the proposal.

## **9.3 Biodiversity & Greening**

Not relevant to the proposal.

## **9.4 Townscape, Design & Heritage Impact**

Not relevant to the proposal.

## **9.5 Residential Amenity**

It is proposed patients would only be permitted within the second-floor premises between 09:00 and 18:30 Monday to Friday; 10:00 and 16:00 on Saturdays and not at all on Sundays. The current arrangements are that access to the second floor is through the ground floor reception of the medical occupier of the lower floors which would remain the case. The objection from the previous occupier of the residential flat on the upper floors raises concerns about disturbance and 'footfall' from patients using the communal stair to access the second floor. The communal stair is accessed through the medical floorspace at ground so the increased disturbance would only be on the shared staircase. The applicant has advised they would only see around 10 patients a week and they have one healthcare / reception assistant. The applicant has also agreed to the imposition of a condition restricting the number of patients to a maximum of 15 per week.

Given the small floorspace of the medical proposed, the hours patients can be at the premises, and as the ground and first floors of the property currently have lawful unrestricted use as medical accommodation it is not considered the proposal would have a noticeable detrimental impact upon existing residential occupiers within the building and the objection on these grounds cannot be sustained. A condition is proposed to restrict the hours and numbers of patients that can be on the premises to those stated above.

## **9.6 Transportation, Accessibility & Servicing**

The application has been reviewed by the Highways Planning Manager who raises no concerns. The site is well served by public transport and no notable change to pedestrian or vehicular movements would result from the proposal given the small level of floorspace involved. The site is also within a Controlled Parking Zone which will mean anyone driving to the site will be regulated by on-street parking controls.

The Highways Planning Manager has requested cycle parking provision but given this is the second floor and the ground floor space falls outside the demise of the application it is not considered practical in this instance.

The Waste Projects Officer has requested a condition be attached to require the submission of drawings to show appropriate waste and recycling storage within the demise of the unit and the condition has been attached as requested.

### **9.7 Economy including Employment & Skills**

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy through the provision of employment for the one live-in medical practitioner and one healthcare assistant for clerical and reception support.

### **9.8 Other Considerations**

The objector has commented on the applicant having internally remodelled their property without the consent of the freeholder but the building is not listed and any internal remodelling would either be within the constraints of the lease or would be a private matter between the freeholder and the applicant. The objector has also commented on the first floor previously having been used as a 'covid clinic' and that this demonstrates a risk for further breaches of planning control. The current consent is for a sui generis use, is personal to the applicant and is restricted by condition in terms of how the use can operate. Any use of the premises without compliance with this precise use or non-compliance with the conditions, would be subject to enforcement control.

### **9.9 Environmental Impact Assessment**

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

### **9.10 Planning Obligations & Pre-Commencement Conditions**

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

## **10. Conclusion**

The small loss of residential floorspace in this instance is deemed acceptable given that the property is maintained as the applicant's primary residence, they have a vast medical experience which it would be beneficial to retain within the Harley Street Special Policy Area and the temporary nature of the use.

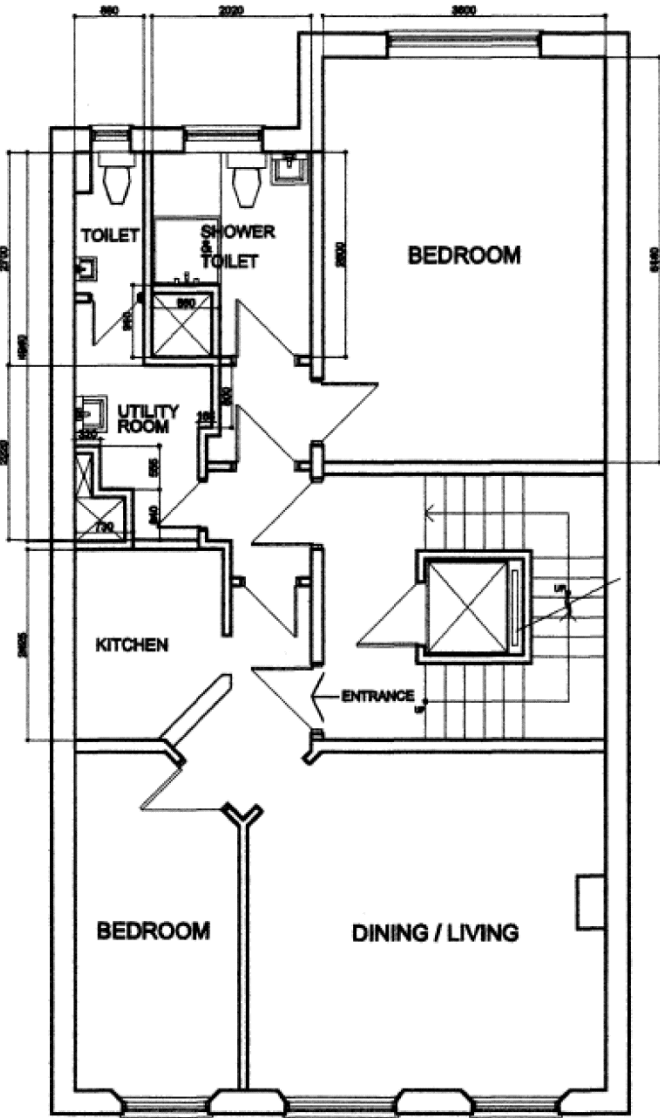
Accordingly, the proposal is considered acceptable and it is recommended that planning permission is granted, subject the conditions listed at the end of this report, which are necessary to make the development acceptable.

(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: JO PALMER BY EMAIL AT: JPALME@WESTMINSTER.GOV.UK

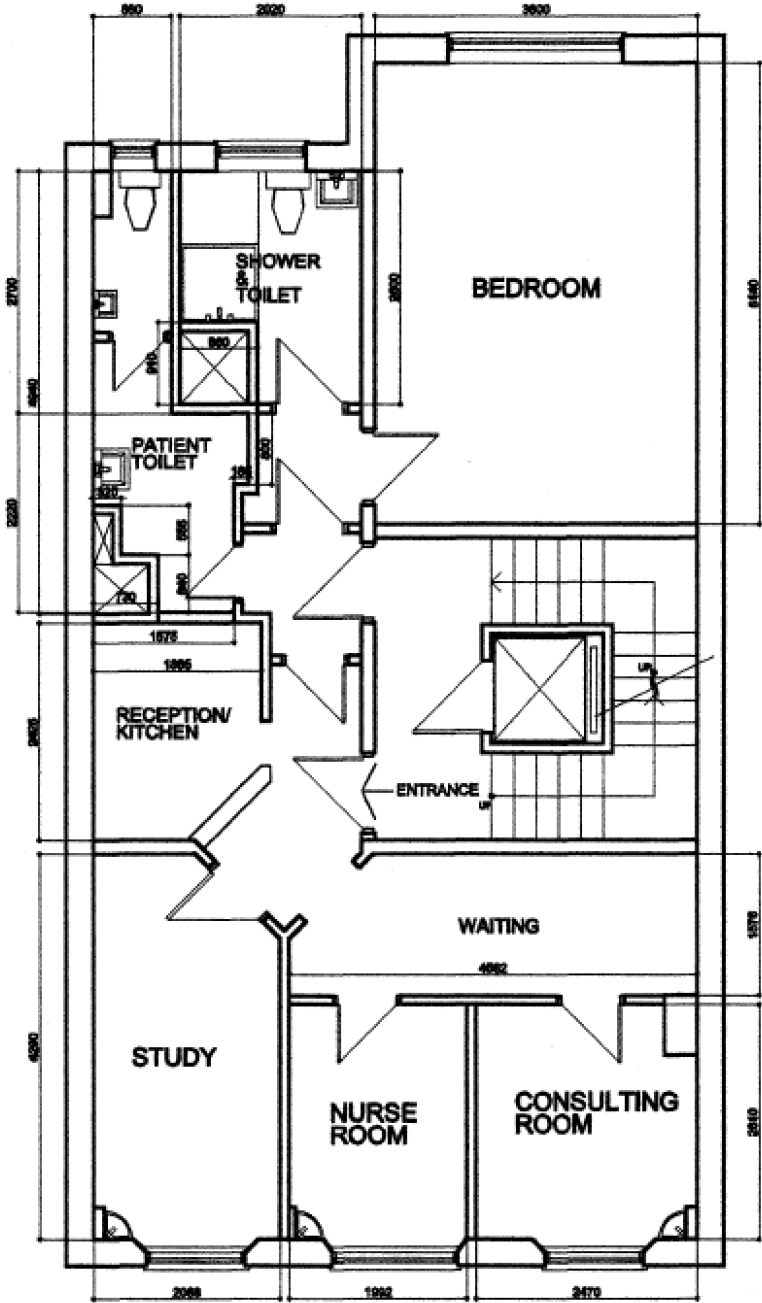
11. KEY DRAWINGS

Existing Floorplan:



2nd FLOOR PLAN (PRE-EXISTING)

Proposed Floorplan:



2nd FLOOR PLAN (EXISTING)

**DRAFT DECISION LETTER**

**Address:** Second Floor Flat, 27 Wimpole Street, London, W1G 8GN

**Proposal:** Use of the second floor as a sui generis use comprising part residential and part medical accommodation for a temporary period of five years.

**Reference:** 23/00945/FULL

**Plan Nos:** Drawing: WS-201.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 07866040155

**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 Within 2 months of this decision notice, you must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must then provide the waste and recycling storage within one month of us approving the details you have sent us, and thereafter permanently retain the stores according to these details. You must clearly mark them and make them available at all times to everyone using the premises. You must not use the waste and recycling store for any other purpose. (C14GB)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 3 Patients are only to be permitted within the second floor premises between 09:00 and 18:30 Monday to Friday; 10:00 and 16:00 on Saturdays and not at all on Sundays.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 4 Only Professor Sundara (Sam) Lingham can carry out the sui generis use comprising of medical and residential functions as shown on the approved drawings. Should

Professor Sundara (Sam) Lingham vacate the premises the second floor must revert back to residential use as a two bedroom flat (Use Class C3).

Reason:

Because of the special circumstances of this case we need to control future use of the premises if Professor Sundara (Sam) Lingham vacates the property. This is as set out in Policy 8 of the City Plan 2019 - 2040 (April 2021).

- 5 The use of the second floor as a sui generis use comprising part residential and part medical accommodation allowed by this permission can continue until five years after the date of this planning permission. After that date (or before should the applicant wish) the second floor premises must return to its previous use as a residential flat (Class C3).

Reason:

The use is not as set out in Policy 8 of the City Plan 2019 - 2040 (April 2021). Use for more than a limited period would be harmful to the objectives of the Plan. (R03AC)

- 6 A maximum of 15 patients a week can visit the premises.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

#### **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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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.

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.