



City of Westminster

# Committee Agenda

Title:

**Planning Applications Committee (1)**

Meeting Date:

**Tuesday 18th October, 2016**

Time:

**6.30 pm**

Venue:

**Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64  
Victoria Street, London, SW1E 6 QP**

Members:

**Councillors:**

Robert Davis (Chairman)  
Susie Burbridge  
Tim Mitchell  
David Boothroyd



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and listen to the discussion Part 1 of the Agenda**

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**Note for Members:** Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Head of Legal & Democratic Services in advance of the meeting please.

## **AGENDA**

### **PART 1 (IN PUBLIC)**

#### **1. MEMBERSHIP**

To note any changes to the membership.

#### **2. DECLARATIONS OF INTEREST**

To receive declarations by members and officers of the existence and nature of any personal or prejudicial interests in matters on this agenda.

#### **3. MINUTES**

To sign the minutes of the last meeting as a correct record of proceedings.

#### **4. PLANNING APPLICATIONS**

Applications for decision

##### **Schedule of Applications**

- |  |                          |
|--|--------------------------|
| <b>1. SHOP AT 61-63 PIMLICO ROAD, LONDON, SW1W 8NE</b>                     | <b>(Pages 7 - 18)</b>    |
| <b>2. SITE AT 41, 43, 57, 59, 61 AND 63 PIMLICO ROAD, LONDON, SW1W 8NE</b> | <b>(Pages 19 - 72)</b>   |
| <b>3. 141 HARLEY STREET, LONDON, W1G 6BQ</b>                               | <b>(Pages 73 - 112)</b>  |
| <b>4. 204A GREAT PORTLAND STREET, LONDON, W1W 5NP</b>                      | <b>(Pages 113 - 166)</b> |
| <b>5. THE WELLINGTON BUILDING, 28-32 WELLINGTON ROAD, LONDON, NW8 9SP</b>  | <b>(Pages 167 - 214)</b> |
| <b>6. 34 CIRCUS ROAD, LONDON, NW8 9SG</b>                                  | <b>(Pages 215 - 256)</b> |
| <b>7. 29-35 RATHBONE STREET, LONDON, W1T 1NJ</b>                           | <b>(Pages 257 - 286)</b> |

8.	4 - 6 ST EDMUND'S TERRACE, LONDON, NW8 7QP	(Pages 287 - 320)
9.	3 STRUTTON GROUND, LONDON, SW1P 2HX	(Pages 321 - 340)
10.	7-10 DEAN'S MEWS, LONDON, W1G 9EF	(Pages 341 - 370)
11.	11 - 12 FLORAL STREET, LONDON, WC2E 9DS	(Pages 371 - 394)
12.	79 - 81 GROSVENOR STREET, LONDON, W1K 3JU	(Pages 395 - 412)
13.	MOORINGS OPPOSITE HAMMERSMITH AND CITY LINE STATION ADJACENT TO BISHOP'S BRIDGE ROAD, LONDON	(Pages 413 - 428)
14.	CONNAUGHT HOTEL, CARLOS PLACE, LONDON, W1K 2AL	(Pages 429 - 438)

Charlie Parker  
Chief Executive  
10 October 2016

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CITY OF WESTMINSTER  
PLANNING APPLICATIONS COMMITTEE – 18th October 2016  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
1.	<b>RN NO(s) :</b> 16/07505/CLEU D  Churchill	Shop At 61-63 Pimlico Road London SW1W 8NE	Lawful development certificate to demonstrate that the lawful use of the site is as a Sui generis timber yard with ancillary showroom and trade counter.	
	<b>Recommendation</b> Refuse certificate: insufficient evidence to demonstrate on balance of probabilities that the lawful use of the site is not for Class A1 retail purposes.			
Item No	References	Site Address	Proposal	Resolution
2.	<b>RN NO(s) :</b> 16/04562/FULL  Churchill	Site At 41, 43, 57, 59, 61 And 63 Pimlico Road London SW1W 8NE	Demolition and reconstruction behind a retained front facade of 41, 43, 57, 59 and 63 Pimlico Road including the realignment of the rear elevation, the installation of new roof structures to match the existing, and the creation of external terraces; demolition of 61 Pimlico Road (the element directly fronting onto Pimlico Road) and construction of infill accommodation at ground, first, second and third floors; replacement of shopfronts to 41, 43, 57, 59 and 63 Pimlico Road; retention and sub-division of the builders' yard at 61 Pimlico Road (behind the frontage to Pimlico Road), installation of a partial mezzanine floor and creation of lateral connections at ground floor level to 41, 43, 57 and 59 Pimlico Road; replacement of the builders' yard glazed roof lantern; creation of roof level plant enclosure above part of the builders' yard; creation of 4no. Class A1 retail units at basement, ground and mezzanine level, with 7no. Class C3 residential dwellings at the first, second and third floor levels (with ground floor access); sub-surface excavation including lowering of ground floor slabs and the creation of additional basement accommodation; together with other external alterations.	
	<b>Recommendation</b> 1. Grant conditional permission subject to a S106 legal agreement to secure the following:  i. All highway works surrounding the site required for the development to occur including changes to on-street restrictions and footway repaving to Pimlico Road, all costs to be borne by the applicant. ii. Lifetime (25 years) car club membership for the occupiers of each residential unit.  2. If the S106 legal agreement has not been completed within 6 weeks of the date of this resolution then:  a) The Director of Planning shall consider whether it will be possible or 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;  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 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.			

Page 1

**CITY OF WESTMINSTER**  
**PLANNING APPLICATIONS COMMITTEE – 18th October 2016**  
**SCHEDULE OF APPLICATIONS TO BE CONSIDERED**

Item No	References	Site Address	Proposal	Resolution
3.	<b>RN NO(s) :</b> 16/05372/FULL 16/05373/LBC  Marylebone High Street	141 Harley Street London W1G 6BQ	Demolition of mews buildings at 28 and 29 Devonshire Mews West and lower ground and ground floor link building at the rear of 141 Harley Street and the erection of new building to include a three storey basement to the rear of the site in connection with the use of the 141 Harley Street and the lower ground and ground floor of 143 Harley Street for Class D1 medical purposes; installation of a new passenger lift to the rear of 141 Harley Street and installation of plant. (Site includes excavation part way under the pavement of Devonshire Mews West and use swap with 126 Harley Street).	
<p><b>Recommendation</b>  For the Committee's consideration:</p> <p>1. Does the Committee agree that the proposal's potential to complement and enhance the character and function of the Harley Street Special Policy Area justifies an exception being made to the limits on depth and projection under the highway set out in the basement policy?</p> <p>2. Subject to 1. above, grant conditional permission, subject to a S106 legal agreement to secure the following:</p> <p>i). Works shall not commence on site until planning permission has been secured to replace the shortfall in residential floorspace (minimum 215.6 sqm GEA) at an alternative site, as part of the overall land use package including the current application site and 126 Harley Street;</p> <p>ii). The medical use hereby approved shall not be occupied until the shortfall in new/additional residential floorspace has been provided at an alternative site and been made ready for occupation.</p> <p>3. 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> <p>4. Grant conditional listed building consent.</p> <p>5. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.</p>				
Item No	References	Site Address	Proposal	Resolution
4.	<b>RN NO(s) :</b> 15/09828/FULL  Marylebone High Street	204A Great Portland Street London W1W 5NP	Demolition of existing building and redevelopment to provide a new building comprising two basement levels, ground and first to eighth floors. Use of part basement and ground floors for dual/alternative retail (Class A1) or restaurant (Class A3) purposes, use of the remainder of the property as up to 31 flats (Class C3), including terraces and balconies, with ancillary car and cycle parking; provision of photovoltaic cells, a green roof and associated plant.	

**CITY OF WESTMINSTER**  
**PLANNING APPLICATIONS COMMITTEE – 18th October 2016**  
**SCHEDULE OF APPLICATIONS TO BE CONSIDERED**

<p><b>Recommendation</b></p> <p>1. Grant conditional permission subject to a s106 legal agreement to secure:</p> <p>a) Highways works around the site to facilitate the development (including the creation of a new crossover), all costs to be borne by the applicant;</p> <p>b) Replacement of any trees on the public highway on Great Portland Street, Carburton Street and Bolsover Street which need to be removed to facilitate the development;</p> <p>c) A Car Lift Management and Maintenance Plan;</p> <p>d) Unallocated residential parking available to all residents of the development without restriction;</p> <p>e) Life time car club membership in association with each of the new flats (minimum 25 years);</p> <p>f) Monitoring costs.</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution, then:</p> <p>a) The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not</p> <p>b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>				
Item No	References	Site Address	Proposal	Resolution
5.	<p><b>RN NO(s) :</b> 15/08352/FULL</p> <p>Regent's Park</p>	<p>The Wellington Building 28-32 Wellington Road London NW8 9SP</p>	<p>Demolition of existing building and erection of a new six storey, plus basement building with frontages to Wellington Street and Cochrane Street to provide 36 units for a dual/ alternative use as residential flats (Class C3) or serviced apartments (Sui Generis), with car and cycle parking at basement level and new landscaping.</p>	
<p><b>Recommendation</b></p> <p>1. Does the Committee consider the provision of a financial contribution of £4 million in lieu of on-site affordable housing provision to be acceptable, having regard to the particular site specific circumstances in this case?</p> <p>2. Subject to 1. above, grant conditional permission subject to completion of a legal agreement to secure the following:</p> <p>i. A financial contribution of £4 million to the Affordable Housing Fund (index linked and payable prior to commencement of development).</p> <p>ii. A management plan to demonstrate that those units within the development used as serviced apartments providing short term visitor accommodation are used only by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment.</p> <p>iii. Highway works in Wellington Road and Cochrane Street to form vehicular access to the site and amend the layout of the public highway to reflect the proposed development (appropriate arrangements to be agreed prior to commencement and highway works to be carried out prior to occupation at the applicant's expense).</p> <p>iv. Submission of a Site Environmental Management Plan (SEMP) and provision of a financial contribution of £28,000pa during the construction period to the Environmental Inspectorate to ensure compliance with the Code of Construction Practice.</p> <p>v. Provision and management of on-site residents car parking, including the making available of parking spaces to all occupiers of the building on an 'un-allocated' basis without restriction.</p>				

**CITY OF WESTMINSTER**  
**PLANNING APPLICATIONS COMMITTEE – 18th October 2016**  
**SCHEDULE OF APPLICATIONS TO BE CONSIDERED**

	<p>vi. Provision of costs for monitoring of agreement (£500 per Head of Term).</p> <p>3. If the S106 planning obligation has not been completed by 29 November 2016 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 such a decision under Delegated Powers; however, if not;</p> <p>b) The Director of Planning shall consider whether 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>			
Item No	References	Site Address	Proposal	Resolution
6.	<p><b>RN NO(s) :</b> 15/09219/FULL</p> <p>Abbey Road</p>	<p>34 Circus Road London NW8 9SG</p>	<p>Demolition of the existing buildings on site and erection of a part 3 and part 4 storey building incorporating a partial basement to form an independent medical diagnostic and outpatient centre associated with the Wellington Hospital. The building provides for up to 48 new consultant rooms, 13 treatment rooms and associated diagnostic facilities (Class D1) and a cafe. Refuse storage is proposed at ground level, and an enclosed rooftop plant room is set back from the fourth floor.</p>	
<p><b>Recommendation</b>  Grant conditional permission, subject to a section 106 legal agreement to secure:</p> <p>(a) Compliance with the Council's Code of Construction Practice and a contribution of £20,000 per annum during the period of construction towards the Environmental Inspectorate and Environmental Sciences to allow for monitoring during construction;</p> <p>(b) A carbon offset payment of £40,875 (index linked and payable on commencement of development); and</p> <p>(c) Payment of cost of monitoring the agreement.</p>				
Item No	References	Site Address	Proposal	Resolution
7.	<p><b>RN NO(s) :</b> 16/02884/FULL</p> <p>West End</p>	<p>29-35 Rathbone Street London W1T 1NJ</p>	<p>Alterations and extensions at basement, rear and roof level and partial change of use to provide a gym (Class D2) at basement, restaurant (Class A3) at ground floor and offices (Class B1) at first to third floor and fourth floor mezzanine with terraces, and installation of plant at third floor.</p>	
<p><b>Recommendation</b>  Refuse permission - detailed design.</p>				
Item No	References	Site Address	Proposal	Resolution
8.	<p><b>RN NO(s) :</b> 16/02747/FULL</p> <p>Regent's Park</p>	<p>4 - 6 St Edmund's Terrace London NW8 7QP</p>	<p>Demolition of the existing buildings and redevelopment of the site to provide a six storey building comprising 9 self-contained apartments, single storey basement level car parking, the provision of internal plant, cycle, refuse and recycling storage and the provision of roof level photovoltaic panels and brown roofs.</p>	
<p><b>Recommendation</b>  1. Grant conditional permission, subject to a section 106 legal agreement to secure:</p>				

**CITY OF WESTMINSTER**  
**PLANNING APPLICATIONS COMMITTEE – 18th October 2016**  
**SCHEDULE OF APPLICATIONS TO BE CONSIDERED**

	<p>a) Car lift, stacker and turntable maintenance plan;</p> <p>b) Highway alterations including reinstatement of redundant vehicle crossovers (or portion of), new vehicle crossovers and associated work (legal, administrative and physical), all costs to be borne by the applicant;</p> <p>c) Provision of 8 off street parking spaces within basement to be made available to all residents of the development on an unallocated basis without restriction; and</p> <p>d) The costs of monitoring the section106 legal agreement.</p> <p>2. If within six weeks of the resolution to grant conditional permission the S106 planning obligation has not been completed or there is no immediate prospect of the planning obligation being completed, then:</p> <p>a) The Director of Planning shall consider whether it would be possible and appropriate to issue permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not</p> <p>b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete a S106 planning obligation within an appropriate timescale, and that the proposal is 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>			
Item No	References	Site Address	Proposal	Resolution
9.	<b>RN NO(s) :</b> 16/02061/FULL  St James's	3 Strutton Ground London SW1P 2HX	Demolition of existing building and erection of an eight storey building over basement providing six residential flats (Class C3) on the upper floors and a retail unit (Class A1) at ground and basement levels including associated plant at basement, ground and sixth floor levels, roof terraces at sixth and seventh floor levels and PV panels at roof level.	
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Resolution
10.	<b>RN NO(s) :</b> 16/05491/FULL  West End	7-10 Dean's Mews London W1G 9EF	Demolition and re-development to provide four dwellings including external terraces on the western elevation to two dwellings and the installation of 8 air conditioning units.	
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Resolution
11.	<b>RN NO(s) :</b> 16/05805/FULL 16/05806/LBC  St James's	11 - 12 Floral Street London WC2E 9DS	Installation of new shopfront to no.11; use of part basement, part ground, first and second floors of no. 11 as retail (Class A1) with ancillary cafe and use of part basement floor of no. 12 as retail (Class A1); use of part basement, part ground, and first to fourth floors of no. 12 as offices (Class B1); and associated external alterations to nos. 11 and 12.	
	<b>Recommendation</b> 1. Grant conditional permission. 2. Grant conditional listed building consent. 3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.			

CITY OF WESTMINSTER  
PLANNING APPLICATIONS COMMITTEE – 18th October 2016  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
12.	RN NO(s) : 13/12738/FULL  West End	79 - 81 Grosvenor Street London W1K 3JU	Demolition of all existing buildings (with the exception of the first and second facades of No. 80) and erection of the new building over basement, ground, and five upper storeys including a roof top plant enclosure for dual / alternative use of part basement and part ground floor levels as either a retail unit (Class A1) and / or as a gallery (Class D1) and use of part basement, part ground, first, second, third, fourth and fifth floor levels for office purposes (Class B1), with associated terraces at fourth and fifth floor level.(ADDENDUM REPORT)	
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Resolution
13.	RN NO(s) : 16/02946/FULL  Hyde Park	Moorings Opposite Hammersmith And City Line Station Adjacent To Bishop's Bridge Road London	Use of two moorings opposite the Hammersmith and City line entrance to Paddington Station to provide one boat as a cafe/exhibition space (Use Class Sui Generis) and one boat as dual retail/restaurant (Class A1/A3). Associated installation of additional seating and railings on the roof of both vessels.	
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Resolution
14.	RN NO(s) : 16/05071/ADV  West End	Connaught Hotel Carlos Place London W1K 2AL	Display of Christmas tree on public highway adjacent to the Connaught Hotel at the junction of Mount Street and Carlos Place for a temporary period between 18 November 2016 and 6 January 2017.	
	<b>Recommendation</b> Grant conditional advertisement consent for a temporary period between 18 November 2016 and 6 January 2017.			

# Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 <sup>TH</sup> October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Churchill	
Subject of Report	SHOP AT, 61-63 PIMLICO ROAD, LONDON, SW1W 8NE,		
Proposal	Lawful development certificate to demonstrate that the lawful use of the site is as a sui generis timber yard with ancillary showroom and trade counter.		
Agent	Quod		
On behalf of	Travis Perkins (Properties) Limited		
Registered Number	16/07505/CLEUD	Date amended/ completed	2 September 2016
Date Application Received	5 August 2016		
Historic Building Grade	Unlisted		
Conservation Area	Belgravia		

## 1. RECOMMENDATION

Refuse certificate: insufficient evidence to demonstrate on balance of probabilities that the lawful use of the site is not for Class A1 retail purposes.

## 2. SUMMARY

This application for a Lawful Development Certificate has been submitted by Travis Perkins (Properties) Ltd. The application relates to the existing use of the premises at nos. 61 - 63 Pimlico Road.

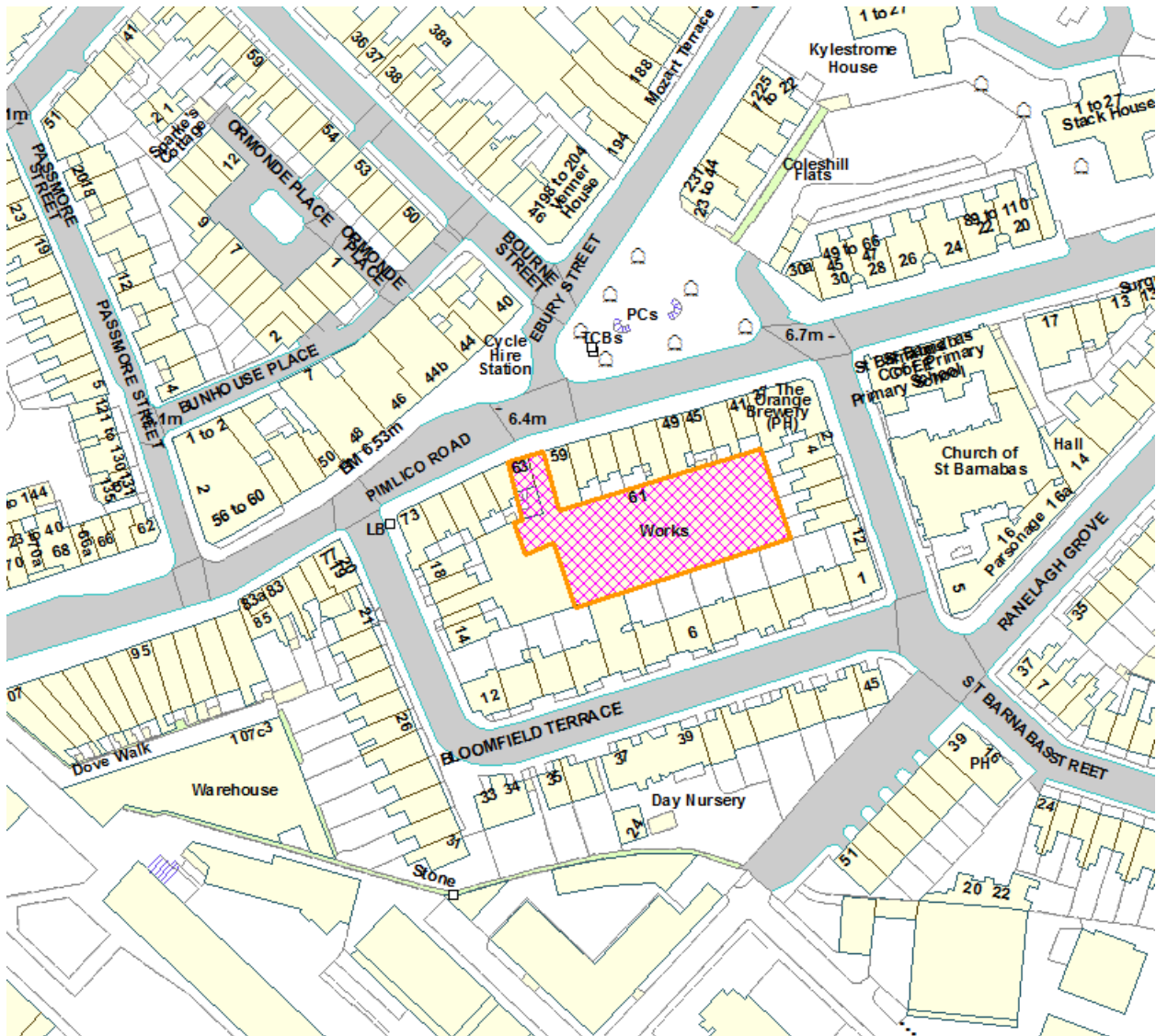
The key issue is whether the applicant has demonstrated on the balance of probabilities that the lawful use of the site is a sui generis timber yard with ancillary showroom and trade counter rather than a Class A1 retail unit; and has been used as a sui generis timber yard with ancillary showroom and trade counter for more than ten years before the date of this application.

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application.

In this case, it is recommended not to issue a Lawful Development Certificate because insufficient evidence has been submitted to demonstrate that, on the balance of probability, the use of 61 - 63 Pimlico Road has been as a sui generis timber yard with ancillary showroom and trade counter

continuously for ten or more years prior to the date of receipt of the application. Furthermore, the available evidence indicates that, on the balance of probability, 61 - 63 Pimlico Road has a lawful A1 retail use.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



FIGURE 22. 57-63 PIMLICO ROAD

**Pimlico Road frontage**

## 5. REPRESENTATIONS RECIEVED

### GROSVENOR ESTATE (FREEHOLDER):

- Asserts that the lawful use of the site is for Class A1 retail purposes;
- Facts available to the Inspector in 2002 led him to conclude that the lawful use of the site is for Class A1 retail purposes;
- The applicant has not provided sufficient evidence to demonstrate continuous sui generis use for a period of at least 10 years;
- The applicant's leases signed in 2004 agree that the premises will only be used for Class A1 purposes.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The principal building that comprises the majority of the application site is 61 Pimlico Road, a purpose built 19<sup>th</sup> century timber yard building, spanning the rear of 41 – 63 Pimlico Road. The timber yard is set behind frontage buildings on all 4 sides and is separated from other curtilages by a 7m or so high brick boundary wall. The only frontage it has to Pimlico Road, at ground floor level, is an open vehicle and pedestrian access/egress between 59 and 63 Pimlico Road. The yard is in use as a timber and builder's merchants and is occupied by Travis Perkins.

63 Pimlico Road is a separate shop unit at basement and ground floor level, which is linked to the timber and builder's merchants to the rear at 61 Pimlico Road. 63 Pimlico Road is in use as a kitchen showroom and is also occupied and managed by Travis Perkins (Benchmarx Kitchens at Travis Perkins).

### 6.2 Recent Relevant History

In **January 2001**, applications for planning permission, conservation area consent and listed building consent were submitted for:

'Alterations to 16 Bloomfield Terrace and use as 2 houses; demolition and redevelopment of 59 and 63 Pimlico Road behind retained elevations to form 2 shops and 2 flats; demolition of timber yard at 61 Pimlico Road and erection of 5 houses'.

An appeal was lodged to the Secretary of State against a failure to give notice within the prescribed period of a decision on these applications.

The applications were presented to Committee on **26 July 2001** where Members resolved that, had an appeal not been lodged, the committee would have refused permission and conservation area consent on grounds of:

- i. Loss of historic use and buildings to the detriment of the character and function of the conservation area;

- ii. Loss of the timber yard/ builders' merchants/ hardware store contrary to the objective of sustaining a range of local services and maintaining the diversity of Westminster's shopping centres.

The applications were all dismissed at appeal on **15<sup>th</sup> January 2002**. It should be noted that the Inspector only refused listed building consent on the grounds that planning permission and conservation area consent were refused and were necessary to facilitate the development. The Inspector's principal reasons for dismissing the appeals are summarised as follows:

1. The building makes a positive contribution to the character and appearance of the conservation area and the criteria against which such buildings should be judged did not support the case for demolition. The presumption in favour of preservation, in accordance with Government policy and the development plan should therefore apply; and
2. Removal of the builder's merchants would result in the loss of 1,500 square metres of mainly ground floor shopping floorspace, considered to be in breach of adopted local planning policy (the Inspector having determined that the builders' merchants has a Class A1 use and therefore forms part of the protected retail frontage).

(Appeal Refs: App/X5990/E/01/1066683, E/01/1066684, and A/01/1066685)

## **7. THE PROPOSAL**

This application for a lawful development certificate seeks to demonstrate that the lawful use of the site is not for Class A1 retail purposes but as a sui generis timber yard with ancillary showroom and trade counter.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Considerations**

In dealing with a Lawful Development Certificate, the burden of proof rests with the applicant, and the standard of proof is on the 'balance of probabilities'.

A use can be considered lawful if it has been carried out for four or 10 years in accordance with Section 191 of the Town and Country Planning Act (as amended by Section 10 of the Planning and Compensation Act 1991).

In the context of the current submission, the 10 year rule would apply for the use as a sui generis timber yard with ancillary showroom and trade counter.

The statutory framework covering "lawfulness" for lawful development certificates is set out in section 191(2) of the Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application.

### **The Applicant's Evidence**

The applicant asserts that the lawful use of the premises is as a sui generis timber yard with ancillary showroom and trade counter.

The applicant has submitted the following evidence in support of their application:

1. Application form;
2. Site location plan;
3. Floor plan;

The floorplan shows that the ground floor is laid out as warehouse; showroom; trade counter; tool hire workshop; and tool hire area.

4. Relevant Appeal Decisions (x3) and Case law;

The applicant has cited the following guidance, appeal decisions and case law as evidence to confirm that a timber yard or builder's merchants is considered to be sui generis (or without use class).

- i. Development Control Practice (DCP) Manual (sections 21.1 and 4.333);
- ii. Appeal decision dated 27<sup>th</sup> February 2007: Plumstead High Street, LB Greenwich (Ref: APP/E5330/C/06/2017752);
- iii. Appeal decision dated 01 August 1989: Percy Place, LB Hammersmith and Fulham (Ref: APP/C/88/H59390/24/P6);
- iv. Appeal decision dated 26 March 2015: Mills Road, Bath and North East Somerset (Ref: APP/F0114/A/2229371);
- v. Case Law: Brazil (Concrete)Ltd v Amersham RDC 1967

5. Description of use of 61 – 63 Pimlico Road/ Travis Perkins (set out in letter from Quod dated 27 July 2016);

The applicant seeks to both describe the use and demonstrate the premises at 61 - 63 Pimlico Road has been used as a sui generis timber yard with ancillary showroom and trade counter continuously for ten or more years prior to the date of receipt of the application

The applicant asserts that Timber Yards and Builder's Merchants are not listed in the 1987 Use Classes Order (UCO) and, as such, are considered to be without class or sui generis.

The applicant confirms the site has been in continuous use as a timber yard since it opened in 1840; and that Travis Perkins acquired the lease in 2000 and has operated it as a timber merchant since this time.

The applicant asserts that across the UK, Travis Perkins is recognised as a sui generis use, and displays the following characteristics:

- i. Supplies building materials, timber, plumbing and heating, kitchens and bathrooms to trade professionals and builders;
- ii. Associated with Class B8 (storage and distribution);
- iii. Often found on industrial estates surrounded by such uses;
- iv. Employment generating sui generis uses.

The applicant provides both national and local sales data for Travis Perkins. Based on national Travis Perkins data:

- 70% of sales to trade account customers;
- 30% sales to cash customers (25% to builders and tradesmen without a trade account and 5% to the general public);
- 65% of sales by phone or email and delivered directly from the manufacturer, suppliers or direct from Travis Perkins's distribution hubs;
- Travis Perkins marketing strategy focused on trade account customers.

In regard to the Travis Perkins Pimlico branch data:

- 79% of sales to trade account customers (higher than national average);
- 21% sales to cash customers (20% to builders and tradesmen without a trade account and 1% to the general public);
- 75.4% of sales from the timber yard;
- 15.8% of sales from tool hire.

A breakdown of the floorspace of the 61 – 63 Pimlico Road is provided to demonstrate over 50% of floor area is dominated by the timber, forest products and heavy side products (storage of concrete, cement etc.):

Use	% of Total Floor Area
Forest product yard	22.8
Timber Yard	20.2
Walkways and Working Area	17.3
Trade Area	15.
Tool Hire	8
Heavyside Yard (concrete, cement etc.)	7
Benchmark Kitchen Showroom (no.63)	7
Office	2.3
<b>Total</b>	<b>100%</b>

In summary, the applicant asserts that the use of 61-63 Pimlico Road is different from a shop or a Class B8 unit and as such a use is not listed in the Use Class Order the site should be considered sui generis.

6. Undated Historic photograph of 61-63 Pimlico Road showing the entrance to 'W. H. Newson Timber Yard;

7. Statutory Declaration by Michael Shields (Travis Perkins Branch Manager) dated 04 August 2016.

The statutory declaration corroborates the sales data, and floorspace figures provided by Travis Perkins, as well as the period of time the site has been used as Timber Yard and occupied by Travis Perkins.

### **The City Council's records**

The Council's records indicate an appeal relating to this premises was dismissed on 15<sup>th</sup> January 2002.

In reaching a decision, the Inspector considered whether the timber yard is a retail use, and based on the facts of the case, the Inspector concluded that the lawful use of 61-63 Pimlico Road is for Class A1 retail purposes. The Inspector is quoted as follows:

"Para. 43. In this instance the timber yard is completely enclosed. It is compact and appears to me to be a single planning unit. Significantly the yard includes the display of a range of goods for sale, including building materials, tools, hardware and paint. The goods are freely available both to visiting members of the public and the building trade, without any distinction or the use of a separate trade counter. Any processing is limited to the cutting of sawn and planed timber and sheet material into smaller pieces, processes not dissimilar in principle to the cutting of cloth in a fabric shop, clearly ancillary activities. The business does not appear to have any significant storage other than for goods to be sold on premises. It follows that despite timber yards not being specifically identified as shops in the UCO, the activities actually taking place, as a matter of fact and degree, satisfy category (g) of Part A to the Schedule of the Order which identifies Class A1 uses.

Para. 44. In making my assessment, that this timber yard has an A1 retail use, it needs to be recognized that goods can be bought on account, and orders made by telephone for home delivery, at most shops. Account facilities do not alter the fact that the goods are offered for display and sale without restriction and home delivery does not appear to me to equate to a separate distribution function.

Para. 51. I have also taken into account the assertion that to accept what has been described as a builder's yard as a retail use, would set a most damaging general precedent which, amongst other matters, could harm national policies to encourage shopping in town centres. But I have come to my conclusions on the facts of this case. No general precedent implying the categorization of all builders' yards as retail uses would therefore be set."

### **Other evidence**

The freeholder has provided details of the applicant's leases for 61 and 63 Pimlico Road dated 27<sup>th</sup> February 2004.

The lease for 61 Pimlico Road states the permitted use is "To use the Premises only for the sale and storage of timber and building supply materials with ancillary offices or for any use within Class A1".

At 63 Pimlico Road, the lease states the permitted use is “To use the Premises only as to the ground and basement as a tool hiring shop or for any other retail use within Class A1”.

The leases give an indication that both parties, applicant and freeholder, agreed that the site would be used for Class A1 purposes.

### **Determination of the Application**

A key consideration in the determination of this application is the appeal decision in 2002 that is directly relevant to this site. The evidence available to the Inspector in 2002 led to the conclusion that the lawful use of the premises is for Class A1 retail purposes. This application does not address the Inspector’s conclusions on lawful use in anyway, nor has it provided evidence to demonstrate that, on the balance of probability, a material change of use has occurred since the 2002 appeal.

The appeal decisions and case law cited by the applicant are not specific to this site and do not set a general precedent that all timber yard or builder’s merchants are categorised as sui generis. The non-binding nature of appeal decisions is set out in para.51 of the 2002 appeal decision where it was accepted that the conclusions were based on the facts of the case, and no general precedent implying the categorization of all builders’ yards as retail uses would therefore be set.

The lawful use of a timber yard or builder’s merchants is a question of fact and degree in each specific case. One timber yard or builder’s merchant will not necessarily be the same as another.

To conclude, it is considered that insufficient evidence has been submitted to demonstrate that, on the balance of probability, the use of 61 - 63 Pimlico Road has been used as a sui generis timber yard with ancillary showroom and trade counter continuously for ten or more years prior to the date of receipt of the application. Furthermore, the available council evidence indicates that, on the balance of probability, 61 - 63 Pimlico Road has a lawful A1 retail use.

## **9. BACKGROUND PAPERS**

1. Application form.
2. Letter on behalf of Travis Perkins from Quod dated 27 July 2016.
3. Statutory Declaration of Michael Shields dated 4<sup>th</sup> August 2016.
4. Letter on behalf of Grosvenor Estates from Gerald Eve dated 22 September 2016.
5. Appeal decision dated 15 January 2002.

### **Selected relevant drawings**

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

<p>IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT DDORWARD@WESTMINSTER.GOV.UK</p>
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## 10. KEY DRAWINGS





**DRAFT DECISION LETTER**

**Address:** Shop At, 61-63 Pimlico Road, London, SW1W 8NE,

**Proposal:** Lawful development certificate to demonstrate that the lawful use of the site is as a Sui generis timber yard with ancillary showroom and trade counter.

**Reference:** 16/07505/CLEUD

**Plan Nos:** Site location plan; Floor plan; Letter from Quod dated 27 July 2016 and appendices incl. Appeal Decisions (x3), Historical Photograph; Statutory Declaration by Michael Shields (Travis Perkins Branch Manager) dated 04 August 2016.

**Case Officer:** David Dorward

**Direct Tel. No.** 020 7641 2408

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

Insufficient evidence has been submitted to demonstrate that, on the balance of probability, the use of 61 - 63 Pimlico Road has been as a sui generis timber yard with ancillary showroom and trade counter continuously for ten or more years prior to the date of receipt of the application. Furthermore, the available evidence indicates that, on the balance of probability, 61 - 63 Pimlico Road has a lawful A1 retail use.

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.

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 <sup>th</sup> October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Churchill	
Subject of Report	Site At 41, 43, 57, 59, 61 And 63, Pimlico Road, London, SW1W 8NE,		
Proposal	Demolition and reconstruction behind a retained front facade of 41, 43, 57, 59 and 63 Pimlico Road including the realignment of the rear elevation, the installation of new roof structures to match the existing, and the creation of external terraces; demolition of 61 Pimlico Road (the element directly fronting onto Pimlico Road) and construction of infill accommodation at ground, first, second and third floors; replacement of shopfronts to 41, 43, 57, 59 and 63 Pimlico Road; retention and sub-division of the builders' yard at 61 Pimlico Road (behind the frontage to Pimlico Road), installation of a partial mezzanine floor and creation of lateral connections at ground floor level to 41, 43, 57 and 59 Pimlico Road; replacement of the builders' yard glazed roof lantern; creation of roof level plant enclosure above part of the builders' yard; creation of 4no. Class A1 retail units at basement, ground and mezzanine level, with 7no. Class C3 residential dwellings at the first, second and third floor levels (with ground floor access); sub-surface excavation including lowering of ground floor slabs and the creation of additional basement accommodation; together with other external alterations.		
Agent	Gerald Eve		
On behalf of	Grosvenor Estate		
Registered Number	16/04562/FULL	Date amended/ completed	16 May 2016
Date Application Received	16 May 2016		
Historic Building Grade	Unlisted		
Conservation Area	Belgravia		

## 1. RECOMMENDATION

1. Grant conditional permission subject to a S106 legal agreement to secure the following:
  - i. All highway works surrounding the site required for the development to occur including changes to on-street restrictions and footway repaving to Pimlico Road, all costs to be borne by the applicant; and
  - ii. Lifetime (25 years) car club membership for the occupiers of each residential unit.

2. If the S106 legal agreement has not been completed within 6 weeks of the date of this resolution then:

- a) The Director of Planning shall consider whether it will be possible or 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;
- 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 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.

## 2. SUMMARY

The application site, known as Newson's yard, comprises of an existing timber yard (Travis Perkins Ltd timber and builder's merchants, 61 Pimlico Road), and 5 three storey buildings fronting Pimlico Road with retail uses at the ground floor and residential dwellings above at 41, 43, 57, 59, and 63 Pimlico Road.

The site lies within the Belgravia Conservation Area and all the buildings date from the mid 19<sup>th</sup> century. The site forms part of core shopping frontage within the Pimlico Road local shopping centre

The proposed development involves reconfiguring and extending the existing buildings in order to increase the retail and residential floorspace. The existing site comprises five retail units and five residential dwellings. The proposed development would create four retail units and seven residential dwellings.

The key issues with this application are:

- The land use implications arising from the reconfiguration of existing retail premises including the timber yard;
- The impact of the development on the character and appearance of the Belgravia conservation area;
- The impact of the proposal on the amenity of neighbouring occupiers.
- The impact of the proposal on traffic and parking.

More than 300 objections have been received on a number of grounds, principally the loss of the timber yard which the objectors consider to be an important local service contributing to the historic and mixed use character of the area, as well as objections to the loss of the retail uses which occupy the smaller retail units.

A number of letters are in support of the scheme and state that the timber yard causes local traffic problems, and also that the proposals will help increase footfall, regenerate, and enhance the local shopping centre.

The proposals would increase both retail and residential floorspace on site. The amalgamation and reconfiguration of the existing retail premises including the timber yard to provide 4 no. separate retail units is considered acceptable in land use terms. The reconfiguration and extension of residential

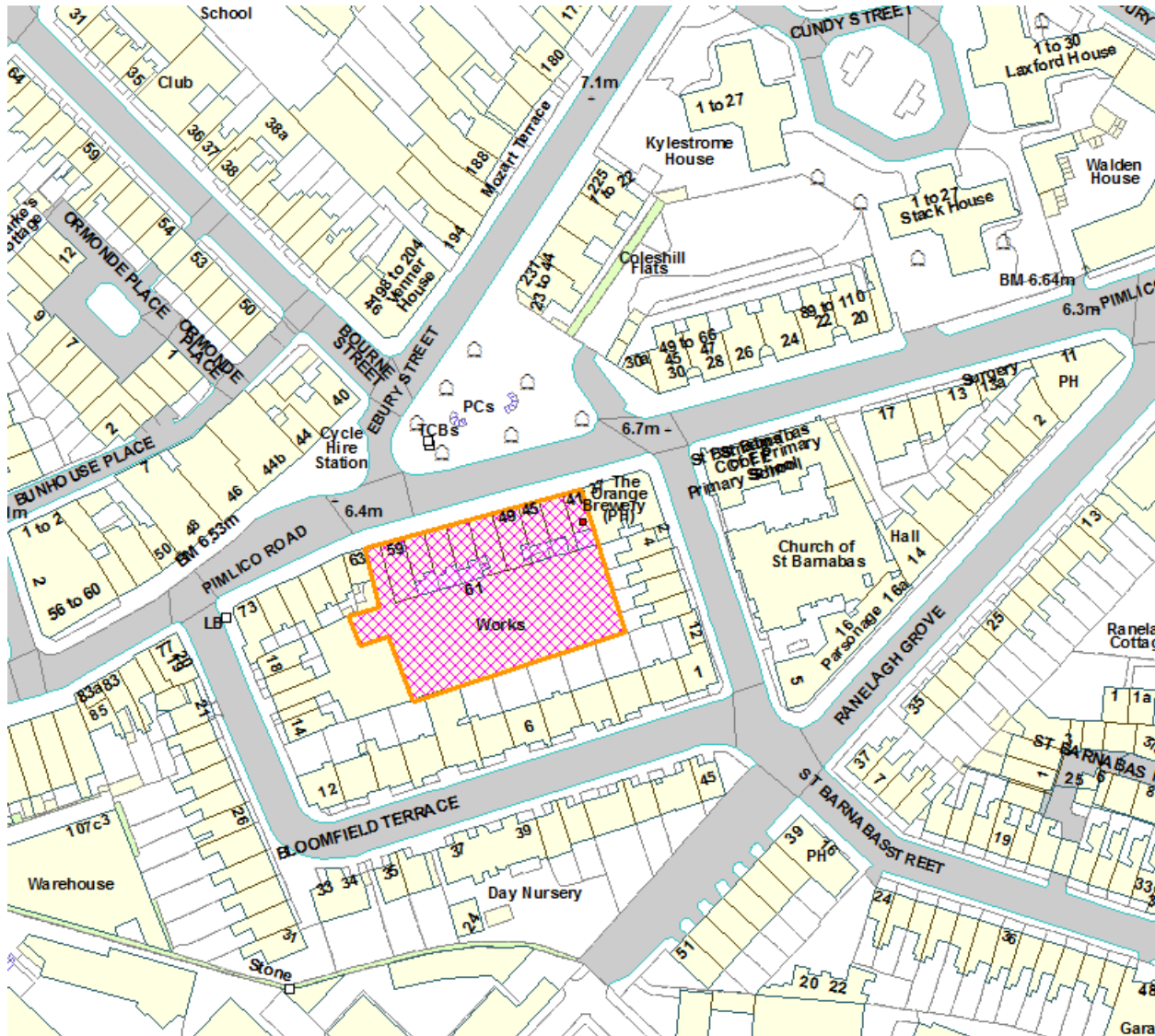
floorspace on the upper floors of 41 – 43 and 57 - 63 Pimlico Road is also acceptable in land use terms.

The majority of the existing timber yard structure will be retained. The works to the timber yard relate primarily to the internal layout which is not subject to planning control. These works of subdivision and alteration could be carried out without planning permission and cannot be considered to have any physical impact on the character or appearance of the conservation area.

The scheme would be controlled by the Council's new Code of Construction Practice, to ameliorate disruption from building works.

In all other respects the scheme is considered acceptable for the reasons set out in the report subject to necessary conditions and the completion of a S106 legal agreement.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



FIGURE 22. 57-63 PIMLICO ROAD

Front elevation 57 – 63 Pimlico Road





FIGURE 21. 41-43 PIMLICO ROAD

Front elevation 41 – 43 Pimlico Road





Historic and existing frontage, 61 Pimlico Road



**Interior of Travis Perkins, 61 – 63 Pimlico Road**

## 5. CONSULTATIONS

### BELGRAVIA SOCIETY:

Objection on the following grounds:

#### Land use

- The application is incorrect as the timber yard is a sui generis use and not Class A1;
- Change of use from sui generis to A1 retail would adversely affect heritage, local business, and local employment which should be protected;
- Loss of 3 bed family sized unit (N.B the plans have since been amended to incorporate a family sized unit);
- Lack of active frontages, combining 4 existing shopfronts into 2 double shopfront will lead to a less active shop frontage;
- Combining smaller units into larger units reduces the possibility of small business which give vitality and choice to the local shopping area;
- The provision of two large units is out of keeping with traditional shopping in the area and the role and function of Pimlico Road local centre.

#### Heritage/ Design

- Subdividing timber yard will destroy visual integrity of timber yard;
- Historic England confirms the timber yard is of strong local historic importance;
- Additional height and bulk above 61 Pimlico Road undermines the visual aspect of the terrace;
- New shopfronts and joining the shops together will adversely affect the character and appearance of Pimlico Road;

#### Transport

- The Society doubts the information in the traffic report and notes no reference is made to parking.

#### Other issues:

- Lateral residential units rather than vertical residential units avoids government legislation and does not allow residents to acquire a freehold, or manage the buildings in which they live;
- The appellants carried out an inadequate public consultation with local residents prior to submitting the application.
- The timber yard is an asset of community value

### BELGRAVIA NEIGHBOURHOOD FORUM:

Comment that they would encourage and welcome even smaller retail and work units in the area where possible.

### BELGRAVIA RESIDENTS ASSOCIATION:

No response to date.

### HISTORIC ENGLAND:

Recommendation: The application should be determined in accordance with national and local policy guidance.

**BUILDING CONTROL:**

The structural method statement is considered to be acceptable. An investigation of existing structures and geology has been undertaken and found to be of sufficient detail. The existence of groundwater, including underground rivers, has been researched and the likelihood of local flooding or adverse effects on the water table has been found to be negligible. The basement is to be constructed using traditional underpinning with internal RC retaining walls which is considered to be appropriate for this site. The proposals to safeguard adjacent properties during construction are considered to be acceptable.

**HIGHWAYS PLANNING MANAGER:**

Unacceptable on transport grounds but could be made acceptable. The creation of 2 additional residential units without off-street parking is likely to increase stress levels but a refusal on parking grounds would be difficult to sustain.

Conditions are recommended to secure cycle parking and a Servicing Management Plan. If minded to grant permission, a legal agreement should cover highway works to return the footway crossover on Pimlico Road to footway and to amend the waiting and loading restrictions associated with the crossover.

**ENVIRONMENTAL HEALTH:**

Recommend a number of conditions and informatives to ensure compliance with the Council's noise standards.

**CLEANSING MANAGER:**

No objection subject to condition requiring details of waste and recycling stores.

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

No. Consulted: 434

Total No. of replies: 332

No. of objections: 306

No. in support: 26

306 individual objections on some or all of the following grounds:

- Loss of historic timber yard;
- The timber yard is the oldest (175 years) in London and should be preserved;
- Timber yard is an important local service contributing to the historic and mixed use character of the area;
- Proposals would adversely impact the character of the area;
- The proposals would result in the loss of existing A1 gallery uses;
- This area is
- Adverse impact on the character and appearance of the Belgravia Conservation Area;
- The design, bulk, massing is unacceptable;
- The proposals represent facades which is unacceptable;
- Proposed development is over-bearing, and out of scale.
- Proposals represent an over-development of the site;
- Proposals will adversely affect neighbours sunlight/ daylight;
- Proposals will adversely affect residential amenity in terms of sunlight/ daylight, loss of privacy, increase in noise and disturbance;

- The timber yard should not be demolished in order to build luxury flats;
- The timber yard should be used as market hall for smaller independent retailers.

26 letters in support on some or all of the following grounds:

- Timber yard causes local traffic problems;
- Proposals will help increase footfall, regenerate, and enhance the local shopping centre;
- The area lacks essential services (greengrocers, bakers, butchers, repairers etc.)
- The Pimlico Road Association is misrepresenting its members who support the proposals.

Other representations:

PIMLICO ROAD ASSOCIATION:

Objection on the following grounds:

- Majority of member not supportive;
- Building is of architectural merit;
- Loss of existing single units to create double units is detrimental to retail mix and feel of area;
- Proposed large units not appropriate in this area (more suitable to a High Street);
- Inappropriate sub-division of Yard building;
- Loss of established businesses;
- Loss of jobs.

345 questionnaires have been submitted by the retail occupier of 43 Pimlico Road Humphrey Carrasco Ltd. The questionnaires are not dated but appear to have been distributed and completed prior to the submission of this planning application. The questions relate to the applicant's initial development proposals which were not carried through to planning application stage. The questionnaires generally demonstrate that people are against the redevelopment of Newson's Yard.

A petition with 1235 signatures has been submitted by the 'Pimlico Road campaign team' asking Westminster Council to stop the destruction of a historic 175 year old timber and six surrounding galleries.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site is located on the south side of Pimlico Road and comprises of five principal buildings:

- 41 Pimlico Road;
- 43 Pimlico Road;
- 57 Pimlico Road;
- 59 Pimlico Road; and

- 61 - 63 Pimlico Road.

The site, Newson's yard, is almost completely enclosed by 19<sup>th</sup> century residential development at Bloomfield terrace and St Barnabas Street, and commercial development, with residential above, along Pimlico Road.

The principal building that comprises the majority of the application site is 61 Pimlico Road, a purpose built 19<sup>th</sup> century timber yard building, spanning the rear of 41 – 63 Pimlico Road. The timber yard is set behind frontage buildings on all 4 sides and is separated from other curtilages by a 7m or so high brick boundary wall. The only frontage it has to Pimlico Road, at ground floor level, is an open vehicle and pedestrian access/egress between 59 and 63 Pimlico Road. The yard is in use as a timber and builder's merchants and is occupied by Travis Perkins.

No. 63 Pimlico Road is a separate shop unit at basement and ground floor level, which is linked to the timber and builder's merchants to the rear at 61 Pimlico Road. 63 Pimlico Road is in use as a kitchen showroom and is also occupied and managed by Travis Perkins (Benchmarx Kitchens at Travis Perkins). There is a separate residential dwelling on the upper floors.

Nos.41 and 43 Pimlico Road are 3 storey buildings fronting Pimlico Road which appear to have been constructed as a pair dating from the 19<sup>th</sup> century. The buildings comprise of retail uses with traditionally proportioned shopfronts at ground floor, and residential dwellings above. No.41 is occupied by a carpet shop 'Blenheim Carpets' and 43 is occupied by an antiques dealer 'Humphrey Carrasco Ltd'.

Nos.57 and 59 Pimlico Road are also 3 storey buildings dating from the 19<sup>th</sup> century, with retail uses at the ground floor and residential dwellings above. No.57 is occupied by a carpet shop 'Senaiy Carpets' and 59 is an interior and architectural design studio 'Coote & Bernardi'.

The application site lies within the Belgravia Conservation Area, and forms part of core shopping frontage within the Pimlico Road local shopping centre.

## 6.2 Recent Relevant History

### **Site at 59 & 61 – 63 Pimlico Road (Travis Perkins) & 16 Bloomfield Terrace**

In **January 2001**, applications for planning permission, conservation area consent and listed building consent were submitted for:

'Alterations to 16 Bloomfield Terrace and use as 2 houses; demolition and redevelopment of 59 and 63 Pimlico Road behind retained elevations to form 2 shops and 2 flats; demolition of timber yard at 61 Pimlico Road and erection of 5 houses'.

Road opposite the

An appeal was lodged to the Secretary of State against a failure to give notice within the prescribed period of a decision on these applications.

The applications were presented to Committee on **26 July 2001** where Members resolved that, had an appeal not been lodged, the committee would have refused permission and conservation area consent on grounds of:

- i. Loss of historic use and buildings to the detriment of the character and function of the conservation area;
- ii. Loss of the timber yard/ builders' merchants/ hardware store contrary to the objective of sustaining a range of local services and maintaining the diversity of Westminster's shopping centres.

The applications were all dismissed at appeal on **15<sup>th</sup> January 2002**. It should be noted that the Inspector only refused listed building consent on the grounds that planning permission and conservation area consent were refused and were necessary to facilitate the development. The Inspector's principal reasons for dismissing the appeals are summarised as follows:

1. The building makes a positive contribution to the character and appearance of the conservation area and the criteria against which such buildings should be judged did not support the case for demolition. The presumption in favour of preservation, in accordance with Government policy and the development plan should therefore apply; and
2. Removal of the builder's merchants would result in the loss of 1,500 square metres of mainly ground floor shopping floorspace, considered to be in breach of adopted local planning policy (the Inspector having determined that the builders' merchants has a Class A1 use and therefore forms part of the protected retail frontage).

(Appeal Refs: App/X5990/E/01/1066683, E/01/1066684, and A/01/1066685)

#### Lawful Development Certificate (pending) (16/07505/CLEUD)

An application for a Lawful Development Certificate has been submitted by Travis Perkins (Properties) Ltd and is to be considered at this committee.

The application seeks to demonstrate that the lawful use of the site is not for Class A1 retail purposes but as a sui generis timber yard with ancillary showroom and trade counter.

It is recommended to refuse the certificate on grounds of insufficient evidence to demonstrate on balance of probabilities that the lawful use of the site is not for Class A1 retail purposes.

## **7. THE PROPOSAL**

The proposed development involves reconfiguring and extending the existing buildings in order to increase the retail and residential floorspace.

In summary, the proposals comprise:

- Demolition and reconstruction behind a retained front facade of 41, 43, 57, 59 and 63 Pimlico Road including the realignment of the rear elevation, the installation of new roof structures to match the existing, and the creation of external terraces;
- Demolition of 61 Pimlico Road (the element directly fronting onto Pimlico Road) and construction of infill accommodation at ground, first, second and third floors;
- Replacement of shopfronts to 41, 43, 57, 59 and 63 Pimlico Road;
- Retention and sub-division of the builders' yard at 61 Pimlico Road (behind the frontage to Pimlico Road), installation of a partial mezzanine floor and creation of lateral connections at ground floor level to 41, 43, 57 and 59 Pimlico Road;
- Replacement of the builders' yard glazed roof lantern;
- Creation of roof level plant enclosure above part of the builders' yard;
- Creation of 4no. Class A1 retail units at basement, ground and mezzanine level, with 7no. Class C3 residential dwellings at the first, second and third floor levels (with ground floor access);
- Sub-surface excavation including lowering of ground floor slabs and the creation of additional basement accommodation; together with other external alterations.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The application site forms part of the core shopping frontage within the Pimlico Road local shopping centre. The site is outside of the Central Activities Zone.

This is a mixed-use development which seeks to increase the retail and residential floorspace on site.

The existing and proposed land uses, both GEA and GIA, can be summarised as follows:

Use Class	Existing (GEA sqm)	Proposed (GEA sqm)	Change (GEA sqm)
Shop A1	2251	3066	+815
Residential C3	457	689	+232
<b>Total</b>	<b>2708</b>	<b>3755</b>	<b>+1047</b>

Table 1: Land Use (GEA): 41, 43, 57, 59, 61 & 63 Pimlico Road (Applicant's calculations)

Use Class	Existing (GIA sqm)	Proposed (GIA sqm)	Change (GIA sqm)
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<b>Shop A1</b>	1984	2802	+818
<b>Residential C3</b>	383	604	+221
<b>Total</b>	<b>2367</b>	<b>3406</b>	<b>+1039</b>

Table 2: Land Use (GIA): 41, 43, 57, 59, 61 &amp; 63 Pimlico Road (Applicant's calculations)

### 8.1.1 Existing retail uses

In the 2002 appeal relating to this site, the Inspector concluded that the builders' merchants at 61 – 63 Pimlico Road has a Class A1 use and therefore forms part of the protected retail frontage. The other 4 retail units located at 41, 43, 57, and 59 also have a Class A1 retail use and form part of the protected retail frontage.

The floorspace (GIA) for each of the existing retail uses is set out in the table below.

<b>Number</b>	<b>Retail Occupier</b>	<b>Existing (GIA sqm)</b>
41	Blenheim Carpets	94
43	Humphrey & Carrasco	96
57	Senaï carpets	118
59	Coote & Bernardi	113
61-63	Travis Perkins	1,563
<b>Total</b>		<b>1,984</b>

Table 3: Existing Retail floorspace (GIA): 41, 43, 57, 59, 61 &amp; 63 Pimlico Road (Applicant's calculations)

Policy S21 of the City Plan states that existing A1 retail will be protected throughout Westminster. In accordance with policy, it is proposed to retain the existing Class A1 retail use in this location, together with creating additional Class A1 floorspace.

### 8.1.2 Proposed retail

The scheme proposes 2,802 sqm (GIA) of Class A1 retail floorspace, an uplift of 818 sqm compared with the existing retail floorspace of 1,984 sqm. New retail floorspace is supported by policy S21 of the City Plan which states all new retail floorspace will be directed to the designated shopping centres. The overall increase in A1 retail floorspace is therefore welcome in policy terms.

The proposed scheme would reconfigure the existing retail units to create 4 units, a reduction of 1 retail unit from the current 5. All of the units will be occupied by Class A1 retailers.

The floorspace (GIA) for each of the new retail units is set out below:

<b>Proposed retail</b>	<b>Unit no.</b>	<b>Proposed (GIA sqm)</b>
	1	152
	2	96

	3	1127
	4	1026
<b>Total</b>		<b>2402</b>

Table 4: Proposed Retail floorspace (GIA): 41, 43, 57, 59, 61 & 63 Pimlico Road (Applicant's calculations)

As existing, the large backland timber yard site is only accessible via 61 Pimlico Road. The proposed development will create lateral connections between the timber yard site and the Pimlico Road frontage buildings at 41, 43, 57, and 59 Pimlico Road. The existing timber yard structure will then be sub-divided to create two retail units. These two retail units will be connected with 41 – 43 and 57 – 59 Pimlico Road, and known as Units 3 and 4. Units 3 and 4 will incorporate a mezzanine floor, with a void in the centre of the plan to allow the retained brick piers to be exposed and the double height character of the space retained.

Unit 1 would be located at 63 Pimlico Road at ground floor level with a lateral connection to a new rear mezzanine level.

Unit 2 would be located at 61 Pimlico Road, within a new ground floor shop unit created by infilling the timber yard's existing open vehicle and pedestrian access/ egress.

Objections have been received from both local residents and the current retail occupiers to the reconfiguration and amalgamation of the retail units. The vast majority of objections received, principally object to the loss of the timber yard which is considered to be an important local service contributing to the historic and mixed use character of the area. There are also objections to the loss of the retail uses which occupy the smaller retail units.

There is no adopted policy which resists the reconfiguration of amalgamation of these retail units, providing they remain within the same use class. The reconfigured units would remain class A1 retail, and therefore the proposals are not resisted in land use terms within the context of the NPPF, UDP and City Plan.

Whilst the concerns of objectors over the local businesses affected is well understood, there is also no adopted policy, or any restrictive planning conditions, that would prevent the loss of the existing tenants from the retail units that comprise the site. In this case, it is the principle of Class A1 retail use that is protected in this location, not the specific retail occupiers. The protection of these specific retail businesses is outside of planning control.

### 8.1.3 Travis Perkins, 61 – 63 Pimlico Road

The timber yard is the main part of the application site, 61 – 63 Pimlico road. This is in use as a timber and builder's merchants and a kitchen showroom and is occupied by Travis Perkins Ltd.

Objections have been received from Travis Perkins Ltd, The Belgravia Society, and local residents on grounds that the application is inaccurate as the lawful use of 61 – 63 Pimlico Road is a sui generis timber yard with ancillary showroom and trade counter rather than a Class A1 retail unit.

The lawful use of a timber yard or builder's merchants is a question of fact and degree in each specific case. One timber yard or builder's merchant will not necessarily be the same as another.

The 2001 appeal decision is a relevant consideration. In reaching a decision, the Inspector considered whether the timber yard is a retail use, and based on the facts of the case, the Inspector concluded that the lawful use of 61-63 Pimlico Road is for Class A1 retail purposes. The Inspector is quoted as follows:

"Para. 43. In this instance the timber yard is completely enclosed. It is compact and appears to me to be a single planning unit. Significantly the yard includes the display of a range of goods for sale, including building materials, tools, hardware and paint. The goods are freely available both to visiting members of the public and the building trade, without any distinction or the use of a separate trade counter. Any processing is limited to the cutting of sawn and planed timber and sheet material into smaller pieces, processes not dissimilar in principle to the cutting of cloth in a fabric shop, clearly ancillary activities. The business does not appear to have any significant storage other than for goods to be sold on premises. It follows that despite timber yards not being specifically identified as shops in the UCO, the activities actually taking place, as a matter of fact and degree, satisfy category (g) of Part A to the Schedule of the Order which identifies Class A1 uses.

Para. 44. In making my assessment, that this timber yard has an A1 retail use, it needs to be recognized that goods can be bought on account, and orders made by telephone for home delivery, at most shops. Account facilities do not alter the fact that the goods are offered for display and sale without restriction and home delivery does not appear to me to equate to a separate distribution function.

Para. 51. I have also taken into account the assertion that to accept what has been described as a builder's yard as a retail use, would set a most damaging general precedent which, amongst other matters, could harm national policies to encourage shopping in town centres. But I have come to my conclusions on the facts of this case. No general precedent implying the categorization of all builders' yards as retail uses would therefore be set."

The evidence available to the Inspector in 2002 led to the conclusion that the lawful use of the premises is for Class A1 retail purposes. No evidence has been provided to demonstrate that a material change of use has occurred since the 2002 appeal, and officer's observations of the current operation indicate A1 use.

Whilst it is still considered that the existing lawful use of 61 – 63 Pimlico Road is Class A1 retail, even if the use of the site were to be regarded as Sui Generis, the proposed development would still be considered acceptable on the basis of the City Council's adopted planning policies.

If the use of the site were to be regarded as Sui Generis, it is evident that the site's primary function is still that of a retail function and therefore proposals would need to be tested against planning policies that address non-A1 retail type uses.

The council does not have a planning policy that protects timber yards. Former UDP policy SS2 used to resist the loss of non-A1 retail uses, including timber yards, but this policy has been deleted.

Policy S21 of the City Plan states that existing non-A1 retail uses, and uses occupying shop-type premises within designated shopping centres will be protected from changing to uses that do not serve visiting members of the public and that do not have active shopfronts.

If the use of the site were to be regarded as Sui Generis or a non-A1 retail use, it is not considered that the use could be protected. This is on the basis that the site is within a designated shopping centre (Pimlico Road local shopping centre); the proposed development would increase A1 retail floorspace and clearly serve visiting members of the public; and also include active shopfronts.

The overall increase in A1 retail floorspace is welcome in policy terms. The proposals would enhance the retail function of the shopping centre and make it more attractive to shoppers.

#### **8.1.4 Residential use**

Policy H 3 of the UDP encourages the provision of more housing, specifically part (A) “The City Council will seek to maximise the amount of land or buildings in housing use outside the CAZ and where appropriate, within the CAZ”.

Policy S14 of ‘Westminster’s City Plan: Strategic Policies’ also seeks to optimise housing delivery and states residential use is the priority across Westminster, except where specifically stated. Furthermore, S14 specifies that

- “The Council will work to achieve and exceed its borough housing target set out in the London Plan”
- “Residential use is the priority across Westminster except where specifically stated”, and
- “The number of residential units on development sites will be optimised.”

The supporting text notes that “Land and buildings should be used efficiently, and larger development sites should optimise the number of units in schemes, taking into account other policies and objectives. Housing densities should reflect the densities set out in the London Plan. City Management policy will address housing densities to be applied to development sites in different parts of the city.”

London Plan Policy 3.3 seeks to increase housing supply; Policy 3.4 states that new developments should optimise housing output. In principle, the development of the site for residential use is therefore considered to be acceptable.

The existing site comprises five residential dwellings located on the upper floors 41, 43, 57, 59, 61 & 63 Pimlico Road.

The floorspace (GIA) for each of the existing residential units is set out below:

Unit No.	No. of Bedrooms	Existing (GIA sqm)
41	2	65
43	2	69
57	2	71
59	1	73
61 - 63	3	83

Table 5: Existing residential units floorspace (GIA): 41, 43, 57, 59, 61 & 63 Pimlico Road

The proposed development would create seven residential dwellings. This represents an uplift of 2 residential units and 221 sqm GEA. The proposed uplift in floorspace or units is not sufficient to trigger a requirement to deliver affordable housing.

The proposed units have been arranged laterally, as opposed to being over multiple levels. The floorspace (GIA) for each of the proposed residential units is set out below:

Unit No.	No. of Bedrooms	Proposed (GIA sqm)
R1	3	97
R2	1	54
R3	2	75
R4	2	79
R5	2	74
R6	2	68
R7	1	48

Table 6: Proposed residential units floorspace (GIA): 41, 43, 57, 59, 61 & 63 Pimlico Road

The following table illustrates the existing and proposed residential mix.

Unit size	Existing Unit Mix	Proposed Unit Mix
1 bed	1	2
2 bed	3	4
3 bed	1	1
<b>Total</b>	<b>5</b>	<b>7</b>

Table 7: Existing and proposed residential mix) 41, 43, 57, 59, 61 & 63 Pimlico Road

City Plan policy S14 seeks to optimise housing delivery, depending on the number and size of the proposed flats. The proposals are considered to achieve an acceptable balance between size of unit and optimising housing delivery.

Policies H5 of the UDP and S15 of the City Plan seek to secure an appropriate mix of units in housing developments. Policy H5 normally requires at least 33% of new units providing three or more bedrooms.

The residential mix is heavily weighted towards 2 bed units. In this case 1 (14%) of the 7 units are family sized. Paragraph 3.74 of the UDP acknowledges that a lower level of family accommodation may be acceptable in some circumstances. It is considered that

there is a case for a lower amount of family housing given the location of the units above a shopping parade and the limited scope for sufficiently sized external amenity space.

The amenity of the flats is generally considered to be acceptable. 4 out of the existing 5 flats do not meet the minimum size standards set out in the Mayor of London's Housing Design Guide (LHDG). As proposed, 5 out of 7 flats exceed the minimum size standards. Where the proposed units do not meet the minimum size standards, they fail only by slight margins. However the proposals are accepted as all flats are considered to be an improvement in terms of size and layout in comparison to the existing.

All flats are dual aspect and will receive adequate levels of daylight and sunlight. The proposal will also introduce amenity space for 4 of the units, where, as existing, none of the units have any external amenity space. The provision of this amenity space is welcomed.

Policy ENV6 of the UDP states that residential developments are required to provide adequate protection from existing background noise as well as noise from within the development itself. The applicant has submitted an Environmental Noise Survey, however Environmental Health raise concern that it does not sufficiently demonstrate the measures to be put in place to mitigate against internal and external noise. The upper floors of the application site are already in residential use therefore a refusal on these grounds is not sustainable. Conditions are recommended to ensure that sufficient measures are put in place to mitigate against internal and external noise.

Overall, the reconfigured new flats would generally provide a good standard of accommodation in terms of unit size and layout and most would benefit from private amenity space in the form of balconies or terraces. All flats are also dual aspect.

## 8.2 Townscape and Design

The site lies within the Belgravia Conservation Area. The site was developed during the early to mid C19 with relatively small scale vernacular buildings fronting onto Pimlico Road. The builder's yard to the rear of these premises seems to have been established around 1845 though it is not totally clear what form the structure took at that time. The yard was badly damaged by fire in 1877 and largely rebuilt. The only surviving original parts of the building (pre-fire) are the external walls.

The Draft Belgravia Conservation Area Audit identifies the buildings fronting onto Pimlico Road (with the exception of no.61) as being unlisted buildings of merit and they make a significant contribution to the character and appearance of this part of the conservation area. The builder's yard to the rear is identified as making a neutral contribution, as is no.61 fronting Pimlico Road. Despite this attribution, there is no doubt that the builder's yard, as a structure, has some significance and is an interesting and early example of its type. This is as expressed by the Inspector in his report in 2001 and acknowledged by the applicants in their own submission to this application. Its contribution to the Belgravia Conservation Area though is strictly limited due to the fact that it is entirely landlocked and not visible to any public viewpoints from the conservation area. Its significance can only really be appreciated from within the building. An application for the building to be added to the Statutory List of Buildings of Special Architectural or Historic Interest was turned down in 2015 by English Heritage (now Historic England). The situation therefore is that

the main interest of the building is its interior and yet there is no planning control to prevent changes to the interior due to the failure to list the building.

The main physical impact on the Belgravia Conservation Area is the proposed works to those buildings fronting onto Pimlico Road. The proposal to retain the facades of no's 41, 43, 57, 59 and 63 Pimlico Road and redevelop behind can be considered to have a neutral effect on the character and appearance of the conservation area. The proposed new shopfronts and the rebuilding of no.61 (fronting Pimlico Road) are considered to enhance the character of the conservation area. Overall, these proposals meet the statutory test of preserving or enhancing the character or appearance of the conservation area.

The works to the builder's yard relate primarily to the internal layout which is not subject to planning control. These works of subdivision and alteration could be carried out without planning permission and cannot be considered to have any physical impact on the character or appearance of the conservation area. The main items of significance, the rear walls, the brick piers and the lantern roof and timber trusses are all proposed to be retained within the new development. The main alteration is the subdivision of the internal space and the erection of extended mezzanines. This would have an effect on the appreciation of the internal space and if the building was listed would most likely be a cause for concern. However, the building is not listed and these elements are not subject to planning control.

Many objectors have raised the matter of the historic use of the site as a timber yard and are of the view that the use is a positive contribution to the character of the conservation area. There is no doubt that the use of buildings can be important factors in the character of a conservation area. However, examples where this may be so are rare and tend to be confined to areas with a particular and dominant character, for example Saville Row or the Temple where the large mass of a specific use type may be considered to lend an element of character which helps define the area, or where the use has a powerful and convincing community involvement, for example churches, public houses or theatres. With regard to the proposal site, the timber yard is the only use of this type in the area, it does not define the area as one of warehouses and storage yards and nor can it be said to engage the community in any active or convincing manner. Despite its acknowledged historic use, it is not considered that there is any convincing evidence that this use defines or adds to the character of the surrounding conservation area, which is predominantly defined by small upmarket retail and residential uses.

### **8.3 Residential Amenity**

The application site is almost completely enclosed by 19<sup>th</sup> century residential development at Bloomfield Terrace and St Barnabas Street, and commercial development with residential above along Pimlico Road.

The main physical extensions to the application site are connected with the reconfigured residential accommodation. The main extension is the rebuilding of no.61 Pimlico Road between ground and third floor levels. This would provide an additional floor compared with the existing situation. The rear building line is also being extended at first and second floor levels to the rear of nos.41, 43, 57, and 59 Pimlico Road. Roof terraces/ balconies are proposed to 4 of the units.

Policies S29 of the City Plan and ENV13 of the UDP seek to protect residential amenity in terms of light, privacy, sense of enclosure, overlooking and encourage development which enhances the residential environment of surrounding properties.

### 8.3.1 Sunlight and Daylight

The applicant has undertaken a daylight and sunlight assessment in accordance with the recommended standards for daylight and sunlight in residential accommodation set out in the Building Research Establishment (BRE) publication 'Site layout planning for daylight and sunlight' (2011).

With regard to daylight, Vertical Sky Component (VSC) is the most commonly used method for calculating daylight levels and is a measure of the amount of sky visible from the centre point of a window on its outside face. This method does not need to rely on internal calculations, which means it is not necessary to gain access to the affected properties. If the VSC achieves 27% or more, then the BRE advises that the windows will have the potential to provide good levels of daylight. If, however, the light received by an affected window, with the new development in place, is both less than 27% and would be reduced by 20% or more as a result of the proposed development, then the loss would be noticeable. The 'no sky line' method has also been used, which measures the daylight distribution within a room, calculating the area of working plane inside the room that has a view of the sky.

In terms of sunlight, the BRE guidelines state that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH, where total APSH is 1486 hours in London) including at least 5% during the winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that any reduction in sunlight below this level should be kept to a minimum. If the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% of the original sunlight hours either over the whole year or just during the winter months, then the occupants of the existing building will notice the loss of sunlight. Windows are tested if they face within 90 degrees of due south.

The following surrounding residential properties have been subject to VSC and NSC testing, and ASPH where applicable:

- 39 Pimlico Road;
- 4-6 St. Barnabas Street;
- 7-12 Bloomfield Terrace;
- 14-18 Bloomfield Terrace;
- 65-69 Pimlico Road;
- 45-55 Pimlico Road.

Some objectors are concerned that the additional bulk of the proposed development will reduce the amount of daylight and sunlight received by some residents. Whilst there is some effect, any loss of daylight and sunlight are within the parameters described above and as such are not material impacts.



The results of the daylight and sunlight assessments demonstrate that the proposed development will have no noticeable effect on neighbouring dwellings in terms of daylight and sunlight.

### **8.3.2 Privacy/ Sense of enclosure**

The scheme proposes 4 no. external terraces. 3 no. terraces will be provided at first floor level to serve flats R1, R2, and R3, and a further terrace will be provided at second floor level to serve flat R6. None of these terraces will overlook other residential properties as they will largely face onto the flank elevation of the timber yard structure.

The additional massing proposed at first to third floor level to 61 Pimlico Road, or at first and second floor levels to the rear of nos.41, 43, 57, and 59 Pimlico Road is not considered to cause any significant increase in sense of enclosure.

## **8.4 Transportation/Parking**

Objections have been received from Travis Perkins whose consultant has provided a critique of the applicant's Transport Statement, which raises highway and transportation issues, principally in respect of car and cycle parking, servicing, and the timing of transport surveys.

### **8.4.1 Car Parking**

The development creates two extra residential units without car parking. UDP Policy TRANS 23 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 evidence of the Council's most recent daytime parking survey in 2015 indicates that the parking occupancy of Residents' Bays and Shared Use Bays within a 200 metre radius of the development site is 90.0% (consisting of 205 Residents' and 16 Shared Use Bays, 181 and 18 of which were occupied respectively).

Overnight the pressure on Residents' and Shared Use Bays reduces to 87.8% and residents can also park free of charge on metered parking bays or single yellow line in the area, of which there is plenty.

The introduction of increased levels of residential in this area without off-street parking or on-street parking restraint is likely to increase the stress levels. A development that increases pressure on on-street parking above 80% could be considered objectionable, but there are only two extra units, which might ordinarily be expected to only generate demand from one extra car in Westminster. The Highways Planning manager therefore considers that it would be difficult to defend a refusal on residential parking grounds.

The applicant has agreed to provide lifetime (25 years) car club membership for the occupiers of each residential unit, which will be secured via s106.

### **8.4.2 Servicing**

It is proposed that servicing should take place from the street, which is not in line with policy Trans 20. The Highways Planning Manager would prefer it if deliveries could take place off-street. However, surveys have shown that servicing of the existing site takes place on street and in addition to deliveries the existing development has a larger number of collections by vehicle than would be expected with the proposed development.

The Transport Statement predicts that the number of vehicles associated with the new development will be fewer than with the existing. The Highways Planning Manager accepts this position and therefore considers that reliance on on-street servicing will not cause increased congestion or safety issues and is therefore acceptable.

The Highways Planning Manager has taken into account the objection from Travis Perkins' transportation consultant. However the Highways Planning Manager considers the Transport Assessment is sound and does not agree undertaking traffic surveys just before the school holidays would have distorted the results in any significant way.

Nonetheless, a Servicing Management Plan should be conditioned so that, once the occupiers of the retail units are known, it can be explored in more detail how the impact of servicing can be kept to a minimum.

A condition is also recommended requiring that any Class A1 use shall only be used for non-food retail purposes unless otherwise agreed in writing by the City Council. This is to ensure that the retail units do not give rise to an unacceptable level of servicing causing obstruction of the surrounding streets and harm to the amenities of occupiers of adjoining properties by reason of noise and general disturbance.

#### **8.4.3 Cycle Parking**

22 cycle parking spaces are proposed in total.

The 7 residential units should have 12 spaces but have 13.

The level of Class A1 retail floorspace proposed requires 5 or 6 long-stay spaces and 9 or 10 short-stay spaces, but only 9 long-stay spaces are proposed, which are all in the basement. The overall number of cycle parking spaces is short because no short-stay spaces are provided. A condition is recommended requiring short-stay cycle parking for the retail element.

#### **8.4.4 Development on the Highway**

The proposed development would involve reinstatement of the pedestrian footway outside 61 Pimlico Road. It is recommended that all highway works surrounding the site required for the development to occur including changes to on-street restrictions and footway repaving to Pimlico Road are secured by s106. This includes all costs to be borne by the applicant.

### **8.5 Economic Considerations**

The applicant has submitted an economic assessment which sets out an assessment of the potential economic benefits.

The increase in retail and residential floorspace is expected to result in additional economic activity.

The optimisation of housing delivery is a key strategic objective for the Council. The provision of new and improved residential accommodation is supported under policies S14 of the City Plan and H3 of the UDP and will help both the Council and Mayor deliver new homes in the capital.

There have been objections that the proposals would result in the loss of jobs and employment generating use. However, in addition to construction employment, new jobs will also be created on site once the scheme is operational. The commercial use will offer the possibility for more accessible and valuable jobs for the local community.

The economic benefits associated with this mixed use development, comprising additional retail and residential accommodation within this part of the City are welcomed.

## **8.6 Access**

The new shopfronts will provide step free access to the retail units and the residential above.

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

### **8.7.1 Noise impact from mechanical plant**

The proposals include mechanical plant at basement and within plant enclosures at roof levels. An acoustic assessment has been submitted as part of the application which includes background noise surveys around the site and, from this are set targets for the operation of the new plant which must be below existing background noise levels.

Conditions are recommended to secure full details and a supplementary acoustic report when plant has been selected, location and hours finalised, and the attenuation measures are available to confirm compliance with the Council's standard noise condition.

### **8.7.2 Refuse /Recycling**

The plans indicate two refuse stores for retail use at the basement level. The applicant has also confirmed that there will be no communal waste store for the residential units but rather each unit will store their waste within the flats. However, the applicant has failed to indicate the refuse storage within each flat on the plan. Conditions are recommended requiring detail of waste and recycling storage for the residential flats as well as a requirement that no waste should be left or stored on the public highway.

### **8.7.3 Sustainability**

Policy 5.2 of the London Plan refers to Minimising Carbon Dioxide Emissions and states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be lean: use less energy
2. Be clean: supply energy efficiently
3. Be green: use renewable energy

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture.

Policy S40 considers renewable energy and states that all major development throughout Westminster should maximise on-site renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considers that it is not appropriate or practicable due to the local historic environment, air quality and/or site constraints.

The NPPF establishes a presumption in favour of sustainable development.

London Plan Policy 5.3 also requires developments to achieve the highest standards of sustainable design, with Policy 5.2 seeking to minimise carbon emissions through a 'Be Lean, Be Clean and Be Green' energy hierarchy.

The applicant's energy and sustainability strategy demonstrates that the proposal will incorporate a range of sustainable design and construction measures, including: high performance insulation; double glazing to enhance thermal performance; low energy light fittings; natural ventilation to residential dwellings; and low flow water fittings. Photovoltaic panels will also be installed at roof level to power the residential as well as retail units 1 and 2.

There will be an overall 37.1% carbon reduction, which is welcomed.

## **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**

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

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

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

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) imposed restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 6 April 2010, which provide for the funding or the 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.

Westminster's has developed its own CIL which was introduced on 1 May 2016.

For the reasons outlined elsewhere in this report, should the scheme be considered acceptable, a S106 legal agreement would be required to secure the following:

- i. All highway works surrounding the site required for the development to occur including changes to on-street restrictions and footway repaving to Pimlico Road, all costs to be borne by the applicant; and
- ii. Lifetime (25 years) car club membership for the occupiers of each residential unit.

The application is considered acceptable subject to these obligations.

The Westminster CIL payment based on the floorspace figures in the applicant's CIL form exemptions would be £225,000.

The Mayoral CIL payment, again based on the floorspace figures in the applicant's CIL form would be £51,000.

### **8.11 Environmental Impact Assessment**

Not applicable in this case.

### **8.12 Other Issues**

#### **Construction impact**

A condition is recommended to protect the amenity of the surrounding area by ensuring that core working hours are kept to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturday. The condition states that noisy work must not take place outside these hours except as may be exceptionally agreed by other regulatory regimes such as the police, by the highways authority or by the local authority under the Control of Pollution Act 1974.

The applicant has submitted a Construction and Environmental Management Plan (CMP) by Sir Robert McAlpine which sets out a preliminary construction methodology, along with assumed construction logistics strategy for the works which estimates a build programme of 75 weeks. However the principle contractor is yet to be appointed for either building. As such the submitted plan lacks detail, and a more detailed CMP would be required by condition.

It would be expected that in liaison with those affected adequate provision would be made to minimise the impact on local residents.

The City Council's Code of Construction Practice and associated Environmental Inspectorate have been developed to mitigate against construction and development impacts on large and complex development sites. It is recommended that the necessary contributions to ensure compliance with the Council's Code of Construction Practice, and to secure the monitoring expertise of the Council's Environmental Sciences Team, the latter of which controls noise, dust and vibration emanating from the site through a site specific Site Environmental Management Plan (SEMP), is secured by condition.

### **Basement**

The proposals include sub-surface excavation across the site, comprising of the slight lowering of existing ground floor and basement slabs, lift pits and service trenches. Enlarged new basement levels are proposed to the rear of nos.41, 43 and 59 Pimlico Road in addition to a basement link corridor between nos.59 and 63 Pimlico Road.

The applicant has provided a structural engineer's report explaining the likely methodology of excavation works. This report has been considered by our Building Control officers who advised that the structural approach appears satisfactory. The proposals to safeguard adjacent properties during construction are considered to be acceptable.

### **Statement of Community Involvement**

The applicant has submitted a statement of community involvement which summarises the consultation process they carried out with local stakeholders and neighbours prior to submitting the application. The report provides an overview of all stages of the consultation process and the steps taken by Grosvenor to respond to feedback and comments received.

The Belgravia Society raise objection to the manner of the applicant's consultation process where they believe local residents views were not properly taken into consideration.

### **Asset of Community Value**

The City Council has received an asset of community value (ACV) nomination in respect of Travis Perkins Ltd Timber and Builder's merchants, 61-63 Pimlico Road. The nomination has been validated and is being considered and the City Council is due to make a decision on this before the 31 October which is the statutory deadline. A copy of the nomination is included in the background papers.

It is not considered that this nomination affects the material planning considerations and adopted policies taken into consideration in determination of this application.

## 9. BACKGROUND PAPERS

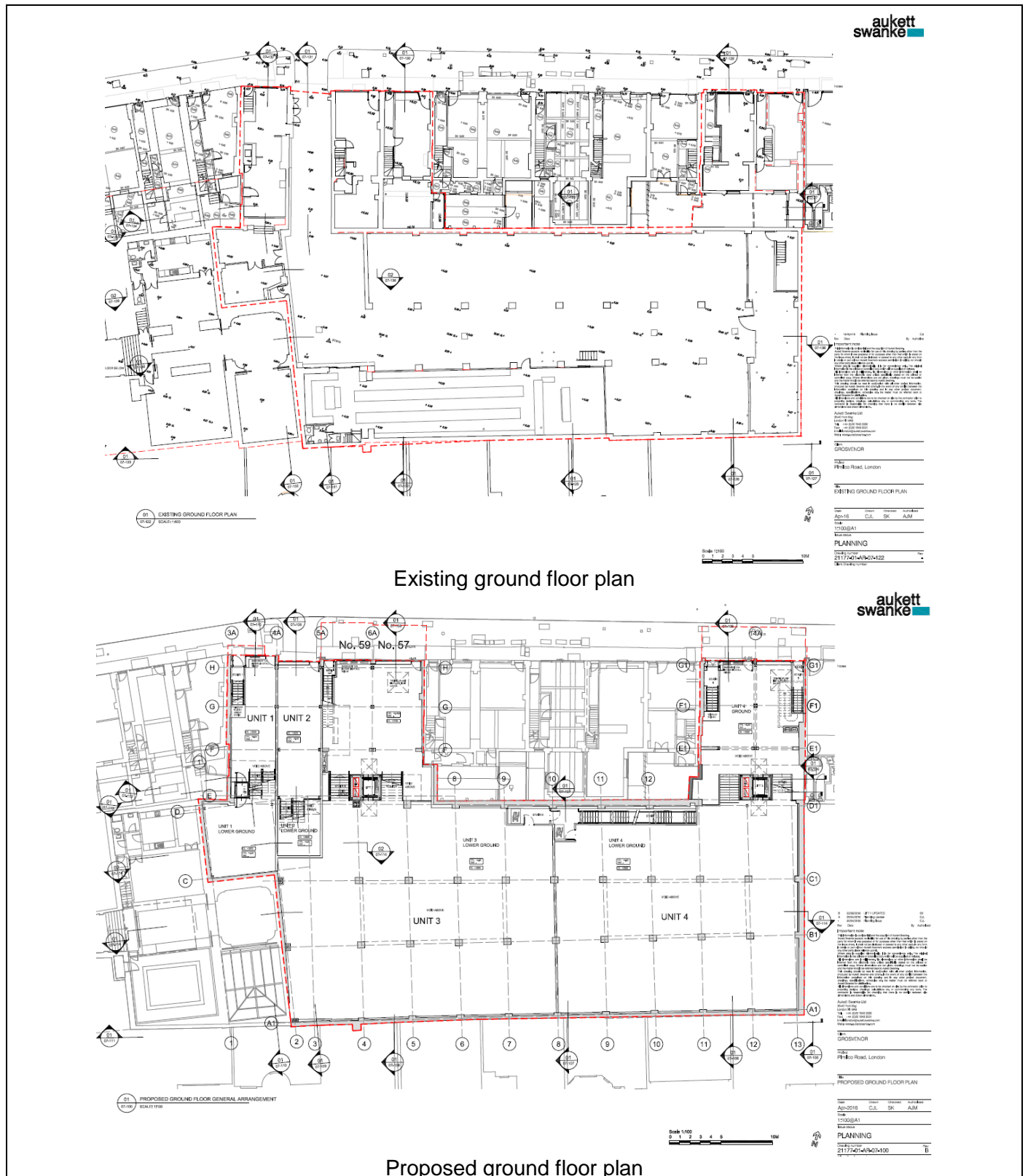
1. Application form
2. Appeal decision dated 15.01.2002
3. Responses from The Belgravia Society dated 27.06.2016 and 22.09.2016
4. Asset of Community Value Nomination by the Belgravia Society dated 25.08.2016
5. Response from Belgravia Neighbourhood Forum dated 28.07.2016
6. Letter from Travis Perkins Ltd dated 18.08.2016
7. Transport Statement by Mayer Brown on behalf of Travis Perkins Ltd dated July 2016.
8. Response from Historic England dated 3 August 2016.
9. Historic England Notification of Designation Decision dated 28.10.2015.
10. Response from Cleansing Manager dated 07.06.2016.
11. Response from Highways Planning Manager dated 23.09.2016.
12. Responses from Environmental Health dated 07.10.2016 and 23.06.2016.
13. Response from Building Control dated 05.10.2016.
14. Letter from Pimlico Road Association c/o 48 Pimlico Road dated 20 June 2016.
15. 332 individual responses from adjoining owners/occupiers and others received between 21.05.2016 and 10.10.2016

### Selected relevant drawings

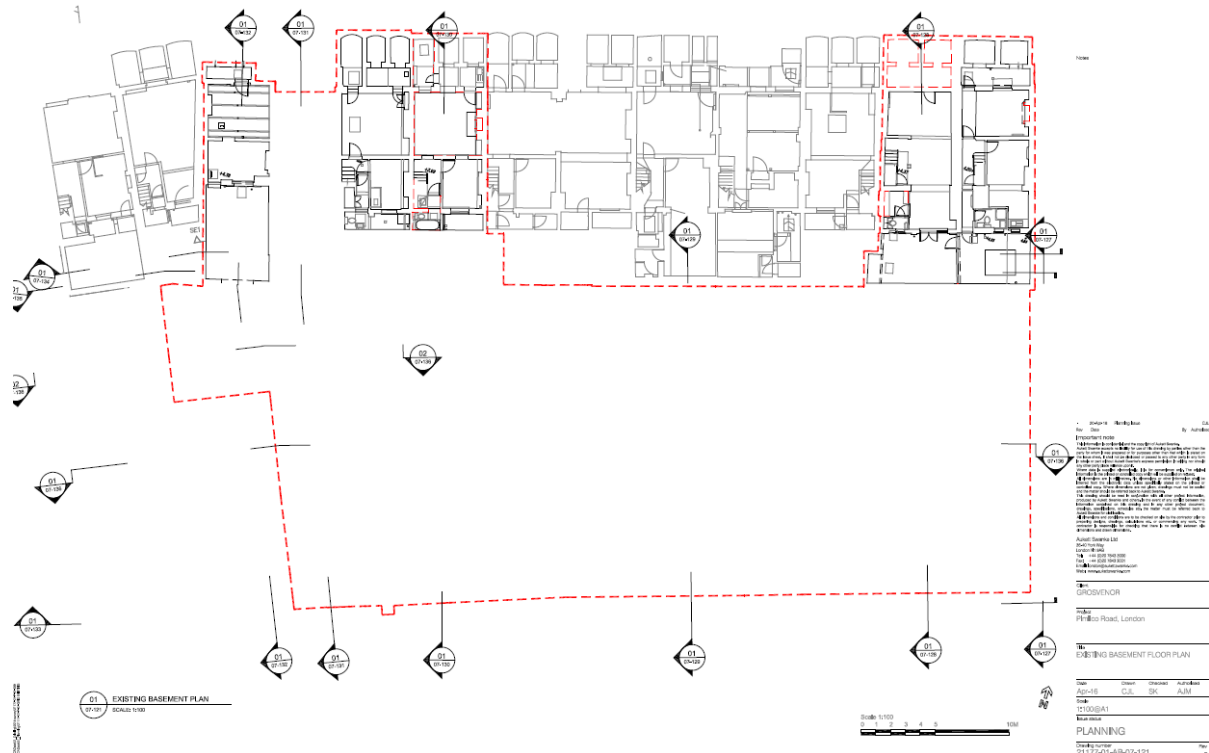
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT DDORWARD@WESTMINSTER.GOV.UK

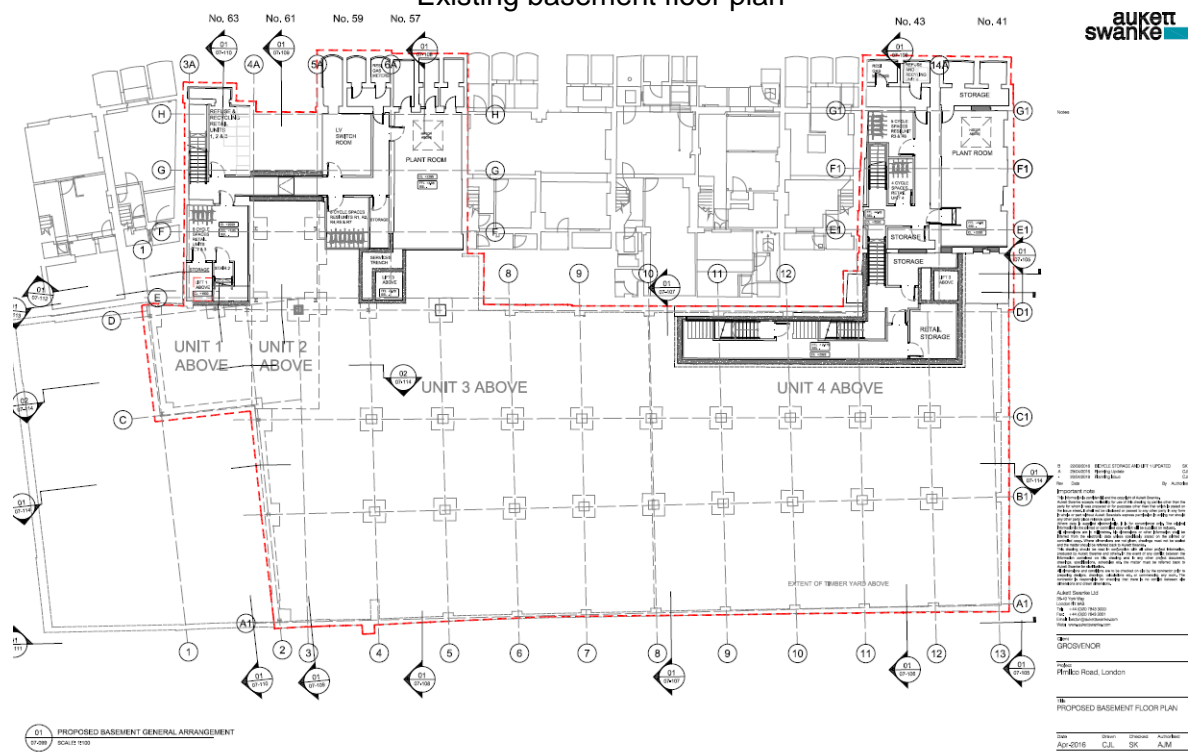
## 10. KEY DRAWINGS



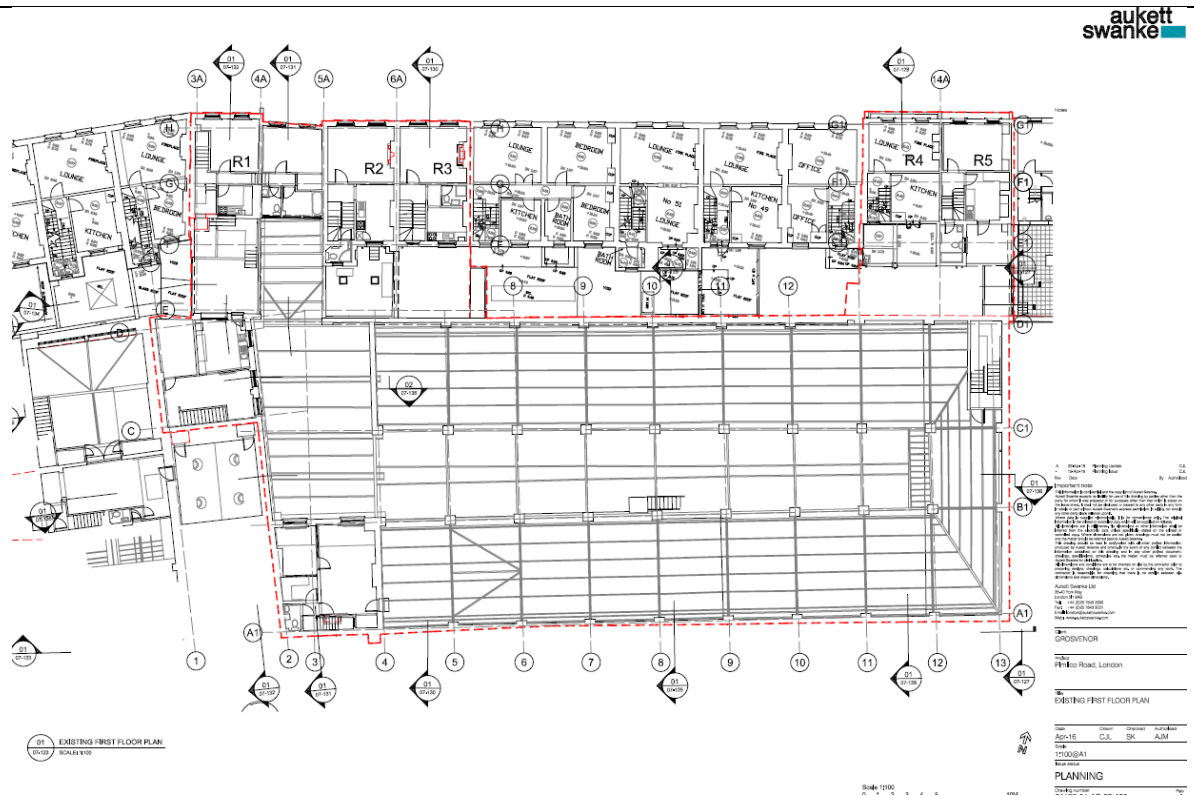


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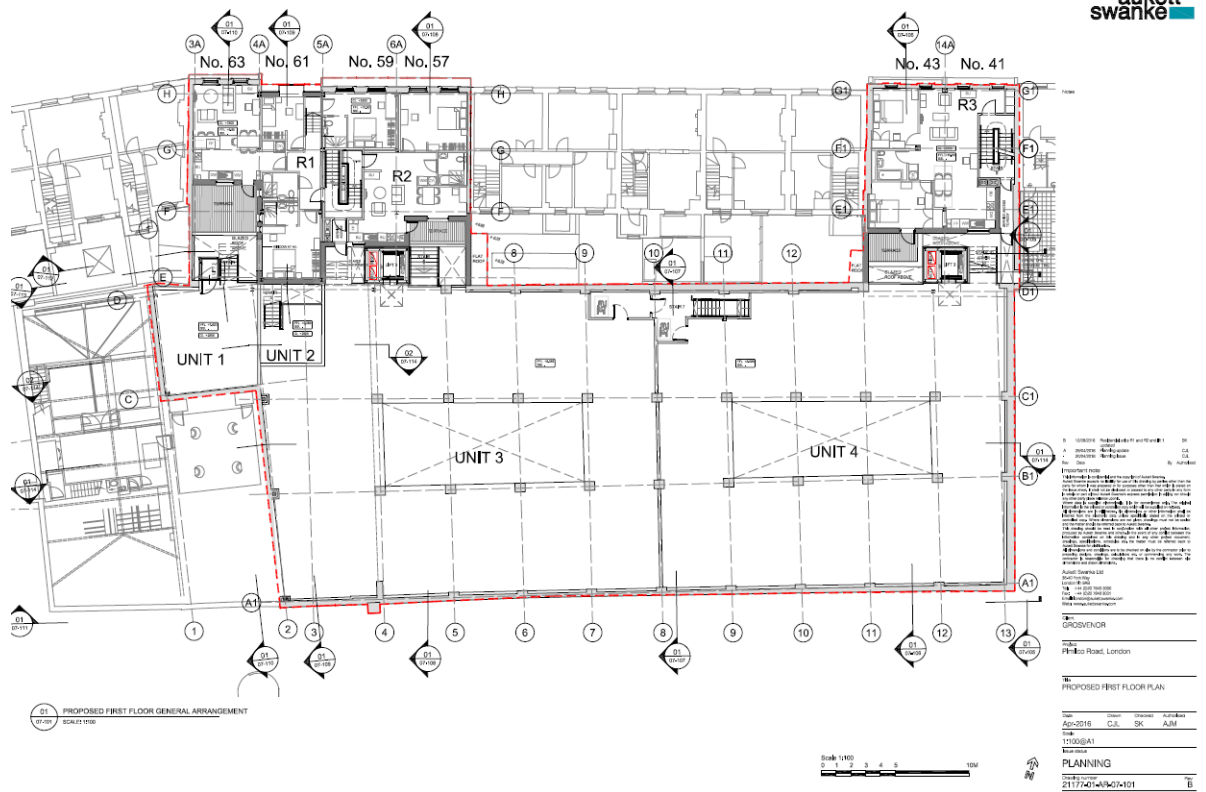
Existing basement floor plan



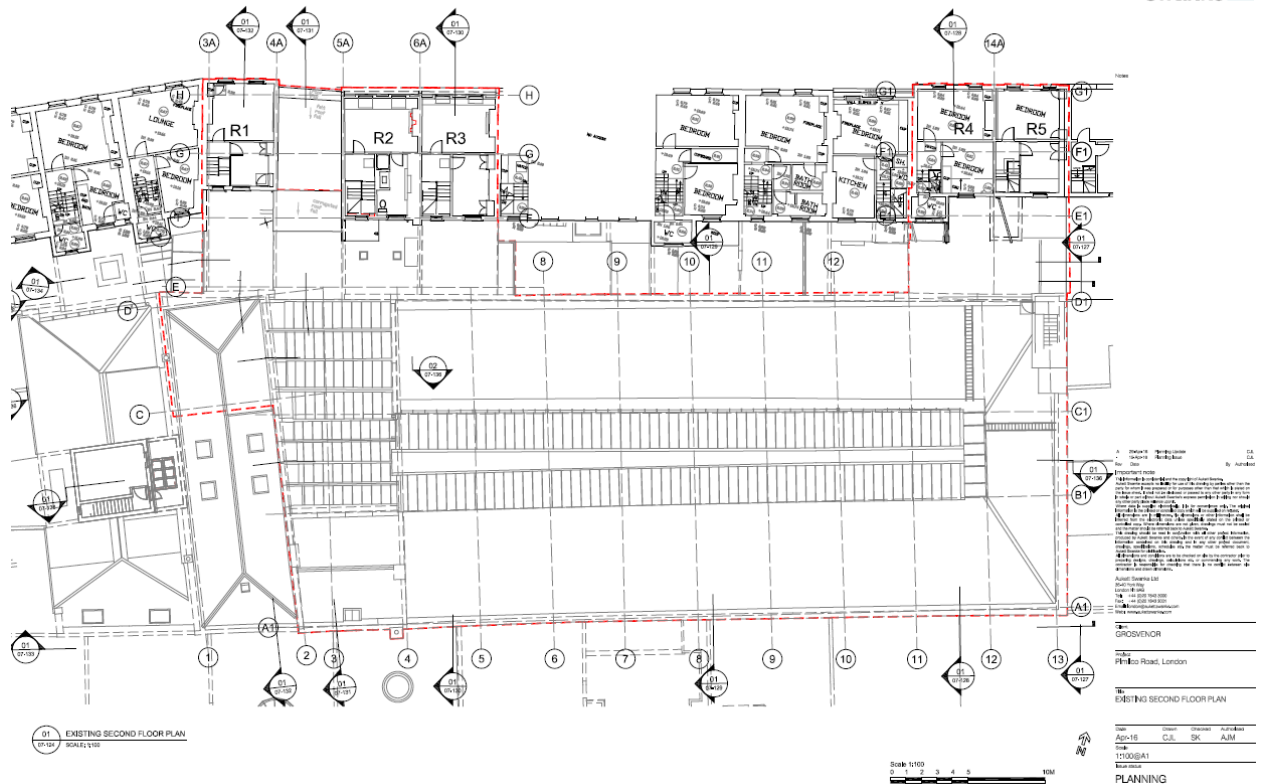
Proposed basement floor plan



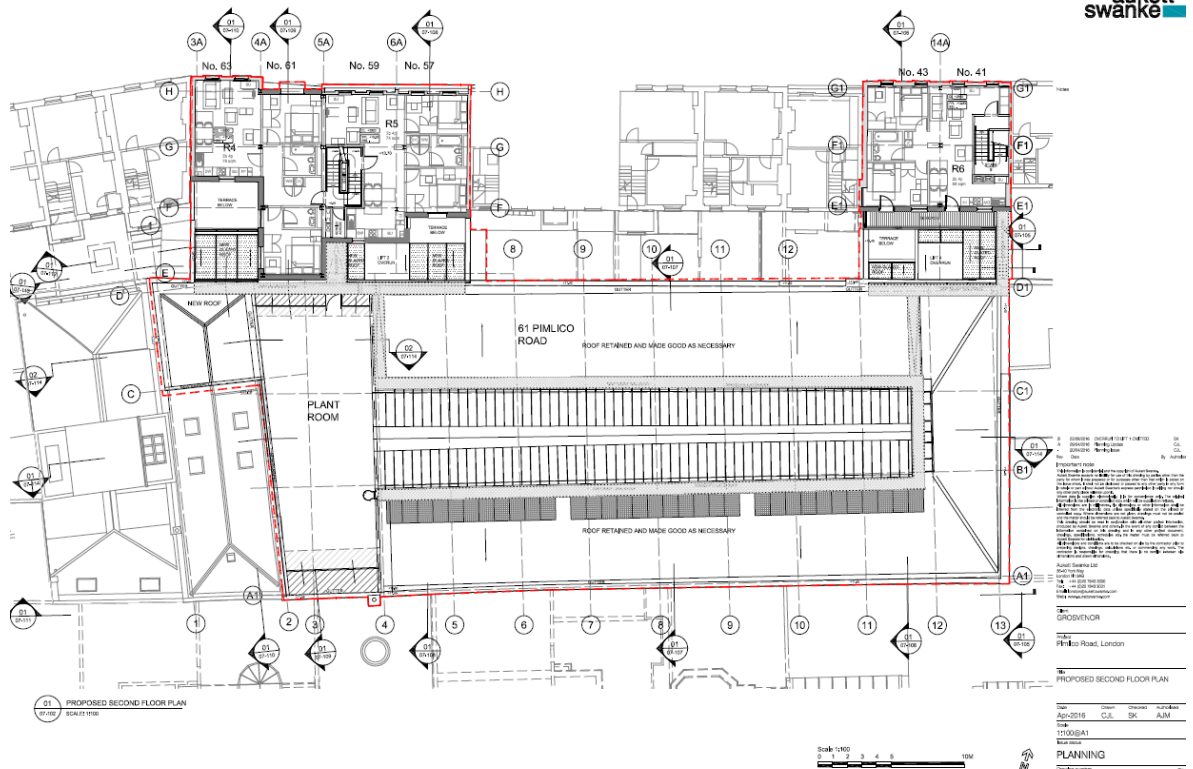
Existing first floor plan



### Proposed first floor plan



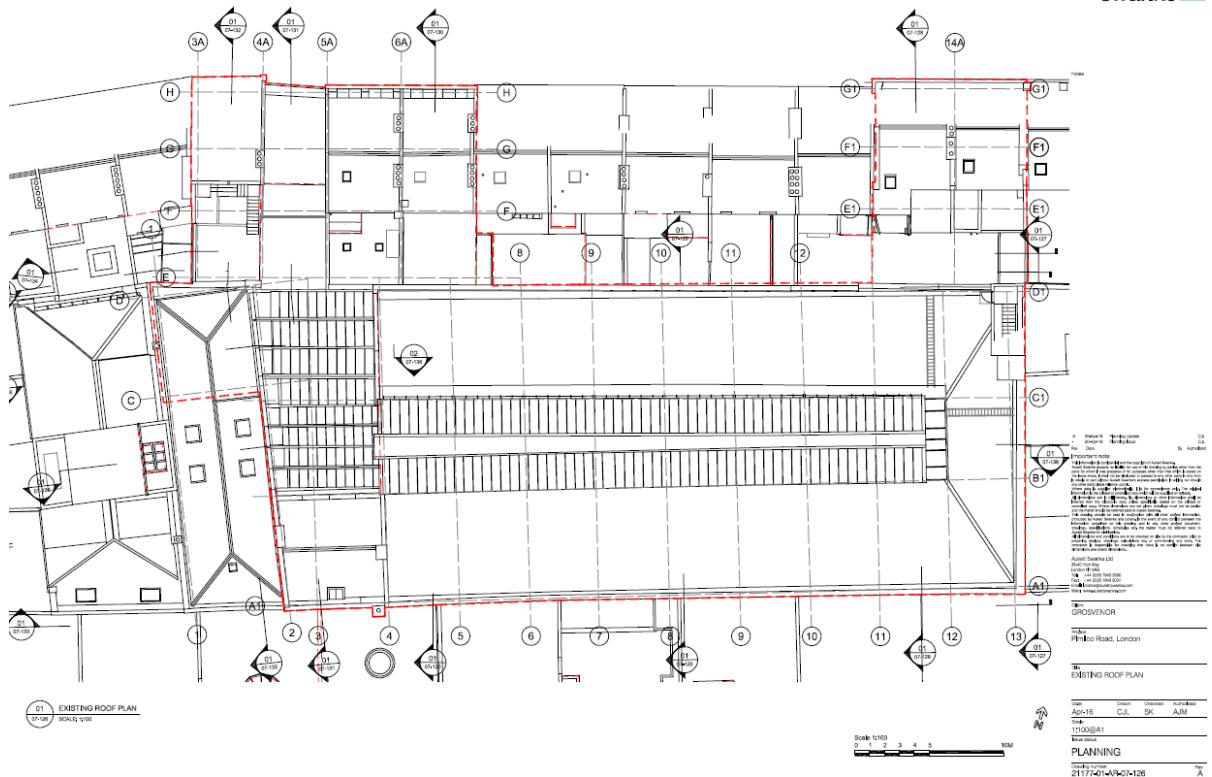
Existing second floor plan



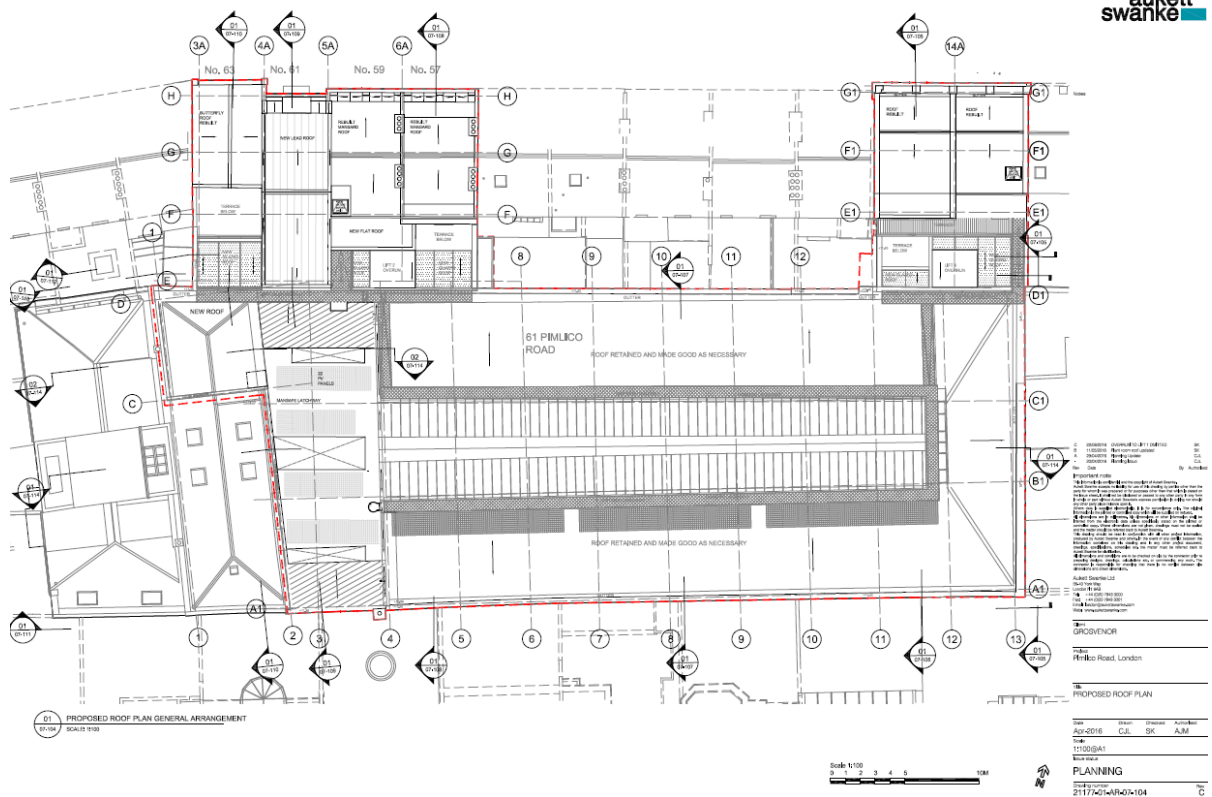
Proposed second floor plan



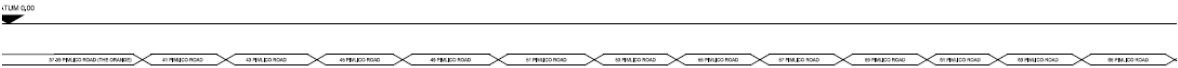




Existing roof plan



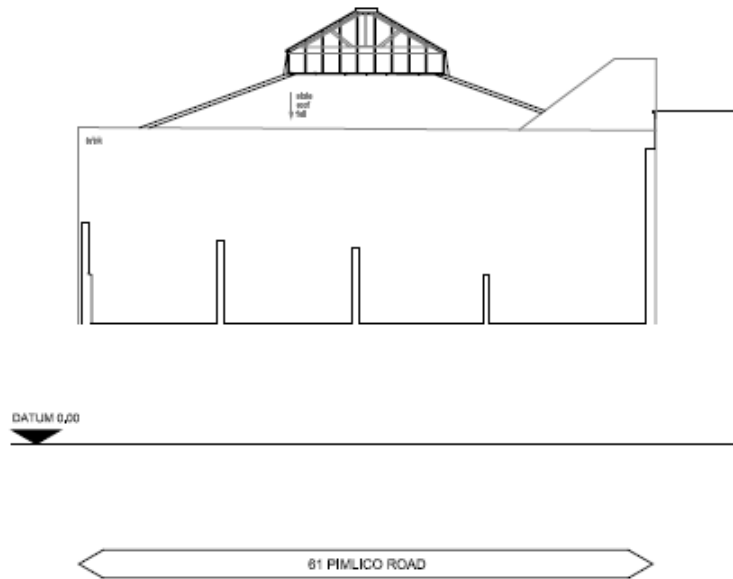
Proposed roof plan



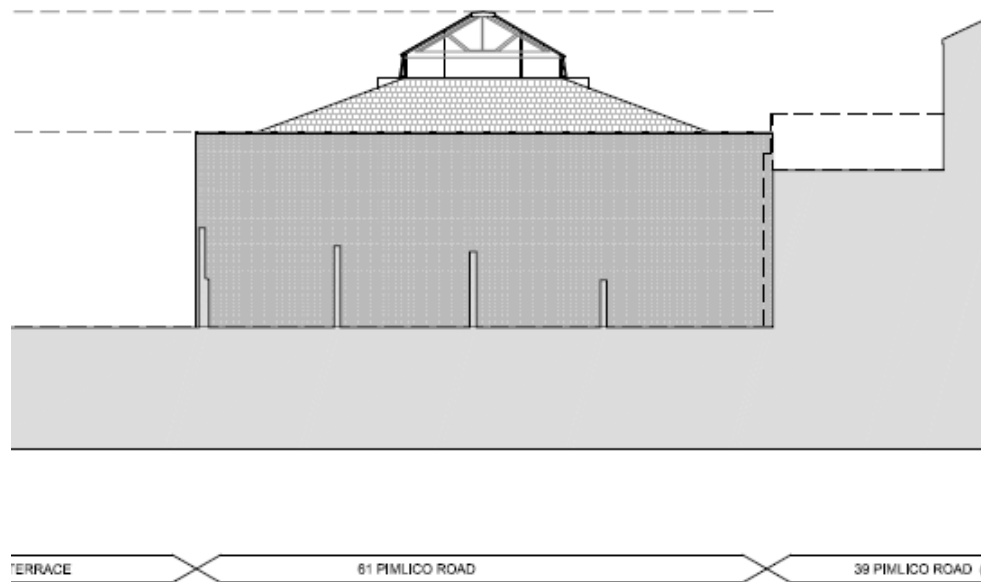
Existing north/ Pimlico Road elevation



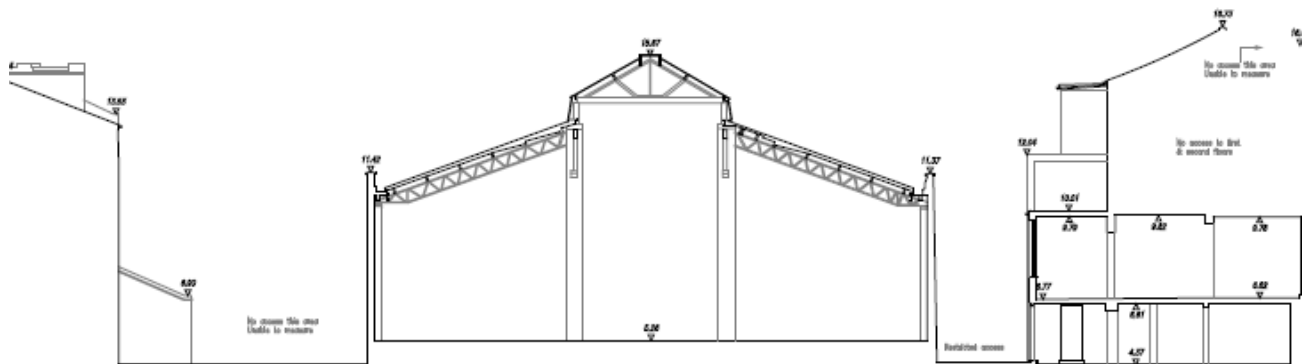
Proposed north/ Pimlico Road elevation



Existing section AA



Proposed section AA

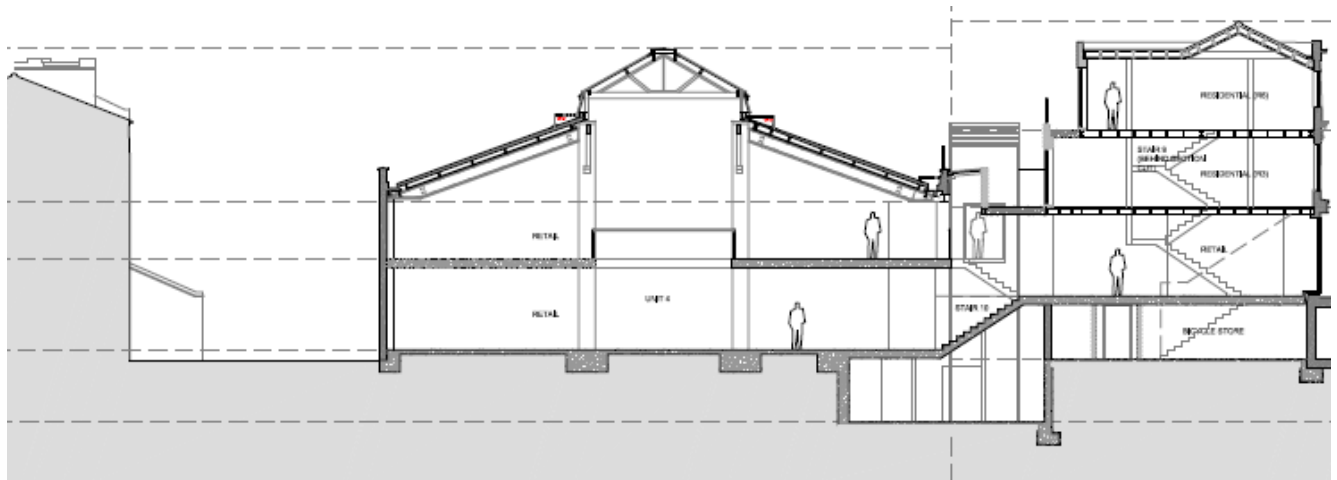


4 BLOOMFIELD TERRACE

61 PIMLICO ROAD

41-43 PIMLICO ROAD

Existing section BB



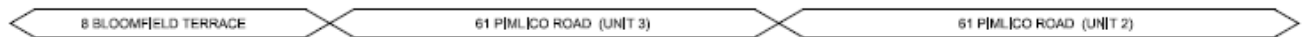
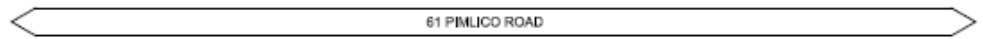
4 BLOOMFIELD TERRACE

61 PIMLICO ROAD - UNIT 4

41-43 PIMLICO ROAD - UNIT 4

Proposed section BB





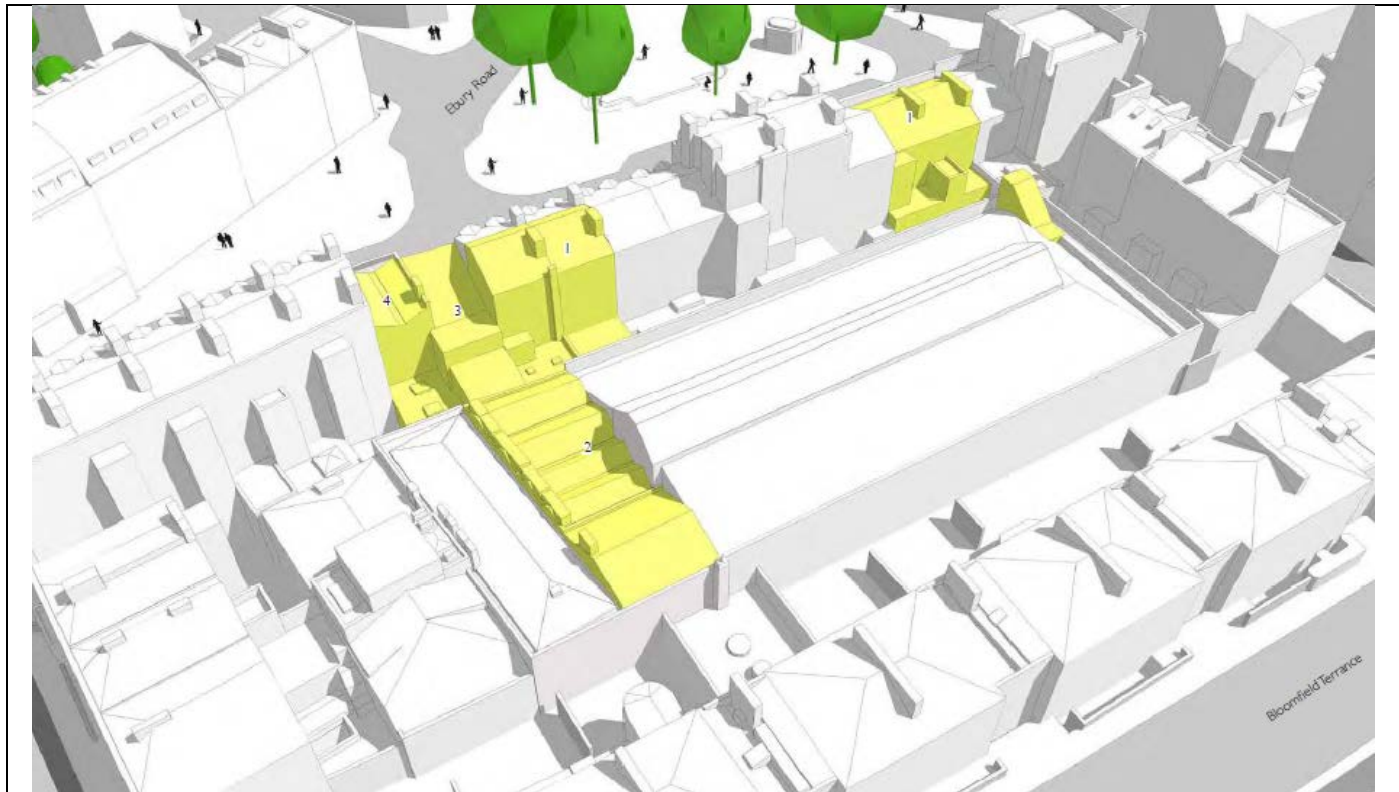
Page 57



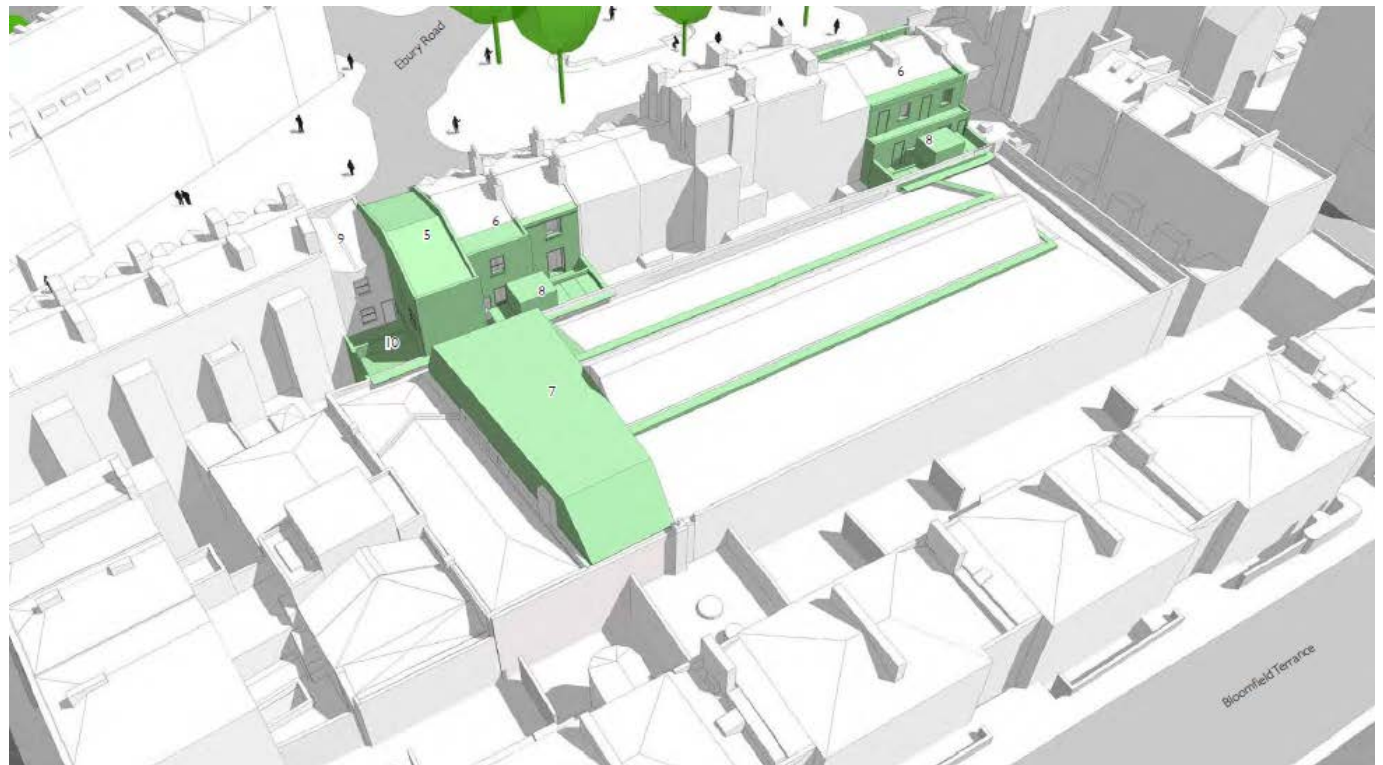
Existing roof profile



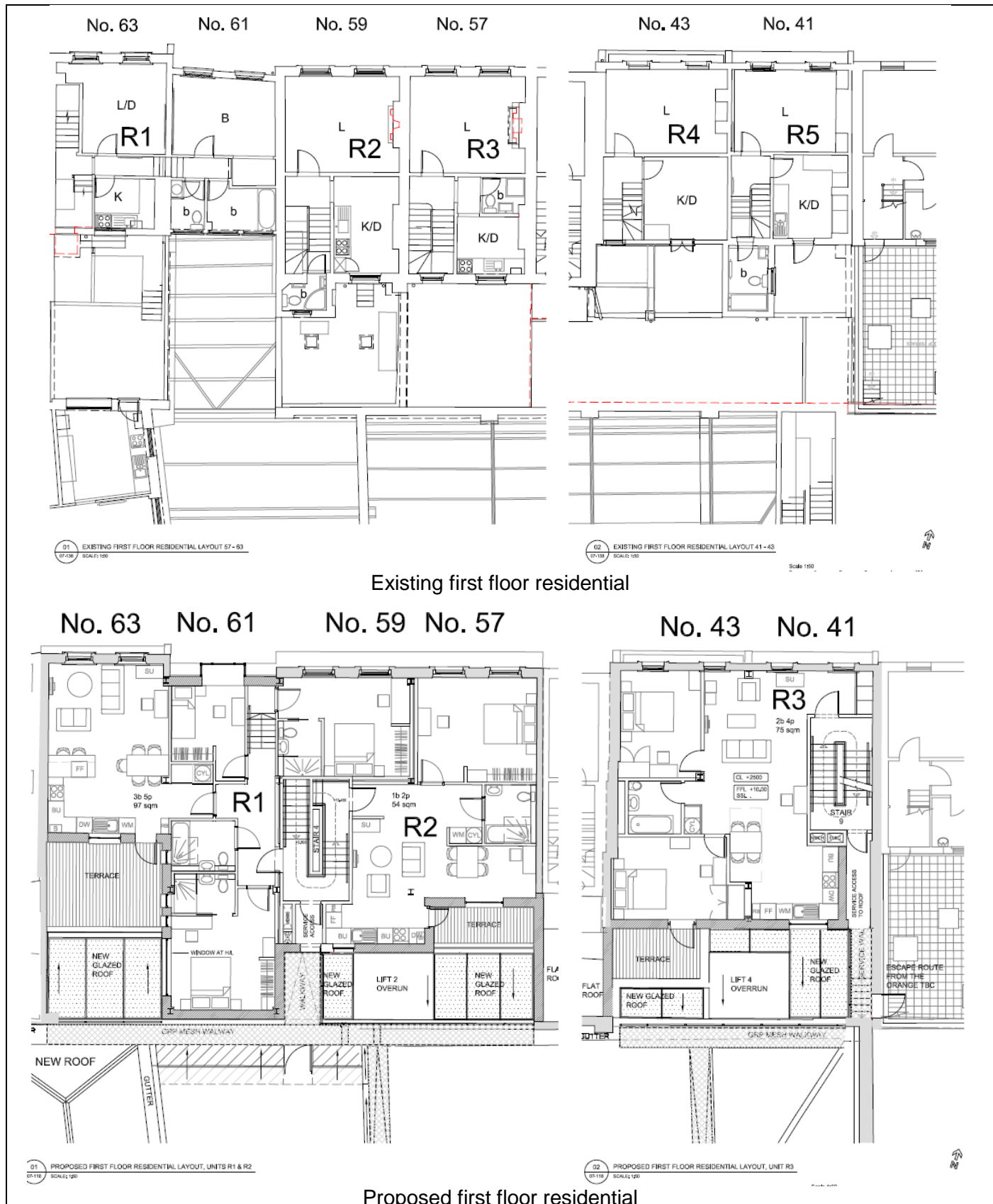
Proposed roof profile



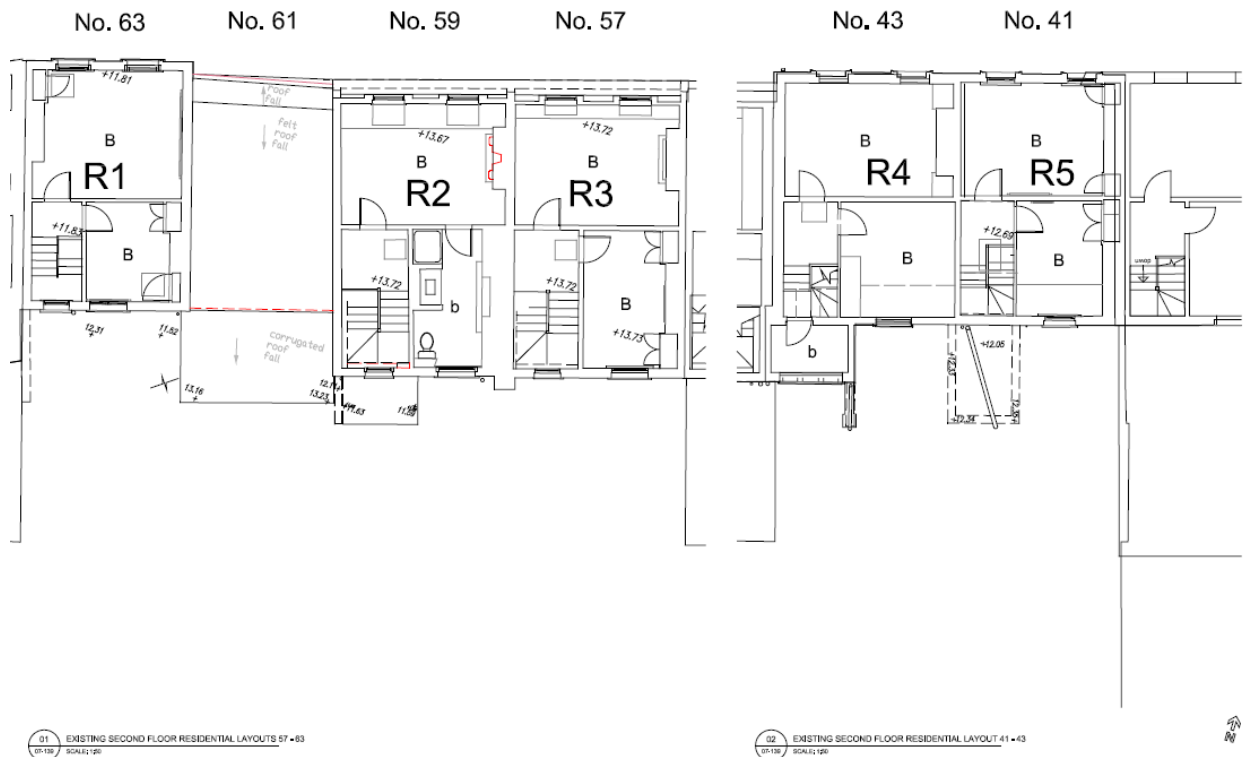
Existing roof profile



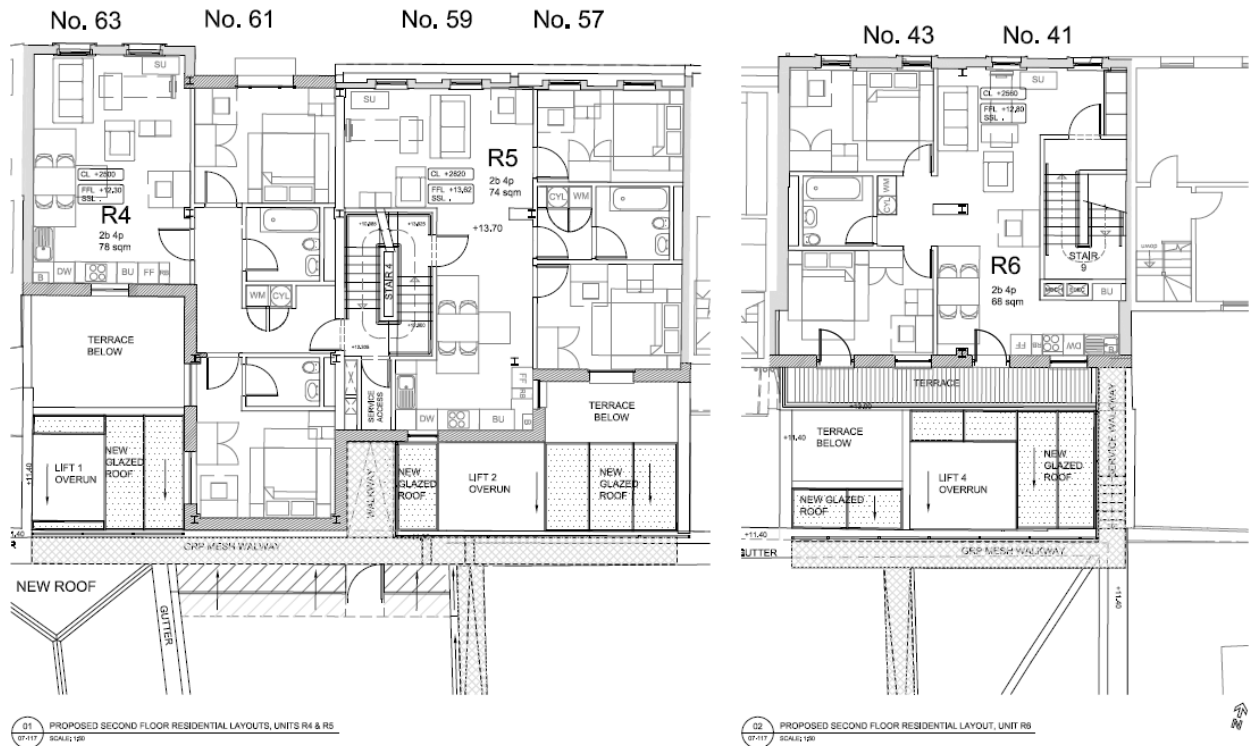
Proposed roof profile







Existing residential second floor



Proposed residential second floor



Proposed residential third floor

**DRAFT DECISION LETTER**

**Address:** Site At 41, 43, 57, 59, 61 And 63, Pimlico Road, London, SW1W 8NE,

**Proposal:** Demolition and reconstruction behind a retained front facade of 41, 43, 57, 59 and 63 Pimlico Road including the realignment of the rear elevation, the installation of new roof structures to match the existing, and the creation of external terraces; demolition of 61 Pimlico Road (the element directly fronting onto Pimlico Road) and construction of infill accommodation at ground, first, second and third floors; replacement of shopfronts to 41, 43, 57, 59 and 63 Pimlico Road; retention and sub-division of the builders' yard at 61 Pimlico Road (behind the frontage to Pimlico Road), installation of a partial mezzanine floor and creation of lateral connections at ground floor level to 41, 43, 57 and 59 Pimlico Road; replacement of the builders' yard glazed roof lantern; creation of roof level plant enclosure above part of the builders' yard; creation of 4no. Class A1 retail units at basement, ground and mezzanine level, with 7no. Class C3 residential dwellings at the first, second and third floor levels (with ground floor access); sub-surface excavation including lowering of ground floor slabs and the creation of additional basement accommodation; together with other external alterations.

**Reference:** 16/04562/FULL

**Plan Nos:** DW-2177-01-AR-07-098A, DW-2177-01-AR-07-099B, DW-2177-01-AR-07-100B, DW-2177-01-AR-07-101B, DW-2177-01-AR-07-102B, DW-2177-01-AR-07-103C, DW-2177-01-AR-07-104C, DW-2177-01-AR-07-105, DW-2177-01-AR-07-106, DW-2177-01-AR-07-107, DW-2177-01-AR-07-108B, DW-2177-01-AR-07-109B, DW-2177-01-AR-07-110A, DW-2177-01-AR-07-111B, DW-2177-01-AR-07-112B, DW-2177-01-AR-07-113B, DW-2177-01-AR-07-114B, DW-2177-01-AR-07-115B, DW-2177-01-AR-07-116A, DW-2177-01-AR-07-117, DW-2177-01-AR-07-118, DW-2177-01-AR-07-119, DW-2177-01-AR-07-120A, DW-2177-01-AR-07-121, DW-2177-01-AR-07-122, DW-2177-01-AR-07-123A, DW-2177-01-AR-07-124A, DW-2177-01-AR-07-126A, DW-2177-01-AR-07-127A, DW-2177-01-AR-07-128, DW-2177-01-AR-07-129, DW-2177-01-AR-07-130, DW-2177-01-AR-07-131, DW-2177-01-AR-07-132, DW-2177-01-AR-07-133, DW-2177-01-AR-07-134, DW-2177-01-AR-07-135, DW-2177-01-AR-07-136, DW-2177-01-AR-07-137, DW-2177-01-AR-07-138, DW-2177-01-AR-07-139, DW-2177-01-AR-07-140, DW-2177-01-AR-07-141, DW-2177-01-AR-07-142, DW-2177-01-AR-07-143, DW-2177-01-AR-07-144, DW-2177-01-AR-07-145, DW-2177-01-AR-07-147, DW-2177-01-AR-07-148A.

**Case Officer:** David Dorward

**Direct Tel. No.** 020 7641 2408

**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:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 Prior to the commencement of any demolition or construction on site the applicant shall provide evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. (C11CA)

## Reason:

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

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

## Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Belgravia Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 Notwithstanding that shown on the approved plans, you must apply to us for approval of detailed



drawings at a scale of 1:50 and 10, including x-sections, of any proposed replacement or renovated central rooflight to the warehouse structure. You must not start work on these parts of the development until we have approved what you have sent us. You must then carry out the works according to these details.

**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 Belgravia Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 6 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any provision equivalent to that class in any statutory instrument revoking or re-enacting that order) the retail accommodation hereby approved at ground floor level shall only be used for non-food retail purposes unless otherwise agreed in writing by the City Council as local planning authority.

**Reason:**

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 7 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately for each residential flat. 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 flats. No waste should be left or stored on the highway. (C14EC)

**Reason:**

To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 8 You must provide each cycle parking space shown on the approved drawings and you must apply to us for approval of details of short stay cycle spaces for the retail use. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details 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.

- 9 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 10 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated land, a guide to help developers meet planning requirements' - which was produced in October 2003 by a group of London boroughs, including Westminster.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate. (C18AA)

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007. (R18AA)

- 11 (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 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:

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 (July 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.

- 12 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.

- 13 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 11 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (July 2016), by contributing to reducing excessive ambient noise levels.

- 14 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 15 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 16 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 14 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

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 (July 2016), by contributing to reducing excessive ambient noise levels.

- 17 You must apply to us for approval of details of a Servicing Management Plan. You must not occupy any of the retail uses until we have approved what you have sent us. Thereafter you must service the retail uses within the buildings in accordance with the approved Plan, unless otherwise agreed in writing by us.

**Reason:**

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 18 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application.

Roof top photovoltaic panels

You must not remove any of these features. (C44AA)

**Reason:**

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (July 2016). (R44AC)

**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 (July 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 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
  - i. All highway works surrounding the site required for the development to occur including changes to on-street restrictions and footway repaving to Pimlico Road, all costs to be borne by the applicant.
  - ii. Lifetime (25 years) car club membership for the occupiers of each residential unit.
- 3 When carrying out building work you must do all you can to reduce noise emission and take

suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (150AA)

- 4 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.**

- 5 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will

carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

- 6 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 7 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 8 Approval for this residential use has been given on the basis of sound insulation and ventilation mitigation measures being incorporated into the development to prevent ingress of external noise. Occupiers are therefore advised, that once the premises are occupied, any request under the Licensing Act 2003, Environmental Protection Act 1990, Control of Pollution Act 1974 or planning legislation for local authority officers to make an assessment for noise nuisance arising from external sources is likely to be undertaken only if the noise and ventilation mitigation measures installed are in operation. E.g. windows kept closed.
- 9 Condition refers to a publication called 'Contaminated land, a guide to help developers meet planning requirements' - produced in October 2003 by a group of London boroughs, including Westminster. You can get a copy of this and more information from our environmental health section at the address given below.

Contaminated Land Officer  
Environmental Health Consultation Team  
Westminster City Council  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

Phone: 020 7641 3153  
(I73AB)

- 10 Conditions 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)

- 11 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.
- 12 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)

- 13 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.

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.



CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	141 and 143 Harley Street and 28 and 29 Devonshire Mews West, London, W1		
Proposal	Demolition of mews buildings at 28 and 29 Devonshire Mews West and lower ground and ground floor link building at the rear of 141 Harley Street and the erection of new building to include a three storey basement to the rear of the site in connection with the use of the 141 Harley Street and the lower ground and ground floor of 143 Harley Street for Class D1 medical purposes; installation of a new passenger lift to the rear of 141 Harley Street and installation of plant. (Site includes excavation part way under the pavement of Devonshire Mews West and use swap with 126 Harley Street).		
Agent	Howard de Walden Estate Ltd		
On behalf of	Howard de Walden Estate Ltd		
Registered Number	16/05372/FULL and 16/05373/LBC	Date amended/ completed	8 June 2016
Date Application Received	8 June 2016		
Historic Building Grade	II (141 and 143 Harley Street)		
Conservation Area	Harley Street		

## 1. RECOMMENDATION

For the Committee's consideration:

1. Does the Committee agree that the proposal's potential to complement and enhance the character and function of the Harley Street Special Policy Area justifies an exception being made to the limits on depth and projection under the highway set out in the basement policy?
2. Subject to 1. above, grant conditional permission, subject to a S106 legal agreement to secure the following:
  - i). Works shall not commence on site until planning permission has been secured to replace the shortfall in residential floorspace (minimum 215.6 sqm GEA) at an alternative site, as part of the overall land use package including the current application site and 126 Harley Street;
  - ii). The medical use hereby approved shall not be occupied until the shortfall in new/additional residential floorspace has been provided at an alternative site and been made ready for occupation.

3. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

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;

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.

4. Grant conditional listed building consent.

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

## 2. SUMMARY

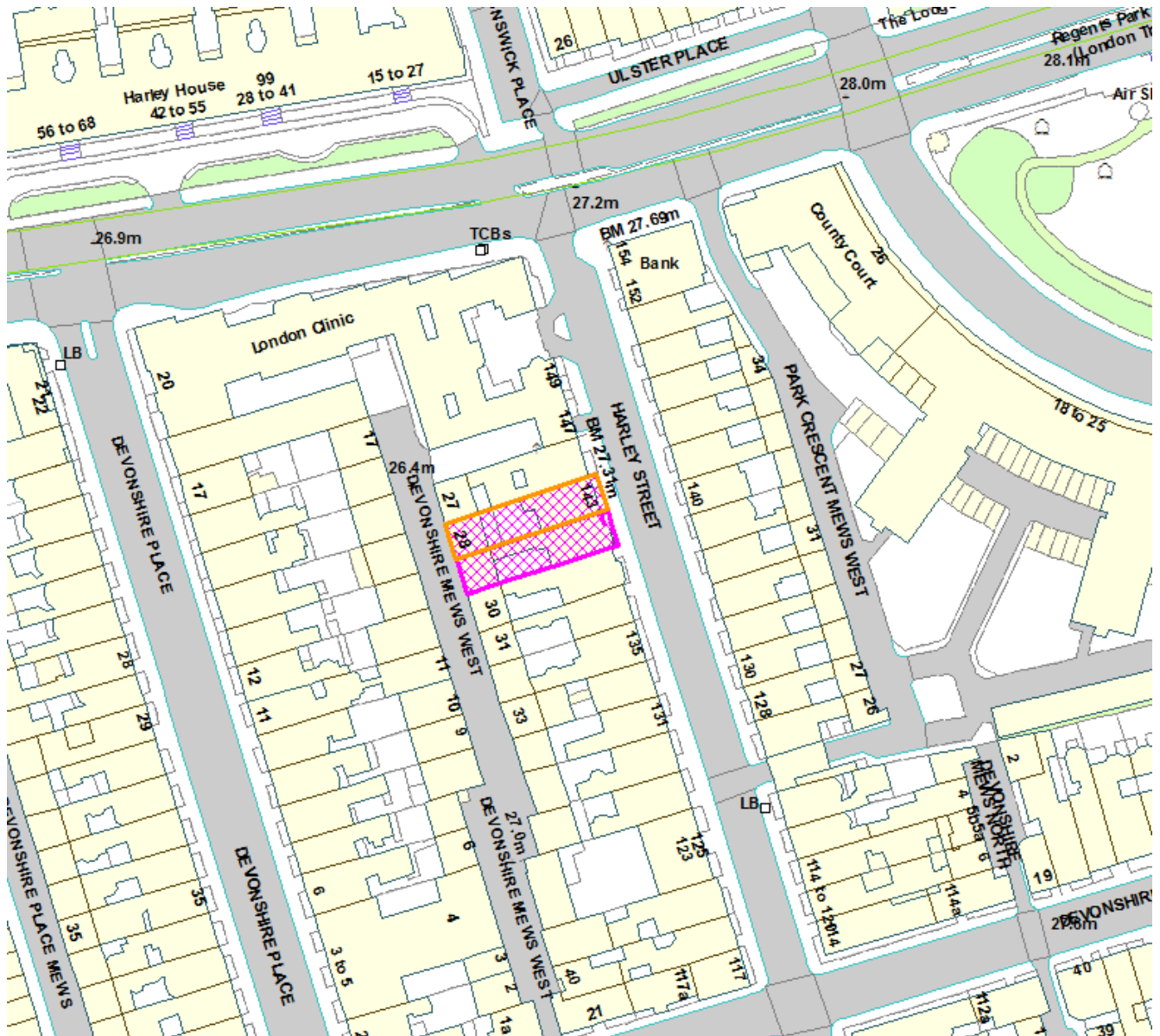
These properties are in a mix of mainly medical and residential uses. The Harley Street buildings are listed but the mews buildings, which are to be completely demolished and rebuilt, are not. Planning permission and listed building consent are sought for major works to these properties to enable the installation of a Proton Beam Therapy facility, a relatively new type of cancer treatment. The premises would be used for medical and ancillary purposes within Class D1 of the Use Classes Order.

The key issues are considered to be:

- The creation of new basements beneath the mews properties and impact from the associated construction works;
- The impact of the alterations on the listed buildings;
- The land use implications arising from loss of residential accommodation from the site;
- Amenity issues, including objectors' concerns about potential health issues arising from this type of medical provision and noise and vibration for the plant;
- Intensification of the medical use and potential impact on the residential character of Devonshire Mews West;
- Highways issues.

There have been a number of strong objections to the scheme, but for the reasons set out in the main report, the proposal is broadly considered to be acceptable. The specific medical use would be subject to separate regulatory control by the Environment Agency, and the scheme would be controlled by the Council's new Code of Construction Practice, to ameliorate disruption from building works. If approved, the applications would be subject to a legal agreement to secure alternative residential accommodation and a number of safeguarding conditions. However, the proposal is partly contrary to the recently adopted policy on new basements and for this reason the Committee is asked to consider whether an exception to the basements policy is justified in this instance.

### 3. LOCATION PLAN



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## 4. PHOTOGRAPHS

141 and 143 Harley Street, W1





**28 and 29 Devonshire Mews West****View of north end of Devonshire Mews West**

## 5. CONSULTATIONS

### HISTORIC ENGLAND

Advise that the application should be determined in accordance with national and local policy guidance and have issued the authorisation for the Council to determine the listed building application.

### MARYLEBONE ASSOCIATION

In principle highly supportive of a proton beam therapy unit in the Harley Street medical area but:

- have concerns about the precise location of this proposal, on a restrictive site, in a listed building;
- not convinced that the applicant has fully explored alternative, less sensitive locations within the Harley Street area;
- consider the large scale demolition and large basement are at odds with the building above;
- consider the replacement mews building is a dull pastiche when it could be totally modern;
- concerned about the potential effects on the occupants of neighbouring buildings – have not seen any categorical evidence that this issue has been properly addressed.

### ENVIRONMENTAL HEALTH

Initial holding objection to lack of information about testing for noise and vibration from the proposed proton beam plant; following the submission of additional information, recommends a number of conditions including submission of a supplementary acoustic report, restrictions on operating hours of plant, etc.

### HIGHWAYS PLANNING MANAGER

No objection in principle to the basement coming out under the highway subject to it being at least 900mm below the surface; no objections to the proposed cycle parking provision and servicing arrangements.

### BUILDING CONTROL

No objections to the structural proposals.

### CLEANSING

Following the submission of minor revisions and additional information, confirm that the initial objection is overcome and that the proposed waste storage arrangements are acceptable.

### ENVIRONMENT AGENCY (THAMES REGION)

No objections. Comment that the proposed use will require a permit under the Environmental Permitting Regulations 2010, that dialogue with their regulatory teams has begun and that no issues have been highlighted that would prevent the issuing a permit (subject to details).

### GEORGIAN GROUP

Any response to be reported verbally.

**VICTORIAN SOCIETY**

Any response to be reported verbally.

**TWENTIETH CENTURY SOCIETY**

Any response to be reported verbally.

**COUNCIL FOR BRITISH ARCHAEOLOGY**

Any response to be reported verbally.

**SOCIETY FOR PROTECTION OF ANCIENT BUILDINGS**

Any response to be reported verbally.

**ANCIENT MONUMENTS SOCIETY**

Any response to be reported verbally.

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

No. Consulted: 184; Total No. of replies: 35 ;

No. in support: 6 (including two letters sent by the applicant from medical specialists) in support of the proposed medical benefits/enhancement of the Harley Street area;

No. of objections: 29 (five of which are second letters from the same objectors and including a representation by a planning consultant on behalf of 12 local households)

Objections raised on some or all of the following grounds:

**Land use**

- Large increase in medical/commercial floorspace/intensification of the use, including a potential increase in the stated number of staff [18-20];
- Queries about the appropriateness of the specific medical provision/its very limited and specific clinical application
- Adverse impact on the quiet/residential character of Devonshire Mews West/this part of the Conservation Area/creeping commercialisation of the mews;
- Shortfall in residential floorspace/loss of residential properties and discrepancies in the timing of making up the residential shortfall;
- Queries why alternative/new build sites are not being used, and irrelevance of this as the applicant's preferred location in terms of its property portfolio;

**Design/Conservation Area issues**

- Loss of unlisted buildings merit;
- Non-compliance with the Council's recently adopted basement policy;
- Adverse impact on historic fabric and heritage assets (listed buildings and conservation area);

**Amenity/Safety**

- Adverse impact on health/safety/wellbeing the proposed medical equipment, including unproven technology, viability and untested safety characteristics, safety risks from possible inadequate shielding and remediation risks from contaminated equipment;
- Health risks from the proposed electrical substation and cabling and hazardous waste;

- Proposed hours of working are beyond normal commercial hours, resulting in later increased activity and loss of amenity;
- Noise and vibration nuisance from the proposed plant and medical equipment;
- Concerns about adequacy of the acoustic report;
- Increased noise from vehicular traffic using the mews to service the plant and machinery;
- Increased noise and disturbance from staff and patients using the mews access, including disabled access;
- Adverse impact on working conditions for residents working from home [both during the construction phase and subsequently];

#### Highways/Transportation

- Potential impact of traffic movements on vaults beneath the public highway;
- Increased use of the mews to access the building, in particular use of ambulances accessing the lift at the rear and service vehicles;
- Potential damage from vehicles (operational as well as construction vehicles) turning within the mews;
- Concern about the adequacy of the Transport Statement/that it is dismissive about/underplays the potential usage by and impact of traffic (construction and operational) on the character of the mews and that traffic movements need more rigorous scrutiny;

#### Procedural

- Concerns re: missing documents [subsequently made available];
- Concerns that the red line defining the application site was incorrect [by not showing part of the highway with the proposed basement extension beneath] and that applicant had not served correct notices [subsequently corrected by the applicant];

#### Other

- Disruption from excavation and building works, including traffic congestion;
- Narrowness of the mews makes the site unsuitable for a development of this sort, and reference to damage to buildings from previous construction vehicles;
- Adverse impact on a neighbour's ability to rent out his garage spaces.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

This application lies in the Harley Street Conservation Area and comprises four properties:

141 Harley Street is listed Grade II and comprises lower ground, ground and three upper floors. These are used as residential accommodation in the basement, second and third floors and Class D1 medical use on the ground and first floors. It is physically linked to the first floor Class D1 medical use at 29 Devonshire Mews West, a 2-storey building, that includes commercial garages at ground floor. The only access to the first floor is via the connecting link with No. 141. This building is not listed.



143 Harley Street is also a Grade II listed terrace property, comprising lower ground, ground and four upper floors. This contains residential accommodation at basement, second, third and fourth floors and Class D1 medical use at ground and first floors. The application only relates to the lower ground and ground floors.

At the rear of No. 143 is 28 Devonshire Mews West. The two properties are independent and not linked. No. 28 is a single dwelling house comprising lower ground, ground, first second and attic floors. It is relatively modern, having been rebuilt in 2011-2012.

The site is located within the Central Activities Zone (CAZ) as defined in the London Plan, and the wider Marylebone and Fitzrovia CAZ area as defined in the City Plan, but it is not in the Core CAZ nor on a Named Street [where, in general, commercial developments may be considered more acceptable, subject to other policy considerations]. The site is also within the Harley Street Special Policy Area. The immediate area is characterised by a mix of medical, residential and office uses, with Harley Street itself more commercial in nature than Devonshire Mews West, which is predominantly residential in character.

## 6.2 Recent Relevant History

22 November 1984 - permission granted for conversion of the basement of No. 141 to form two self-contained flats [2 x 2-bedrooms]. Informative advises that listed building consent is not required as the works are not considered to affect the building's character as a listed building.

December 2011: permission granted for 'Demolition behind retained front facades of No. 27 and No. 28 for the redevelopment to create 2x3 bedroom mews houses with new accommodation at lower ground floor and roof level. Erection of a two storey rear extension at new basement and ground floor level and loft conversion with two new dormer windows to the rear elevation at No. 28.' This was a variation to a very similar scheme approved in December 2010 but included demolition of the rear walls of the property. This scheme was implemented.

September 2015: a planning application was submitted for use of lower ground, second and third floors of 141 Harley Street, the whole of 29 Devonshire Mews West and the basement of 143 Harley Street as medical use (Use Class D1) (part of use swap with 126 Harley Street and 143 Harley Street). This was submitted to establish the principle of a land use swap between this site and 126 Harley Street, in anticipation of a more detailed proposal being submitted at a later date. However, the applicants subsequently wished to amend the application to include 28 Devonshire Mews West and it was agreed to withdraw the application. The accompanying applications for No. 126 were determined: -

January 2016: planning permission and listed building consent granted for the use of 126 Harley Street as 4 No. residential units (Class C3) and associated internal and external alterations including partial excavation to increase floor level at rear basement and rear vaults.

Condition 8 of the permission requires that:

“The residential use of the basement, ground, first and second floors hereby approved shall not be occupied until replacement medical floorspace has been approved at an alternative site and secured as part of a S106 legal agreement.”

Informative 2 stated that:

“It is noted that this application was initially submitted as part of a land use package involving 141-143 Harley Street and 29 Devonshire Mews West but that as a result of changes to the draft proposals for that site, the planning application has been withdrawn. However, the Council recognises that that site is likely to form the basis of a revised land use package, as required by condition 8 of this permission.”

## **7. THE PROPOSAL**

The applications have been submitted by the freeholder of the properties, Howard de Walden Estate, who wish to develop the site for Class D1 medical purposes, specifically a proton beam therapy facility with associated medical consulting rooms, ancillary support accommodation, mechanical plant and an electrical substation. This will be operated by Advanced Oncotherapy Ltd.

The main aspects of the proposal are as follows:

- Demolition of the buildings from the rear of the main building line of 141 and 143 Harley Street, including the existing mews buildings at 28 and 29 Devonshire Mews West and the courtyard at the rear of 143 Harley Street;
- Construction of a new 3-storey basement (and part fourth storey for a beam trough and lift sump pitt) to house the proton beam therapy equipment and its associated uses, incorporating the lower ground floor of No 141 to house part of the equipment;
- Rebuilding the mews properties to largely match the existing;
- Refurbishment of the ground to third floors in No. 143 and the lower ground and ground floors of No. 141 to be used as medical consulting rooms and medical offices, as part of the proton beam therapy facility.

The proposed site will entirely comprise Class D1 medical use, including space for the proposed machinery, associated plant, electrical substation, intake room and consulting rooms. As detailed below, the scheme results in a loss of residential floorspace from the site: this loss has partially been offset already with new residential accommodation being provided at 126 Harley Street (approved 19 January 2016). The current application is therefore part of a land use swap with that site, and another site yet to be identified.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposals effectively seek to amalgamate the four properties (excluding first floor and above of No. 143) to create a single medical unit (Class D1). Whilst there is some medical use on the site at the moment, the proposals do involve a loss of residential

accommodation from the site [lower ground, second and third floors of No. 141, lower ground of No. 143 and the whole of 28 Devonshire Mews West]. However, this loss has already been partially offset by the approved scheme for converting medical to residential floorspace at 126 Harley Street. The changes in floorspace can be summarised as follows:

Property	Existing residential (m <sup>2</sup> )	Proposed residential (m <sup>2</sup> )	Existing medical (m <sup>2</sup> )	Proposed Medical (m <sup>2</sup> )	Existing Commercial Garage (m <sup>2</sup> )	Proposed Garage (m <sup>2</sup> )
<b>141-143 Harley Street &amp; 28-29 Devonshire Mews West</b>	<b>857.6m<sup>2</sup> GEA</b> (709.0m <sup>2</sup> GIA)	0	<b>500.3 m<sup>2</sup> GEA</b> (420.6 m <sup>2</sup> GIA)	<b>2,337.0 m<sup>2</sup> GEA</b> (1,919.2 m <sup>2</sup> GIA)	0	0
<b>29 Devonshire Mews West-Garage Only</b>	0	0	0	0	<b>68.01 m<sup>2</sup> GEA</b> (52.56 m <sup>2</sup> GIA)	0
<b>126 Harley Street</b>	<b>221.0 m<sup>2</sup> GEA</b> (188.0 m <sup>2</sup> GIA)	<b>863.0 m<sup>2</sup> GEA</b> (748.0 m <sup>2</sup> GIA)	<b>642.0 m<sup>2</sup> GEA</b> (560.0 m <sup>2</sup> GIA)	0	0	0
<b>Totals</b>	<b>1,078.6 m<sup>2</sup> GEA</b> (897.0 m <sup>2</sup> GIA)	<b>863.0 m<sup>2</sup> GEA</b> (748.0 m <sup>2</sup> GIA)	<b>1,142.3 m<sup>2</sup> GEA</b> (980.6 m <sup>2</sup> GIA)	<b>2,337.3 m<sup>2</sup> GEA</b> (1,919.2 m <sup>2</sup> GIA)	0	0
	<b>Net change in residential = -215.6 m2 (GEA)</b>		<b>Net change in medical = +1,195m2 (GEA)</b>			

## Medical use

### Planning policy

The site is within the Harley Street Special Policy Area (SPA) but outside of the Core CAZ and not on a Named Street nor in an Opportunity Area (where, in general terms, the priority is to encourage commercial development). As indicated above, the proposal seeks to enlarge the existing private medical (Class D1) usage of the site – it is therefore both a social and community-type use and a commercial one. Unitary Development Plan Policy SOC 5 states that:

“In the Harley Street Special Policy Area:

(A) private medical facilities must :

1. complement and enhance the area's character and function
2. not significantly alter the balance of medical and residential uses in the area
3. not have harmful effects on local amenity.”

The supporting text notes that “the City Council recognises the special character and role of the Harley Street area...Planning powers will be used to protect and enhance the Harley Street area's character and role by allowing the development of private medical facilities in this area subject to the criteria in policy SOC 5(A). When considering proposals

for medical uses, the City Council will protect the area's dual character as a residential and medical area".

Policy S2 (Special Policy Areas) states that Harley Street's designation as a Special Policy Area is to protect and promote medical facilities.

Policy S34 (Social and Community Infrastructure) of Westminster's City Plan (July 2016) is applicable because medical use is considered to be a social and community use, irrespective of whether or not it is private. With regard to the provision of new social and community infrastructure, the policy states that:

"New social and community facilities will be encouraged throughout Westminster and will be provided on large scale development sites."

The land use objections about a large increase in medical/commercial floorspace, leading to intensification of the use and potential increase in the stated number of staff [18-20], are not considered to be sustainable given the site's location within the SPA (subject to other considerations such as safeguarding residential amenity).

Objectors query the suitability of the site for the extensive works that are involved and ask why alternative/new build sites are not being used, citing the applicant's preference in terms of its property portfolio as being irrelevant. The applicant has advised that other sites have been considered but were unsuitable due to difficulties in accommodating the beam line and necessary shielding – this apparently is the only building available to the applicant capable of accommodating the proposed facilities. The site is within the SPA and therefore its use for this purpose is acceptable in principle, subject to other considerations. Objectors' queries about the appropriateness of the specific medical provision/it is a very limited and specific clinical application is not considered to be a relevant planning consideration.

There have been objections that the proposed hours of operation are beyond normal commercial hours, resulting in later increased activity and loss of amenity. Subject to there being no demonstrable harm, extended hours are not in themselves considered to be unacceptable. The applicants initially asked for the premises to be open to patients from 07.00 until 22.00 hours, seven days a week. However, they have since revised this so that it closes on Sundays (apart from maintenance): this is considered to be acceptable and will be conditioned.

#### Specific medical provision and objections on health and safety grounds

In land use planning terms the key consideration is that the proposal is for Class D1 medical accommodation, subject to it broadly complementing and enhancing the provision of medical facilities within the area. The specific nature of the medical use is rarely of direct relevance and the only planning restriction is normally a condition that the approved use can only be used for medical purposes within Class D1 of the Use Classes Order.

The applicant has indicated that the current proposal is part of their strategy for medical provision within the Harley Street area, to enhance its reputation as an internationally renowned centre of private medical excellence. Part of their strategy is to identify what

healthcare facilities or services are under provided or not provided at all, in order that the area can provide the widest possible range of healthcare services.

The applicant advises that this is “cutting edge new medical technology [for] highly effective cancer treatment”. A proton beam is targeted at a tumour and delivers a dose of ionizing radiation to the tumour, which can be very precisely controlled to minimize the risk of damaging healthy tissue surrounding the tumour. Apparently it is especially suitable for brain tumours and treating children because of the reduced risk of damage to surrounding tissue and organs which are still developing. According to the applicant, there are only 40 or proton therapy centres in the world, many of which are used for research or only a small range of cancers. In Britain a Proton Therapy centre is currently being built at University College Hospital and another at the Christie Hospital in Manchester. The applicant argues that the proposal will continue the process of establishing the area as a world centre for specialized cancer care.

In this case there have been strong objections to the specific medical facility. There are concerns that the proposed medical equipment, in particular the use of radiation, will have an adverse impact on health/safety/wellbeing; objectors refer to the use of unproven technology, its medical viability and untested safety characteristics, safety risks from possible inadequate shielding and remediation risks from contaminated equipment and hazardous waste. There is also an objection to health risks from the proposed electrical substation and cabling.

In particular, there is an objection to the proposal being contrary to City Plan Policy S29 ‘Health, Safety And Well-Being’. This states that:

“Development should ensure that the need to secure a healthy and safe environment is addressed, including minimising opportunities for crime, including the risk of terrorism, and addressing any specific risks to health or safety from the local environment or conditions. Developments should also maximise opportunities to contribute to health and well-being, including supporting opportunities for improved life chances and healthier lifestyle choices.

The council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment.”

The specialised nature of the proposed medical facility is beyond the scope of planning consideration and in this case officers rely upon relevant professional expertise. In this case the proposals are subject to approval from the Environment Agency (who have been consulted about this application). The Agency confirms that under the Environmental Permitting Regulations (formerly the Radioactive Substances Act) anyone who keeps and uses radioactive materials and/or accumulates and disposes of radioactive waste needs a permit issued under the Regulations, and that the Agency issue the permits. Dialogue with their regulatory teams has begun and that issues have been highlighted that would prevent the issuing a permit (subject to details).

On this basis the objections on these grounds are not considered to be sustainable.

Objections about access and impact on Devonshire Mews West

Objections about the potential adverse impact on the quiet/residential character of Devonshire Mews West/this part of the Conservation Area and the 'creeping commercialisation of the mews' are a valid consideration. The rear of the site will primarily house plant and the electrical substations. In practice the new buildings will look little different from other residential buildings within the mews. The key consideration will be how they are used to provide access to the site, as the submission does refer to this being the location of level access, as well as access to the bed lift; there has been considerable concern from objectors that it will be used by ambulances.

The applicant has confirmed that there will be no ambulances visiting the site either on the Harley Street side or the mews side of the building (except in emergencies): Proton Beam therapy is an ambulatory treatment, therefore people will be able to walk themselves a reasonable distance to the facility [or arrive by taxi], thus there will be no need for ambulance drop off or pick up. With regards to the access from the mews and the inclusion of a bed lift with the mews proposal, the applicant advises that these items are required as part of the proposed medical facility for the following reasons:

- As this building is proposed to be a medical facility with space allocated for anaesthesia and recovery at Mezzanine level, and treatment below in the sub-basement, a bed lift is provided to transport patients under sedation between the two floors internally.
- Ordinarily, all bed-bound patients and staff will only ever use the internal east facing lift entrance doors to access the below ground floor levels of the proposed buildings. In the unlikely event that an emergency evacuation is required whilst someone is under sedation in either the Mezzanine or sub-basement level, the bed-lift would be used to evacuate the patient and this would have to be into the mews, but should of course happen very rarely.
- The bed lift at the rear of the site will be also be used for the future replacement and maintenance of the some of the medical equipment (AVO LIGHT system and ancillary imaging equipment). Some parts of this equipment are extremely heavy and large in size and therefore providing the bed lift will make it easier and safer to move these parts vertically through the building. In such cases the equipment will be delivered via the Mews entrance but it is not envisaged that this type of maintenance or the replacement of parts should occur more than once/twice a year.
- The bed lift will provide level access to the lower floors, from within the building. It is intended to use a portable ramp at the front entrance of the building on Harley Street for anyone requiring assisted level access into the building (see Access section below).
- Due to the requirement for the bed lift, the location of the proposed electrical substations and the need to access to this part of the mews, the doors will need to open outwards on to the highway to provide access to these areas of the building. It should be noted however that these doors will be used very infrequently and only when required, therefore not on a daily basis.

On this basis it is considered that objectors' concerns about increased use of the use are unjustified. It is proposed to condition the permission to prevent use of the mews access

except in cases of emergency or for servicing requirements. This would include a restriction on staff using the mews for general access, but would allow refuse collection (see waste section below).

Objections about the proposal adversely impacting on residents working from home (when the premises are operational) or effecting one resident's ability to rent out his garage spaces, are considered to be overstated and not justifiable.

### **Residential use**

As indicated in the land use table above, the proposal would result in a net loss of residential floorspace (215.6 m<sup>2</sup>) and five residential units (not two, as referred to by some of the objectors): two flats in the lower ground floor and a maisonette on the upper floors of No. 141, a flat in the lower ground floor of No. 143 and the single dwelling in 28 Devonshire Mews West.

There have been objections to the shortfall in residential floorspace/loss of residential properties and discrepancies in the timings of making up the residential shortfall.

Policy CM47.1 of the City Plan does allow for land use swaps and packages, subject to certain criteria. This does normally include a requirement that the applications are submitted at the same time and all elements of the scheme are completed within a time frame agreed by the City Council. Some of the residential accommodation has already been approved (in January 2016) at 126 Harley Street, in the form of three additional residential units. However, a site has not yet been formally identified for the shortfall.

Although this is unfortunate, it is considered that the matter can be adequately addressed by having a legal agreement that requires the following:

- i). works shall not commence on site until planning permission has been secured to replace the shortfall in residential accommodation (minimum 215.6 sqm GEA) at an alternative site, as part of the overall land use package including the current application site and 126 Harley Street;
- ii). The medical use hereby approved shall not be occupied until the shortfall in residential accommodation has been provided at an alternative site and been made ready for occupation.

One objection refers to the proposal being contrary to policy COM 2 of UDP policy – however, this policy has now been deleted. This used to require that where appropriate and practical, increases in office floorspace should be matched by the provision of self-contained residential accommodation of equivalent floor area, preferably with separate access. As the proposal is for Class D1 medical floorspace, not Class B1 office floorspace, this was not relevant anyway and the objection therefore not sustainable. The residential shortfall that does exist on the site is purely due to the loss of existing residential floorspace from the site. Under policy S1 (Mixed Use in the Central Activities Zone) of the City Plan (July 2016) there is no requirement for non-B1 commercial uses to provide an equivalent amount of residential floorspace.

There is no objection to the loss of the unrestricted commercial garage that occupies the ground floor of 29 Devonshire Mews West.

## 8.2 Townscape and Design

The site comprises four buildings; two listed buildings on Harley Street and two unlisted mews buildings at the rear in Devonshire Mews West. There are listed buildings adjacent in the terrace to the south.

141 Harley Street is a Grade II listed, four storey (and basement) Georgian terraced house. The building has been altered over the years and there are relatively few important features remaining internally. However, the staircase survives and there is historic joinery and plasterwork at ground floor and first floor levels.

143 Harley Street is also a grade 2 listed building, comprising basement and five upper floors. However, the proposals only affect the ground floor and basement levels, and these interiors are of only modest interest.

28 Devonshire Mews West is a recent redevelopment, less than 5 years old, and in a traditional style. No. 29 is an older building but it has been altered, especially at first floor level. The Harley Street Conservation Area Audit shows these buildings, as part of the whole of the east side of the mews, as unlisted buildings of merit. Despite this, it is considered that there is not a strong presumption to retain these buildings. Demolition could be acceptable, subject to the qualities of the replacement buildings, which would need to make an equal or greater contribution to the character and appearance of the conservation area.

The main alterations proposed are:

- Demolition and redevelopment of the mews buildings and rear extensions of the listed buildings.
- Excavation of 3 basement levels below the mews.
- Works at basement level, in 141 in particular, including the installation of a Proton Beam Therapy Facility and associated shielding.
- Installation of a lift at the rear of 141.
- New plant.

### The listed buildings

The front facades of the listed buildings on Harley Street will be retained and repaired. The proposed alterations to the interior of the listed buildings primarily affect basement and third floor levels in No. 141 and, to a lesser degree, the basement and ground floor level in No. 143.

At basement level in No. 141 the 'accelerator hall' is created. The walls are lined with protective shielding. This is a very significant intervention but there is little of special architectural and historic interest and the proposed works will not harm the special interest of the listed building. At third floor level the interior is also already much altered and the proposed alterations will not harm the special interest. The works to No. 143, which are much less extensive, are acceptable for similar reasons.



The lift shaft adds height and bulk to the existing rear extensions, but given the existing altered nature of the rear and in the context of this part of the terrace, which contains other full height rear extensions (notably at Nos. 137 and 139), it will not cause harm to the appearance of the building or the terrace. The rear extensions of No. 141 are not of special interest and their demolition and rebuilding is considered acceptable.

#### The mews buildings

The new mews buildings are designed in a traditional manner. One unusual element is the use of one mews building for plant, with the installation of louvres behind the façade. The latter is treated in a traditional manner, and the louvres are set back behind the timber sash windows, which do not have glass, but have insect mesh to allow air movement.

The design of the new parts, including the mews buildings, is traditional in terms of the appearance and materials and this is appropriate and acceptable. The character of the mews will be preserved and enhanced.

#### Basement excavation

There are currently basements beneath the main buildings on Harley Street and 28 Devonshire Mews West. The excavations at the rear of the listed building and in the mews are contrary to the City Council's policy on basement development, set out in the City Plan 2016, as they involve the creation of three basements (and part fourth to contain a beam trough and lift sump pit). A number of objectors raise this matter. Of particular relevance is Part C(3) which states that non-residential development adjoining residential properties outside Core CAZ will not involve the excavation of more than one storey below the lowest original floor level, unless the following exceptional circumstances have been demonstrated:

a) that the proposal relates to a large site with high levels of accessibility such that it can be constructed and used without adverse impact on neighbouring uses or the amenity of neighbouring occupiers; and b) that no heritage assets will be adversely affected.

Whilst it is considered that b) is satisfied, a) is not satisfied. Furthermore it is also contrary to part D of the policy which states that basement development under the adjacent highway will: "2) not encroach more than 1.8m under any part of the adjacent highway".

The committee therefore needs to consider whether there is adequate justification for departing from the basement policy in this particular case.

Overall the proposed works will not harm the heritage assets, namely the special interests of the listed buildings, the settings of adjacent listed buildings and the character and appearance of the Harley Street Conservation Area. The scheme complies with the City Council's urban design and conservation policies, including strategic policies S25 and S28, and UDP policies including DES 1, DES 4, DES 9 and DES 10.

### 8.3 Residential Amenity

#### Daylight, Sunlight, Sense of Enclosure and Privacy

Policy S29 of the City Plan seeks to safeguard the amenity of existing residents. Policy ENV13 of the UDP seeks to protect and improve the residential environment and resist proposals which would result in a material loss of daylight and sunlight and/or a significant increase in sense of enclosure or overlooking. The nearest residential accommodation is in the upper floors of 143 Harley Street and the properties adjacent to the site (139 and 145 Harley Street and 27 and 30 Devonshire Mews West, as well as the mews properties opposite the site at the rear (13 and 14 Devonshire Mews West).

Although the mews buildings are being rebuilt, in terms of height and bulk they are virtually unchanged. A new lift shaft is proposed at the rear of No. 141, adjacent to No. 143 rather than No. 139. A Daylight and Sunlight study has been submitted with the application, in accordance with the recommendations of the Building Research Establishment's "Site Layout Planning for Daylight and Sunlight, A guide to good practice". This demonstrates that impact on the amenity of adjacent residential properties is within acceptable limits (the main impact being some loss of daylight and sunlight to No. 141).

The extensions will not increase the sense of enclosure to any adjoining properties nor is there any opportunity for loss of privacy. There have been no letters of objection specifically on these grounds.

#### Mechanical Plant – Medical equipment

Policies ENV6 and ENV7 of the UDP and S32 of the City Plan seek to protect occupants of adjoining noise sensitive properties from the impacts of noise from new development, including from plant. The proposal involves a significant amount of plant, though this is largely internal, with the only externally vented plant within the site at basement level. There are acoustic louvres proposed around the courtyard area to the rear of 143 Harley Street and within the windows on the front and rear elevations of the mews building but these louvres are only for acoustic purposes and the circulation of air for the proposed plant within the mews buildings.

There have been strong objections from neighbours to potential noise and vibration nuisance from the plant and proposed mechanical equipment as part of the Proton Beam Therapy facility.

Environmental Health have had extensive discussions with the applicant about the proposal. Initially they submitted a holding objection on the grounds of lack of adequate information. Part of the problem is the unique nature of the proton beam plant, which is bespoke and therefore difficult to test until it has been built. The applicants have advised that there are no similar systems installed within similar settings within the UK, therefore they have undertaken measurements of an existing similar system installed in Geneva. They advise that this installation in Geneva is several times larger and is installed in a much larger and more reverberant space than the proposed installation at 141 Harley

Street and as a result they believe the measured noise levels from the unit in Geneva to be worst case scenario.

Measured noise and vibration levels in the 'Klystron Gallery' (a type of power source) and the manufacturer's noise data levels of the proposed pumps within the accelerator due to be installed at 141 Harley Street have been provided. Subjectively, the accelerator itself was noted to not produce any audible noise. The report notes the pumps for the accelerator tunnel are low vibration generating items, but advises that the installation of vibration isolators to the accelerator pumps will be necessary in any case as any vibration in the tunnel will affect the functionality of the accelerator.

Using this data, the report predicts the amount of noise and vibration transference through the structure, and from this they conclude the noise and vibration levels are predicted to be low in neighbouring properties. The predicted noise levels from the Klystron Gallery, assuming it was sited directly adjacent to the neighbouring party wall and the party wall structure provides an assumed attenuation of 50 dB, is in the region of 20 – 25 dB (A). Similarly, the measured vibration levels were low and they conclude the level of vibration transference to neighbouring properties is predicted to be low. The accelerator is shielded with concrete which is expected to provide 50 dB (A) attenuation. As the maximum noise level from the pumps are expected to be 50 dB(A), it is expected that any noise transference will be negligible. Vibration transference from the pumps is also expected to be negligible. These results indicate compliance with the City Council's standard noise condition for internal noise and vibration transfer from the applicant site to neighbouring residential properties.

As this equipment is bespoke and the measured data relates to a different type of unit, it is recommended that a condition requiring a post commissioning report is submitted, before the use properly commences, to demonstrate the required noise and vibration levels have been met.

By applying this condition, it provides assurance to the City Council and nearby occupants that the plant as installed can meet the requirements of the condition and therefore unlikely to affect the amenity of neighbouring properties. This post commissioning report will require the occupants of adjacent properties to provide access and therefore in the event this is not provided, Environmental Health recommend an informative advising that we would accept a calculation approach to demonstrate compliance with the required conditions.

#### Substations and other plant

The plans also indicate substations are due to be installed within the building and therefore additional wording is recommended to be added to the condition for internal noise transfer to account for the potential issue of low frequency noise and the creation of standing waves which can arise from substations.

With regard to externally vented plant, Environmental Health also consider it reasonable to recommend a condition requiring a post commissioning survey. As noted above, this condition will require the application to undertake a survey once the plant is installed to demonstrate the noise levels from the plant can meet the requirements of the standard planning condition for noise from externally vented plant.

Given the above advice and subject to the recommended conditions, it is considered that objections on these grounds will be adequately assessed. Objections were raised to the timing of the background noise survey (i.e. not taken on a Sunday, when ambient noise levels are likely to be at their quietest). Environmental Health therefore recommend the post commissioning survey and a corresponding background noise survey is undertaken at the most sensitive time at which the plant is likely to be in operation (which should be a Sunday).

There were concerns that some of the plant might operate over a 24 hour period. However, the applicant has confirmed that this will not be necessary and in accordance with their request, it is proposed that the hours of plant will be conditioned, with the inlet and exhaust plant on Devonshire Mews West restricted to between 07:00 – 19:00 and all other plant to between 07:00 – 23:00.

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

There have been objections that the proposal will lead to an increase in traffic within Devonshire Mews West, both during the construction phase and once the premises are in use. Concerns about construction are addressed below. With regard to when the premises are in use, as indicated above, the applicant has confirmed that the access on to Devonshire Mews West will only be used for occasional servicing requirements or in cases of emergency. The submitted Transport Statement shows that the site is well served by public transport and advises that “Patients and staff will be able to use non-car modes to travel to the site”, which in this case is taken to mean public transport or, more likely, by taxi to the Harley Street entrance rather than via the Mews. This is considered acceptable.

With regard to servicing (excluding collection of waste), the applicant has advised that this might be two or three times a year and would need to be via the mews. The Highways Planning Manager has advised that service vehicles would, like the refuse collection vehicles that serve the existing properties in the mews, use the servicing bay at the northern end of the Mews and are going to be able to use that area to turn around. He is therefore happy with the servicing arrangements.

Six spaces are shown on the basement plan for cycle storage (within the courtyard) and these are sufficient to meet the London Plan's requirements and will be secured by condition. The submitted drawings do show doors to the mews buildings opening out over the highway, giving access to the substation, the bed lift and circulation space. Whilst not normally considered to be acceptable, in this location there is considered to be limited potential for conflict with pedestrian safety (as this is not a major thoroughfare but a cul-de-sac) and access to the substation and bed lift would be only going to be used in an emergency or infrequently. However, the other doors are likely to be used more frequently, for collection of domestic-type refuse, and a condition requires that these are amended so as not to open over the highway.

The Highways Planning Manager has no objection in principle to the basement coming out under the highway as far as is shown, but if it is going to do so it should be at least 900mm below the surface, as is detailed in UDP policy TRANS 19. It is not clear from the submitted drawings whether this depth is currently achieved but this can be secured by condition. There has been an objection about potential impact of traffic movements on

vaults beneath the public highway: it is assumed that this refers to the mews, but as indicated above, the Highways Planning Manager is satisfied in principle with the proposed extension under the highway.

There have been objections that the Transport Statement is inadequate and information on traffic movements need more scrutiny. The Highways Planning Manager is satisfied with the information that has been submitted, bearing in mind the applicant's confirmation about the proposed limited use of the mews (to be secured by condition).

Accordingly the objections on highways grounds are not considered to be sustainable, subject to safeguarding conditions.

## **8.5 Economic Considerations**

There are no explicit economic considerations with regards to the application, but it is considered that it will complement and enhance the Harley Street Special Policy Area.

## **8.6 Access**

The scheme has been designed in the sections of the site to meet the requirements of the Equalities Act 2010 as best as possible. In the main buildings (141 and 143 Harley Street) however, this has not been possible because of their listed status. Level access is only possible from the mews (though for the reasons outlined above, this is to be restricted by condition to protect residential amenity). The main entrance at the front of the site will need to use a temporary ramp to allow wheelchair users into the building from Harley Street. The applicant has been asked to consider the installation of retractable stairs that incorporate a wheelchair lift, but advises that there would not be enough room to incorporate this.

Within the building there will be two main lifts: a passenger lift and a HTM bed lift. Together these provide level access to the ground, lower ground, basement levels and third floor (and access to the half landings at first and second floors). The applicant advises that every effort has been made to ensure that new doors and other openings will be large enough for wheelchair users and that there are accessible WCs on the ground floor and mezzanine level.

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

### **Refuse /Recycling**

Following initial concerns raised by the Projects Officer (Waste), a revised Waste Management Strategy has been submitted, along with amended drawings. On this basis his initial objection has been withdrawn, subject to conditions. The mews entrance would be used for the collection of domestic-type waste and recycling, with clinical waste collected via Harley Street.

### **Crime and security**

It is not considered that the proposal gives rise to any particular crime and security concerns.

## **Sustainability**

The application has not been accompanied by any sustainability assessment. It is accepted that this is for a specialist facility, and there are limitations on what could be achieved given that the main buildings are listed. On this occasion, therefore, this omission is considered to be acceptable.

### **8.8 London Plan**

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

### **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**

Policy S33 of the City Plan details the Council's aim to secure planning obligations and related benefits to mitigate the impact of all types of development. Formulas for the calculation of contributions towards related public realm improvements etc. are detailed in the Council's Supplementary Planning Guidance on Planning Obligations. On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which makes it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, if the obligation does not meet all of the following three tests:

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

From 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 permissions 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 recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

In this case it is considered necessary to have a S106 legal agreement to secure the shortfall in residential accommodation, and the following clauses are proposed:

i). works shall not commence on site until planning permission has been secured to replace the shortfall in residential floorspace (minimum 215.6 sqm GEA) at an alternative site, as part of the overall land use package including the current application site and 126 Harley Street;

ii). The medical use hereby approved shall not be occupied until the shortfall in new/additional residential floorspace has been provided at an alternative site and been made ready for occupation

The City Council adopted its own Community Infrastructure Levy on the 1<sup>st</sup> May 2016. However, for this use a CIL payment will not be required.

## 8.11 Other Issues

### Basement

While the Building Regulations determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely, the National Planning Policy Framework (NPPF) March 2012 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by land instability.

Studies have been undertaken which advise that subterranean development in a dense urban environment, especially basements built under existing vulnerable structures is a challenging engineering endeavour and that in particular it carries a potential risk of damage to both the existing and neighbouring structures and infrastructure if the subterranean development is ill-planned, poorly constructed and does not properly consider geology and hydrology.

The NPPF goes on to state that in order to prevent unacceptable risks from land instability, planning decisions should ensure that new development is appropriate for its location. It advises that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The NPPF advises that planning decisions should ensure that a site is suitable for its new use taking account of ground conditions and land instability and any proposals for mitigation, and that adequate site investigation information, prepared by a competent person, is presented.

There have been concerns on these grounds raised by objectors. Given the complexity of the proposed construction, the applicant has provided a Structural Survey that sets out how the structural stability of the existing building will be safeguarded. The applicant will need to comply with the relevant parts of the council's Code of Construction Practice and has awareness of the need to comply with other public and private law requirements.

The scheme has been considered by the Council's own engineers in Building Control, who have advised that when they respond to a consultation about a basement excavation they are advising if the proposal is viable. In this case, and many others, the design outline is provided for planning purposes with the intention of a full structural design being

developed once planning approval is gained. That structural design is then submitted to Building Control for Building Regulations approval.

In this case the applicant's structural engineer has produced an outline design showing a piled wall with internal reinforced concrete box, which is similar to the two buildings recently constructed either side of City Hall, so some substantial engineering content and is provisionally the most robust and safe way of forming a basement excavation. For the purposes of planning the Council would not expect anything else at this stage.

The proposed additional basements in this commercial scheme are considered to be acceptable in land use terms and will be subject to the usual Building Control regulations. The objections on these grounds are not considered to be sustainable.

### **Construction impact**

There have been very strong objections, mainly from residents within Devonshire Mews West, to the disruption that would be caused by the proposal excavation and construction works. Objections have been received that the proposed works would result in a lengthy construction process and create general noise and disturbance, that there would be particular problems with increased traffic congestion (objectors refer to the narrowness of the mews and its entrance and limited turning space in the mews, potentially causing damage to their properties), adversely impacting on residents working from home and effecting one resident's ability to rent out his garage spaces.

Whilst sympathetic to objector's concerns, disruption from excavation and building works are not justifiable grounds for refusing planning permission. The proposal will be subject to the Council's recently adopted Code of Construction Practice which will help ensure that the impacts of the development process are ameliorated as much as reasonably possible.

## **8.12 Conclusion**

Notwithstanding the strong objections, the proposals' aim to complement and enhance the character and function of the Harley Street Special Policy Area is broadly considered to be acceptable in principle. The proposal is contrary to the Council's recently adopted policy limiting the construction of new basements and the Committee is therefore asked to consider whether an exception to this policy is justified in this case. Objections about health and safety aspects of the proposed medical equipment are subject to separate regulatory control and are not considered to be sustainable. Similarly objections to disruption during building works, including potential traffic issues within Devonshire Mews West, would be controlled by the Council's new Code of Construction practice.

## **9. BACKGROUND PAPERS**

1. Application form
2. Letter from Historic England dated 27 June 2016
3. Letter dated 2 August 2016 and email dated 3 August 2016 from the Environment Agency
4. Email from the Marylebone Association dated 27 July 2016
5. Representation from Building Control (undated)



6. Memoranda from Environmental Services dated 18 July and 28 September 2016
7. Memorandum from the Highways Planning Manager dated 22 July 2016
8. Memoranda from the Projects Officer (Waste) dated 20 June and 2 August 2016
9. Letter from occupier of Windermere House, 1A Devonshire Place, dated 4 July 2016
10. Letter from occupier of 14 Harmont House, 20 Harley Street, dated 9 August 2016
11. Letter from occupier of 129 Harley Street, London, dated 8 July 2016
12. Letters from occupier of 12 Devonshire Mews West, London, dated 4 and 23 July 2016
13. Letter from occupier of 7 Devonshire Mews West, dated 30 June and 26 July 2016
14. Letter from occupier of 12 Devonshire Place, London, dated 3 July 2016
15. Letter from Alistair Grills Associates (with attached reports), dated 22 July 2016 [on behalf of 12 local residents]
16. Letter from occupier of Flat 14, 123 Harley Street, dated 8 August 2016
17. Letter from occupier of 129 Harley Street, London, dated 4 July 2016
18. Letter from occupier of 129 Harley Street, London, dated 5 July 2016
19. Letter from occupier of 15 Devonshire Mews West, London, dated 31 July 2016
20. Letters Adelaide Jones and Co Ltd, dated 21 July and 2 August 2016
21. Letter from occupier of 2 Devonshire Mews West, dated 1 July and 1 August 2016
22. Letter from occupier of 9 Devonshire Mews West, London, dated 16 July 2016
23. Letter and email from occupier of 14, Devonshire Mews West, dated 5 August 2016
24. Letter from occupier of 1A Devonshire Place, Windermere House, dated 13 June 2016
25. Letter from occupier of 10 Devonshire Mews West, London, dated 6 July 2016
26. Letter from occupier of 10 Devonshire Mews West, London, dated 7 August 2016
27. Letter from occupier of 32, Devonshire Mews West, dated 5 July 2016
28. Letter from occupier of 33 Devonshire Mews West, London, dated 8 August 2016
29. Letter from occupier of Flat South, 37 Devonshire Mews West, dated 1 August 2016
30. Letter from occupier of Basement Flat, 129 Harley Street, dated 25 July 2016
31. Letter from occupier of 38 Elsworthy Road, London NW3 3DL dated 20 July 2016
32. Letter from occupier of 143 Harley Street dated 19 July 2016
33. Letter from occupier of Flat C, 143 Harley Street dated 19 July 2016
34. Letter from occupier 51 Sheepfoote Hill, Yarm, Cleveland dated 9 August 2016
35. Letter from occupier of 37 Handforth Road London dated 9 August 2016

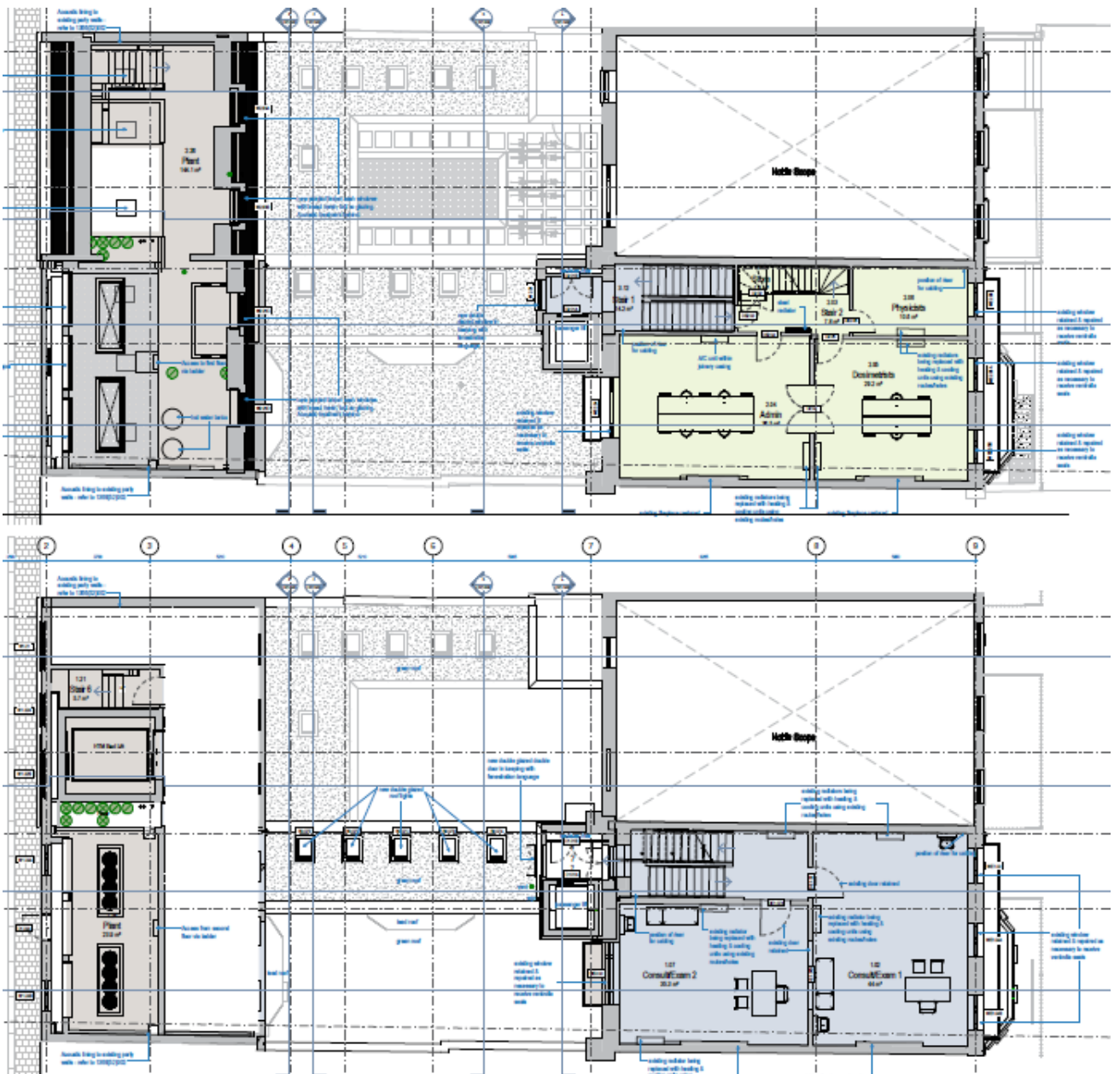
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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).

## Proposed ground floor and base



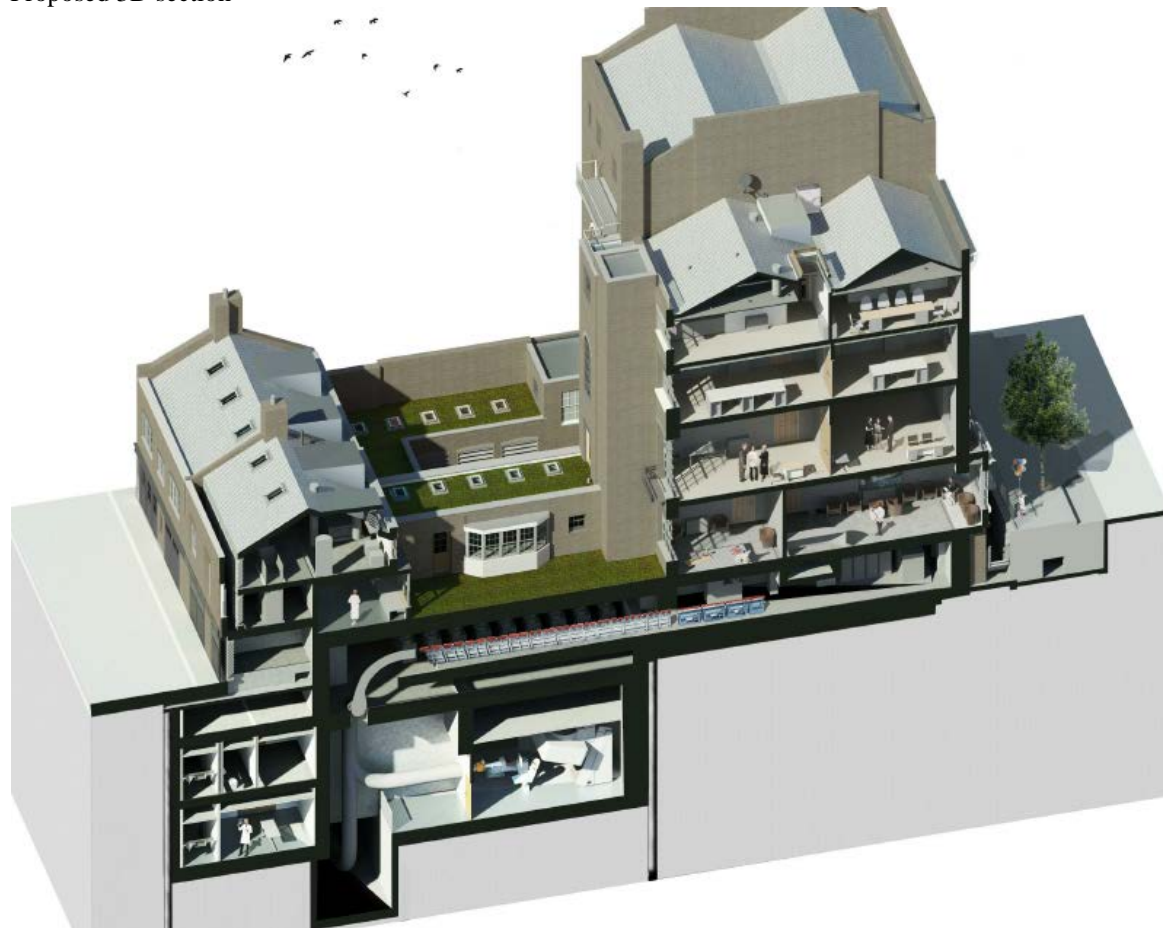
## Proposed second and first floor



Proposed elevations



Proposed 3D section







**DRAFT DECISION LETTER – PLANNING PERMISSION**

**Address:** 141 Harley Street, London, W1G 6BQ

**Proposal:** Demolition of mews buildings at 28 and 29 Devonshire Mews West and lower ground and ground floor link building at the rear of 141 Harley Street and the erection of new building to include a three storey basement to the rear of the site in connection with the use of the 141 Harley Street and the lower ground and ground floor of 143 Harley Street for Class D1 medical purposes; installation of a new passenger lift to the rear of 141 Harley Street and installation of plant. (Site includes excavation part way under the pavement of Devonshire Mews West and use swap with 126 Harley Street).

**Reference:** 16/05372/FULL

**Plan Nos:** TO BE ADDED

**Case Officer:** Paul Quayle

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

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

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

**Reason:**

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

- 2 All new work 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.

**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 Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

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

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

- 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 (July 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 5 Despite annotations on the drawings hereby approved, all new windows in the main facades (front and rear) of the principal listed buildings shall be single glazed. Double glazed windows shall not be used.

## 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 (July 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 You must use the premises only for medical and ancillary medical purposes. You must not use them for any other purpose, including any within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (or any equivalent class in any order that may replace it). (C10AA)

## Reason:

Because of the special character of the Harley Street special policy area, we need to prevent the use of the property for any unsuitable purpose. This is as set out in S2 of Westminster's City Plan (July 2016) and SOC 5 of our Unitary Development Plan that we adopted in January 2007.

- 7 The premises shall only be open to patients between the hours of 07.00 and 22.00 hours, Monday to Saturday, and not at all on Sundays.

## Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 8 No plant should be operated outside of the hours of 23:00 - 07:00 hours except for the first floor Intake and second floor Exhaust at the Devonshire Mews West elevation, which shall only be operated between 07:00 - 19:00 hours.

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

- 9 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

## Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 10 (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 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:

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 (July 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.

- 11 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.

- 12 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition), nor commence the use hereby approved, until you have carried out and sent us a post-commissioning noise and vibration survey and we have approved the details of the survey in writing. The post-commissioning noise and vibration survey must demonstrate that the plant/ machinery complies with the noise and vibration criteria set out in conditions 9, 10 and 11 of this permission. The post commissioning survey shall be undertaken at the most noise sensitive time that the plant will be in operation and shall include a corresponding relevant background noise survey for this time period (i.e. Sunday).

Reason:

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 (July 2016), by contributing to reducing excessive ambient noise levels.

- 13 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:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 14 Prior to the commencement of any demolition or construction on site the applicant shall provide evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. (C11CA)

Reason:

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

- 15 You must provide the waste store shown on drawing 1366 (SK) 006 Rev A31 and 1366 (22)502 Rev A31 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the premises. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 16 No waste is to be left on the highway (either on the Harley Street frontage or within Devonshire Mews West), and any clinical waste must be collected only from Harley Street.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 17 The access to the premises shown on the Devonshire Mews West frontage shall not be used by staff or patients, other than in cases of emergency or for servicing of the premises (including the collection of domestic waste and recycling).

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 18 Apart from the collection of waste and recycling, all servicing must take place between 08.00 and 19.00 hours on Monday to Saturday and 09.00 and 18.00 hours on Sunday.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 19 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.

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

- i) a minimum depth of 900mm between the highway in Devonshire Mews West and the new basement where it extends beneath the highway;
- ii) the doors to the circulation space on the Devonshire Mews West frontage [excluding the doors to the Substations and HTM Bed Lift) not to open over the highway

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:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 21 You must provide the access for people with disabilities as shown on the approved drawing(s) and as outlined in the Design and Access Statement dated 31.5.16 Revision A30 before you use the building. (C20AB)

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (July 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

#### **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 (July 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 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- i). Works shall not commence on site until planning permission has been secured to replace the shortfall in residential floorspace (minimum 215.6 sqm GEA) at an alternative site, as part of the overall land use package including the current application site and 126 Harley Street;
  - ii). The medical use hereby approved shall not be occupied until the shortfall in new/additional residential floorspace has been provided at an alternative site and been made ready for occupation,
- 3 With reference to condition 14 please refer to the Council's Code of Construction Practice at <https://www.westminster.gov.uk/code-construction-practice> . You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). You are urged therefore to give this your early attention.
- 4 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 5 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 6 With regard to condition 12, the measurement assessment requires that residents allow the applicant access to carry out acoustic testing to demonstrate compliance. If access is not made available the applicant may deploy a calculation approach and base the criteria on reasonable assumptions of the existing acoustic conditions within the residential properties.

### **DRAFT DECISION LETTER – LISTED BUILDING CONSENT**

**Address:** 141 Harley Street, London, W1G 6BQ,

**Proposal:** Demolition of mews buildings at 28 and 29 Devonshire Mews West and rear lower ground and ground floor link building at the rear of 141 Harley Street and the erection of new building to include a three storey basement to the rear of the site in connection with the use of 141 Harley Street and lower ground and ground floors of 143 Harley Street for Class D1 medical purposes; internal alterations and installation of a new passenger lift to the rear of 141 Harley Street and installation of plant (Site includes excavation part way under the pavement of Devonshire Mews West and use swap with 126 Harley Street).

**Plan Nos:** TO BE ADDED

**Case Officer:** Paul Quayle

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

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

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

**Reason:**

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

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

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and

paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.  
(R27AC)

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

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.  
(R27AC)

- 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 (July 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 5 Despite annotations on the drawings hereby approved, all new windows in the main facades (front and rear) of the principal listed buildings shall be single glazed. Double glazed windows shall not be used.

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 (July 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 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 and appearance of the Mayfair Conservation Area and the special architectural and historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 9 (B) and paras 10.108 to 10.146 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. (R29CC)

#### **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 (July 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 2.4/2.5 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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.

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	204A Great Portland Street, London, W1W 5NP,		
Proposal	Demolition of existing building and redevelopment to comprise, two basement levels, ground and first to eighth floor levels. Use of part basement and ground floors as dual alternative retail (Class A1) or restaurant (Class A3) and the remainder of the property as residential accommodation providing 31 flats and ancillary car and cycle parking. Creation of balconies and terraces at the first to eighth floor levels and installation of photovoltaic cells and a green roof at main roof level.		
Agent	DP9 Ltd		
On behalf of	204 GPS (Jersey) Ltd		
Registered Number	15/09828/FULL	Date amended/ completed	11 November 2015
Date Application Received	21 October 2015		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

## 1. RECOMMENDATION

1. Grant conditional permission subject to a s106 legal agreement to secure

a) Highways works around the site to facilitate the development (including the creation of a new crossover), all costs to be borne by the applicant;

b) Replacement of any trees on the public highway on Great Portland Street, Carburton Street and Bolsover Street which need to be removed to facilitate the development;

c) A Car Lift Management and Maintenance Plan;

d) Unallocated residential parking available to all residents of the development without restriction;

e) Life time car club membership in association with each of the new flats (minimum 25 years);

f) Monitoring costs.

2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution, then:

a) The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not

b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

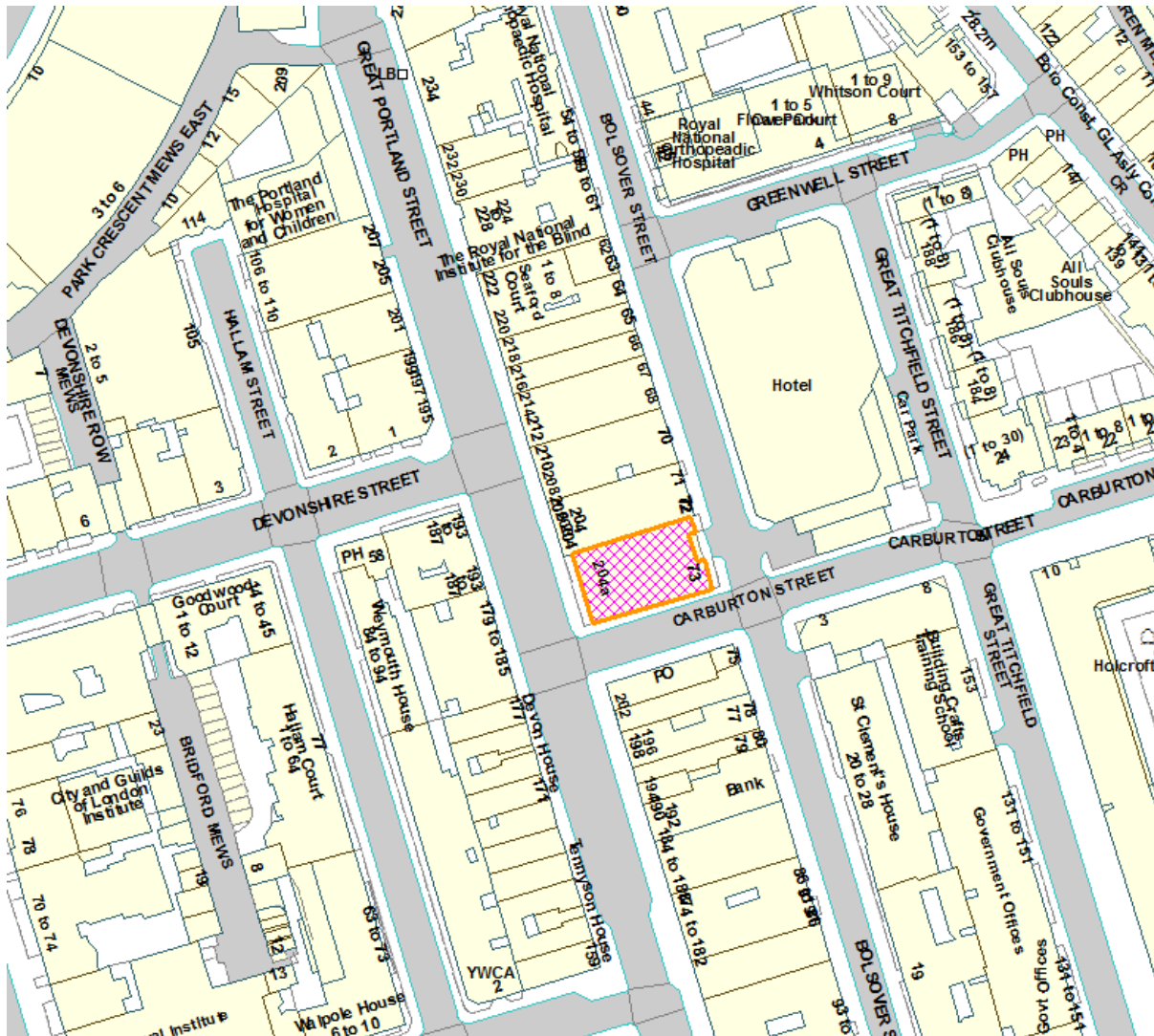
The application building is a 1970s brick-built construction comprising basement parking, showrooms, stockrooms and ancillary offices (which is considered to be a sui generis use) with six flats on the fourth and fifth floors and a roof level plant room. The lower floors are vacant but some of the flats are occupied. The building is considered to detract from the character and appearance of the Harley Street conservation area.

Permission was granted in 2006 for the alterations and extensions to the building, including a roof level addition, for use for the original purpose (sui generis) or for retail (Class A1), for 15 flats on the upper floors and for part excavation of the basement to provide 20 car parking spaces. The Council has previously determined that sufficient works have taken place to implement this permission, so it remains extant. The current application is for the demolition of the building and for the erection of a new building with parking at lower basement level, a retail or restaurant use on part upper basement and ground floors and up to 31 flats on first to eighth floors. Objections have been made on behalf of the freehold owners of the building on land use and parking grounds. The key issues in this case are:

- the acceptability of the scheme in land use terms and, in particular, affordable housing policy
- the impact of the development on neighbouring residential amenity and
- the impact of the scheme upon the character and appearance of this part of the Harley Street conservation area.

Subject to conditions, and a s106 legal agreement to secure various planning obligations, the scheme is considered acceptable in land use, amenity and highways terms. The proposed building is considered to be a high quality development which would enhance the townscape. Consequently, the application is recommended for approval.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



## 5. CONSULTATIONS

### COUNCILLOR SCARBOROUGH/COUNCILLOR BOTT

Supportive of the scheme. The footpath on this stretch of Great Portland Street needs to be repaved. Request that developer contributes to this and to the public realm improvements at the northern end of Great Portland Street. All trees should be maintained and added to, where appropriate. They have provided a letter from the Weymouth Court Residents' Association which welcomes the site redevelopment subject to the same tree safeguarding and paving requests)

### FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

### HISTORIC ENGLAND

Council to determine as it sees fit

### METROPOLITAN POLICE (Designing Out Crime Officer)

No objection. Advice given to applicants regarding additional security measures.

### BUILDING CONTROL

Construction methodology is acceptable. Investigation of existing structures and geology undertaken in sufficient detail. Proposals to safeguard the adjacent properties during construction area acceptable. Likelihood of local flooding or effects on the water table is negligible

### HIGHWAYS PLANNING

Loss of off-street servicing is contrary to policy. If other benefits of the scheme are considered to outweigh this concern, a Servicing Management plan should be secured. No objection to parking proposals but concerns re lack of visibility splays from car park, car club membership and unallocated parking should be secured.

### CLEANSING

No objection to revised arrangements

### ENVIRONMENTAL HEALTH

No objection subject to conditions

### ARBORICULTURAL OFFICER

No objection subject to appropriate arrangements to ensure that street trees and protected during the course of construction and that any trees which need to be removed to facilitate the development are replaced.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 107; No. responses: 5 objection letters on behalf of the freehold owners of the building on these grounds:

Land Use

- Proposal exceeds London Plan density range for the area; overdevelopment of the site with an over-concentration of small flats contrary to policy.
- Planning report does not explain why a proportion of new flats could not be managed by an RSL for affordable rent/intermediate tenures.
- No evidence submitted to support contention that no donor sites available in vicinity or that this has been fully explored. The sequential policy tests should be followed.
- High development costs e.g. the excavation for basement parking should be considered as part of any viability assessment.

#### Highways

- Insufficient cycle parking.
- Oversupply of parking
- Impact of on-street servicing on the local highway network
- Highways obstruction from vehicles queuing to enter car park

#### Other issues:

- The CIL form is incorrect, which would have an impact on the level of Mayoral CIL payable.
- Application should not have been validated in absence of a viability report.
- The application makes no reference to the objector's interest/rights as freeholder
  - Significant changes to the application mean a full re-consultation should be undertaken

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application premises an unlisted building located on the east side of Great Portland Street at its junction with Bolsover Street. The building has frontages on these streets and to Carburton Street.

The site is located within the Harley Street Conservation Area, outside of the Core Central Activities Zone but on a Named Street, as designated in the City Plan, and within the wider Central Activities Zone as designated in the London Plan. The Harley Street conservation

area audit identifies the property as a negative building which detracts from the character of the conservation area.

The building was erected in the 1970s and comprises basement parking (8 spaces), a commercial use on ground to fourth floors and six flats on the fifth and sixth floors and a roof level plant room. The commercial parts of the building (ground to fourth floors) were vacated approximately 7 years ago. A number of flats on the upper floors are still occupied. The address of the residential parts of the building is 73 Bolsover Street.

The building is set back from the pavement edge on Great Portland Street and Bolsover Street frontages. On Great Portland Street there is a raised area, stepping up to the ground floor entrance. On Bolsover Street, there is an existing access stair to the basement accommodation, enclosed by a brick wall.

The area is characterised by a mixture of residential and commercial uses, including an hotel at the rear of the site on Bolsover Street, and various ground floor office, restaurant and retail, uses, including a late night convenience store on the opposite corner of Carburton Street. The nearest residential properties are sixteen flats (rear lower ground, ground and first and second to seventh floors) in the adjacent building (204/206 Great Portland Street and 71/72 Bolsover Street), Devonshire Mansions at no. 208 and ten flats on the upper floors of 59 Devonshire Street, on the opposite side of Great Portland Street.

## 6.2 Relevant History

1972. Permission granted for the erection of a new building comprising basement parking, workrooms, stockrooms, showrooms and offices (sui generis) on ground to fourth floors and six flats on the fourth and fifth floors and eight parking spaces. The approved plans show a ground floor extension at the front of the building which was permitted for a temporary period only pending a road widening scheme on Great Portland Street. The extension was subsequently demolished although the road widening scheme was later abandoned.

31.08.2006. Permission granted for external alterations and extensions at ground floor and roof level; dual use of extended ground, part new mezzanine, first and part second floors for either showroom, workroom and stockroom use with ancillary offices (sui generis) or retail (Class A1) purposes; use of part mezzanine, part second to sixth floors and new seventh floor to create nine additional residential units (15 in total) with a porter's office (Class C3) at mezzanine level; use of part excavated basement to provide 20 car parking spaces. This permission would have expired on 30 August 2009.

All relevant conditions attached to this permission were discharged between 18.04.2008 and 13.06.2008 and it was commenced though it has not been completed.

31.01.2008: The Planning Applications Sub-Committee resolved to approve an application for alterations including the creation of terraces within the lightwell at first floor level and dual use of the first and part second floor either as showrooms, stockrooms and workrooms with ancillary offices (sui generis) or as four self-contained flats (2 x 2 bed and 2 x 3 bed) subject to a s106 legal agreement i) requiring the application only to be implemented in conjunction with the 2006 permission ii) to require one parking space for each of the four new flats to be provided within the basement car park approved under the



2006 permission and ii) to secure a contribution to the City Council's affordable housing fund in lieu of on-site affordable housing provision. This application was subsequently withdrawn before the legal agreement was signed.

January 2015: Certificate of Existing Lawful Development issued confirming that sufficient material works had taken place on or before 30 August 2009 to implement the planning permission dated 31 August 2006.

Although the works undertaken were sufficient to implement the 2006 permission they were not so significant as to have effected a change of use of the building. Consequently, the lawful use of the building can be considered to be either for the original uses approved in 1972 or for the uses allowed by the 2006 permission.

## 7. THE PROPOSAL

The current application is for the demolition of the existing building and for the erection of a new building of two basements, ground and first to eighth floors, providing a retail shop (Class A1)/restaurant (Class A3) on part basement and ground floors, up to 31 residential units (Class C3), parking for 10 cars at second basement level and associated cycle parking and plant.

In an effort to address highways concerns, the application has been amended to reposition the proposed car lift (resulting in the reduction of the number of residents' parking spaces from 14 to 10) and to set the centre part of the ground floor frontage on Bolsover Street, back to the existing building line. The level of cycle parking provision has been increased, revised refuse storage details have been provided and further information has been provided in relation to the proposed restaurant operation.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The schedule of existing and proposed land use (GEA) is as follows:

	1972	2006	Proposed M2	+/- M2 (from 2006)
Showroom/workroom/stockrooms and offices (sui generis) or*	1951	1305	0	-1305
Retail (A1)*	0	1305	349	-956
Restaurant (A3)	0	0	349	+349
Residential (C3)	1060	2422	4116	+1694
Total	3011	3727	4465	



Although the building is considered to have two potential lawful uses, the current proposal has been assessed in relation to the scheme approved in 2006, which was implemented by virtue of the works undertaken before its expiry.

#### **8.1.1. Loss of showroom/workshop/stockroom use**

The plans approved in 1972 show a commercial use on the lower floors of the building with no designation of areas for the approved showroom, stockroom, workshop or ancillary office uses referred to in the application. It is unclear whether the showroom use was intended to be a retail showroom use, open to visiting members of the public, or a wholesale showroom use. However, the determinations made by the Council in relation to the use of part of the ground floor as a bathroom showroom suggests that the principle use was considered to be as a wholesale showroom. Photographic from evidence from 2009 shows sample rails of clothes which suggests that the last occupancy could have been a wholesale showroom use linked to the clothing industry.

The site is located outside of the East Marylebone Special Policy Area. Under UDP policy COM 12, the loss of wholesale showroom uses is considered acceptable where the replacement use serves visiting members of the public. The current scheme includes the provision of either a retail or restaurant use on part of the upper basement and ground floor. The extant permission permits a retail use on ground to part second floors and a residential use within the remainder of the building. In 2008, the Planning Application Sub-Committee also resolved to approve a scheme which replaced the showrooms/workrooms on first and part second floors with new flats. In these circumstances, the loss of the potential showroom/stockroom use is considered acceptable in land use terms.

#### **8.1.2 Residential use**

The scheme would provide 4116 sqm (GEA) of new residential floorspace on the site (an additional 2422 sqm compared with the implemented scheme). The provision of additional residential floorspace is supported by Policies H3 of the UDP and S14 of Westminster's City Plan.

##### **8.1.2. i Number and size of units and residential mix**

The extant permission permitted a total of 15 flats on the site – comprising nine new flats in addition to the original six. (A later scheme for the provision of four further flats was approved subject to the completion of a s106 legal agreement, but was subsequently withdrawn).

The current scheme would provide up to 31 flats (5 x 1bed, 24 x 2bed, 2 x 3bed), accessed from Great Portland Street. City Plan Policy S14 requires the number of residential units on development sites to be optimised and policy S15 requires an appropriate mix of units, in terms of size and type to be provided. UDP policy H5 normally requires at least 33% of new units to be family sized (with three or more bedrooms). Only two of the units (6%) would be family sized. However, the supporting text to policy H5 states that the requirement to provide 33% family-sized units (3 or more bedrooms) will be applied with

some flexibility. For example, the City Council may accept a lower level of family accommodation where the proposed housing is located in a very busy, noisy environment.

An objection has been received on the grounds that the proposal constitutes an overdevelopment of the site, with an over-concentration of small flats, which does not comply with Council policy relating to residential mix.

The applicants acknowledge that the development does not comply with the requirements of policy H5 of the UDP but consider that the focus on non-family-sized units is justifiable in terms of housing need in this area of Westminster. Their submission refers to the fact that the policy consultation document “Westminster City Plan Consultation – City Management Plan Policies Revision (February 2014)” suggested a reduction in the proportion of family sized units to 25% but this change has not been incorporated within the revised City Plan (2016). However, the Plan (para. 4.12) states that “..there are shortfalls for all sizes, but new two and three bedroom homes are particularly needed in both the affordable and owner/occupier sectors”.

To support their stance, the applicants have supplied a letter from Carter Jonas confirms that their local database shows that 70% of clients registered in their Marylebone office are looking for 1 and 2 bed apartments, and that the demand for 3 bed units is not as high, with those units typically taking longer to sell, often being reduced in price due to lack of interest. From this, the objector surmises that 30% of these clients are likely to be seeking 3 bedroom apartments, which is comparable with the 33% target in policy H5. They consider that the applicant’s response does not justify a departure from the normal requirements of H5.

Notwithstanding the applicant’s submissions regarding demand and the objector’s subsequent comments, Great Portland Street is a relatively busy and noisy location which is subject to heavy traffic flows, (with three lanes of traffic in parts) where it would be justified to accept a proportion of family-sized accommodation of less than the standard 33%.

The 1 bed units measure between 50 and 86 sqm (GIA), the 2 bed units measure between 83 and 93 sqm and the two 3 bed units measure 137 and 144 sqm. All units would achieve minimum space standards set out in the National Technical Housing standards. Given that the unit sizes are not excessively large, the development is considered to optimise the number of units on the site as required by policy S14. In these circumstances, notwithstanding the shortfall in the proportion of family sized units proposed, given the site’s location and the nature of the development, the proposed residential mix is considered acceptable in this instance.

In conclusion, the number, mix and size of flats within the development is considered acceptable and it is not considered that the objection to the residential mix could be supported.

#### **8.1.2.ii Residential density**

The density of the proposed development is at 1691 habitable rooms per hectare (hr/h). An objection has been received on the grounds that the development exceeds the

recommended density range for the area as set down in the London Plan and UDP and represents an overdevelopment of the site. The objector considers that, even if the site does have good transport links, a residential density so far exceeding the published density range should not be contemplated.

Policy H11 of the UDP sets the density range for this area at between 400-850 habitable rooms per hectare (hr/h). However, the policy states that developments which exceed this density may be acceptable where they are close to good transport links and open space, and satisfy other development plan policies, particularly those relating to townscape/design, residential amenity and parking and maintain the urban fabric.

The site has the highest PTAL rating of 6B (accessibility of transport links). In such locations, policy 5.32 of the London Plan sets an appropriate density range of 650 to 1100 hr/h. However, the policy recognises that other factors such as local context, design and transport capacity can be taken into account when determining applications and that the stated density range is not intended to be applied rigidly.

The proposed development is considered to be of an acceptable height and bulk and to represent a significant improvement in townscape terms when compared with the existing building. In addition, the number and size of units, standard of accommodation and residential mix are considered appropriate in this location and the scheme is, subject to parking mitigation measures, considered acceptable on parking grounds. These factors, in addition to the site's good transport links and close proximity to Regent's Park are considered sufficient to outweigh density considerations. In these circumstances, it is not considered that the application could justifiably be recommended for refusal on density grounds.

### **8.1.2 iii Affordable Housing**

Policy H4 of the UDP and S16 of Westminster's City Plan and Interim Guidance Note Implementation of Affordable Housing are relevant to the consideration of the proposed residential development. In new housing schemes of either 10 or more additional units or where over 1000m<sup>2</sup> of new residential floorspace is created, a proportion of that floorspace is expected to be provided as affordable housing.

Compared with the implemented scheme, the proposals would provide 1694 sqm of new residential floorspace which, according to the relevant formula requires 240 sqm of affordable housing to be provided on site, equating to 3 units. Where on-site provision is accepted as being impractical or inappropriate, the housing may be provided on another site, preferably in the vicinity. Where this is not practical or appropriate, the affordable housing requirement can be met through a financial contribution to the City Council's affordable housing fund.

Given that the proposed development has three street frontages, it is not considered that there is any practical reason why an element of affordable housing could not be provided on the site. However, the applicants contend that the provision of a separate entrance and access core would materially affect the scheme's viability. They have further stated that they do not own any donor sites where the affordable housing requirement could alternatively be met. Consequently, they consider that the most appropriate means of

addressing the affordable requirement would by way of a financial contribution to the City Council's affordable housing fund. At the time of the submission of the application, based on the increase in residential floorspace, this contribution was calculated at £1,003M. This has since increased to £1,063,000 following the annual increase unit sum on 1 April 2016.

An objection has been received on the grounds that the submitted planning report does not properly explain why a proportion of new flats could not be managed by an RSL for affordable rent/intermediate tenures. The objector is also concerned that no evidence has been submitted to support contention that no donor sites are available in vicinity, or to suggest that this alternative has been fully explored as required by the sequential tests set down in the policy. They have also requested that high development costs e.g. the excavation for basement parking should be taken into account when considering the ability of the scheme to deliver any affordable housing.

Many of the objector's points fall within the scope of the assessment of the applicant's viability report by the Council's independent viability consultant. The applicants have responded on the question of donor sites, stating that it would not be realistic to look at this option when they do not own any other properties where the residential requirement could be met. Although no information has been provided to suggest that the applicants have been in discussion with any RSLs, based on officers' experience in relation to other sites, it appears unlikely - due to the difficulties of managing units which do not have independent access, and because of high service charges in this type of development - that an RSL would take up units within the development.

An objection has been received on the grounds that the original application was not accompanied by a viability report and that the application was validated prior to its receipt. However, records show that the application was not validated until the (un-redacted) viability report dated, 10 November 2015, was received and all other outstanding information provided. A redacted copy of the report was submitted later, at the Council's request, in response to the objector's Freedom of Information request. The objector, the freehold owner of the building, has been provided with redacted copies of the applicant's viability reports and those of the Council's consultants. They have requested that the application is not determined until they have had the opportunity to review and comment on these viability reports, which were released on 29 September 2016.

#### **8.1.2.iii. a Viability assessment**

The applicant's viability assessment concludes that, given development costs and sales values, the scheme is unable to support any affordable housing contribution. However, recognising the importance of affordable housing provision, it confirms that they, nonetheless, proposed to make a contribution to the affordable housing fund of £250,000.

The Council's viability consultants have advised that the scheme could not viably deliver any on-site affordable housing. Following further assessments and the introduction of the Westminster CIL, which was introduced after the application had been submitted and did not form part of the original viability appraisal, the Council's viability consultant agrees with the applicant that the scheme cannot support any affordable housing contribution. The applicants have now conformed the, in these circumstances, they are no longer able to offer any contribution towards affordable housing.

In view of the above, the proposals are considered to accord with the Council's affordable housing policies.

### **8.1.3 New Class A floorspace**

The scheme includes proposals for a new unit on part basement and part ground floors, with frontages on Great Portland Street and Carburton Street, accessed by a prominent corner entrance, for either Class A1 (retail) or Class A3 (restaurant) use. The introduction of these uses would enliven the street frontage and are welcomed.

#### **8.1.3.i Retail use**

Great Portland Street is a Named Street within Marylebone and Fitzrovia and, under City Plan policy S8, the street is an appropriate location for residential development and a range of commercial uses. Policy S18 directs commercial development to various locations including the Named Streets, and policy S21, whilst directing new retail development to designated shopping centres, also recognises that new retail floorspace is appropriate in the Named Streets. In these circumstances, and as there is an extant permission for the introduction of a much larger retail unit on the site, the proposed retail use on part ground and lower ground floors (349 sqm) is considered acceptable in land use terms.

#### **8.1.3.ii Restaurant use**

The scheme also includes the introduction of a new restaurant unit as an alternative to the proposed retail use. Given the size and location of the proposed restaurant, UDP policy TACE 9 applies. Permission will only be granted for new restaurant proposals where the Council is satisfied that the development would have no adverse effect, (nor, taking into account the number and distribution of entertainment uses in the vicinity, any cumulatively adverse effect) upon residential amenity or local environmental quality as a result of noise, vibration, smells, increased late night activity, or increased parking and traffic; and would have no adverse effect on the character or function of the area. City Plan policy S24, similarly, requires proposals for new entertainment uses to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely affect residential amenity, local environmental quality and the character and function of the area.

Great Portland Street is a busy thoroughfare characterised by a mixture of uses. Properties to the north of the site are largely in office type- or residential use on the lower floors. However, there is a large tourist hotel at the rear of the site, a late night convenience shop on the opposite side of Carburton Street and various commercial uses along the length of the frontage to the south including several cafes and restaurants interspersed between other commercial uses. In this context, the introduction of a restaurant use on this site is considered acceptable in principle in land use terms and would not have an adverse impact upon the character and function of the area. The impact on residential amenity, local environmental quality and the local highway network is discussed in sections 8.3 and 8.4 below.

## 8.2 Townscape and Design

### 8 2.1. Proposed development

The existing building is of no architectural merit and is a negative feature in the Harley Street conservation area. Its demolition is welcomed.

In footprint, the proposed building is the same as the existing, maintaining the historic building lines on three frontages, except that, on Great Portland Street, the ground floor frontage is slightly recessed, as at present. This is acceptable. The revision to the Bolsover Street frontage, where a recess has been created at ground floor level to take account of highways concerns, is not ideal but, given that this replicates the existing situation, is considered acceptable.

The existing building is about the same height as the building to the north (no. 204/206). The proposed building would be of a total height approximately 2.3m above the height of the existing building, and the parapet height would increase from 51.8 AOD to 53.6m.

The building has a flat roof with little external plant, as much of the plant is located at basement level. The sectional drawings suggest that a balustrade may be included at roof level. However, this is considered unnecessary and undesirable, and a condition is proposed to exclude this from the planning permission. It is considered that a less obtrusive lanyard safety system could be installed in place of the balustrade.

The replacement building is designed with a double height base, a six storey middle section and a set-back roof storey. The façade is to be clad in stone and a condition is recommended requiring this to be natural Portland stone, appropriate to its conservation area location. The roof storey would be clad in gunmetal coloured cast metal panels. Projecting bay windows featuring decorative cast aluminium metalwork would add an important degree of richness to the façade. Decorative metal balconies are proposed, which will form the site's contribution to public art.

Although a lower building might relate better to the townscape, given the height of the existing building, and the superior quality of the proposed design, the bulk and height of the replacement building are acceptable.

This is a high quality building which will contribute positively to the character and appearance of the Harley Street conservation area. The scheme complies with the City Council's urban design and conservation policies, including policies S25 and S28 and UDP policies including DES 1, DES 4, DES 9 and DES 10.

### 8.2.2 Trees/public realm

Prior to the submission of the application, having met the developers, Councillor Scarborough wrote to officers concerning the proposed development, on behalf of herself and Councillor Bott. Both expressed support for the proposals but have asked that the applicants contribute to the repaving along this stretch of Great Portland Street and that they also consider contributing to the completion of the public realm upgrade at the

northern end of Great Portland Street. In addition, they have requested that the existing street trees around the site be maintained, and added to where appropriate.

The application drawings show that the street trees will be retained. The Council's arboricultural officer has recommended a condition requiring these trees to be adequately protected during building works and has welcomed any proposals which might result in the provision of additional trees. However, the street trees are located beyond the boundary of the application site and their safeguarding cannot be the subject of a condition. However, the applicants have now conformed that the street trees are likely to need to be removed to facilitate the development. As these are young trees, the Council's Arboricultural Officer has confirmed that their temporary removal is acceptable subject to an appropriate mechanism to ensure their replacement (with a suggested minimum cost of £5,000 per tree). This would be secured as part of the s106 legal agreement. It is also recommended that an informative be added to the decision letter advising the applicants to contact the Council's Arboricultural Officers to discuss proposed measures for the protection of any street trees that are to be retained.

The mechanism for financing public realm improvements, which might include additional planting, is through the Westminster CIL rather than through any individual contributions secured by a S106 planning obligations. The pavements around the site, would be expected to be replaced by the applicants as part of works of making good following the completion of building works.

## **8.3 Residential Amenity**

### **8.3.1 Proposed flats**

#### **8.2.1.i Standard of accommodation**

All proposed flats meet or exceed national housing space standards and all bedrooms are doubles, the smallest measuring 12 sqm. All units are compliant with Lifetime Homes standards and are adaptable for wheelchair users.

The flats would benefit from either small balconies or, in the case of the two eighth floor apartments, wrap-around terraces.

#### **8.3.1.a Orientation/outlook**

The London Plan states that care should be taken with creating single-aspect particularly those that are north facing. While some of the proposed flats are single aspect, none are north-facing. Indeed, there are no north-facing windows within the development.

#### **8.3.1.b Internal light levels**

The submitted daylight report does not include an assessment of lighting levels within the new flats. However, this is an open site with three street frontages. with the exception of east and west facing windows onto the rear lightwell, which serve the second bedroom to separate flats on second the seventh floors, all windows to habitable rooms overlook the

street. In these circumstances, it is considered that the new flats would have good access to natural daylight and sunlight.

#### **8.3.1.c Internal noise levels**

Policy ENV6 of the UDP requires new residential developments to provide adequate protection from existing background noise as well as from noise within the development itself. This is a new development, which would be constructed from materials with high acoustic properties, including double glazed windows. All residential windows are openable. However, a system of mechanical ventilation is proposed should residents choose to keep their windows shut.

Subject to conditions requiring the development to be designed to meet acceptable noise levels within the new flats, in relation to both external and internal noise sources, it is considered that the scheme will provide a satisfactory internal noise environment for future residents.

#### **8.3.1d Air quality**

City Plan policy S31 requires developments to minimise emissions of air pollution from both static and traffic-generated sources, and requires developments that are more vulnerable to air pollution to minimise the impact of poor air quality on future occupants through the building design and use of appropriate technology.

The submitted ventilation strategy states that the flats will be served by a whole house mechanical ventilation system with heat recovery. The air intake system will be fitted with filters to ensure acceptable air quality.

#### **8.3.1.e Overlooking within the development/use of terraces**

The balconies and terraces to the new flats would overlook the street. The roof level terraces would be separated by screening.

All windows to new rooms also overlook the street frontages with the exception of east and west facing bedrooms to separate flats which face onto the rear lightwell on the second to seventh floors. While there might be some opportunity for mutual overlooking between these windows, which are served by projecting bay windows, this would not be to a materially harmful degree.

#### **8.3.2 Amenity of neighbouring properties**

UDP Policy ENV13 seeks to protect existing premises, particularly those in residential use, from the impact of new development and to ensure that neighbouring properties do not experience and material loss of daylight or sunlight, increased sense of enclosure to windows or a loss of privacy. Similarly, policy S29 states that the Council will resist development proposals which result in a material loss of amenity to existing residents.



The proposal involves the erection of two extra floors on the building although it is noted that the extant 2006 permission involved the replacement of the roof level plant room with a penthouse flat.

### **8.3.2.1 Daylight and Sunlight**

The proposed replacement building is two floors taller than the existing, although the overall height would increase by just over 2 metres. The replacement building would slightly infill part of the existing lightwell adjacent to the boundary with the neighbouring flats (204/206 Great Portland Street).

The application is supported by a daylight/sunlight report, based on guidance published by the Building Research Establishment, which assesses the impact of the development on levels of light received to flats within the neighbouring residential, buildings at 204/206 Great Portland Street/71-72 Bolsover Street and 59 Devonshire Street.

No objections have been received from the occupants of these properties.

#### **8.3.2.1.i Daylight**

In assessing daylight measuring the Vertical Sky Component (VSC) is the most commonly used method. It is a measure of the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the BRE advise that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The BRE stresses that the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances. Where windows to a room are of equal size, any losses to these windows can be taken as an average.

The distribution of daylight within individual rooms can also be assessed using the No-Sky Line (NSL) test. The BRE guideline states that where a significant proportion of the working plane (which can receive direct skylight) lies beyond the NSL, the distribution of daylight within the room will seem poor and supplementary electric lighting will be required. The British Standard suggests that a significant area would be more than 20%. However, it is acknowledged that if an existing building contains single aspect rooms, which are particularly deep, then a greater movement of the NSL line may be unavoidable.

In all cases, testing need only be undertaken in the case of habitable rooms.

At 204/206 Great Portland Street/71-72 Bolsover Street, 22 of the 43 lightwell windows on first to sixth floors (serving 22 rooms) breach the 20% VSC benchmark. However, the actual reductions are low, with the maximum numerical loss in the case of two sixth floor windows being 4% and all other reductions ranging between 0.5 and 3%. The percentage losses of between 23-100% (in the case of three windows on the fourth and fifth floors) are, for the most part, disproportionately high because existing VSC values are already so low. Any losses to seventh floor windows would be below 20% with the exception of one window (29%) loss, which would continue to achieve VSC values above the target.

The NSL test shows that of the 29 rooms tested, 10 fail to meet the NSL target. Of the 22 windows which fail to meet the VSC target, 10 serve rooms which comply with the NSL test. Of the remainder, the existing VSC values are between 1 and 9.5%, (with 9 windows currently achieve 5% or less) and actual losses ranges been 1% and 3%. In these circumstances, it is considered that the loss of light within these rooms is unlikely to have a significant impact upon the amenities of the neighbouring flats, where main living rooms face towards the front and rear of the building.

The VSC analysis shows that the maximum loss of any window at 59 Devonshire Street would be 5% and that all its windows would continue to achieve good levels of natural light.

### **8.3.2..1 ii Sunlight**

The BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours (APSH), including at least 5% of annual winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values. Only those windows facing within 90 degrees of due south require testing.

At 206 Great Portland Street only 7 of 19 lightwell windows on the first to fourth floors currently see any sun, with the maximum value achieved being 6%. These windows would lose all or most of their annual sunlight, with a maximum value of 1% being retained to three windows. At fifth floor level, with the exception of one window (4%), existing values are slightly higher at between 8% and 14%. Annual sunlight losses to these nine windows would range between 22% and 76% (above 64% in the case of six windows), with retained values of between 1% and 7%. One window would lose all sun (from 8%). Of the six windows on the sixth floor, two would experience annual sunlight losses of 40.91% and 36.36%, with retained values of 13% and 14% respectively (from 22%). All other windows at sixth floor level and above would continue to achieve minimum annual sunlight values of 24% (in the case of two windows) or would exceed the BRE target.

Windows below sixth floor level receive no winter sun. Of the four sixth floor windows that do receive winter sunlight (between 4% and 6%), only one will continue to receive any winter sun (1% from 6%). Most seventh floor windows would continue to exceed the BRE winter sunlight target or would see no loss of winter sun. However, two windows would see reductions of 83% (from 6% to 1%) and 70% (from 10% to 3%).

There are therefore some significant losses of sunlight to neighbouring windows at 204/206 Great Portland Street/Bolsover Street, but where in many cases sunlight is already severely restricted by the height and proximity of the application building and existing values are low. Further up the building, existing values are generally higher although light to some windows is restricted by the effect of balconies at fifth and sixth floor levels. While these losses have the potential to be more noticeable, these windows appear to serve bedrooms, which area afforded a lesser degree of protection than principal living areas, which overlook Great Portland and Bolsover Street. Consequently, it is not considered that the impact upon the amenities of the neighbouring flats would be so significant and to justify a recommendation for refusal.

Although no sunlight assessment has been undertaken in respect of 59 Devonshire Street, given the relationship between the two properties, it is not considered that there would be a material loss of sunlight to east facing windows serving that property. Other windows to 59 Devonshire Street face north-eastwards, rather than within 90 degrees of due south, and therefore they do not need to be tested.

### **8.3.3 Overlooking/noise disturbance**

The proposed windows to the main building elevation are on the same line as the existing and it is not considered that the proposals would afford any greater opportunity for overlooking into neighbouring windows.

There are large north-facing windows to the existing building, which look towards the neighbouring flats. The scheme proposes some infilling of this lightwell but the proposed north elevation contains no windows. Whilst there would be east and west facing bedroom windows overlooking the lightwell, these are bay windows (with solid returns) and it is not considered that any oblique views from these windows would have a significant impact on neighbouring privacy.

The proposed balconies are located on the corners of the new building, overlooking wide street junctions. The eighth floor terraces, which are narrow and linear, are confined to the main street frontages. Given the relationship of these external amenity spaces with neighbouring residential buildings, and given the street width, it is not considered that the use of these spaces would result in any material loss of amenity, or significant noise disturbance, to neighbouring flats.

### **8.3.4 Increased sense of enclosure**

The aspect from windows facing the lightwell at 204/206 Great Portland Street is governed by the height and proximity of the existing building, where the building and the plant room at seventh floor level “wrap around” the lightwell. Although there will be some increase in height and bulk at this point, which will extend slightly further into the lightwell, it is not considered that the impact on the sense of enclosure to neighbouring windows would be so significant as to justify recommendation for refusal on the grounds that it would result in an unacceptable increase on the sense of enclosure to these windows.

In view of the above, it is not considered that the proposals would have a material impact upon the amenities of neighbouring residents.

### **8.3.5 Impact of the proposed restaurant and retail use**

The proposed restaurant would measure 349 sqm GEA. A restaurant of this size is considered acceptable in principle in land use terms subject to consideration of the impact of the use on residents’ amenities and local environmental quality.

This is a speculative application. A draft Operational Management Statement has been submitted which seeks to demonstrate that the proposed restaurant would operate without detriment to the amenities of neighbouring residents and future occupants of flats on the

upper floors. However, whilst the OMS sets out over-arching principles of good management, it includes few concrete details. It is proposed that:

- The premises would be managed as a high quality, sit-down restaurant
- A senior member of staff will oversee the operation at all times.
- Patrons smoking outside the premises would be monitored to ensure noise levels are kept to a minimum.
- The operator will be required to liaise regularly with local residents and business associations and the Safer Neighbourhood Team of the Metropolitan Police
- External seating is also shown on the recessed ground floor frontage to Great Portland street. The submitted plans show four tables and eight chairs
- Patrons will be offered the opportunity to order a taxi before leaving the premises

In addition, the applicants have confirmed that:

Internal restaurant capacity would be for 120 customers, including external seating.

Opening hours, including for external seating on the forecourt, would be from 07.30 until 22.30 on Monday to Friday; from 0800 to 22.30 on Saturday and from 09.00 until 1800 hours on Sundays and Bank Holidays.

Restaurant plant (excluding refrigeration plant) would to be limited to operating a maximum of one hour before and one hour after the permitted restaurant opening times.

Restaurant servicing traffic would be limited to 08.00 and 20.00 hours.

Given the relatively small size of the restaurant, and subject to operational controls including those relating to opening hours and capacity (including external seating), controls on the operation of plant and the provision of adequate refuse storage arrangements, it is considered that the use would have no adverse impact on residents' amenities or local environmental quality. However, it is recommended that details of a finalised OMS be reserved by condition, which should include precise details of the premises management.

It is not considered that the operation of the shop use would have a significant impact on residents' amenities.

## **8.4 Transportation/Parking**

### **8.4.1.i Parking**

UDP policy TRANS 23 requires, where appropriate and practical, off-street parking to be provided on the basis of a maximum provision of one car space per unit of residential

accommodation containing two bedrooms and of one or two car spaces per unit comprising three bedrooms or more, provided that the aggregate provision does not exceed 1.5 spaces per dwelling. In applying these standards the maximum parking requirement in this case is 32 spaces.

The application originally proposed parking for 14 cars at second basement (12 car stacker spaces and two accessible spaces along the southern wall). An objection was received to the original application on the grounds that the provision of 14 car parking spaces represented an over-provision, particularly in the context of London plan policies which promote car free development and when available data suggests that the new flats would generate a requirement for only 10 car parking spaces.

The reconfiguration of space to address officers' concerns about other aspects of the scheme has resulted in a reduction in the number of residents' parking spaces. Although the submitted plans indicate ten parking spaces, 6 of these are provided using double stackers and the upper level cannot be accessed if a vehicle is parked beneath. Consequently, the scheme would provide only 7 accessible parking spaces. The applicants have no submitted and tracking diagrams to show that the car park layout is functional. However, while space is limited, is it considered that there is sufficient space for vehicles to be able to enter and exit the car lift.

The plans have been amended to show the provision of electric vehicle charging points in compliance with London Plan requirements (20% active and 20% passive).

Evidence of the Council's most recent night time parking survey 2011 indicates that parking occupancy within a 200m radius of the site is 87%. However, including all legal spaces such as single yellow lines and metered bays, this figure drops to 47%. The daytime survey indicates parking occupancy of 78%.

Based on household car ownership levels for the Marylebone High Street Ward, it is anticipated that the 31 flats proposed would generate an additional 10 vehicles. Given that the scheme is considered to provide only 7 parking spaces, this would result in an additional 3 vehicles being parked on the street. However, this would not increase parking stress levels above the 80% threshold where there is considered to be a serious deficiency in on-street parking availability (policy TRANS 23). The area is close to good public transport links and, on the basis that all on-site parking will be unallocated and Lifetime car club membership (minimum 25 years) would be provided for each of the units, the level of parking provision is considered acceptable and the parking mitigation measures as proposed would be secured by s106 legal agreement.

#### **8.4.1.ii Car park access/car lift**

The basement parking would be accessed via a single car lift. The entrance to the car lift was originally positioned closer to the junction of Bolsover Street and Carburton Street but has now been set back to its existing position, due to highway safety concerns. The width of the vehicle crossover has been reduced and is comparable with the existing. However, no designated set back has been to allow waiting vehicles to queue off-street and no details of the car lift cycle time have been provided.

The applicants contend, given the likely level of use, that the car lift operation would not adversely affect the safety or use of the highway and that it would be rare for more than future residents to need to use the lift at the same time and that Bolsover Street is not subject to heavy traffic flows. No evidence has been submitted to support these contentions, and the use of the car lift has the potential to result in localised highway congestion with vehicles queuing on the highway. An objector believes that this is likely to be a common occurrence, as most residents are likely to use their cars at the same peak times, when roads are at their busiest. The objector makes the point that Bolsover Street is used as an access route from the West End to north London. They have also expressed concern that no traffic surveys have been submitted to support the applicant's claims about the use of Bolsover Street. Notwithstanding these omissions, as the number of parking spaces proposed is comparable with the existing level of parking provision, it is considered that the proposals would have no material impact on highway obstruction or the use of the road network and the objection cannot therefore be supported. However, a condition is recommended requiring the submission of details of a vehicle signalling system for the car park and it is recommended that a car lift maintenance and management plan should also be secured as part of any future re legal agreement to include alternative arrangements for vehicle parking during periods when the stacker is unavailable.

The Highways Planning Manager has also expressed concern that the scheme provides inadequate visibility splays for vehicles exiting the car park. As this is a new development, there is no practical reason why adequate visibility splays cannot be incorporated within the design. However, it is accepted that the proposed design is similar to the existing and would have no greater impact on pedestrian safety, especially as there is no significant increase in the number of vehicles using the car park. The revised plans show a railing, within the site boundary on the northern side of the car park entrance which is designed to prevent pedestrians walking southwards from passing directly in front of exiting vehicles. This railing is considered acceptable in highways terms given the existence of an adjacent lightwell to the neighbouring site. Although this is a disappointing design solution, it is not considered that this aspect of the scheme could justify a recommended for refusal.

#### **8.4.2. Cycle parking**

Cycle parking standards in the Further Alterations to the London Plan would require 57 residential cycle space to be provided in association with the proposed development. If the commercial unit was used as a restaurant, two staff cycle spaces and 9 short-stay customer spaces would also be required.

The application originally showed 28 residents' cycle parking spaces in a bike store accessed from Bolsover Street, with potential for the provision of 6 further spaces at second basement level. The applicants advised that two spaces for shop/restaurant staff could also be provided in the basement level back of house areas and that four short-stay cycle spaces would be provided on a strip of private land on the Bolsover Street frontage in the form of 2 Sheffield stands, to provide four spaces.

An objection was received to the original application on the grounds that the level of cycle parking shown did not accord with the requirements of the FALP and that there was insufficient space within the development to meet this requirement. The application has

since been amended to show 58 cycle spaces for the residential units. These spaces are double-stacked (except on B2 adjacent to the car lift).

In addition, three long stay spaces for the commercial use are provided at B1 (in the form of double stackers) and the revised plans now show the two Sheffield stands within the site boundary on Bolsover Street (four spaces).

This level of cycle parking is considered acceptable and would be secured by condition.

#### **8.4.2 Servicing**

UDP policy TRANS 20 and City Plan Policy S42 require adequate off-street servicing provision. The existing off-street bay was retained under the extant scheme but there are no planning conditions requiring the development to be serviced using the servicing bay. Despite this being a complete redevelopment of the site, it is now proposed that servicing for the development to take place from the street. The applicants anticipate that most goods deliveries would take place from the single yellow lines on Great Portland Street and that refuse collections would take place on Bolsover Street.

The applicants contend that on-street servicing will result in no worsening of the existing situation as many restaurants in the vicinity are serviced from Bolsover Street and that this has no impact on the operation of the road network. They make the point that the existing off-street serving bay can only accommodate car-type vans and small service vehicles. (They also consider that servicing vehicles could park on the section of the Bolsover Street frontage within the site boundary. However, this arrangement is not considered acceptable as it would be likely to result in the obstruction of the pavement beyond).

The objector is concerned that there are no independent traffic surveys to support the applicant's case that on-street servicing would not affect the highway operation and considers that the cumulative impact of restaurant servicing on Bolsover Street is reaching a critical point. They are also concerned about the potential for the restaurant to operate a delivery service and have requested that any permission for restaurant use is subject to a "no takeaway" condition, which is recommended.

The Highways Planning Manager considers that, as this is a new development off-street servicing should be provided as required by development plan policies. In addition, the likely impact of on-street servicing on other highways users is unclear and the estimated number of daily servicing trips (3) appears low, and is not supported by any evidence. In these circumstances, they consider that if any other benefits of the scheme are considered to outweigh requirement to provide off-street servicing, that any permission for restaurant use (or for the use of the premises as a retail food shop) should include a condition requiring the submission of a detailed Servicing Management Plan which should demonstrate that the development can be serviced without detriment to the operation of the highway. Subject to this requirement, it is not considered that the objection on servicing grounds could be supported.

Doors to the corner shop/restaurant entrance and the refuse store and cycle store on Bolsover were originally shown opening outwards across the pavement. The scheme has been revised and these doors now all open inwards.

#### **8.4.4 Other highway issues**

Under the original scheme, the ground floor building line was set forward on the back edge of the Bolsover Street pavement and vents, serving the basement level plant, were shown on the highway beyond, which was considered unacceptable.

The revised plans now reinstate a recessed area at ground floor to accommodate one surface vent and the Sheffield cycle stands. A further surface vent is shown outside the door to the cycle store. These vents, effectively open pavement lights with a surface grille, are not normally permitted on Westminster highways due to the potential adverse impact on pedestrian safety. The area in which it is proposed to place these vents will be open and passable by pedestrians, albeit partially within a building recess.

Given that this is a complete redevelopment, there is no practical reason why these vents could not be incorporated within the building design. However, given that one of the vents would now be enclosed by railings, similar to a lightwell, which aligns with a neighbouring lightwell, it is not considered that this detail could form the basis of a recommendation for refusal.

It is noted that the upper floors over the building oversail the highway. However the submitted drawings indicate sufficient clearance for pedestrians and vehicles and this would be the subject of a condition.

#### **8.5 Economic Considerations**

Any economic benefits of the scheme are welcomed.

#### **8.6 Access**

Level access will be provided to street entrances. The proposed building has been designed to meet the relevant access requirements of the Building Regulations and incorporates the principles of inclusive design. All new dwellings are designed to Lifetime Homes standards.

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

##### **8.7.1 Plant**

UDP policy ENV 7 requires any noise emitted by plant and machinery to achieve specified noise standards in relation to the nearest noise sensitive properties. The scheme includes the provision of plant within the two basements and within a first floor enclosure within the lightwell, where plant is currently located. A limited amount of plant would also be provided at roof level, including a kitchen extract duct should the restaurant use be implemented.

The application is supported by a Noise Report which has been assessed by the Environmental Health Officer. The site is in an area with ambient noise levels above WHO guidelines. The Environmental Health Officer has reviewed the submitted noise report and has requested that conditions are imposed relating to plant noise and vibration together and requiring the submission of a supplementary noise report to demonstrate that the selected equipment will operate in accordance with these conditions.



A further report has also been submitted which refers to ventilations proposals for all aspects of the development. A condition is recommended requiring that full details of the restaurant kitchen extract system be submitted prior to the commencement of that use.

Subject to conditions, including a restriction on plant operating hours for the restaurant, one hour before and one hour after proposed opening times, the plant proposals are considered acceptable.

### **8.7.2 Refuse /Recycling**

All refuse for the development will be collected from a single ground floor refuse store on Bolsover Street. The building's Management will be responsible for compacting the refuse. Refuse and waste from the shop/restaurant will be transferred via stairs from the basement to the ground level refuse store. Residents will transfer waste from the refuse store using the lifts.

The Council's Project Officer (Waste) has confirmed that arrangements for the storage of refuse and recyclable materials, as shown on the revised plans, are now considered acceptable. These would be secured by condition.

### **8.7.3. Sustainability**

City Plan policy S28 requires new developments to incorporate exemplary standards of sustainable design and encourages developments to reduce energy use and emissions. Policy S39 seeks to encourage decentralised energy and to ensure that major developments make provision for site wide decentralised energy generation and where possible connectivity. Policy S40 seeks at least a 20% reduction of carbon dioxide emissions through the use of renewable energy generation with a view to achieving zero carbon emission except where the Council accepts that this is not practicable.

Policies 5.1 to 5.9 of the London Plan focus on measures to mitigate climate change and the carbon dioxide emissions reduction targets that are necessary across London to achieve this. London Plan Policy 5.2 sets out carbon reduction targets which apply to major developments, currently the equivalent of 35% below part L of the Building Regulations 2013. Policy 5.6 in the London Plan requires development proposals to evaluate the feasibility of Combined Heat and Power (CHP) systems.

The applicants have submitted a detailed Sustainability Statement and an Energy Strategy in support of the proposals. The residential development has been assessed using the Code for Sustainable Homes methodology, and achieves a rating of level 4. Although this Code has been taken out of force following the Deregulation Bill 2015, it remains a useful tool in assessing the sustainability credentials of a residential scheme. The commercial unit has been designed to achieve a BREEAM rating of "Excellent".

The scheme will make use of renewable energy including air source heat pumps. Photovoltaic panels will be installed on roof level in association with the restaurant proposals. However, if the unit is occupied as a retail shop, the significant reductions in

carbon emissions delivered by the scheme would render the photovoltaic panels unnecessary.

Rainwater harvesting tanks for grey water systems will be provided in the basement. Green roofs will serve to reduce rainwater run-off and aid thermal performance.

A range of passive design features and energy efficient measures is proposed in the development. These include the use of mechanical ventilation with heat recovery, low energy lighting and water systems and heating systems. A CHP system is also proposed and systems will be designed to connect to future heating networks.

The façade design helps to reduce solar gain and building fabric is designed to optimise thermal performance.

It is anticipated that these measures will achieve a 40.2% reduction on CO2 emissions beyond the requirements of the Building Regulations 2013 for the scheme including the retail use and a 36.3 % reduction for the restaurant scheme.

#### **8.7.4 Biodiversity**

City Plan policy S38 requires new developments to maximise opportunities to create new wildlife habitats. The scheme incorporates a green roof, with the opportunity for planting on private terraces. The planting of these external spaces would improve the site's contribution to the biodiversity of the area, which is welcomed. The provision of the green roof would be reserved by condition.

#### **8.7.5 Designing Out Crime**

The applicants have met with the Designing Out Crime Officer who has raised no objections to the application. However, he has made some recommendations for example in relation to the residents' entry system and the specification of the door to the cycle stores but these would have no material impact on the scheme's design.

#### **8.7. 8 Impact of construction works**

The scheme involves the excavation of an additional basement to provide new car parking. The application was validated in November 2015, after the date at which the Council resolved to give weight to the new basement policies.

Policy CM28 of the City Plan 2016 requires all applications for basement development to demonstrate that they have taken into account the site-specific ground conditions, drainage and water environment(s) in the area of the development. They must be accompanied by a detailed structural methodology statement and a separate rate flood risk assessment where required and reports detailing measures to protect heritage assets, as appropriate. In addition, applicants will be required to sign an undertaking to demonstrate that they will comply with the relevant parts of the Council's Code of Construction Practice and are aware of the need to comply with other public and private law requirements governing development of this kind.

The policy sets out the requirement for the development to safeguard the structural stability of the existing building, any nearby buildings and other infrastructure and to be designed to ensure that any flood risk at the site, or beyond, is not increased or exacerbated. The policy also requires the development to be designed and constructed so as to minimise the impact at construction and occupation stages on neighbouring uses; the amenity of those living or working in the area; on users of the highway; and traffic and highways function.

The policy also requires new build residential development incorporating basements on sites adjoining residential properties, where there is potential for an impact on those adjoining properties, to provide a satisfactory landscaping scheme containing planting and permeable surfacing as appropriate, safeguarding trees and to employ the most energy efficient means of ventilation, and lighting, involving the lowest carbon emissions. Further, sustainable urban drainage measures should be employed to reduce peak rate of run-off.

The application is supported by a Construction Methodology Report and a report detailing local ground conditions, local geology and hydrology issues. The reports have been assessed by a Building Control Officer who has confirmed that the basement construction methodology is acceptable and that matters of geology, ground water and the protection of neighbouring buildings during construction works have all been taken into account.

The application is supported by a SuDS (Sustainable Urban Drainage Systems) report. Developers are required to incorporate SuDS into their schemes which include attenuation for surface water run-off (as well as habitat, water quality and amenity benefits). The submitted report concludes that neither the volume nor the rate of surface water run-off will increase as a result of the proposal and that the creation of a green roof together with rainwater attenuation tank will result in a reduction in run-off volumes post-development.

The applicants have submitted a draft Construction Management Plan which sets out in detail the logistics of the development, traffic routing and the expected programme of works, site set up access and security, road closures etc. and the consideration of timings of deliveries and waste removal to minimise disruption. It also includes details of measures to ameliorate construction noise and dust generation. It is noted that the CMP states that building works would commence at 7.30 hours on weekdays. However, it is recommended that the standard hours of work condition is imposed which permits building work to commence no earlier than 08.00 hours.

The application is also supported by an Environmental Noise and Vibration Survey and Assessment which looks at the impact of construction noise and vibration on adjacent properties with particular regard to the adjoining residential building. The report concludes that significant construction noise can be mitigated through the implementation of appropriate noise mitigation and noise management measures.

Many of these issues would now be considered under the new arrangements governing the Code of Construction Practice and, consequently, any permission would not require the developer to adhere to the terms of the CMP. The applicants have indicated their willingness to abide by the relevant requirements of the COCP, which will include a capped annual payment to the City Council for site monitoring. This matter will be controlled by condition.

## 8.8 London Plan

This application does not raise any 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

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

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

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

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) imposed restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 6 April 2010, which provide for the funding or the 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.

Westminster's has developed its own CIL which was introduced on 1 May 2016.

For the reasons outlined elsewhere in this report, should the scheme be considered acceptable, a S106 legal agreement would be required to secure the following:

- a) Costs of highways works around the site to facilitate the development (including the creation of a new crossover)

- b) the replacement of any trees on the public highway on Great Portland Street, Bolsover Street and Carburton Street which need to be replaced to facilitate the development (with a suggested minimum cost of £5,000 per tree)
- c) A Car Lift Management and Maintenance Plan
- d) Unallocated residential parking
- e) Life time car club membership in association with each of the new flats (minimum 25 years), provided prior to the occupation of the flats
- f) Monitoring costs

The application is considered acceptable subject to these obligations.

The estimated CIL payment is £610,470.

The objector has expressed concern that the submitted CIL form contradicts information in the applicant's planning statement (with regard to the parts of the building which had been occupied for 6 continuous months during 36 months prior to the submission of the application), which could affect the level of CIL payable.

However, only part of the building needs to have been occupied during this specified period for the entirety of the floorspace to be deducted from CIL charging (making only the increase in floorspace CIL liable). As four of the existing flats were still occupied at June 2016, the applicant's interpretation of the scheme's CIL liability is considered correct.

### **8.11 Environmental Impact Assessment**

The environmental impact of the development is assessed elsewhere in the report.

## **9 Other issues**

An objection has been received on the grounds that the application makes no reference to the objector's interest/right in the land as freeholder. There is no requirement for these details to be included in the planning application and this is not a material planning consideration. The submitted application form confirms that notice of the application was served on the freehold owner.

During the course of the application, officers have requested information from the applicants to address the objector's comments, and officers' concerns, and this information has been made available to the objector. No other comments have been received from neighbouring occupiers. The objector considers that the information provided significantly alters the nature of the application, requiring a full re-consultation to be carried out. However, the revision and information received (increase in the number of cycle parking spaces to make this element policy compliant, removal of ventilation grilles from the public highway, provision of justification for the proposed residential mix etc) are

not considered to constitute material changes to the application. In these circumstances, and in accordance with normal procedures, officers consider that general public re-consultation was not required.

## **BACKGROUND PAPERS**

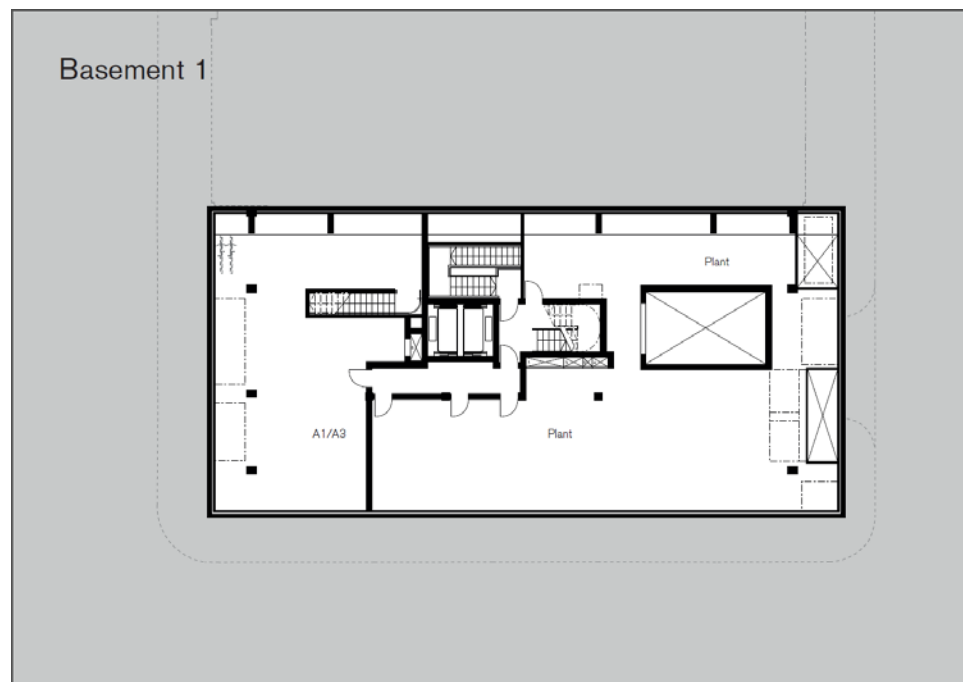
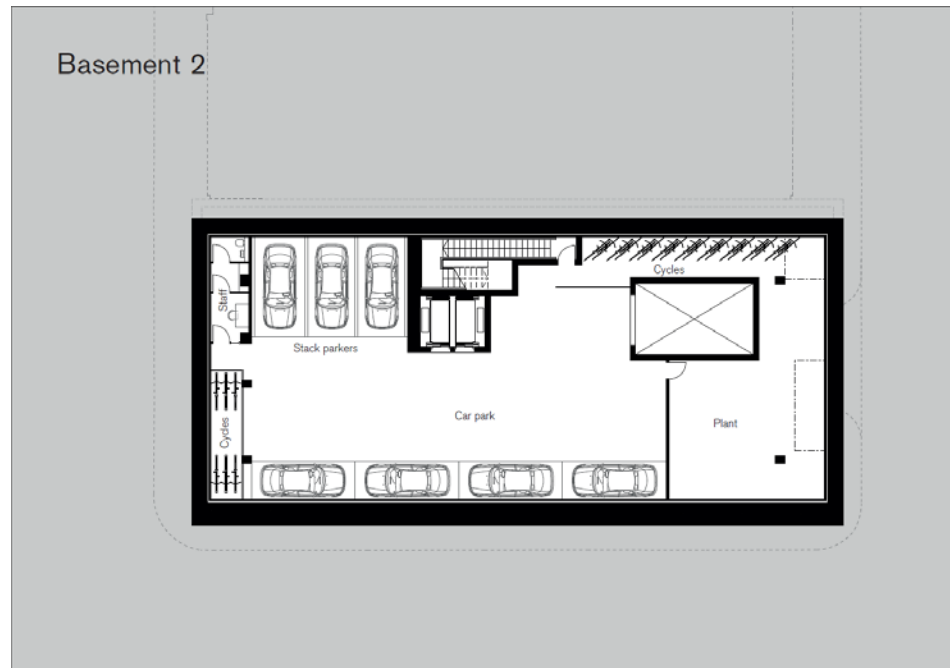
1. Application form
2. E-mail from Councillor Scarborough dated 17 August 2015 (enclosure)
3. Response from Historic England (Listed Builds/Con Areas), dated 24 November 2015
4. Response from Metropolitan Police dated 5 January 2016
5. Response from Environmental Health dated 5 October 2016
6. Memoranda from Highways Planning dated 11 and 26 February and 3 October 2016
7. Memoranda from Project Officer (Waste) dated 27 November 2015 and 13 June 2016
8. Memorandum from Building Control dated 29 September 2016
9. Memoranda from Arboricultural Officer dated 3 and 6 October 2016
10. Letters from Stephenson Harwood LLP on behalf of the freehold owner 204A Great Portland Street dated 18 December 2015 and 11 January, 17 June and 9 September 2016

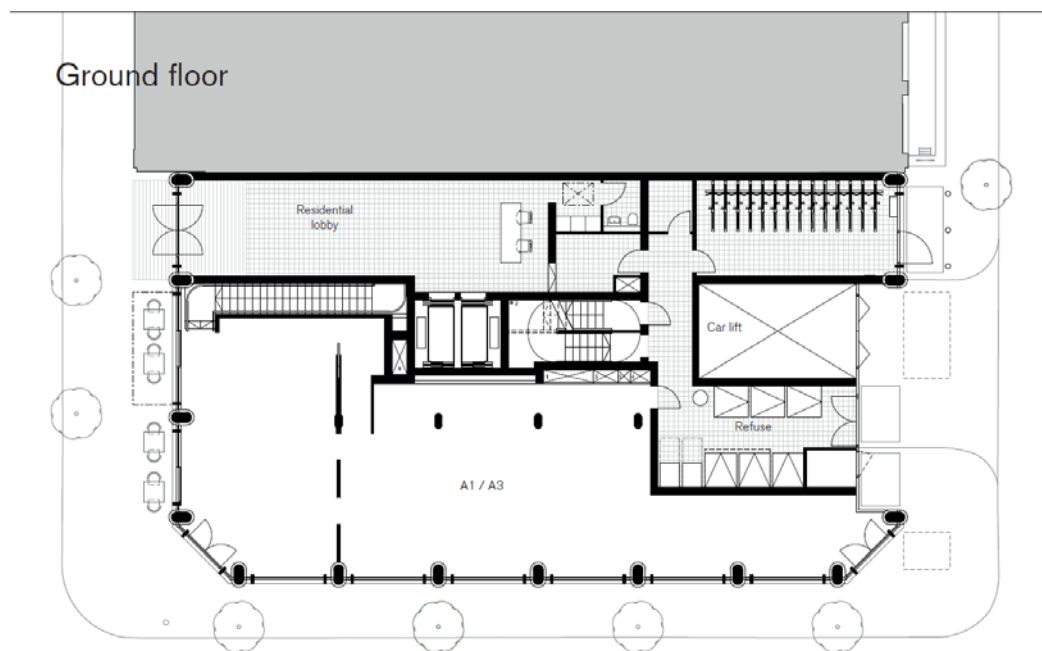
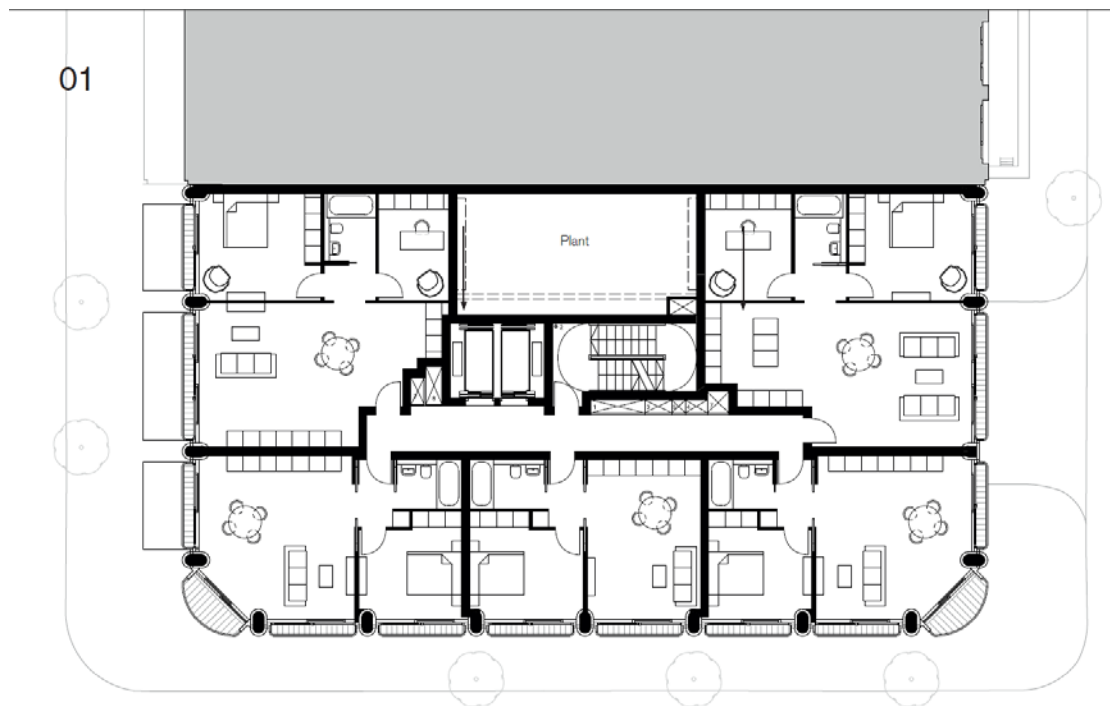
## **Selected relevant drawings**

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIERBY EMAIL AT [sspurrier@westminster.gov.uk](mailto:sspurrier@westminster.gov.uk).

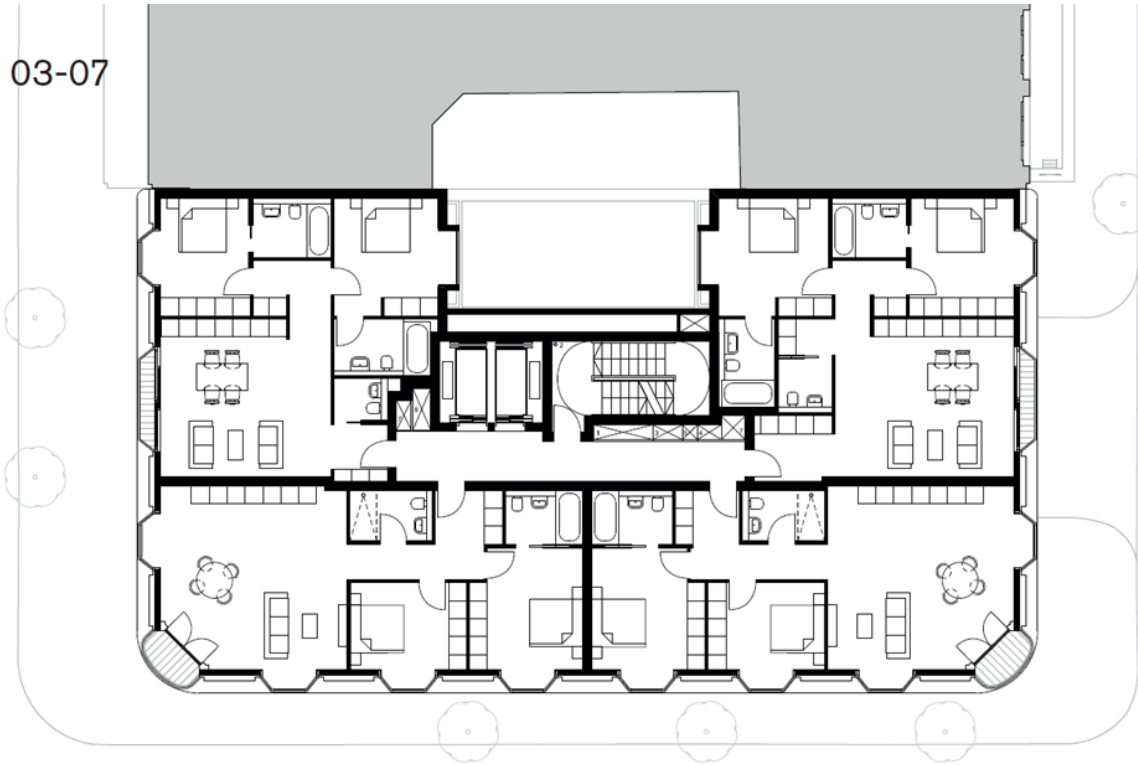
## 10 KEY DRAWINGS



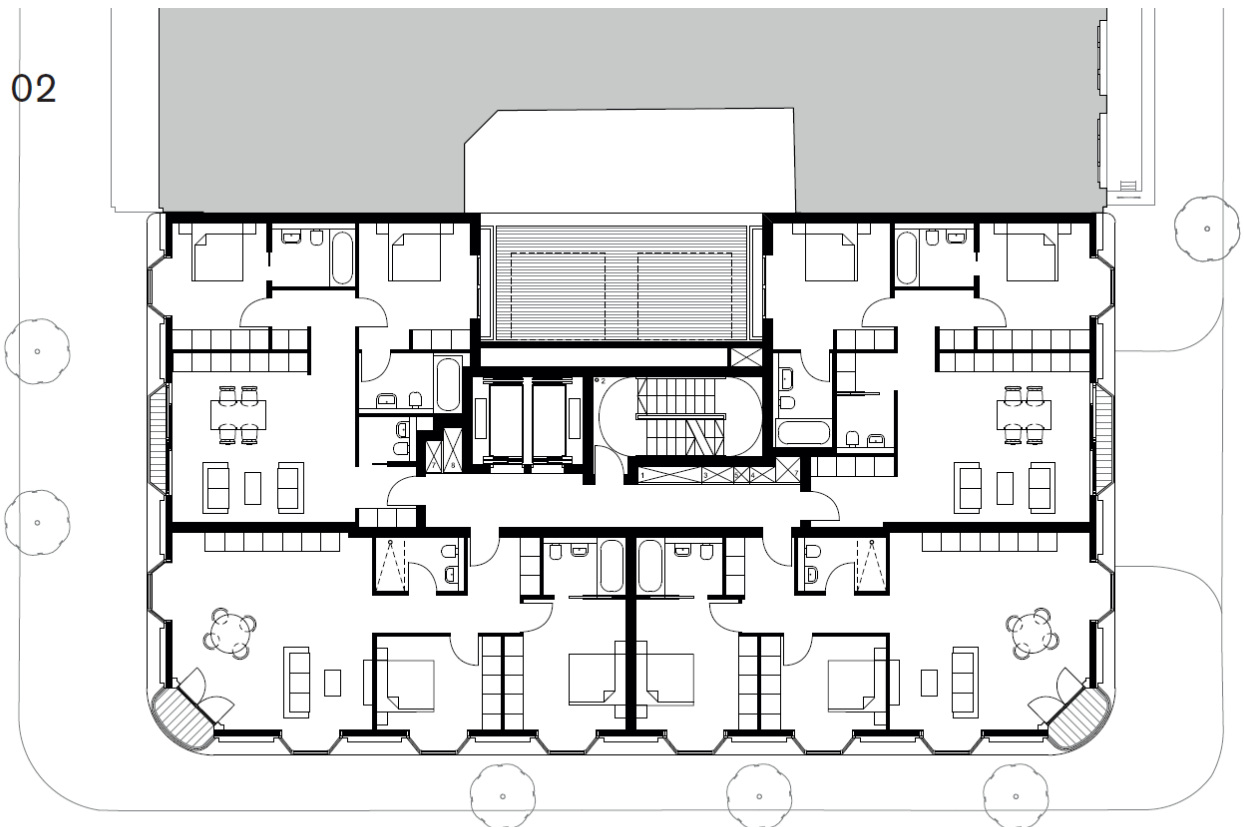




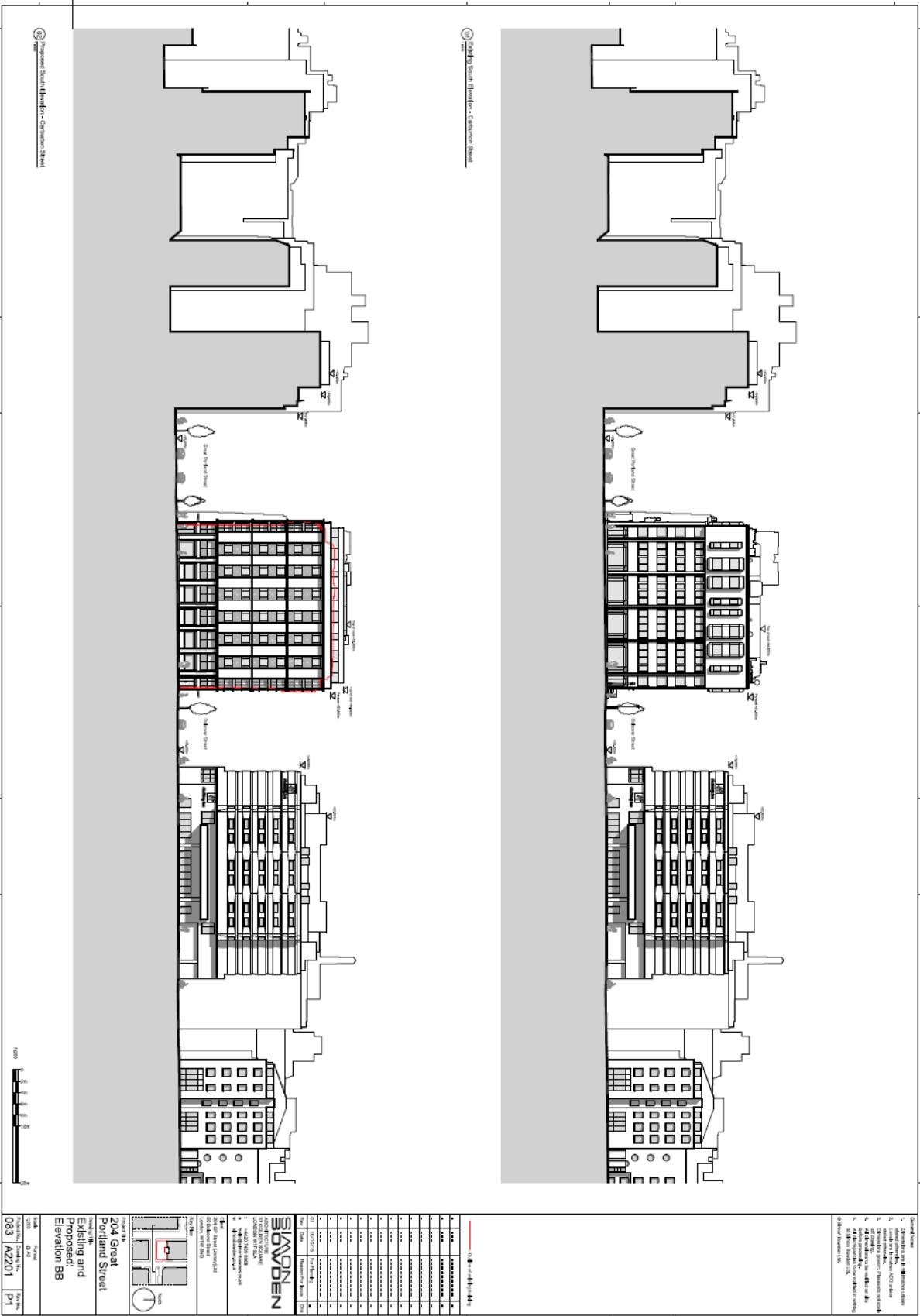
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02









**DRAFT DECISION LETTER**

**Address:** 204A Great Portland Street, London, W1W 5NP,

**Proposal:** Demolition of existing building and redevelopment to provide a new building comprising two basement levels, ground and first to eighth floors. Use of part basement and ground floors for dual/alternative retail (Class A1) or restaurant (Class A3) purposes, use of the remainder of the property as up to 31 flats (Class C3), including terraces and balconies, with ancillary car and cycle parking; provision of photovoltaic cells, a green roof and associated plant.

**Reference:** 15/09828/FULL

**Plan Nos:** 083/A105 P1, A1510P1, A1511 P1, A1512 P1, A1513 P1 A1520 P1, A1521 P1 (demolition drawings)

083/A0102 P1 (site plan); A2009 P3, A2010 P6, A2011 P3, A2012 P3, A2013 P3, A2014 P3, A2100 P1, A2200 P1, A2201 P1, A2202 P3, A2203 P1.

Sustainability Statement (Hurley Palmer Flatt dated October 2015 Issue 3)

**Case Officer:** [redacted] Carrier

**Direct Tel. No.** 020 7641 3934

**Recommendation and Reason(s):**

1  
The development as submitted 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 sample cladding 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 contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out

in S25 and S28 of Westminster's City Plan (July 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)

3

The facades shall be clad in natural Portland stone.

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 Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

4

You must apply to us for approval of detailed drawings of the following parts of the development -

1. Typical facade details at all levels
2. Decorative metalwork
3. Shopfronts
4. Public art/balcony railings

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 this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 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 (July 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

6

You must apply to us for approval of detailed drawings (roof plan, elevations and sections) showing the following alteration(s) to the scheme:

the omission of the roof level safety balustrade and its replacement with a lanyard-style safety system for maintenance purposes.

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 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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

7

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:

- o between 08.00 and 18.00 Monday to Friday;
- o between 08.00 and 13.00 on Saturday; and
- o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

8

Prior to the commencement of any demolition or construction on site the applicant shall provide evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. (C11CA)

Reason:

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

9

(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 (July 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.

10

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.

11

(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 restaurant 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 restaurant 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 (July 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.

12

The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

13

The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

The design of the separating wall should be such that the received value in the residential habitable spaces, with music playing, should be 10 dB below that measure without music events taking place, at the quietest time of day and night, measured over a period of 5 minutes and in the indices of Leq & LfMax in the octave bands of 63 Hz & 125 Hz. (The 10 dB below limit is considered sufficient as measured in the two indices of Leq & LfMax so that the 'beat' of the low frequency music will be effectively inaudible to the residents.)

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

14

You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 9 and 11 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A) (1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (July 2016), by contributing to reducing excessive ambient noise levels.

15

You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 12, 13 and 39 of this permission. You must not start work on this part of the

development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise and noise generated from within the development.

16

You must provide the waste store shown on drawing A2010 P5 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

17

No waste shall be stored on the public highway

Reason:

To protect the environment and ensure the use of the storage facilities provided as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

18

You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

19

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.

20

All vehicles must enter and exit the site in forward gear

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

21

Any part of the development that oversails the highway (footway) must maintain a minimum 2.6 metre clearance from the footway surface at all times and shall not extend closer than 1 metre from the kerb edge.

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

22

You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

## Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

23

Prior to the occupation of the flats hereby approved a minimum of 20% of the parking spaces shall be fitted with electric vehicle charging points and these shall, thereafter, be maintained in working order.

## Reason:

As required under policy 6.13 of The London Plan 2015

24

Prior to the occupation of the flats hereby approved you must apply to us for approval of a vehicle signalling system for the basement car park. You must not start work on this part of the development until we have approved what you have sent us. You must then install the vehicle signalling system in accordance with the approved details prior to the use of the car park. (C26CB)

## Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

25

Prior to the occupation of the commercial floorspace as either a restaurant (Class A3) or as a food supermarket (Class A1) you must apply to us for approval of a Servicing Management Plan. You must not occupy the commercial unit for these purposes until we have approved what you have sent us and the premises must thereafter be serviced in accordance with the approved Servicing Management Plan.

## Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

26

Prior to the commencement of any (Class A3) restaurant use on the site, you must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the restaurant use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

27

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 Harley Street Conservation Area as set out in S25 and S28 of Westminster's City Plan (July 2016) 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)

28

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 Harley Street Conservation Area as set out in S25 and S28 of

Westminster's City Plan (July 2016) 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)

29

You must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use. (C05JB)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

30

Customers shall only be permitted within the restaurant premises, including on the private forecourt, between 07.30 and 22.30 hours on Monday to Friday (excluding Bank Holidays and Public Holidays); from 0800 to 22.30 on Saturdays and from 09.00 until 1800 hours on Sundays, Bank Holidays and Public Holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

31

The restaurant plant/machinery hereby permitted (excluding refrigeration plant) shall not be operated except between 06.30 and 23.30 on Monday to Friday; 0700 and 23.30 on Saturday and 08.00 until 1900 hours on Sundays and Bank Holidays.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)



32

You must put up the plant enclosure 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 S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007. (R13CC)

33

You must not sell any take-away food or drink on the premises, even as an ancillary part of the primary Class A3 use. (C05CB)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (July 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

34

The Class A3 restaurant use hereby approved shall not operate a food or drink delivery service

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (July 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

35

You must not allow more than 120 customers into the restaurant premise, including the private forecourt area on Great Portland Street, at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (July 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

Item No.
4

36

All servicing must take place between 0800 and 2000 hours. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building (other than in the case of waste collections by Council contractors).

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

37

You must provide the following bio-diversity features before you start to use any part of the development, as set out in your application.

green roof

You must not remove any of these features. (C43FA)

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

38

You must provide the environmental sustainability features (environmentally friendly features) set out in the Sustainability Statement (Hurley Palmer Flatt dated October 2015 Issue 3) before you start to use any part of the development, as set out in your application.

You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (July 2016). (R44AC)

## 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 (July 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

This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to highways works around the site to facilitate the development (including the creation of a new crossover), a Car Lift Management and Maintenance Plan, the provision of unallocated residential parking, Life time car club membership in association with each of the new flats (minimum 25 years), the replacement of any street trees removed to facilitate the development and s106 monitoring costs. (I55AA)

3

You are advised that the development should be faced in natural Portland stone.

4

Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)

5

Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

6

The term 'clearly mark' in condition means marked by a permanent wall notice or floor markings, or both. (I88AA)

7

You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

8

You are advised that the Servicing Management Plan required under Condition 25 should clearly outline how servicing will take place on a day-to-day basis ensuring that goods and delivery vehicles spend the least amount of time on the highway and do not cause an obstruction to other highway users. It should identify process, internal storage locations, scheduling of deliveries and staffing.

9

You are reminded that the trees on the highway adjacent to the building frontages are owned by the City Council. Prior to the commencement of any works on site, you must contact the Council's arboricultural officers to discuss measures for the protection of these street trees during the course of construction.

10

You may need separate licensing approval for the restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)

11

You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)

12

You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423,

siteenquiries@ccscheme.org.uk or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).

13

With reference to condition please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). You are urged therefore to give this your early attention.

14

Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the part basement (B1) and part ground floor can change between the retail (Class A1) and restaurant (Class A3) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)

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.

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Regent's Park	
Subject of Report	The Wellington Building, 28-32 Wellington Road, London, NW8 9SP,		
Proposal	Demolition of existing building and erection of a new 6 storey, plus basement building with frontages to Wellington Street and Cochrane Street to provide 36 units for a dual/ alternative use as residential flats (Class C3) or serviced apartments (Sui Generis), with car and cycle parking at basement level and new landscaping.		
Agent	DP9		
On behalf of	Roxburg Overseas Ltd		
Registered Number	15/08352/FULL	Date amended/ completed	14 September 2015
Date Application Received	28 August 2015		
Historic Building Grade	Unlisted		
Conservation Area			

## 1. RECOMMENDATION

1.	Does the Committee consider the provision of a financial contribution of £2,642,000 in lieu of on-site affordable housing provision to be acceptable, having regard to the particular site specific circumstances in this case?
2.	Subject to 1. above, grant conditional permission subject to completion of a legal agreement to secure the following: <ul style="list-style-type: none"> <li>i. A financial contribution of £2,642,000 to the Affordable Housing Fund (index linked and payable prior to commencement of development).</li> <li>ii. A management plan to demonstrate that those units within the development used as serviced apartments providing short term visitor accommodation are used only by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment.</li> <li>iii. Highway works in Wellington Road and Cochrane Street to form vehicular access to the site and amend the layout of the public highway to reflect the proposed development (appropriate arrangements to be agreed prior to commencement and highway works to be carried out prior to occupation at the applicant's expense).</li> <li>iv. Submission of a Site Environmental Management Plan (SEMP) and provision of a financial contribution of £28,000pa during the construction period to the Environmental Inspectorate</li> </ul>

- to ensure compliance with the Code of Construction Practice.
- v. Provision and management of on-site residents car parking, including the making available of parking spaces to all occupiers of the building on an 'un-allocated' basis without restriction.
  - vi. Provision of costs for monitoring of agreement (£500 per Head of Term).
3. If the S106 planning obligation has not been completed within six weeks of the date of this resolution, then:
- 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 such a decision under Delegated Powers; however, if not;
  - b) The Director of Planning shall consider whether permission should be refused on the grounds that 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.

## 2. SUMMARY

The application site comprises an unlisted three storey building last in use as Class B1 serviced offices. The site is not located within a conservation area, but the south eastern side boundary of the site does adjoin the boundary of the St. John's Wood Conservation Area. The neighbouring building to the south east at No.26 Wellington Road is grade II listed.

The application seeks permission for demolition of the existing building and erection of a new 6 storey, plus basement building with frontages in Wellington Road and Cochrane Street to provide 36 units for a dual/ alternative use as either residential flats (Class C3) or serviced apartments (Sui Generis), with car and cycle parking at basement level and new landscaping to both street frontages.

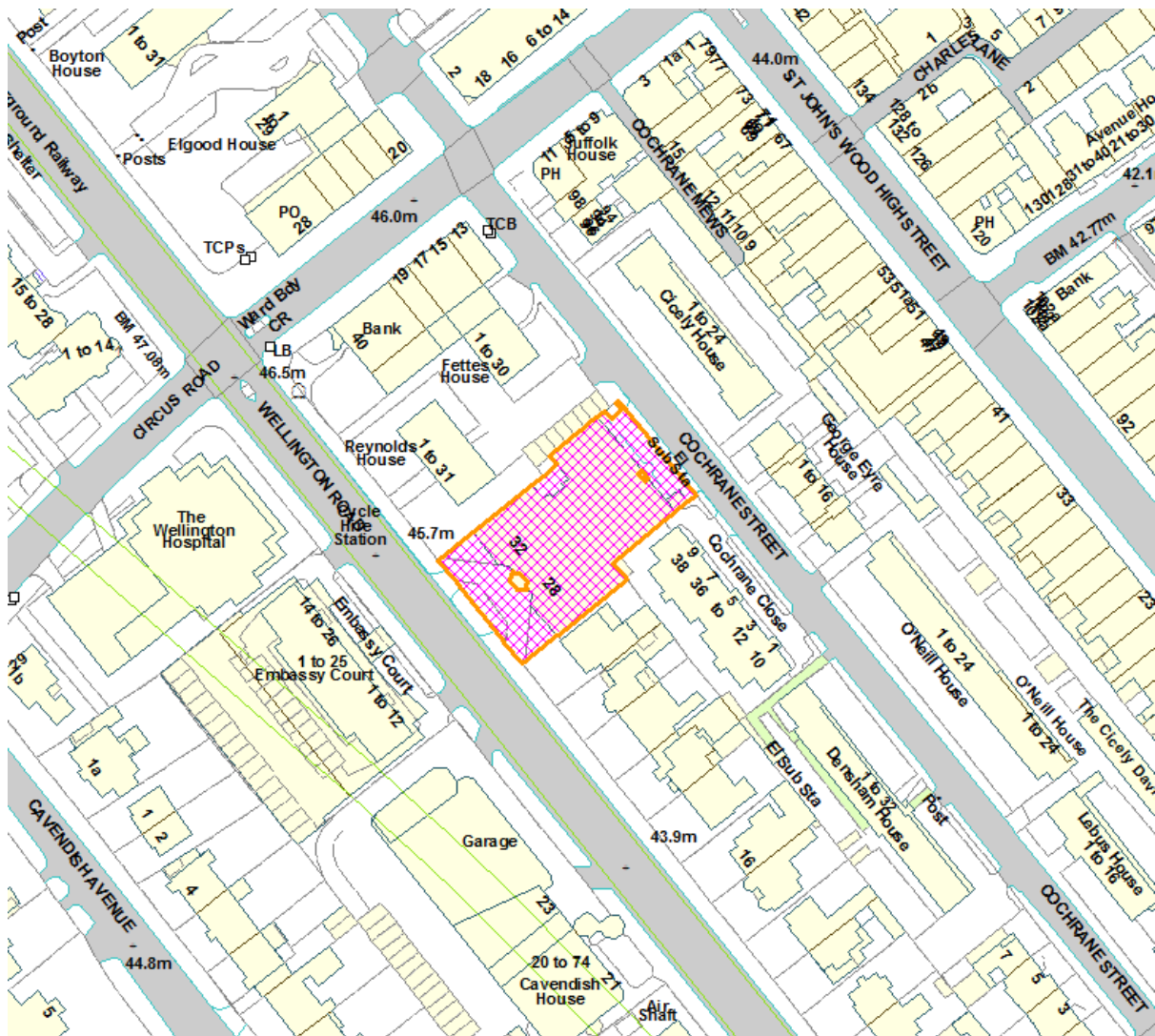
The key issues in this case are:

- The acceptability of providing serviced apartments providing short term visitor accommodation in this location within the City.
- The acceptability of the proposed affordable housing provision.
- The acceptability of the replacement building in design terms of its impact on the appearance of this part of the City and the setting of the neighbouring St. John's Wood Conservation Area and grade II listed building.
- The impact on the amenity of neighbouring residents.
- The impact on trees in adjoining gardens.

Subject to the Committee's considerations in respect of the financial contribution to the Affordable Housing Fund that has been offered and the restrictions recommended in respect of the occupation of the serviced apartments, the proposed development is considered to be acceptable in land use, design, amenity, transportation and environment terms and would accord with the relevant policies in the Unitary Development Plan (UDP), Westminster's City Plan (the City Plan) and the London Plan (2015).



### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



Wellington Road elevation (top) and Cochrane Street elevation (bottom).

## 5. CONSULTATIONS

### COUNCILLOR DIMOLDENBERG

Ask that concerns of occupier of 12 Reynolds House are investigated.

### WARD COUNCILLORS - REGENTS PARK

Any response to be reported verbally.

### ST. JOHN'S WOOD SOCIETY

Replacement building is considered to be a considerable improvement on the existing building. Raise the following comments: sufficient soil depth over the basement should allow for mature planting and include tree pits; don't support green roof and recommend that cost is spent instead on ground level landscaping; concerned that balconies to the link block may cause overlooking.

### ARBORICULTURAL MANAGER

No objection, subject to conditions set out in the draft decision letter. Notes that previous concerns have been overcome by amendment of the scheme in respect of the extent of the basement and lower ground floors.

### CITY WEST HOMES

Any response to be reported verbally.

### CRIME PREVENTION DESIGN ADVISOR

No objection. Suggest that cycle storage should be secured within basement. Lighting should be provided of uniform brightness across site.

### ENVIRONMENTAL HEALTH

Development should be the subject of monitoring by the Environmental Inspectorate. This monitoring would cost £28,000 per annum for each year of construction works and should be secured by way of a S106 agreement. A site environmental management plan (SEMP) should be submitted.

### GO GREEN MANAGER

Any response to be reported verbally.

### HIGHWAYS PLANNING MANAGER

Undesirable but could be considered acceptable. Transitional zones at top and bottom of vehicular ramp are at the maximum permissible gradient. Recommend a condition to ensure the gradients remain within acceptable tolerances. Lack of off-street servicing space is not ideal but could be considered acceptable. Conditions and informatives recommended.

### HOUSING DEVELOPMENT MANAGER

Any response to be reported verbally.

### LONDON UNDERGROUND

No objection in principle. Condition and informative recommended to ensure that the development does not harm London Underground tunnels and infrastructure below the site.

## NATIONAL HEALTH SERVICE CENTRAL LONDON

Any response to be reported verbally.

## TRANSPORT FOR LONDON

Note site has a frontage on to the TfL Road Network (in Wellington Road). Request condition to secure a Construction and Logistics Plan. Consider that drop off and pick area to Wellington Road frontage using existing accesses from Wellington Road has not been justified. Cycle parking acceptable. Request that blue badge and electric charging parking spaces are provided in basement. Residents of development should be prevented from obtaining on-street parking permits. Support vehicle access from Cochrane Street.

## ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS

No. of Consultations: 282; No. of Responses: 59 emails/ letters from 48 respondents.

1 petition containing 19 signatures and 19 emails/ letters from 14 respondents raising object on all or some of the following grounds:

### Design

- Building should be no higher than existing 3 storey building.
- Height proposed would make Cochrane Street appear narrower.
- Excessively high development.

### Amenity

- Loss of daylight.
- Loss of sunlight.
- Loss of privacy.
- Loss of outlook.
- Proposed building at 6 storeys is too high and too close to Fettes House, Reynolds House and buildings in Cochrane Street and Wellington Road. This will have an adverse impact on privacy and light.
- Noise disturbance from vehicles using Cochrane Street to access basement parking.
- Windows on north side of site should be fitted with frosted glass to prevent overlooking to Reynolds House.

### Other Matters

- Increased pressure on the availability of on-street parking.
- Increased pressure on recycling.
- Noise and disturbance from vehicles using underground car park.
- Noise disturbance from construction works.
- This is third proposal for redevelopment of the site since 2006.
- Previous applications for redevelopment of this site have been refused and difficult to see what has changed.
- Dust will affect health of neighbours.
- Concern that comments in support of application are not genuine and have been provided online by a single individual.
- Rights of permanent residents should take precedence over short stay accommodation for patients of neighbouring hospitals.

- Benefit of a building of improved appearance does not outweigh the impact of construction works on the health of neighbouring residents.
- Excavation of basement car park will significantly length construction period.
- Increase noise and traffic flow as a result of car park.
- Cochrane Street elevation treated as a servicing area, with attractive elevation to Wellington Road.
- Applicant has been encouraging local support by circulating suggested comments.

39 letters/ emails from 34 respondents in support of the application raising all or some of the following issues:

- Provision of serviced apartments will prevent sub-letting of existing housing in area by hospital patients.
- Existing building is ugly.
- Proposed building would improve appearance of the area.
- Removal of parking from forecourt will improve appearance of the site.
- Hospital patients and their families often currently use hotels in the vicinity and noted that people do not usually like to spend long periods of time staying in hotel accommodation.
- Hospital patients and their families would be likely to want to stay in this type of accommodation for prolonged periods.
- Currently patients and their families have to stay in central London and commute to local hospitals.
- Serviced apartments would benefit tourism.
- Serviced apartments would be convenient for accommodating family and friends from overseas.
- Residential use of the building would enhance the local community.
- Welcome new landscaping.
- Welcome provision of on-site parking in basement.
- Provision of refuse storage in basement will limit amount stored on Cochrane Street.
- Welcome removal of surface level parking.
- Serviced apartments will be occupied for larger part of the year than investment flats.

ADVERTISEMENT/ SITE NOTICES (x2)

Yes.

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The site currently comprises a three storey building with a lawful use as serviced offices (Class B1), albeit the building is currently vacant. The site has two street frontages to Wellington Road and Cochrane Street.

The building is not located within a conservation area and is not listed. However, the site does border the St. John's Wood Conservation Area to the south east. The neighbouring

building to the south east at No.26 Wellington Road is Grade II listed. Wellington Road (A41) is a Red route under the responsibility of Transport for London.

## **6.2 Recent Relevant History**

24 August 2010 - Application withdrawn which proposed the demolition of existing three storey office building and the erection of a new eight storey residential building comprising 34 self-contained residential units, with three storey basement accessed from Cochrane Street to provide off-street parking, servicing and gym/ fitness centre (Class D2) (09/05454/FULL).

25 February 2015 - Prior approval was approved for use of building from office (Class B1a) to provide 21 residential units (Class C3). Application for prior approval under Part 3 Schedule 2 Class J of the Town and Country Planning (General Permitted Development)(England) Order 1995 as amended by the Town and Country Planning (General Permitted Development)(Amendment) (England) Order 2013 and the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 (15/00004/P3JPA).

## **7. THE PROPOSAL**

The application seeks permission for demolition of the existing building on the site and erection of a new 7 storey building comprising basement, lower ground, ground and four upper floors. The building would comprise two distinct elements, a Limestone clad block with a recessed bronze coloured aluminium clad recessed roof storey to the Wellington Road frontage of the site and a red brick faced block with a bronze coloured aluminium clad recessed roof storey to the Cochrane Street frontage of the site. The two distinct blocks would be linked by a glazed link corridor at the centre of the site.

The proposed building would provide 36 units between lower ground and fourth floor levels and the applicant proposes a dual/ alternative use as either residential flats (Class C3) or serviced apartments providing short term visitor accommodation for the patients of local hospitals and their family and/ or carers (Sui Generis).

The basement below the site, which has been amended during the course of the application to set it back from neighbouring trees, would provide residents car parking for 32 vehicles, as well as accommodating cycle storage and waste and recycling storage.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **8.1.1 Loss of Existing Office Use**

The application site is located outside of the Central Activities Zone (CAZ) and CAZ frontages and is not within a Special Policy Area. Therefore the existing office use is not protected and the loss of the existing office use is considered acceptable and the principle of its replacement with residential accommodation (Class C3) would accord with Policy H3 in the adopted UDP and S13 in the City Plan.

### 8.1.2 Proposed Dual/ Alternative Residential/ Serviced Apartments Use

In addition to proposing the use of the units of accommodation within the development as Class C3 residential accommodation, the applicant proposes their dual/ alternative use as serviced apartments providing short term visitor accommodation (Sui Generis). Policy TACE2 in the UDP is relevant and seeks to control the location of new hotel uses, including other types of visitor accommodation. The Policy seeks to restrict the growth of visitor accommodation to within the Central Activities Area (CAZ), CAZ Frontages and special policy areas. Part (C)(1) of the Policy states that outside these areas '*...planning permission for new hotels [and other forms of visitor accommodation] will not be granted*'. Policy S13 in the City Plan identifies that outside the CAZ and North Westminster Economic Development Area development should primarily deliver residential use with supporting social and community provision.

In this context, the normal policy presumption in this location would be to resist the introduction of serviced apartments providing short term visitor accommodation. However, in this case there are considered to be exceptional circumstances to justify the use of the flats within the proposed development as short term visitor accommodation as it would help to support existing local medical social and community uses, would be in very close proximity to the Wellington and St. John and St. Elizabeth hospitals and would not result in the loss of any existing permanent residential accommodation.

However, this exception to the normal policy presumption can only be justified if the serviced apartments are limited to use by patients convalescing prior to and following receiving medical treatment at one of the local hospitals in the St. John's Wood area. It is apparent that such persons are not well catered for at present and options locally, close to local hospitals, are largely limited to hotels which are not ideally suited to persons convalescing following medical treatment. It is noted that in this regard the application has received support from the Wellington Hospital and the Hospital of St. John and St. Elizabeth (see in background papers).

Therefore, in this exceptional case it is considered that the applicant has put forward a compelling justification for the use of the units in this development as short term visitor accommodation. It is recommended that the serviced apartment units should be limited to patients of the local hospitals and their families and carers, given that it is only this exceptional circumstance that justifies the provision of such accommodation in this location. It is recommended that a management plan that ensures that the occupation of the serviced apartments is restricted in this way is secured in the S106 agreement.

### 8.1.3 Mix and Standard of Proposed Residential Accommodation

The proposed development would provide 36 residential units, with the mix of units comprising 12 x 1 bedroom units, 11 x 2 bedroom units and 13 x 3 bedroom units. The mix proposed provides 36% of the units as 3 bedroom family sized units and this mix would be compliant with Policy H5 in the UDP and Policy S15 in the City Plan.

In terms of floor area, the units within the proposed development would exceed the minimum unit sizes required by the Government's National Technical Standards and the standards set out in Policy 3.5 in the London Plan 2015. Table 1 below sets out the total floor area of each residential unit and provides the size of the smallest bedroom.



**Table 1: Residential Unit Sizes by Overall Floorspace and Size of Smallest Bedroom**

Floor Level	Unit Number	No. of Bedrooms/ Persons	Total Floorspace of Unit (GIA)	Floorspace of Smallest Bedroom (GIA)
LG	1	2B/4P	148.5	17.8
LG	2	1B/2P	93	25.4
LG	3	2B/4P	131	16.7
LG	4	2B/4P	100	12.5
LG	5	2B/3P	106	21.6
LG	6	3B/6P	175	19.6
G	1	2B/4P	79.6	16.1
G	2	1B/2P	62.4	16.5
G	3	2B/4P	105	15.9
G	4	1B/2P	64.3	14
G	5	2B/4P	82.7	18.1
G	6	2B/4P	79.3	13
G	'Staff'	1B/1P	42.9	15.4
1	1	3B/6P	130.8	14.5
1	2	3B/6P	131.7	15.6
1	3	1B/2P	58.8	13.8
1	4	2B/4P	97	13.2
1	5	3B/6P	131.8	14.5
1	6	1B/2P	70	16.8
2	1	3B/6P	130.8	14.5
2	2	3B/6P	131.7	15.6
2	3	1B/2P	58.8	13.8
2	4	2B/4P	97	13.2
2	5	3B/6P	131.8	14.5
2	6	1B/2P	70	16.8
3	1	3B/6P	130.8	14.5
3	2	3B/6P	131.7	15.6
3	3	1B/2P	58.8	13.8
3	4	2B/4P	97	13.2
3	5	3B/6P	131.8	14.5
3	6	1B/2P	70	16.8
4	1	3B/6P	132.8	14.5
4	2	3B/6P	118	15.5
4	3	1B/4P	58.4	13.9
4	4	1B/4P	68.8	20
4	5	3B/6P	134.9	14.5

The applicant's daylight and sunlight assessment includes an assessment of the daylight that would be received by the habitable accommodation at lower ground floor level and this confirms that the standard of accommodation at this floor level would be good and



would that it would be daylight in accordance with the requirements of the Building Research Establishments (BRE) Guidelines (2011).

All of the units proposed would be served by external amenity space in the form of balconies or terraces and this is welcome and contributes to the acceptable standard of accommodation that would be provided.

#### **8.1.4 Affordable Housing Provision and Development Viability**

The proposed development is of a scale that generates a requirement to provide affordable housing in accordance with Policy H4 in the UDP, Policy S16 in the City Plan and the Interim Guidance Note on Affordable Housing Policy. In this case the proposed development generates a requirement for provision of 1,760m<sup>2</sup> of affordable housing floorspace on-site or, if this is demonstrated to be unviable or impractical and the applicant cannot provide the affordable housing off-site in the vicinity, a financial contribution of £9,898,240 to the Affordable Housing Fund may be acceptable.

The applicant contends that the provision of affordable housing on-site is unviable and that they do not have suitable alternative sites in the vicinity of the application site on which it could be provided. As such, the applicant is seeking to provide a financial contribution to the City Council's Affordable Housing Fund in lieu of on-site affordable housing provision. The applicant considers that the provision of a policy compliant contribution to the Affordable Housing Fund is not viable and therefore it has been necessary to test the viability of both on-site provision and the provision of a financial contribution in lieu of on-site provision.

In this case the viability of the scheme has been reviewed and independently assessed on behalf of the City Council by Lambert Smith Hampton (LSH). In terms of on-site provision, LSH advise that they are satisfied that it would not be viable and therefore in light of the applicant's inability to provide affordable housing off-site in the vicinity, the provision of a financial contribution to the Affordable Housing Fund is acceptable in principle.

The applicant's viability assessment initially concluded that the scheme was capable of providing a financial contribution of £2.3 million to the Affordable Housing Fund (this offer was made prior to the City Council's CIL coming into force on 1 May 2016). LSH's review of this position, which occurred prior to 1 May 2016, concluded that the scheme could support a significantly higher contribution of £8.2 million, which falls £1.7 million below the policy compliant financial contribution figure of £9,898,240. Following the adoption of Westminster's CIL, the proposed development is likely to have a Westminster CIL liability of circa £1.36 million. Therefore the viability of the scheme, in terms of the contribution it can make to affordable housing provision, has fallen accordingly to £6.84 million. In response to the findings of the independent assessment, the applicant offered, without prejudice to their own viability position, an increased financial contribution to the Affordable Housing Fund of £4 million. However, following the adoption of the City Council's CIL, this proposed financial contribution has been reduced to £2,642,000.

The applicant argues that the viability of the scheme is not as significant as indicated by the independent assessment carried out by LSH. They note that in large part this is due to the fact that the site benefits from a prior approval to convert the existing building into 21 residential flats (15/00004/P3JPA – see full details in Section 6.2) and they argue that if it

is assumed that this prior approval has carried out and completed, the value of the site would be significantly enhanced and the implementation of the prior approval scheme would not deliver any affordable housing. In addition the applicant asserts that if the prior approval scheme were completed and the current planning application then resubmitted, the viability of the scheme would be significantly reduced owing to the increased value of the site if it were already in use as 21 residential units, rather than office use as is currently the case. Their assessment concludes that no financial contribution in lieu of affordable housing provision would be capable of being viably made in this scenario.

The applicant concedes that there is a clear commercial benefit in being able to commence construction of the scheme proposed in the current planning application earlier and they consider that the 'without prejudice' offer of £2,642,000 to the Affordable Housing Fund that has been made reflects that benefit as well as their position that the scheme is not as viable as stated by LSH. However, it is their contention that the irrecoverable costs of delivering the prior approval scheme (in advance of the redevelopment scheme proposed by this application) are significantly less than the financial contribution of £6.84 million to the Affordable Housing Fund that the independent assessment identifies as being capable of being provided. Therefore the applicants contend that they would be significantly commercially incentivised to follow the development process they have set out, involving the implementation of the prior approval scheme, followed by the demolition of that scheme and its replacement with the redevelopment scheme proposed by the current application.

In response to the aforementioned scenario set out by the applicants, LSH have advised that they consider the scenario to be a departure from the actual facts of the case (given that the prior approval scheme has not been implemented, nor completed to date) and in therefore this constitutes a 'Special Assumption' under the RICS Valuation – Professional Standards 2014 (hereafter 'the RICS Standards'). The RICS Standards define Special Assumptions as '*An assumption that either assumes facts that differ from the actual facts existing at the valuation date or that would not be made by a typical market participant in a transaction on the valuation date*'. The RICS Standards go on to state that only Assumptions and Special Assumptions that are '*reasonable and relevant having regard to the purpose for which the valuation assignment is required are to be made*'.

LSH advise that the Special Assumption advanced in this case, i.e. that the prior approval scheme has been completed, involves ignoring the costs of delivering said scheme. The applicant's prior approval scheme viability appraisal identifies a construction cost sum of circa £5.4 million and a total cost (excluding land) of circa £8.3 million. Allowing also for developer profit LSH advise that the applicants Special Assumption scenario ignores circa £14.3 million in costs that the applicants have acknowledged are required in order to generate the increased value of the site following completion of the prior approval scheme. LSH advise that the effect of this is to artificially increase the value of the land and the benchmark site value by a commensurate amount, which serves to reduce any surplus that would be generated by the subsequent redevelopment of the site in accordance with the scheme proposed in the current planning application to nil.

However, LSH acknowledge that were the viability of the currently proposed development to be assessed in the future, following the actual conversion of the building to 21 residential units under the prior approval scheme, but before any units in that scheme are disposed of, then it would be reasonable at that stage to assume that the proposed

redevelopment scheme would not be viable. This is due to the requirement set out in the RICS Standards for market-based assessments to ignore the identity of the applicant. Crucially, however, for the applicants to get to this position they would need in this case to incur circa £14 million in costs prior to resubmitting the current planning application. LSH advise that this appears to be an unlikely commercial decision to make in practice given that analysis of the comparative internal rates of return of respective redevelopment options (i.e. (i) the prior approval scheme, (ii) the planning application redevelopment scheme and (iii) the prior approval scheme with consequential redevelopment of the site), indicates that the prior approval scheme with consequential redevelopment is the option that would deliver the lowest rate of return out of all three and would take longest to complete on-site.

In summary, the Committee is asked to consider whether in view of the particular circumstances of this case the proposed £2,642,000 contribution to the Affordable Housing Fund is an acceptable contribution in lieu of on-site provision, given that the applicant could alternatively implement the prior approval scheme, or implement the prior approval scheme followed by planning application redevelopment scheme, neither of which would deliver any affordable housing contribution.

## **8.2 Townscape and Design**

In design terms although the site is located outside of a conservation area, it is located adjacent to the boundary of the St. John's Wood Conservation Area and the neighbouring building at No.26 Wellington Road is grade II listed. Accordingly the site is located in a relatively sensitive location in terms of the impact that redevelopment of this site could have on the setting of these neighbouring heritage assets.

The loss of the existing building is not considered to be objectionable and cannot be resisted in any event given that it comprises an unlisted building located outside of a conservation area. The existing building has a large footprint and stretches across the full width of the site both in views from Wellington Road and Cochrane Street. As a result, whilst the existing building is limited in height (3 storeys) it nevertheless appears bulky and has a generally poor relationship to neighbouring buildings.

The proposed replacement building would have a smaller footprint than the existing building and would be significantly set in from both side boundaries with Reynolds/ Fettes House to the north west and No.26 Wellington Road and Cochrane Close to the south east. Whilst the building would be planned internally as one building with a single central lift and stair core, the wings of the building facing the respective street frontages of the site in Wellington Road and Cochrane Street have differing designs and palette of materials to reflect the differing prevailing building forms and palettes of materials found in the two streets.

To the Wellington Road frontage of the site proposed building would comprise five above ground storeys, plus lower ground and basement floors, and would be approximately 4 metres higher than the existing three storey building on the site (excluding the dome of the existing building). Whilst the building would be higher than existing, in design terms it would act as a transition between the taller 8 storey form of Reynolds House to the north and the much more domestic scale of the three storey listed building at No.26 Wellington Road.

The impact of the increased height of the proposed development on the listed building is mitigated significantly by the setting back of the building from the boundary by approximately 4 metres; whereas the existing building extends right up to the boundary with No.26. To the north eastern side boundary the proposed building would be set in by approximately 1.9m. The smaller set back from this boundary is considered to be acceptable given the larger existing gap to Reynolds House. As a result of the setting in of the proposed building from the boundary it is considered that it has a comfortable scale in design terms that successfully provides a transition in building scales between the significantly different building types to either side. The success of this transition is further aided by the slight setting back of the side wings behind the curved front elevation and the provision of the top storey as a recessed roof top addition clad in contrasting bronze cladding.

With regard to its detailed design, the Wellington Road section of the proposed building would comprise two curved bays either side of a recessed central entrance, with each projecting curved bay designed to replicate the width of the listed building at No.26 and its recessed side wing. Whilst the design of the building does not replicate the buildings to either side, as the existing building on this site does not, the use of the proportions of the listed building at No.26 is helpful in ensuring that the building would have some relationship with its immediate context. The height of the building would be softened by the recessing of the top floor and the decorative screens are proposed to the recessed balconies to give a further visual interest to the street façade of the building. It is considered that the decorative screens to the balconies provide a good opportunity to provide public art that is embedded in the fabric of the building and a condition is recommended to secure this opportunity for public art.

In terms of its materiality, the section of the building facing Wellington Road would be clad in Lime stone cladding, which would be consistent with the cladding material found opposite on Embassy Court, and would complement the white rendering found on both neighbouring buildings to varying degrees. In addition the existing building is finished wholly in white render and as such, the provision of a replacement building of similar colouration; albeit achieved using a more high quality facing material, is not considered to be objectionable. The recessed roof storey at fourth floor level would be clad in a bronze coloured metal cladding to match the window and door frames and would give this storey the appearance of a terminating roof form.

The section of the proposed building facing Cochrane Street would also be five storeys high and, like the section of the building facing Wellington Road, would seek to provide a transition in scale between the eight storey Fettes House to the north and the four storey Cochrane Close to the south. The proposed building would be approximately 3.6m higher than the existing three storey building facing Cochrane Street, but would be set in by 0.7m from the boundary with Cochrane Close and 1.5m from the boundary with Fettes House. These setbacks from the site boundaries relative to the existing situation would ease the relationship to neighbouring buildings, particularly to Cochrane Close to the south, and overall the proposed building would represent a comfortable transition in scale along this part of Cochrane Street.

The detailed design of the proposed Cochrane Street block is modelled on the form of Cochrane Close to the south, with the building taking a rectilinear form with projecting

bays, which would accommodate balconies. The block would be clad in red brickwork with banding to mirror the brickwork detailing to other residential blocks in Cochrane Street. At roof level the recessed fourth floor would be clad in bronze coloured metal cladding to match the window and door frames and also the metal balustrades to the balconies on the lower floors. The bronze coloured cladding would also help to provide coherency of material palette across the site when the development is seen in side elevation views from neighbouring properties to the north and south of the site.

To the centre of the site the two street blocks would be linked by a slim lightweight translucent glazed link block between ground and fourth floor levels, which would house the single lift and stair core. The link block would be set well back from the site boundaries to the north west and south east of the site and would appear as a clearly subordinate structure in the limited private views it would be seen in.

In conclusion in design terms, it is considered that the building represents a redevelopment of this site of appropriate bulk and scale having regard to the setting of the site and, subject to the recommended conditions, it would also be appropriately designed to respond to the markedly different architectural context in Wellington Road and Cochrane Street. As a result the scheme would not harm the setting of the neighbouring St. John's Wood Conservation Area or the grade II listed building at No.26 Wellington Road. The proposal is therefore compliant with Policies DES1, DES4, DES9 and DES10 in the UDP and S25 and S28 in the City Plan.

### 8.3 Residential Amenity

#### 8.3.1 Daylight

The application is accompanied by a detailed daylight and sunlight assessment, which surveys the impact of the proposed development on the daylight and sunlight reaching all neighbouring buildings. The assessment identifies that the proposed development would result in some losses of daylight. However, material losses of daylight using the Vertical Sky Component (VSC) method of assessment would be limited to five windows in the south eastern elevation of Reynolds House, which faces the north western side elevation of the application site. The material losses caused would be to windows at first, second and third floor levels are set out in Table 2.

**Table 2: Material Losses of Vertical Sky Component (VSC) caused to Windows in Reynolds House by the Proposed Development.**

Floor Level	Elevation	Window Description	Existing VSC	Proposed VSC	Loss	% Loss
First	South East	Window adjacent to balcony door (northern side of elevation).	9.2	6.4	2.4	31%
Second	South East	Window adjacent to balcony door (southern side of elevation).	16.6	12.5	4.1	24%
Second	South	Window adjacent to	16.3	11.2	5.0	31%

	East	balcony door (northern side of elevation).				
Second	South East	Balcony door (northern side of elevation).	23.2	18.4	4.8	21%
Third	South East	Window adjacent to balcony door (northern side of elevation).	21.7	16.7	5.0	23%

The windows affected in terms of VSC losses in Table 2 serve the living accommodation flats, some of which are studio flats, and small units of accommodation such as this can be particularly susceptible to losses of daylight. However, in this case, the rooms served by the affected windows and door are dual aspect and are also served by further unaffected windows in the north east or south west elevations of Reynolds House. As a result, none of the rooms served by the windows that suffer a material loss of VSC would suffer any loss when assessed using the No Sky Line method of assessment, which assesses the impact on the daylight distribution within a room.

Accordingly, in this case, despite the losses of VSC that have been identified, the proposed development would not result in an unacceptable loss of daylight and therefore the scheme accords with the guidance set out in the Building Research Establishment (BRE) Guidelines (2011) and would be compliant with Policy ENV13 in the UDP and Policy S29 in the City Plan. As such, the objections raised on loss of daylight grounds cannot be supported as a ground on which to withhold permission.

### 8.3.2 Sunlight

In terms of sunlight losses, whilst some losses would be caused, those that are material losses would be limited to 14 windows in the south east and south west elevation on the lower floors of Fettes House and Reynolds House. The material losses of sunlight (i.e. those where sunlight losses exceed 20% of existing total or winter Annual Probable Sunlight Hours - APSH) are set out in Table 3 below:

**Table 3 – Material Sunlight Losses to Windows in Fettes House and Reynolds House**

Building	Floor Level	Elevation	Window Description	Exist Total APSH	Exist Winter APSH	Prop Total APSH	Prop Winter APSH	Total Loss	Winter Loss
Fettes	Grd	SE	Single High Level Window	4	3	2	1	50%	67%
Fettes	Grd	SE	Single High Level Window	5	3	3	1	40%	67%
Fettes	1 <sup>st</sup>	SW	Window	27	5	25	4	8%	40%
Fettes	1 <sup>st</sup>	SW	Window	26	6	24	4	8%	33%
Reynolds	1 <sup>st</sup>	SE	Window adj. to Balcony Door	13	9	9	9	31%	0%

Reynolds	1 <sup>st</sup>	SE	Window adj. to Balcony Door	12	2	6	1	50%	50%
Reynolds	1 <sup>st</sup>	SE	Balcony Door	27	6	21	5	22%	17%
Reynolds	2 <sup>nd</sup>	SE	Window adj. to Balcony Door	22	15	16	11	27%	27%
Reynolds	2 <sup>nd</sup>	SE	Window adj. to Balcony Door	27	10	18	5	33%	50%
Reynolds	2 <sup>nd</sup>	SE	Balcony Door	38	14	30	8	21%	43%
Reynolds	3 <sup>rd</sup>	SE	Balcony Door	54	19	50	15	7%	21%
Reynolds	3 <sup>rd</sup>	SE	Window adj. to Balcony Door	26	19	22	15	15%	21%
Reynolds	3 <sup>rd</sup>	SE	Window adj. to Balcony Door	31	14	25	8	19%	43%
Reynolds	3 <sup>rd</sup>	SE	Balcony Door	45	20	39	14	13%	30%

In the case of the windows at ground floor in Fettes House at ground floor level, these do not appear to serve a habitable part of Fettes House. Notwithstanding this, due to the balconies above these windows they already receive an exceptionally low number of annual and winter sunlight hours and as a result additional losses have a disproportionate impact on the proportion of sunlight hours that would be lost. For these reasons the impact on these windows is not considered to be grounds on which to withhold permission.

The windows at first floor level to the south west elevation of Fettes House serve a habitable room that also receives sunlight from a window and balcony door to the south east elevation which would not suffer a material loss of sunlight. As such, the overall impact on the room served by these windows would not be so severe as to warrant withholding permission.

The material losses of sunlight to windows and balcony doors in Reynolds House would be limited to windows and doors in the south east elevation, which face directly on to the application site at a distance of approximately 7 metres from the boundary. Four of the windows serve habitable rooms which are also served by other windows in the south west elevation, facing Wellington Road, which would not suffer a material loss of existing sunlight. As such, the overall impact on these rooms is not considered to be sufficiently detrimental to merit withholding permission.

The remaining six windows and balcony doors to the south east elevation of Reynolds House do not have alternative sources of sunlight. However, given the limited number of windows doors affected and as they have an un-neighbourly relationship to the application site, owing to their orientation and proximity to the site boundary, it is not considered that permission could be reasonably withheld on the basis of the limited losses of sunlight that would be caused to the three flats at first, second and third floor levels that are served by these windows.

In conclusion, for the reasons set out in this section of the report, the material losses of sunlight that would occur are considered to be within tolerable levels and would not outweigh the wider benefits of the scheme. The proposal is therefore acceptable in sunlight terms and accords with Policy ENV13 in the UDP and Policy S29 in the City Plan.

### 8.3.3 Sense of Enclosure

To the north west of the site, Fettes House is approximately 19 metres from the application site and at this significant distance it is not considered that the proposed development, despite the additional height proposed to the Cochrane Street frontage of the site, would cause a material increase in enclosure to windows in this neighbouring building.

Reynolds House is closer to the application site (approximately 7 metres), but the windows are already significantly enclosed by the flank wall of the existing building below second floor level. As such, the additional height proposed to the Wellington Road frontage of the site would not materially increase the sense of enclosure felt by windows at ground and first floor level facing the application site. The windows in the south east elevation of Reynolds House at second and third floor levels currently enjoy a more open aspect to the south; however, given the additional set back of the proposed building from the site boundary relative to the existing building, it is not considered that the additional height and bulk of the proposed building would cause a material increase in enclosure to these windows. It should also be noted that the rooms served by windows in the south east elevation are dual aspect with unaffected windows serving the same rooms in either the north east or south west elevations of Reynolds House.

To the south east of the application site No.26 Wellington Road is already significantly enclosed by the existing building. The proposal to set the proposed building back from the boundary with No.26 by approximately 4 metres would ease this existing relationship, despite the additional height and bulk proposed. Similarly the proposed building would be set back slightly further from the windows to the side and rear of Cochrane Close and the windows to the rear of this block would retain unaffected outlook to the south and west. Consequently the proposed scheme would not result in a material increase in enclosure to these neighbouring residential buildings.

Objections have been received from the occupiers of Cicely House opposite the site in Cochrane Street on grounds of increased sense of enclosure. However, this adjacent residential building would be approximately 24 metres away from the Cochrane Street elevation of the proposed building and at this distance, whilst the outlook from the front windows of Cicely House may be altered, this would not amount to a significant increase in enclosure. Similarly the proposed scheme would not cause a significant increase in enclosure to residential windows in buildings on the opposite side of Wellington Road.

In summary the proposals are acceptable in sense of enclosure terms and would accord with Policy ENV13 in the UDP and Policy S29 in the City Plan.

### 8.3.4 Privacy

The proposed development would introduce residential windows and balconies to the street elevations of the site in Wellington Road and Cochrane Street. These windows and



balconies would be sufficiently distant from the windows in residential blocks on the opposite sides of these streets so as not to cause a significant increase in overlooking.

No windows are proposed in the north west side elevation of the proposed building below fourth floor level along the boundary with Reynolds House and Fettes House, save for at ground floor level, where they would be entirely screened by the boundary wall and at the corner with the Wellington Road elevation where they would provide only limited views of windows in Reynolds House. A condition is recommended to require these windows to be obscure glazed and fixed shut to prevent these windows causing any overlooking to occupiers of Reynolds House. Balconies are though proposed along this boundary and to avoid overlooking occurring from the use of these balconies a condition is recommended requiring the provision of obscure glazed screens.

To the south eastern boundary of the site no windows are proposed below fourth floor level, other than those at ground floor level, which would be screened by the boundary wall. Like the north western elevation though, balconies are proposed and again it is recommended that a condition is imposed to ensure these are adequately screened to prevent overlooking to the rear garden of No.26 Wellington Road and the rear windows of Cochrane Close.

At fourth floor level a single window is proposed in both the north west and south east side elevations. These would both be set back from the main elevations of the building below and would have vertical fins that would serve to limit the views the windows would afford to the north and south respectively. Subject to a condition to ensure the vertical fins are installed and retained, the windows would be sufficiently distant from neighbouring windows so as not to cause significant overlooking.

A further condition is recommended to prevent the use of the roofs of the building as terraces except where they are annotated for use as such on the application drawings.

Subject to the recommended conditions, the proposals are considered to be acceptable in overlooking terms and would accord with Policy ENV13 in the UDP and Policy S29 in the City Plan.

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

Following amendment of the proposed basement to incorporate setbacks adjacent to neighbouring trees, the scheme would provide 34 off-street parking spaces at basement level (a ratio of 0.94 spaces per unit). The number of spaces proposed is acceptable and they are to be provided on an unallocated basis and made available to the occupiers of all flats within the development.

The Highways Planning Manager is concerned that the vehicular access ramp has been designed to minimum standards in terms of the ramp gradient and recommends that the detailed design of the ramp is reserved by condition to ensure that the ramp is designed and built to an acceptable design and gradient.

The scheme includes the provision of 61 cycle parking spaces at basement level and 20% of the car parking spaces would be capable of charging electric vehicles. The scheme is therefore compliant with the London Plan (2015) in these regards. Waste and recycling

storage would also be located at basement level and only transfer to ground level for collection. A condition to secure provision of the waste and recycling storage is recommended.

Given the development will be wholly comprised of residential/ serviced apartment accommodation, the Highways Planning Manager is content that servicing of the development on street is acceptable given that this is likely to be limited to refuse and recycling collections.

London Underground note that there are underground tunnels in close proximity to the site and request that a condition is imposed reserving details of the structural design of the development to ensure it would not have any adverse impact on this underground transportation infrastructure. The requested condition is included in the draft decision letter.

## **8.5 Economic Considerations**

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

## **8.6 Access**

The proposed building would provide level access from the public highway and all flats within the development would be accessible by lift. As such, in terms of access the development is in accordance with Policy DES1 in the UDP.

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

### **8.7.1 Basement Excavation**

This application was submitted in August 2015 prior to the Basement Revision and Mixed Use Revision to the City Plan gaining weight as a material planning consideration, initially following its submission to the Secretary of State in December 2015 and latterly following its independent examination was in March 2016 and adoption by Full Council in July 2016. In accordance with the Cabinet Member Statement dated 23 October 2015, as the application was submitted prior to 1 November 2016, when the then emerging basement development policy started to gain material weight, this application has not been assessed having full regard to the new basement development policy (Policy CM28.1 in the City Plan).

Notwithstanding the weight to be afforded to the recently adopted basement policy, given the large footprint of the existing building and following amendment during the course of the application to alter the extent of basement excavation and depth below ground level, it should be noted that the proposed development would be largely compliant with parts (B) and (C) of the policy. Whilst two excavated stories are proposed (to form lower ground and basement floor levels), the site has two street frontages in Wellington Road and Cochrane Street and therefore has a high level of accessibility such that construction should be capable of being carried out without adverse impact on neighbouring uses and the amenity of neighbouring residents.

### **8.7.2 Trees and Landscaping**

As initially submitted the application proposed a basement under the full extent of the site. In response to initial discussions with the Arboricultural Manager the applicant revised this arrangement to propose that the basement would be tunnelled under the root protection areas (RPAs) of the nearest neighbouring trees. However, the Arboricultural Manager remained concerned that this approach would not provide sufficient safeguarding of the trees closes to the north east, south east and south west corners of the site (as reflected in the Arboricultural Managers comments of 22 March 2016). Therefore the application has been further amended so that the basement will now not be tunnelled under the RPAs of the trees in the front gardens of Cochrane Close, No.26 Wellington Road and Reynolds House. The setbacks proposed would reduce the degree of incursion into the RPAs of the mature trees located adjacent to these three corners of the application site (a Poplar tree forming part of a Tree Preservation Order (TPO) group at Cochrane Close, a group of Common Lime trees in the front garden of No.26 Wellington Road which are subject to a TPO and a further Common Lime tree at the street frontage of the garden of Reynolds House). These setbacks are welcome and would significantly improve the relationship of the proposed basement to these neighbouring trees and therefore this aspect of the scheme is now acceptable.

The scheme still includes level changes within the RPA of the Poplar tree in the garden of Cochrane Close; however, at present there is a sub-station structure and boundary wall on the forecourt of the application site within the RPA of this tree, immediately adjacent to its trunk, which are to be removed. It is likely the sub-station and wall foundations are acting as a root barrier and therefore on balance the level changes proposed in this location on the site to form access to the basement car park are considered to be acceptable and would not be likely to cause significant harm to the Poplar tree. A condition is recommended to secure further details of the precise design of the ramp and the extent of excavation required within the RPA to form the access to the basement car park.

Along the boundary of the site within the garden of Reynolds House there are four small trees of limited scale and amenity value (a Rowan, Silver Birch and two Purple Plum trees). These trees are not within a conservation area and are not protected by a TPO, as such the impact on these trees as a result of the proposed development could not reasonably be a ground on which to withhold permission. Notwithstanding this, the applicant intends to retain, modify and underpin parts of the side wall with of the existing building adjacent to these trees, which is likely to be acting as root barrier, so as to minimise the impact on these adjacent trees.

There is a further tree at the rear of Cochrane Close, which is growing immediately adjacent to the boundary with the application site. Due to its position adjacent to the flank wall of the existing building it has a poor form and is of limited public amenity value. The tree is neither within a conservation area, nor is it subject to a TPO and therefore it cannot reasonably be afforded significant protection from the proposed development.

There is a Fastigate Oak street tree and a Hawthorn to the north west of the site in Cochrane Street; however, the Arboricultural Manager is satisfied that both are sufficiently distant from the proposed development so as not to be adversely affected by it.

Following amendment, the landscaping to the Wellington Road façade of the site where it would be above the basement floor would have 1.6m of soil depth in raised planters and

1.0m soil depth in a crating system beneath the front driveway. All of these areas are now proposed to be linked to provide a contiguous soil volume within which trees and plants can root. This arrangement is considered to be acceptable and will enable the provision of mature landscaping to this frontage of the site following redevelopment. It is though recommended that further details of the soil to be used, method of installation of the crating system and the landscaping scheme are secured by condition.

To the Cochrane Street frontage of the site the scheme has been amended during the course of the application to reduce the size of the proposed lightwells to lower ground floor level and include a planting bed that would be 2.0m wide by 2.0m deep, and 13.0m long. The inclusion of this large planter, which is proposed to have gaps in the retaining wall to Cochrane Street to allow root egress in to the area beneath the adjacent pavement, would allow the use of this planter to provide trees as part of the landscaping along this street boundary. This would soften the appearance of the development in views along Cochrane Street so that its relationship to the street would be more consistent with that of neighbouring buildings, which are generally soft landscaped. The Arboricultural Manager recommends that the design of the planter, including the provision of gaps in the retaining wall to encourage good tree growth, are secured by condition and such a condition is included in the draft decision letter.

Subject to the recommended conditions to secure detailed tree protection measures and landscaping, including new tree planting, the scheme, following amendment, is considered to be acceptable in arboricultural terms and in accordance with Policies ENV16 and ENV17 in the UDP.

### **8.7.3 Mechanical Plant/ Noise**

A plant room and sub-station are proposed within the basement, but the plant and equipment to be installed and the location of external ventilation serving the plant room and sub-station have yet to be specified. The submitted acoustic report does though identify the design criteria to which any mechanical plant would need to adhere to be compliant with Policies ENV6 and ENV7 in the UDP. In this context, it is recommended that conditions are imposed to require the submission of full details of mechanical plant and equipment, including associated external vents and flues, and provision of a supplementary acoustic report demonstrating compliance with the aforementioned policies.

The submitted acoustic report also assesses the noise environment of the new residential accommodation and demonstrates that, with the installation of appropriate glazing and mechanical ventilation, the proposed development is capable of providing a good standard of residential accommodation and would not be adversely affected by external noise, particularly road noise. A condition is recommended to ensure the necessary noise attenuation measures are implemented as part of the development.

### **8.7.4 Biodiversity and Sustainability**

As well as passive measures to minimise energy usage and heat loss, the energy strategy for the proposed development comprises the use of mechanical heat ventilation and a Combined Heat and Power (CHP) system, combined with high efficiency gas boilers. This would provide at 36% improvement over 2013 Building Regulations in terms of CO<sub>2</sub>

emission reductions, with 9.1% of the reductions achieved via use of renewable technologies.

The applicant has considered the use of photovoltaic panels to increase the proportion of carbon emissions savings that can be achieved on-site through renewable technologies, but has discounted these due to their impact on the appearance of the building and the desire to limit the height of the building due to the impact a higher building would have on the amenity of neighbouring occupiers.

In this context, the reductions in CO2 emissions that the proposed energy strategy would achieve are acceptable and would be consistent with the requirements of Policies S39 and S40 in the City Plan and the relevant policies in Chapter Five of the London Plan 2015. A condition is recommended to ensure the development is carried out in accordance with the submitted energy strategy.

In respect of water run-off from the site, the scheme would be compliant with the requirements of Policy 5.13 in the London Plan (2015), as it incorporates an attenuation tank within the basement to enable surface water discharge rates to not exceed greenfield run-off rates. A condition is recommended to ensure the water run-off attenuation tank is provided.

The site has been assessed as being one where flood risk from all sources is low and therefore measures to avoid flood are required to accord with Policy 5.12 in the London Plan (2015).

The existing site currently has limited soft landscaping to both street frontages and provides few habitats to support biodiversity on the site. The proposed scheme would increase the amount of soft landscaping and introduce new trees to both street frontages. As such, at ground level the opportunity for biodiversity would be enhanced relative to the existing situation. It is unclear why green or brown sedum roofs have not been considered to all or some of the roofs of the building and, in accordance with Policy 5.11 in the London Plan (2015), a condition is recommended to require their provision unless the applicant can demonstrate why this is not feasible.

## **8.8 London Plan**

The proposed development is of insufficient scale to be referred to the Mayor of London. Where relevant policies in the London Plan 2015 are referred to elsewhere in this report.

## **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**

The draft 'Heads of Terms' of S106 agreement to secure planning obligations arising from the redevelopment of this site are proposed to cover the following issues:

- i. A financial contribution of £2,642,000 to the Affordable Housing Fund (index linked and payable prior to commencement of development).
- ii. A management plan to demonstrate that those units within the development used as serviced apartments providing short term visitor accommodation are used only by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment.
- iii. Highway works in Wellington Road and Cochrane Street to form vehicular access to the site and amend the layout of the public highway to reflect the proposed development (appropriate arrangements to be agreed prior to commencement and highway works to be carried out prior to occupation at the applicant's expense).
- iv. Submission of a Site Environmental Management Plan and provision of a financial contribution of £28,000pa during the construction period to the Environmental Inspectorate to ensure compliance with the Code of Construction Practice.
- v. Provision and management of on-site residents car parking, including the making available of parking spaces to all occupiers of the building on an 'un-allocated' basis without restriction.
- vi. Provision of costs for monitoring of agreement (£500 per Head of Term).

The Westminster CIL payment, based on the floorspace figures in the applicant's CIL form and assuming that the application does not qualify for any CIL exemptions would be £1,357,950. The Mayoral CIL payment, again based on the floorspace figures in the applicant's CIL form and assuming that the application does not qualify for any CIL exemptions would be £150,576.

### **8.11 Environmental Impact Assessment**

The proposed development is of insufficient scale to require an Environmental Impact Assessment. Where relevant environmental issues have been assessed elsewhere in this report.

### **8.12 Other Issues**

The impact of construction works in terms of noise and general disturbance is not a ground on which planning permission can reasonably be withheld. The applicant has submitted a Construction Management Plan with the application, which sets out how construction works could be managed to seek to minimise the impact on neighbouring residents. However, it is considered that a more detailed CMP, which is prepared once a main contractor has been appointed, should be sought by condition, as this will then more accurately reflect the construction practices that are proposed to be carried out on site. A further condition is recommended to control the hours of construction works, including extra restrictions to prevent noisy basement excavation works at weekends and on Bank Holidays.

## **9. CONCLUSION**

The Committee's views are sought in respect of the acceptability of the proposed financial contribution to the Affordable Housing Fund, in view of the particular circumstances of this site with regard to the potential for it to be developed by implementation of the scheme for which prior approval has previously been given. Should the Committee resolve that the affordable housing offer is acceptable, it is considered that there are exceptional circumstances in this case to allow the provision of the flats as service apartments for use as short term visitor accommodation by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment. In all other regards the proposed development is considered to be compliant with the relevant policies in the Unitary Development Plan (UDP), Westminster's City Plan (the City Plan) and the London Plan (2015), subject to the conditions set out in the draft decision letter and completion of the S106 agreement to secure the planning obligations set out in Section 1 of this report.

## 10. BACKGROUND PAPERS

1. Application form.
2. Email on behalf of the applicant from DP9 dated 19 September 2016 and attached letter from the Wellington Hospital dated 13 September 2016.
3. Email from Councillor Dimoldenburg dated 5 November 2015.
4. Email from the St. John's Wood Society dated 8 September 2015.
5. Letter from London Underground dated 23 September 2015.
6. Emails from the Highways Planning Manager dated 28 September 2015 and 8 February 2016.
7. Email from Transport for London dated 28 September 2015.
8. Memos from the Arboricultural Manager dated 1 October 2015, 8 February 2016, 22 March 2016 and 5 October 2016.
9. Memo from Environmental Health dated 13 October 2015.
10. Emails from the Crime Prevention Design Advisor dated 16 October 2015 and 19 October 2015.

### **Representations Raising Objections**

11. Letter from the occupiers of Cicely House, Cochrane Street and petition containing 19 signatures dated 21 September 2016
12. Emails from the occupier of 12 Reynolds House, Wellington Road dated 17 September 2015, 18 September 2015, 22 September 2015, 23 September 2015 and 6 October 2015.
13. Email from the occupier of 16 Reynolds House, Wellington Road dated 18 September 2015.
14. Email from the occupier of 11 Fettes House, Wellington Road dated 20 September 2015.
15. Email from the occupier of 13 Reynolds House, Wellington Road dated 20 September 2015.
16. Email from the occupier of 14 Cicely House, Cochrane Street dated 22 September 2015.
17. Letter from the occupier of Flat 18, Embassy Court, 45 Wellington Road dated 24 September 2015.
18. Letter from the occupiers of 7, 10, 11 and 15 Cicely House, Cochrane Street dated 26 September 2015.
19. Emails from the occupier of 1 Reynolds House, Wellington Road dated 28 September

2015 and 1 October 2015.

20. Email from the occupier of 8 Fettes House, Wellington Road dated 29 September 2015.
21. Email from the occupier of 9 Cicely House, Cochrane Street dated 4 October 2015.
22. Letter from the occupier of 5 O'Neill House, Cochrane Street dated 5 October 2015.
23. Emails (x3) from the occupier of 8 Reynolds House dated 5 October 2015 and 5 October 2016.
24. Email from the occupier of 9 Reynolds House, Wellington Road dated 25 October 2015.
25. Email from an occupier of Reynolds House dated 9 May 2016.

### **Representations either Neutral or in Support**

26. Email from the occupier of 24 The Terraces, 12 Queens Terrace dated 21 September 2015.
27. Email from the occupier of Flat 175, Grove Hall Court, Hall Road dated 21 September 2015.
28. Email from the occupier of 61 Rossmore Road dated 21 September 2015.
29. Emails from the occupier of 62 Viceroy Court, Prince Albert Road dated 21 September 2015.
30. Email from the occupier of 23 Athena Court dated 22 September 2015.
31. Email from the Hospital of St. John and St. Elizabeth, 60 Grove End Road dated 24 September 2015.
32. Email from the occupier of 47 Cavendish House, 21 Wellington Road dated 24 September 2015.
33. Letter from the occupier of Flat 13, Cicely House, Cochrane Street dated 25 September 2015.
34. Email from the occupier of Flat 24, 2 Avenue Road dated 25 September 2015.
35. Email from the occupier of The Terraces (flat no. not specified) dated 26 September 2015.
36. Email from the occupier of 151-B, 69 Eamont Court dated 25 September 2015.
37. Email from the occupier of 37-39 Charlbert Street dated 25 September 2015.
38. Email from the occupier of 6 The Terraces dated 25 September 2015.
39. Email from the occupier of 705 Lyndhurst Court dated 27 September 2015.
40. Email from the occupier of 33 St. John's Wood Terrace dated 28 September 2015.
41. Email from the occupier of 15 Birley Lodge, 63 Acacia Road dated 28 September 2015.
42. Email from the CEO of the Wellington Hospital dated 28 September 2015.
43. Email from the occupier of Flat 1a, 2 Avenue Road dated 28 September 2015.
44. Email from the occupier of 52-71 Eamont Court, Shannon Place dated 28 September 2015.
45. Email from the occupier of 31 Randolph Avenue dated 28 September 2015.
46. Emails from employees (x5) of Wellington Hospital, Wellington Place dated 30 September 2015.
47. Email from occupier of Apartment 25, 2 Avenue Road dated 30 September 2015.
48. Email from the Marylebone Cricket Club (MCC) dated 1 October 2015.
49. Email from the occupier of 88 St. John's Wood High Street dated 1 October 2015.
50. Letters (x2) from the occupier of 8th Floor, Birley Lodge, 63 Acacia Road dated 4 October 2015
51. Email from the occupier of Flat 23, 2 Avenue Road dated 4 October 2015.
52. Email from the occupier of 27 Avenue Road dated 5 October 2015.



- 53. Email from the occupier of 68 Eamont Court, Shannon Place dated 5 October 2015.
- 54. Letter from the business occupier of 72 St. John's Wood High Street dated 7 October 2015.
- 55. Letter from the business occupier of 76 St. John's Wood High Street dated 8 October 2015.
- 56. Email from the occupier of 47 Cavendish House, 21 Wellington Road dated 9 October 2015.
- 57. Letter from the occupier of 26 Swallow House, Allitsen Road (undated).
- 58. Letter from the occupier of 27 Turner House (undated).
- 59. Letter from the occupier of 28 Turner House (undated).

### **Selected relevant drawings**

Existing and proposed plans, elevations and sections.

(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: NATHAN BARRETT BY EMAIL AT [nbarrett@westminster.gov.uk](mailto:nbarrett@westminster.gov.uk).

## 11. KEY DRAWINGS

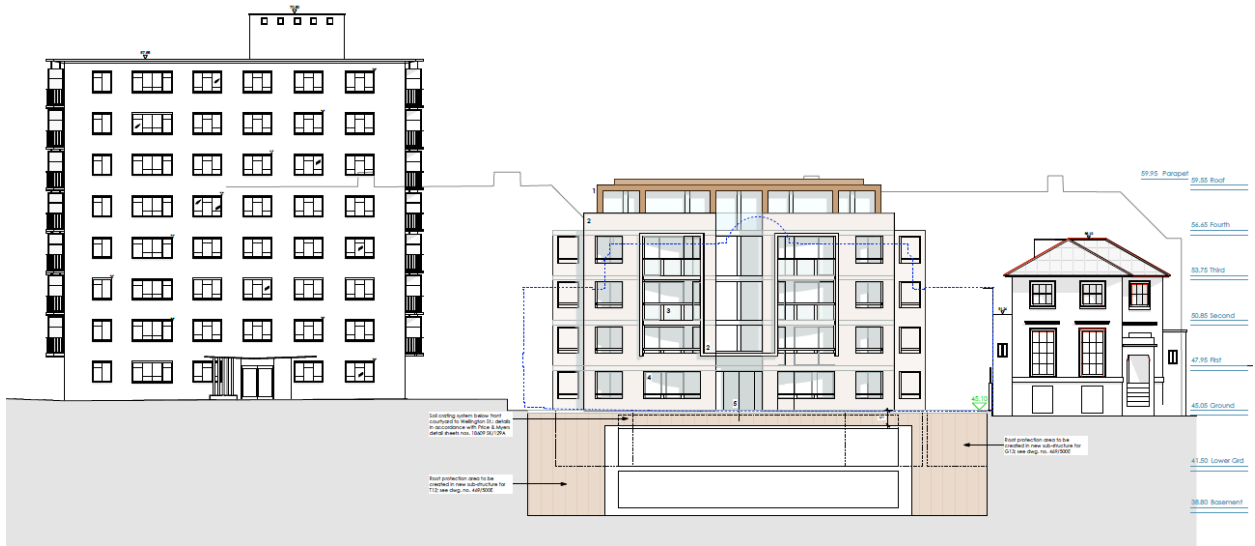


**A3**  
Dwg No. **469-514**  
**SKETCH VIEW FROM NORTH-WEST 28-32 WELLINGTON RD LONDON NW8 9SP**  
Alan Power Architects Ltd 13 Needham Road London W11 2RP April 2015 Copyright reserved



**A3**  
Dwg No. **469-516**  
**SKETCH VIEW FROM NORTH-EAST 28-32 WELLINGTON RD LONDON NW8 9SP**  
Alan Power Architects Ltd 13 Needham Road London W11 2RP April 2015 Copyright reserved

Photomontage of Wellington Road elevation (top) and Cochrane Street elevation (bottom).



## MATERIALS



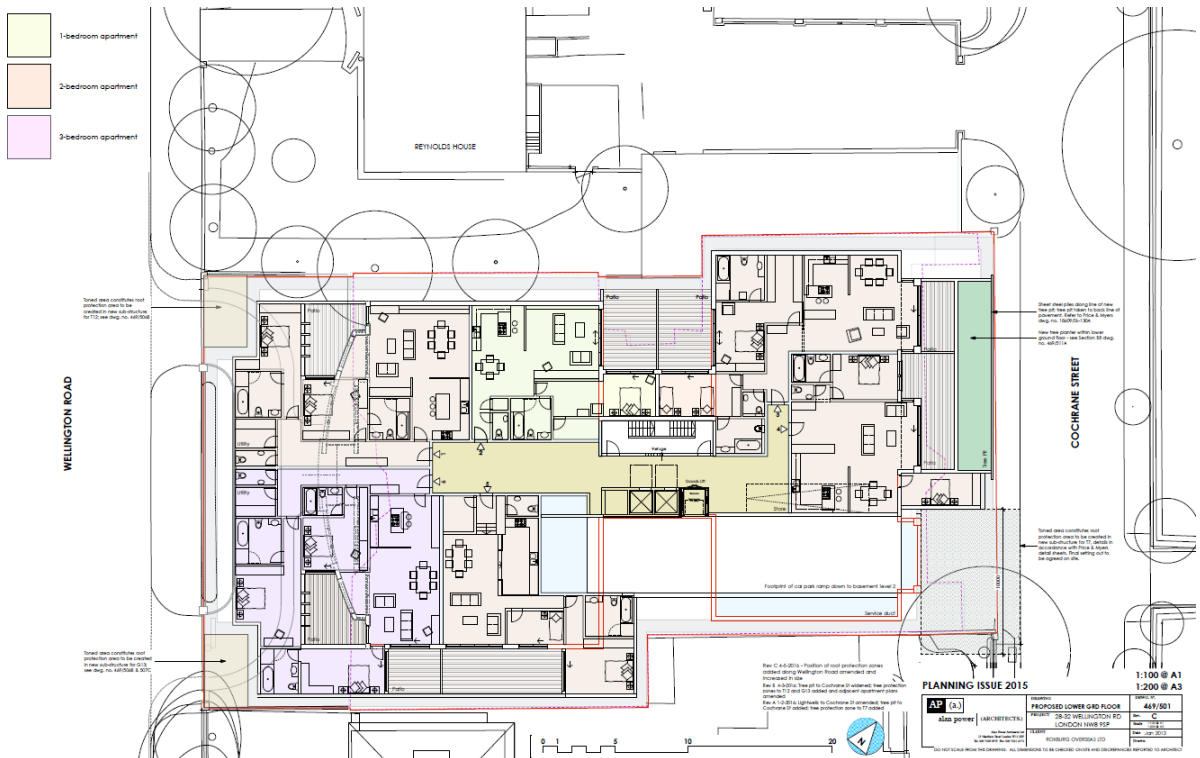
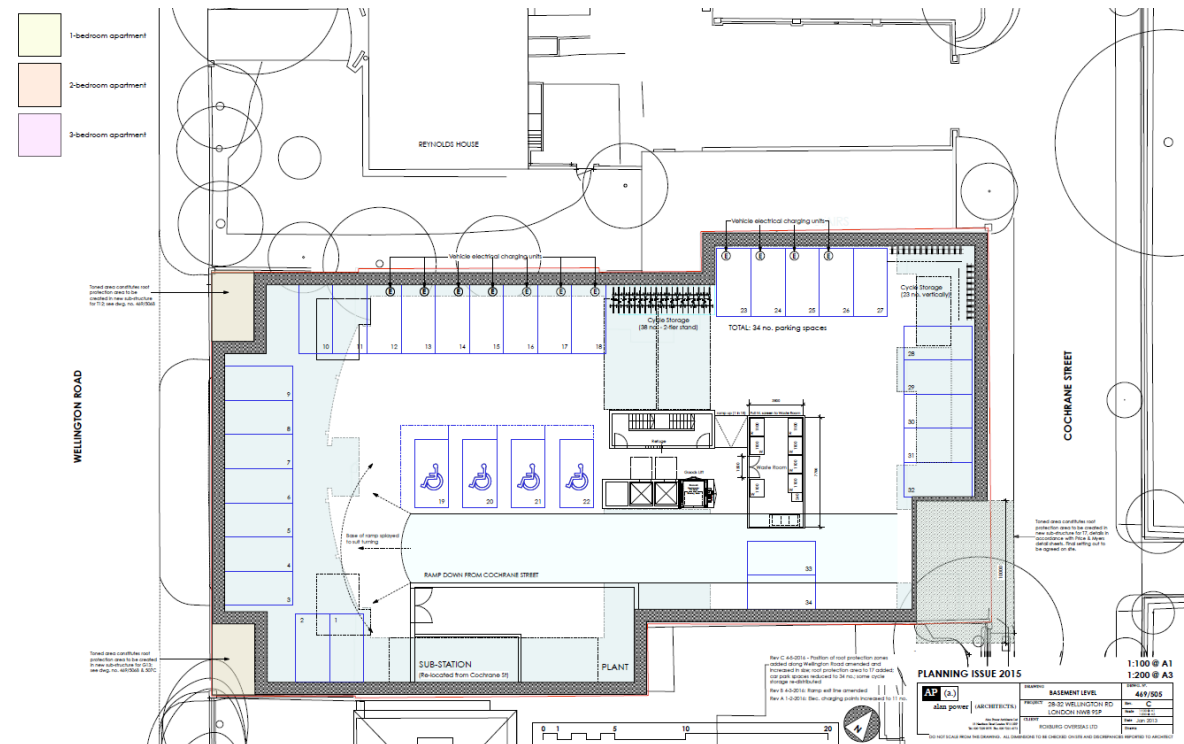
- MATERIALS
- 1 Bronze cladding
  - 2 Stone copings
  - 3 Roman brickwork
  - 4 Bronze balcony shades with decorative bronze infill panels
  - 5 Bronze finish aluminium window frames
  - 6 Entrance to car park - bronze finish brick bond roller shutter

0 1 5 10 20

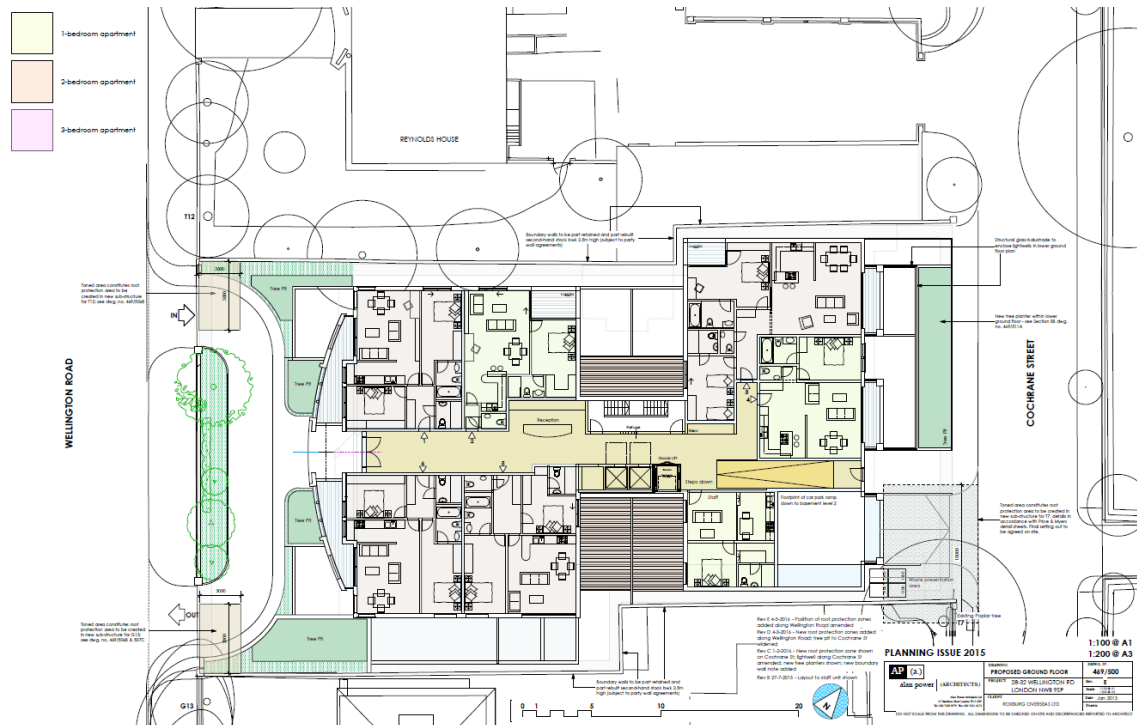
Proposed Wellington Road elevation (top) and Cochrane Street elevation (bottom).



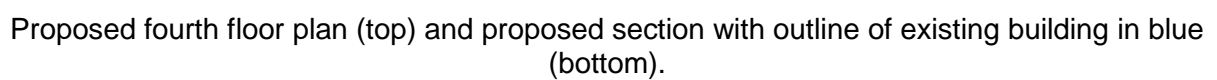
Proposed North West side elevation (top) and proposed South East side elevation (bottom).



Proposed basement plan (top) and proposed lower ground floor (bottom).



Proposed ground floor plan (top) and proposed first, second and third floor plans (bottom).





**DRAFT DECISION LETTER**

**Address:** The Wellington Building, 28-32 Wellington Road, London, NW8 9SP

**Proposal:** Demolition of existing building and erection of a new six storey, plus basement building with frontages to Wellington Street and Cochrane Street to provide 36 units for a dual/ alternative use as residential flats (Class C3) or serviced apartments (Sui Generis), with car and cycle parking at basement level and new landscaping.

**Plan Nos:** 469/01 Rev.A, 469/02 Rev.B, 469/03 Rev.A, 469/04 Rev.A, 469/500 Rev.E, 469/501 Rev.C, 469/502, 469/503, 469/504, 469/505 Rev.C, 469/506 Rev.B, 469/507, 469/508 Rev.B, Rev.C, 469/509, 469/510 Rev.C, 469/511 Rev.B and 469/512. Design and Access Statement dated June 2015, Planning Statement dated August 2015, Transport Statement dated 4 August 2015, Noise Impact Assessment dated 26 May 2015, Environmental Performance Statement dated 31 July 2015, Energy Strategy Report dated 31 July 2015, Statement of Community Involvement dated August 2015, Tree Assessment dated 25 July 2015 (as amended revised drawings listed on this decision letter and by emails dated 5 May 2016 and 12 May 2016 with attached drawings 18609/110 Ver.1 and SK-131), Landscape Stage D Design Proposals document dated 02-12-2015, Flood Risk Assessment dated November 2014 (Rev.03), Drainage Feasibility Report dated November 2014 (Rev.02), Daylight and Sunlight Report dated 31 July 2015, Structural Method Statement dated July 2015 (for information only) and Construction and Logistics Plan dated 4 August 2016 (for information - see Condition 3). (All supporting documents as amended by revised drawings hereby listed).

**Case Officer:** Oliver Gibson

**Direct Tel. No.** 020 7641 2680

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

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

**Reason:**

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

- 2 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:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 **Pre Commencement Condition** (a) No demolition works shall take place until a construction management and logistics plan for these works has been submitted to and approved in writing by the City Council as local planning authority. The plan must include the following details (where appropriate):

- (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 demolition or basement works until we have approved what you have sent us. You must then carry out the demolition and basement works up to ground floor slab level in accordance with the approved details.

(b) No basement excavation and construction works shall take place until a construction management and logistics plan for the basement excavation and construction works has been submitted to and approved in writing by the City Council as local planning authority. The plan must include the following details (where appropriate):

- (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 the construction works until we have approved what you have sent us. You must then carry out the construction works above ground floor slab level 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 (July 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

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

Reason:

To 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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 5 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 6 You must apply to us for approval of detailed drawings of the following parts of the development:

- (a) Typical detailed elevations and sections of all new windows and doors.
- (b) Typical detailed elevation of Limestone and bronze cladding showing typical cladding joints and relationship of cladding to fenestration.
- (c) Elevation and section of glazed and bronze balustrades to balconies.
- (d) Detailed elevation of front entrance and canopy to Wellington Road.
- (e) Plan and elevation of vehicular door/ gate/ shutter to basement car park.
- (f) Plans and elevations of all new boundary walls and fences/ walls within the site.
- (g) Elevations of all railings or other means of enclosure around lightwells.
- (h) Typical details, including plans and elevations showing their location, of lighting and CCTV units.
- (i) The fins to the side elevation windows at fourth floor level.

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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted

in January 2007. (R26AD)

- 7 You must apply to us for approval of details (including drawings, samples and any other supporting documents as appropriate) of the public art to be provided on the external envelope of the building. You must not start work on the relevant parts of the development until we have approved what you have sent us. You must then carry out the work in accordance with these details.

Reason:

To secure the offer of public art and to make sure that the appearance of the building is suitable. This is as set out in DES 7 (A) of our Unitary Development Plan that we adopted in January 2007. (R26GC)

- 8 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs and the landscaping scheme should include the provision of not less than four new trees to replace those previously removed from the Cochrane Street frontage of the site. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within one planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any trees that form part of the landscaping scheme we approve or find that they are dying, severely damaged or diseased within five of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30AC)

- 9 You must provide the soil depth and overall soil volume above the top cover of the basement as shown on the drawings hereby approved. The soil depth and soil volume above the basement must thereafter be retained as approved.

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007.

- 10 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is

as set out in S38 of Westminster's City Plan (July 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 11 You must apply to us for approval of detailed drawings and a method statement in relation to the following parts of the development:

- (a) The level changes and excavation required to form the vehicular entrance to the basement from Cochrane Street.
- (b) The soil crating system to be installed below the driveway to the Wellington Road frontage (a manufacturer's specification should also be submitted).
- (c) The gaps to be created in the retaining wall of the planter to Cochrane Street to enable root growth below the highway.

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 drawing and method statement. (C26DB)

Reason:

To protect trees and the character and appearance of the site as set out in S38 of Westminster's City Plan (July 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31CC)

- 12 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)

Reason:

To provide parking spaces for people using the development as set out in STRA 25 and TRANS23 of our Unitary Development Plan that we adopted in January 2007. (R22AB)

- 13 You must apply to us for approval of detailed drawings the vehicular ramp to basement level, including drawings that demonstrate the gradient of the ramp and the gradient of the transition zones at the top and bottom of the ramp. 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 ensure the basement car parking spaces can be safely accessed, thereby providing car parking for people using the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22AB)

- 14 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.

- 15 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on the drawings hereby approved. You must clearly mark them and make them available at all times to everyone using the flats. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 16 You must provide the vehicle electric charging points shown on the drawings hereby approved prior to occupation of the flats and thereafter you must permanently retain them.

Reason:

To enable the use of electric vehicles in accordance with Policy 6.13 in the London Plan (FALP 2015).

- 17 The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by us which:

- (a) provide details on all structures;
- (b) accommodate the location of the existing London Underground structures and tunnels;
- (c) accommodate ground movement arising from the construction thereof;
- (d) and mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed in their entirety, before any part of the building is occupied.

Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with Policy 6.2 and Table 6.1 in the London Plan (FALP 2015) and the Mayor's 'Land for Industry and Transport' Supplementary Planning Guidance (2012).

- 18 You must carry out the development in accordance with the Energy Strategy Report by Price and Myers dated 31 July 2015 that is hereby approved and following occupation you must operate the development in accordance with the approved energy strategy.

Reason:

To make sure that the development provides is environmental sustainable and would accord with

Policies S28, S39 and S40 of Westminster's City Plan (July 2016) and Policies 5.1, 5.2, 5.3, 5.6, 5.7 and 5.9 in the London Plan (FALP 2015). (R44AC)

- 19 You must carry out the development in accordance with the drainage strategy set out in the Drainage Feasibility Report (Rev.02) by Price and Myers that is hereby approved and following occupation you must operate the development in accordance with the approved drainage strategy.

Reason:

To ensure the development incorporates sustainable urban drainage in accordance with Policy 5.13 in the London Plan (FALP 2015).

- 20 Unless the omission of green and/ or brown sedum roofs can be fully justified by the submission of a written statement, submitted pursuant to this condition, setting out the site specific constraints that prevent their provision, you must apply to us for approval of detailed drawings showing the following alteration to the scheme:

- Incorporation of green and/ or brown sedum roofs to the roofs of the building.

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 reduce the effect the development has on the biodiversity of the environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007 and to ensure compliance with Policy 5.11 in the London Plan (FALP 2015). (R43AB)

- 21 The glass that you put in the windows at the western end of the north west elevation between first and third floor levels must not be clear glass, and you must fix the windows permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 22 You must apply to us for approval of detailed drawings showing the following alteration to the scheme:

- Provision of obscure glazed screens to the balconies to the north west and south east side elevations.

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 prior to occupation of the flats that the balconies serve and thereafter you must not remove the obscure glazed screens.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 23 You must install the privacy screen fins to the side elevation windows in accordance with the drawings hereby approved prior to occupation of the flats that these windows serve. Thereafter you must permanently retain these fins and you must not remove them.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 24 You must not use the roofs of the building for sitting out or for any other purpose, unless the drawings hereby approved are annotated or otherwise marked (by lines indicating the provision of decking) to show their use as balconies or terraces. You can however use the roofs to escape in an emergency. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 25 (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 (July 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.

- 26 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.

- 27 You must apply to us for approval of full details, including detailed drawings, of the mechanical plant and equipment to be installed within the development and any external manifestations in the form of flues and extract grilles. You must not start work on these parts of the development until we have approved what you send us. You must then carry out the development in accordance with the details of mechanical plant and equipment that we approve.



**Reason:**

To protect the appearance of the building and this part of the City and to protect the noise environment of people in noise sensitive properties in accordance with S28, S29 and S32 in Westminster's City Plan (July 2016) and Policies DES1, DES4, ENV6 and ENV7 in the Unitary Development Plan we adopted in January 2007.

- 28 You must apply to us for approval of a supplementary acoustic report demonstrating that the plant and equipment proposed pursuant to Condition 27 will comply with the Council's noise criteria as set out in Conditions 25 and 26 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (July 2016), by contributing to reducing excessive ambient noise levels.

- 29 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

**Reason:**

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 30 The central link block containing the stair and lift core shall be clad in translucent glass prior to occupation of the building and thereafter retained in this material.

**Reason:**

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

**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 (July 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 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.
- 3 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.**

- 4 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
  - (i) The provision of a financial contribution of £4m in lieu of on-site affordable housing;
  - (ii) Provision of a management plan to demonstrate that those units within the development used as serviced apartments providing short term visitor accommodation will only be used by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment;
  - (iii) Highway works in Wellington Road and Cochrane Street to form vehicular access to the site and amend the layout of the public highway to reflect the proposed development.
  - (iv) Submission of a Site Environmental Management Plan (SEMP) and provision of a financial contribution of £28,000pa during the construction period to the Environmental Inspectorate to ensure compliance with the Code of Construction Practice.

(v) Provision and management of on-site residents car parking, including the making available of parking spaces to all occupiers of the building on an 'un-allocated' basis without restriction.

(vi) Provision of costs for monitoring of agreement (£500 per Head of Term).

- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
  
- 6 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
  
- 7 Some of the trees adjacent to the site are protected by Tree Preservation Orders and by virtue of being located within the St. John's Wood Conservation Area. You must get our permission before you do anything to them. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I30AA)
  
- 8 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
  
- 9 For the avoidance of doubt the Construction Management Plan required under condition 3 shall be limited to the items listed. Other matters such as noise, vibration, dust and construction methodology will be controlled under separate consents including the Control of Pollution Act 1974 and the Building Regulations. You will need to secure all necessary approvals under these separate regimes before commencing relevant works.
  
- 10 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)

- 11 Condition 10 requires you to submit a method statement for works to a tree(s). The method statement must be prepared by an arboricultural consultant (tree and shrub) who is registered with the Arboricultural Association, or who has the level of qualifications or experience (or both) needed to be registered. It must include details of:
- \* the order of work on the site, including demolition, site clearance and building work;
  - \* who will be responsible for protecting the trees on the site;
  - \* plans for inspecting and supervising the tree protection, and how you will report and solve problems;
  - \* how you will deal with accidents and emergencies involving trees;
  - \* planned tree surgery;
  - \* how you will protect trees, including where the protective fencing and temporary ground protection will be, and how you will maintain that fencing and protection throughout the development;
  - \* how you will remove existing surfacing, and how any soil stripping will be carried out;
  - \* how any temporary surfaces will be laid and removed;
  - \* the surfacing of any temporary access for construction traffic;
  - \* the position and depth of any trenches for services, pipelines or drains, and how they will be dug;
  - \* site facilities, and storage areas for materials, structures, machinery, equipment or piles of soil and where cement or concrete will be mixed;
  - \* how machinery and equipment (such as excavators, cranes and their loads, concrete pumps and piling rigs) will enter, move on, work on and leave the site;
  - \* the place for any bonfires (if necessary);
  - \* any planned raising or lowering of existing ground levels; and
  - \* how any roots cut during the work will be treated.
- 12 Fractures and ruptures can cause burst water mains, low water pressure or sewer flooding. You are advised to consult with Thames Water on the piling methods and foundation design to be employed with this development in order to help minimise the potential risk to their network. Please contact:
- Thames Water Utilities Ltd  
 Development Planning  
 Maple Lodge STW  
 Denham Way  
 Rickmansworth  
 Hertfordshire  
 WD3 9SQ  
 Tel: 01923 898072  
 Email: Devcon.Team@thameswater.co.uk
- 13 In respect of Condition 17 you are advised to contact London Underground Infrastructure Protection (Locationenquiries@tfl.gov.uk) in advance of preparation of final design and associated method statements, in particular with regard to demolition, excavation and construction methods.

Item No.
5

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Abbey Road	
Subject of Report	34 Circus Road, London, NW8 9SG,		
Proposal	Demolition of the existing buildings on site and erection of a part 3 and part 4 storey building incorporating a partial basement to form an independent medical diagnostic and outpatient centre associated with the Wellington Hospital. The building provides for up to 48 new consultant rooms, 13 treatment rooms and associated diagnostic facilities (Class D1) and a cafe. Refuse storage is proposed at ground level, and an enclosed rooftop plant room is set back from the fourth floor.		
Agent	Rolfe Judd Planning		
On behalf of	HCA International Ltd		
Registered Number	15/09219/FULL	Date amended/ completed	2 August 2016
Date Application Received	2 October 2015		
Historic Building Grade	Unlisted		
Conservation Area	St John's Wood		

## 1. RECOMMENDATION

<p>1. Grant conditional permission, subject to a section 106 agreement to secure:</p> <ul style="list-style-type: none"> <li>a) Compliance with the Council's Code of Construction Practice and a contribution of £32,000 per annum during the period of construction towards the Environmental Inspectorate and Environmental Sciences to allow for monitoring during construction;</li> <li>b) A carbon offset payment of £40,875 (index linked and payable on commencement of development); and</li> <li>c) Payment of cost of monitoring the agreement.</li> </ul> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of this meeting:</p> <ul style="list-style-type: none"> <li>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;</li> <li>b) The Director of Planning shall consider whether the permission should be refused on the</li> </ul>
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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.

## 2. SUMMARY

The application site comprises a relatively large plot currently occupied by a three-storey detached villa which provides office space in association with the Wellington Hospital. The building is not listed however; it is located within the St John's Wood Conservation Area.

Planning permission is sought in respect of the demolition of the existing building and the erection of a part 3 and part 4 storey building incorporating a partial basement to form an independent medical diagnostic and outpatient centre associated with the Wellington Hospital. The building provides for up to 48 new consultant rooms, 13 treatment rooms and associated diagnostic facilities (Class D1) and a cafe. Refuse storage is proposed at ground level, and an enclosed rooftop plant room is set back from the fourth floor.

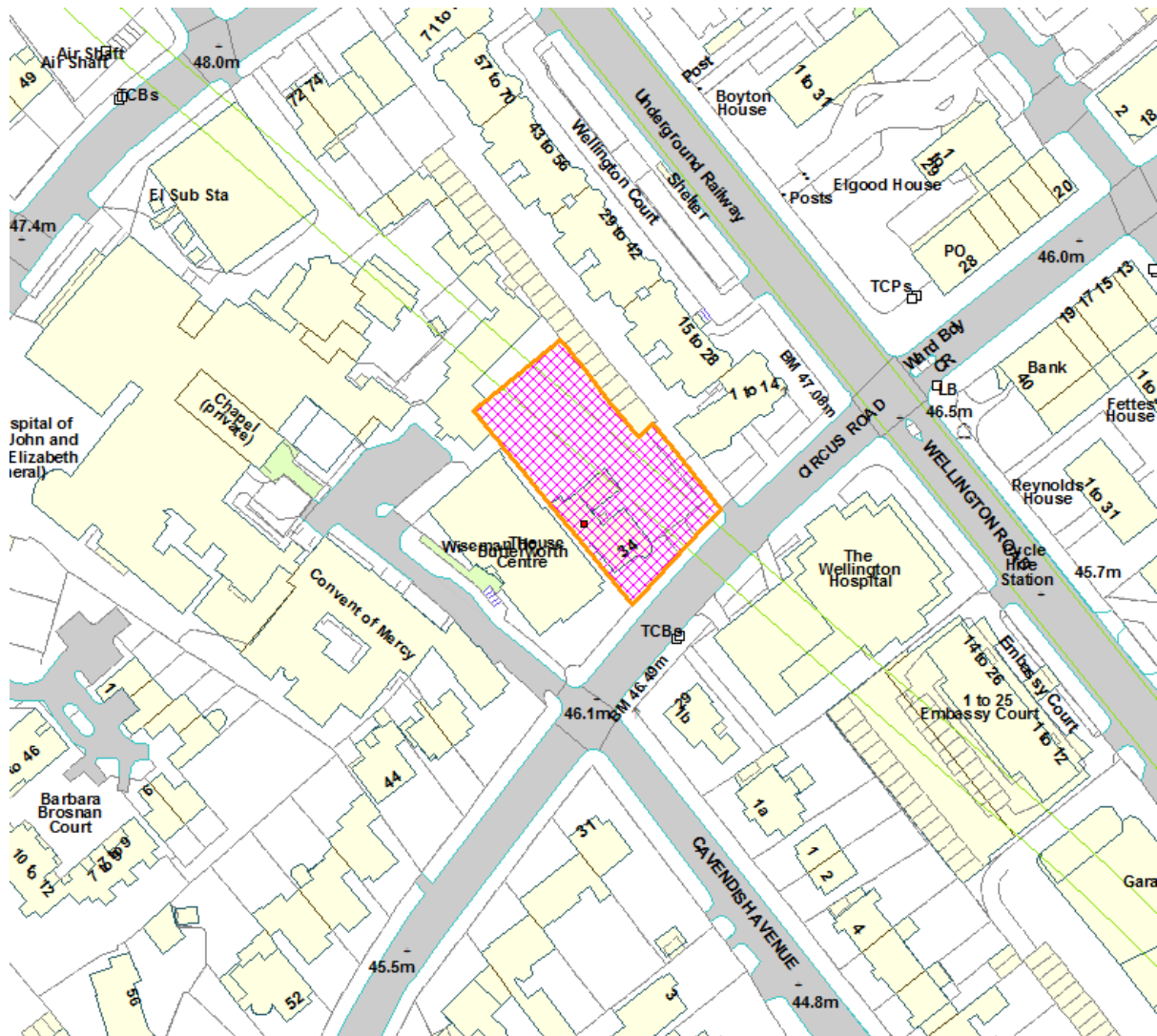
The key issues in this case are:

- The loss of the existing building
- The scale and design of the replacement building
- The impact on the amenities of neighbouring occupiers
- The loss of trees and the inadequate opportunity for replacement planting and landscaping
- The sustainability of the replacement building.
- The potential of the scheme to exacerbate parking and traffic problems in the area

Objections have been received on the above grounds. Notwithstanding these objections, the proposal is considered to be acceptable in accordance with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (the City Plan).



### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



**Existing Building as seen from Circus Road**

## 5. CONSULTATIONS

### FIRST CONSULTATION THAT EXPIRED ON 20 NOVEMBER 2015

#### TRANSPORT FOR LONDON:

The nearest part of the Transport for London Road network, the A41 (Wellington Road), is unlikely to be affected by the proposal. It would be desirable to avoid closure of the bus stop outside the site and if this is not possible then the closure period should be minimised. Any damage to the bus stop equipment, or need to temporarily remove, will need to be at the expense of the applicant. TfL Buses Infrastructure should be consulted at an early stage if any temporary changes to the stop are likely to be required.

The 'car free' nature of the development is supported however cycle parking is below the London Plan standards. It is likely that the majority of staff and patients will use public transport, but as there is very limited information on trip generation in the Transport Assessment, it is difficult to assess the potential impact on public transport capacity, particularly bus services.

#### LONDON UNDERGROUND:

No comments. Advised to contact Network Rail who have assets close to the site.

#### NETWORK RAIL:

There has been direct correspondence between the applicant and Network Rail regarding additional detailed information.

#### HISTORIC ENGLAND:

Objections were raised in respect of the 2006 scheme on the grounds of the loss of a building that contributes positively to the character and appearance of the area. Whilst the proposed scheme appears improved in terms of massing and design, from that seen in 2006, the proposed replacement development would fail to equal or surpass the contribution to the special character of the conservation area which is made by the existing building. Any harm or loss of a designated heritage asset requires clear and convincing justification.

#### THAMES WATER:

An inability of the existing wastewater infrastructure to accommodate the needs of this application has been identified. Should the Local Planning Authority look to approve the application, Thames Water would like the following 'Grampian Style' condition imposed;

'Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed. Reason – The development may lead to sewerage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.'

#### NHS CENTRAL LONDON:

Strongly opposed to this scheme because of the impact it will have on patients and services in the Butterworth Centre. The residents of the Butterworth Centre are all elderly

people with a variety of mental health conditions relating to dementia and their rooms and communal areas face the proposed building. The rooms affected are incorrectly described in the application as 'breakfast rooms of secondary importance' which is untrue and demonstrates that the applicant has not undertaken sufficient research on the use of the building. These rooms are in fact main living areas for highly vulnerable patients who are very sensitive to environmental changes given that for the majority (if not all) their link to the outside world is framed by the view from their windows. Windows which are 5m away from the residents and a public stairway which looks directly into the Butterworth Centre would rob residents of this essential connection to the outside environment and provide an unacceptable reduction in their right to dignity and privacy by being overlooked so extensively.

Representations have been made separately on behalf of the Central London Clinical Commissioning Group, the West London Clinical Commissioning Group, the residents of the Butterworth Centre, the Brompton Trust (freeholder) and the Board of Directors of the Hospital of St John and St Elizabeth. Objections are raised on the following grounds;

#### Overdevelopment of the site:

- Increase of 38% over the previous scheme meaning it is a significantly different scheme and should be considered afresh on its own merits;
- No space left for car parking or any significant planting or landscaping;
- Only 2 metres from site boundary and within 5 metres of the Butterworth Centre and Loretto Cottage.

#### Overlooking:

- References to 'secondary eating areas within the Butterworth Centre' are based on the original plans for the Butterworth Centre that was submitted and approved in 2001. These 'breakfast rooms' are now used as day rooms and quiet rooms, which are the main living space for a particularly vulnerable group of patients who in many cases are 'housebound' and rely on the views from the lounges and day rooms as their link to the outside world;
- New windows would be just 5 metres away and would look directly into Butterworth Centre day rooms and would have a detrimental impact on privacy of residents;
- Of particular concern is the staircase which would be used by the public and is opposite three habitable rooms;
- The new public waiting rooms would directly overlook the Loretto Cottage offices which would make working conditions unacceptable;

#### Daylight and Sunlight

- The applicant's surveyor has not assessed a large number of the windows in the east elevation of the Butterworth Centre and described these windows as non-habitable which is an assumption based on out of date information;
- The proposed development will almost completely remove all daylight/sunlight to these habitable windows and rooms;
- The reductions are not only in breach of BRE Guidelines but in some cases the reductions are four times what is deemed acceptable by the BRE;
- Special consideration should be made to safeguard the light of such vulnerable residents;
- Reference is made to clinical research in relation to the effect of light on dementia patients;

- The BRE Guidelines highlight the importance of natural light for elderly occupants;
- The BRE report should also have assessed the impact on the Loretto Cottage offices and the Pathology Offices;
- The BRE report should have assessed the impact on the staff amenity space outside of Loretto Cottage;

#### Noise

- The noise report does not take into account all of the potential noise receptors, including the elderly persons day rooms in the Butterworth Centre which has very sensitive receptors;

#### Odour

- The ground floor café is located relatively close to the habitable rooms in the Butterworth Centre. It should therefore be relocated or include an appropriate ventilation and extraction scheme;

#### Landscaping

- Insufficient land available after development to allow for an effective planting/landscaping scheme which creates a harsh urban environment and is particularly unfortunate for a site in a conservation area;

#### Conservation Area

- Loss of a typical villa that makes a positive contribution to the character of the St John's Wood Conservation Area.

The Medical Director for the Hospital of St John and St Elizabeth made a separate representation and raised objection on the following grounds;

- It is very important for these vulnerable, often anxious and easily confused people to be able to look out onto natural space where they can appreciate the circadian rhythm of dawn and dusk, sunshine and clouds, which helps to anchor them more closely to reality;
- The Butterworth Centre is their permanent home and a place of tranquillity for them;
- The development would deprive residents of a particularly important amenity, access to a view with space, trees and sky.

#### DESIGNING OUT CRIME:

No comments received to date.

#### HIGHWAYS PLANNING MANAGER:

The scheme is acceptable in terms of car parking, trip generation and waste. However, it is unacceptable in terms of servicing and cycle parking provision.

#### CLEANSING MANAGER:

No objections to the storage provision for general waste, clinical waste and recyclable materials.

#### ENVIRONMENTAL HEALTH:

No objections on environmental noise or nuisance grounds. As details of extract flues relating to the kitchen have not been provided, a condition should be attached to require further details.

In accordance with the GLA SPG on Sustainable Design and Construction, proposed CHP needs to meet the benchmark standards as set out within the SPG, therefore the developer needs to supply the information in order for the Council to agree the benchmarks have been met. This information has not been provided with the application and should be required by way of condition.

As the proposal comprises a demolition and construction phase and there are receptors in close proximity, it is recommended that a construction environmental management plan is sought in the Section 106 agreement. The yearly estimate costs for Environmental Inspectorate for the above development will be £32,000. Similarly, the hours of building works should be controlled by way of condition.

The terrace proposed at third floor level and the green roof could be a source of noise issues affecting nearby sensitive receptors if used at night. The hours of use of this terrace should be limited by condition.

As use class D1 comprises a variety of premises types which could have a different and more intensive noise impact to what might be expected from a medical centre e.g. a place of worship, training centre, school or a day nursery, I recommend the use class is restricted to that of a medical centre.

#### ARBORICULTURAL OFFICER:

Objections raised in respect of the loss of the beech tree on the frontage, the damage that would be caused to the two Lime trees on the frontage and the inadequate provision for replacement planting and landscaping.

#### BUILDING CONTROL:

Although no methodology has been submitted to show that these alterations will have no detrimental effect on neighbouring properties, the consulting engineer is considered to be of sufficient experience to give us confidence that all such alterations will address our usual concerns (even though Westminster has not been chosen for the Building Regulations process as yet).

#### CRIME PREVENTION DESIGN ADVICE:

No comments received to date.

#### MAJOR REDEVELOPMENT AND INFRASTRUCTURE:

No comments received to date.

#### WARD COUNCILLORS:

Any comments to be reported verbally.

#### ST JOHN'S WOOD SOCIETY:

No objections to the demolition of the existing building and pleased to see that the volume has been reduced from the previous consented scheme. However, concerns are raised in

respect of the solid to void proportions of the four square windows on the first and second floors on the front façade and ask that the design of these is reconsidered.

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

No. Consulted: 149

Total No. of replies: 10

No. of objections: 10

No. in support: 0

In summary, objections were made on the following grounds;

#### Scale and Design:

- Scheme is nearly 40% bigger than original plans and can't understand how such an expanded scheme can be justified;
- Loss of two beautiful historic buildings.

#### Amenity

- The dining room, where residents of Butterworth Centre spend a lot of time will be deprived of light and the view of a large tree;
- The windows in the dining room provide the only source of natural light as many are unable to go outside;
- Increased risk of vitamin D deficiency;
- Residents of Butterworth Centre (vulnerable patients who cannot speak for themselves) will be overlooked; affecting their privacy and dignity;
- Residents of Butterworth Centre must maintain privacy and security;
- Loss of light to music rooms where residents have music therapy;
- The building will seriously encroach on the Butterworth Centre, resulting in compromised care for NHS patients.

#### Trees:

- The nature and trees of St John's Wood should be preserved;

#### Construction Works:

- The dust, noise and disruption of the building works will be distressing for neighbouring residents, especially those vulnerable residents living in the Butterworth Centre;
- Impact on the highway

PRESS ADVERTISEMENT / SITE NOTICE: Yes

#### SECOND CONSULTATION THAT EXPIRED ON 26 FEBRUARY 2016

Further to discussion with the applicant, the extent of the basement at the front of the site was reduced to protect the trees and a small part of the building adjacent to the second set of habitable room windows in the flank wall of Wiseman House was inset from the boundary. To compensate for the loss of the floorspace, the width of the building towards Wellington Court and along the frontage increased.

TRANSPORT FOR LONDON:

No further comments received.

#### LONDON UNDERGROUND:

No further comments received.

#### NETWORK RAIL:

No further comments received.

#### HISTORIC ENGLAND:

Remain of the view that the loss of this building would be harmful to the special character and appearance of the conservation area. The Authority must be clear that the necessity for the harm has been demonstrated and that the public benefits arising from the scheme outweigh the harm caused.

#### THAMES WATER:

No further comments received.

#### NHS CENTRAL LONDON:

A further letter has been received on behalf of the Central London Clinical Commissioning Group, the West London Clinical Commissioning Group, the residents of the Butterworth Centre, the Brampton Trust (freeholder) and the Board of Directors of the Hospital of St John and St Elizabeth. Additional objections were raised on the following grounds;

##### Overdevelopment of the Site

- Footprint remains similar to previous proposal.

##### Overlooking

- Only one off-set lightwell has been included and that only extends from the first to third floors;
- The Design and Access Statement makes no attempt to explain what exactly is achieved by this lightwell amendment;
- There are two sets of day rooms served by two different sets of windows on the north east elevation of the Butterworth Centre. They are at ground, first and second floor level;
- There should be a second lightwell to reflect the second set of windows and each lightwell should extend down to ground floor level.

##### Daylight and Sunlight

- The submitted daylight and sunlight assessment methodology is unacceptable as it is not based on 'existing versus proposed analyses'
- A copy of their own right of light surveyor has been provided;
- The applicant should undertake a full overshadowing assessment of the Lorreto Centre office and associated open space;

##### Construction Management Plan

- Difficult to see how basement can be constructed without severe disturbance to vulnerable residents of Butterworth Centre;
- Scaffolding and sheeting would completely block out light to habitable rooms;
- 'Potential Impacts During Construction' does not refer to special consideration for the residents of the Butterworth Centre;



- The CMP has not been the subject of consultation with the hospital and should not be approved at this stage.

#### Conclusion

- Amendments do not satisfactorily address previous objections

The Medical Director for the St John and St Elizabeth Hospital reiterated earlier objections.

#### DESIGNING OUT CRIME:

No comments were received.

#### HIGHWAYS PLANNING MANAGER:

Earlier comments were reiterated.

#### CLEANSING MANAGER:

Object. Total waste storage capacity has been reduced from 16sqm to 12sqm. This would be inadequate. Clinical waste must be stored separate from other waste streams because of their hazardous nature. Clinical waste must be secured or stored within a building provided with an impermeable surface with sealed drainage system; or within sealed containers located on an impermeable surface with sealed drainage system.

#### ENVIRONMENTAL HEALTH:

No further comments were received.

#### ARBORICULTURAL OFFICER:

Previous objections are reiterated.

#### BUILDING CONTROL:

Earlier comments were reiterated.

#### CRIME PREVENTION DESIGN ADVICE:

No comments received to date.

#### MAJOR REDEVELOPMENT AND INFRASTRUCTURE:

No comments received to date.

#### WARD COUNCILLORS:

Any comments to be reported verbally.

#### ST JOHN'S WOOD SOCIETY:

Acknowledge that the applicant has amended previously submitted plans by inseting part of the new building away from the boundary with the Butterworth Centre but this amendment does not do enough to improve aspect and light for residents and staff.

The submitted plans do not clearly indicate the immensely negative impact that the proposed three and four storey building will have on the natural light coming into the day rooms used by the 45 NHS dementia patients in the adjacent Butterworth Centre. We understand that the Butterworth Centre is one of only two NHS dementia care centres in Westminster and that the wellbeing of the elderly patients depends significantly on natural

daylight entering the day rooms especially as these patients rarely, if ever, leave the building.

Measures normally used to establish loss of light are not therefore relevant in this extraordinary situation.

Also concerned about the impact of the proposed plant situated towards the rear of the building and adjacent to the Butterworth Centre as noise is also likely to have a negative impact on the amenity of residents.

We have asked Cllrs Lindsey Hall and Peter Freeman to assist in ensuring that the extremely valuable work that the Butterworth Centre provides for local residents can continue unimpeded by the Wellington Hospitals unneighbourly proposals for 34 Circus Road.

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

No. Consulted: 149  
Total No. of replies: 0  
No. of objections: 0  
No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

#### THIRD CONSULTATION THAT EXPIRED ON 2 SEPTEMBER 2016

Following meeting with the St Johns Wood Society and staff and residents of the Butterworth Centre, the applicant revised the development further to address their concerns. In summary the applicant revised the proposal as follows:

- Massing cut back from ground to third floor on the south eastern side of the building, adjacent to the Butterworth Centre.
- Addition of a new landscaped garden at ground level to improve outlook for the Butterworth Centre.
- Rooftop plant relocated to the southern part of the building.
- Massing partly redistributed to front of the building to mitigate loss of consultant rooms
- Associated internal changes to the layout, including relocation of the stair core

#### TRANSPORT FOR LONDON:

Reiterated earlier comments regarding impact on bus stop, cycle parking and car free nature of development.

#### LONDON UNDERGROUND:

No further comments received.

#### NETWORK RAIL:

There has been direct correspondence between the applicant and Network Rail regarding additional detailed information. Advise they have no objection, subject to conditions.

**HISTORIC ENGLAND:**

No response received.

**NHS CENTRAL LONDON:**

No further response received.

**DESIGNING OUT CRIME:**

No comments received to date.

**HIGHWAYS PLANNING MANAGER:**

No further response received.

**CLEANSING MANAGER:**

No further response received.

**ENVIRONMENTAL HEALTH:**

No further response received.

**ARBORICULTURAL OFFICER:**

Object. Additional space has been provided for planting at the rear, which is welcomed, although there will still be a net loss in tree numbers and canopy cover. It does not appear that sufficient soil depth has been provided for the proposed planting. It is not clear where the green roof is proposed; additional detail is required.

The scheme remains unaltered with regard to the arrangement at the front so previous comments are largely repeated. Objections remain to this arrangement on the basis of likely loss of or damage to the trees proposed to be retained and inadequate landscaping.

**BUILDING CONTROL:**

The structural method statement is acceptable. An investigation of existing structures and geology has been undertaken and found to be of sufficient detail. The existence of groundwater, including underground rivers, has been researched and the likelihood of local flooding or adverse effects on the water table has been found to be negligible. The basement is to be constructed using piled walls with internal RC retaining walls which is considered to be appropriate for this site. The proposals to safeguard adjacent properties during construction are acceptable.

**CRIME PREVENTION DESIGN ADVICE:**

No comments received to date.

**MAJOR REDEVELOPMENT AND INFRASTRUCTURE:**

No comments received to date.

**WARD COUNCILLORS:**

Any comments to be reported verbally.

**ST JOHN'S WOOD SOCIETY:**

Appreciate the improved design and the consideration shown to the residents of the adjoining Butterworth centre.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 149

Total No. of replies: 6

No. of objections: 6

No. in support: 0

In summary, objections were made on the following grounds;

## Design:

- Existing villa makes a positive contribution to area and its loss would harm the character of the St Johns Wood Conservation Area.
- The proposal takes no account of existing Victorian and Art Deco homes in the area.

## Amenity

- Loss of light to Wellington Court.
- Loss of privacy to Wellington Court.
- Loss of views.
- Noise and congestion in an already congested area would harm amenity.

## Highways:

- Proposal would exacerbate a shortage of parking in area.

## Trees:

- Loss of trees would harm views of the site from Wellington Court.
- New garden can only be seen from Butterworth Centre, whilst residents of Wellington Court would be left looking at brick wall.

## Construction Works:

- This new building would create a lot of noise and congestion during construction in an already congested area.
- Proposal would create dust during construction.
- Impact on the highway

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is located within the St Johns Wood Conservation Area but does not contain a listed building. It comprises a rectangular plot of land approximately 0.15 hectares in area that includes a three storey mid-nineteenth century detached villa situated on the north side of Circus Road near its junction with Wellington Road. This building is used for administrative support for Wellington Hospital (located opposite to the south) with the remainder of the site used as parking for the hospital.

To the east of the site is Wellington Court, a residential apartment block and to the west is The Butterworth Centre, a residential care home. To the north of the site are more offices and to the south of the site is Wellington Hospital North which forms part of the wider hospital campus in the locality. A Network Rail tunnel leading to Marylebone Station passes beneath the site.

## 6.2 Recent Relevant History

### 06/01169/FULL

Demolition of three storey building and erection of a part three and part four storey building incorporating a partial basement to form an independent medical diagnostic and outpatient day care centre.

Application Permitted 12 June 2006

This permission has not been implemented and has now lapsed.

## 7. THE PROPOSAL

Planning permission is sought in respect of the demolition of the existing building and the erection of a part 3 and part 4 storey building incorporating a partial basement to form an independent medical diagnostic and outpatient centre associated with the Wellington Hospital. The building provides for up to 48 new consultant rooms, 13 treatment rooms and associated diagnostic facilities (Use Class D1). Refuse storage is proposed at ground level, and an enclosed rooftop plant room is set back from the fourth floor.

The scheme would provide a significantly greater floor area than the 2006 scheme, including a much larger basement.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of Existing Use

The existing building contains offices used by the Wellington Hospital for administrative support (Use Class B1). The development plan does not protect office floorspace within this part of the City. Accordingly, no objection is raised to the loss of this office floorspace.

#### Proposed Use.

The proposed development would provide approximately 4093 square metres (GIA) of floorspace to be used for medical diagnostic and outpatient services (Use Class D1). The provision of medical facilities is supported by policies 3.16 and 3.17 of the London Plan (FALP - March 2015), policy S34 of Westminster's City Plan (adopted July 2016) ("the City Plan") and policies SOC 1 and SOC 4 of the Unitary Development Plan (adopted 2007) ("the UDP"). Accordingly, the proposed use would be acceptable in principle.

### 8.2 Townscape and Design

The existing building dates from the mid-nineteenth century and was originally built as a detached residential villa, although it is no longer in residential use. The original building was a three storey (ground, first and second floors) double pile house, with a hipped slate roof. There is a later two storey rear wing with a flat roof, which has been added at a later date. The front façade is stucco-faced, with short stucco returns, with the rest of the building in facing brickwork. A single storey portacabin structure is also located to the rear. The surrounding grounds to the building are largely used as a car park.

The heritage report that accompanies this application correctly identifies the building as a 'second generation' building within the area of Circus Road, Grove End Road and Wellington Road. It was not part of the first phase of development in the area which occurred in the first quarter of the nineteenth century. During the second half of the nineteenth century it formed one of many detached villas which faced onto Circus Road and were set within generous garden plots.

The character of the area began to change around the turn of the twentieth century with the building of the Hospital of St John and St Elizabeth, and the Covent of Mercy. Also the construction of the Great Central Railway involved the demolition of the villa immediately to the east of no.34, with the land formerly associated with this property seemingly amalgamated with no.34.

Further redevelopment in Circus Road took place during the twentieth century, which resulted in a number of the nineteenth century villas being demolished and replaced with larger blocks of flats and modern houses. The applicant's heritage statement suggests that the area around Circus Road has largely lost its nineteenth century character and appearance and that no.34 "survives as a physically isolated and individual, mid-nineteenth century property on the north side of Circus Road, dwarfed by the adjacent Wellington Court to its immediate north-east and by the Wellington Hospital to the south-east". This assessment, in part, chimes with the Council's St John's Wood Conservation Area Audit which states that "the central and southern parts of the conservation area have a more fragmented character and more modern interventions in the townscape have disrupted the original layout in places."

However, the isolation of no.34 is slightly overstated as there still survive several detached villas within Circus Road and many of these are from the mid-nineteenth century and are grade II listed buildings, namely nos. 29, 31, 33, 35, 37, 40 and 42 Circus Road. No.34 Circus Road is identified as an unlisted building of merit within the conservation area and this attribution is considered to be correct given that the building reflects in terms of age, style, materials and form, the attributes of many of the other buildings which positively contribute to the conservation area; and because it also serves to illustrate the historic development of the conservation area.

The proposal seeks to demolish the existing buildings on the site and to redevelop with a new hospital building.

#### Replacement Building

The replacement building would occupy a far greater extent of the site plot and would comprise a basement storey, ground plus three upper storeys, with a roof plant enclosure above this. The third floor will be set back on the south and east sides, and the plant room will

be set back further still. The main facades will be faced in reconstituted stone with a relatively regular grid of punched openings. The front façade will be stepped (with eastern part recessed) and will feature a double-height glazed wall section, which will define the main entrance. The recessed rooftop plant will be screened by anodised aluminium perforated panelling.

The roof will also contain areas of green roof and photovoltaic panels. The front boundary of the site will retain some of the existing trees and will be re-landscaped.

In terms of height and massing, the proposed new building fits well within the townscape. While taller than the existing building and in part taller than the 2006 permitted scheme, the new building nevertheless complements the scale of the Butterworth Centre to the west and Wellington Court to the east and acts as a transition building between the height of these two buildings. Furthermore by occupying a wider footprint, the new building also reinforces the street massing, which has been weakened by the loss the villa to the east of no.34.

With respect to the building line, the proposed new building occupies approximately the same line as the existing building and also aligns with the Butterworth Centre. The eastern part of the building line steps in, towards the line of Wellington Court, which effectively breaks down the massing and again seeks to achieve a transition between the neighbouring buildings.

The architectural treatment introduces a contemporary design, but one which uses materials and modelling which sit comfortably within the immediate townscape context.

Given the above, the proposed development would be consistent with policies S25 and S28 of the City Plan, policies DES 1, DES 4 and DES 9 of the UDP.

#### Design and Heritage Impact Assessment

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 indicates that *“... with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

In terms of the NPPF the key considerations are addressed in Chapter 12 with paragraphs 133 and 134 specifically addressing the issues of harm to designated heritage assets, which in the case of this application, is principally the St John's Wood Conservation Area and to a lesser extent the nearby listed buildings.

Policies S25 and S28 of our City Plan; and policies DES 1, DES 4, DES 9 and DES 10 of our UDP are the main development plan design/heritage policies which are relevant to this application.

With this legislative and policy context in mind, the proposal is considered acceptable in design and heritage impact terms. While some harm to the conservation area is caused by the loss of the existing building, the degree of harm is considered to be less than substantial and at the lower end of this category if a spectrum is accepted.

It is accepted that the existing building is an unlisted building of merit and as such it contributes positively to the character and appearance of the conservation area. However, it has become somewhat divorced from its historic setting and has suffered from some unfavourable changes both to the building itself and its immediate setting.

The immediate context of the application site is one of a rather disjointed and fragmented townscape. No.34 sits between the larger scale buildings of the Butterworth Centre and Wellington Court, the former being an undistinguished early twenty-first century building and the latter, an unlisted building of merit, dating from the first half of the twentieth century. In addition there is a gap to the east of no.34 where its former nineteenth century neighbouring villa formerly stood, prior to the construction of the railway line.

The replacement building is considered to be a well-considered design which provides a greater sense of cohesion to this part of the townscape. It would not harm the character and appearance of the conservation area, or the setting of nearby listed buildings. With this in mind, allied to the attendant benefits that the new building brings in terms of its function and use, the public benefits of the development would outweigh the harm caused by the loss of the existing building.

### **8.3 Residential Amenity**

#### **8.3.1 Loss of Daylight**

Loss of day and sunlight are concerns raised by neighbouring residents and on behalf of permanent residents at the Butterworth Centre, which provides permanent accommodation for vulnerable elderly persons.

Recommended standards for daylight and sunlight in residential accommodation are set out in the Building Research Establishment (BRE) publication 'Site layout planning for daylight and sunlight' (second edition 2011) ("the BRE Guide"). The BRE guide stresses that the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances.

The applicant has submitted a Daylight and Sunlight Report by GVA ("the Light Study") and data and an assessment has been provided in respect of daylight and sunlight and their impact upon three neighbouring block of flats. The Light Study considers loss of daylight and sunlight to the following residential properties:

- Wellington Court;
- 29 Circus Road; and
- The Butterworth Centre.

All other residential properties are located too far from the application site to result in unacceptable loss of light when considered against the BRE Guide.

In assessing daylight levels, the Vertical Sky Component (VSC) is the most commonly used method. It is a measure of the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the BRE advise that the window will have the potential to provide good levels of daylight. The BRE guide also recommends consideration of the distribution of light within rooms served by these windows. Known as the No Sky Line (NSL) method, this is a measurement of the area of working plane within these rooms that will receive direct daylight from those that cannot. With both methods, the BRE guide specifies that reductions of more than 20% are noticeable.

The use of the affected rooms has a major bearing on the weight accorded to the effect on



residents' amenity as a result of material losses of daylight. For example, loss of light to living rooms, dining rooms, bedrooms, studies and large kitchens (if they include dining space and are more than 12.6 square metres) are of more concern than loss of light to non-habitable rooms such as stairwells, bathrooms, small kitchens and hallways.

The Light Studies conclusions on daylight are summarised in the table below:

### Daylight Loss Summary

SITE	No. of Eligible Windows With VSC Less than 27% AND with Losses Exceeding 20%	VSC Losses (%)	No. of Eligible Rooms with NSL Losses Exceeding 20%	NSL Losses (%)
Wellington Court	17 out of 84	21.01 – 47.26	2 out of 35	33.09 – 48.17
Butterworth Centre	8 out of 12	23.55 – 49.76	4 out of 6	39.16 – 54.97
29 Circus Road	0 out of 3	NA	0 out of 3	NA
<b>TOTAL</b>	<b>25 out of 99 (25%)</b>		<b>6 out of 44 (14%)</b>	

The BRE Guide itself stresses that its guidelines are intended to be applied flexibly as light levels are only one factor affecting site layout. In an urban location like this, expectations of natural light levels cannot be as great as development in rural and suburban locations and to which the BRE guide also applies.

The proposed development does result in some significant transgressions of BRE daylight guidance as it relates to Wellington Court and the Butterworth Centre. At Wellington Court, these transgressions affect 10 bedrooms facing the development and located at ground, first and second floor levels. At the Butterworth Centre, the affected rooms are all communal dining areas for the care homes residents.

However, Wellington Court and the Butterworth Centre currently experience unusually high levels of daylight by virtue of the lack of buildings on the rear part of the site. This is an anomalous feature in the locality, with all surrounding properties, including those affected, containing two to eight storey buildings. The height, bulk and location of any development on this largely vacant site that is consistent with this prevailing character will always result in exaggerated loss of light likely to conflict with the BRE guide.

The affected windows at Wellington Court and the Butterworth Centre are also in close proximity to the site boundary and are orientated directly toward the application site. In this position they are un-neighbourly and would form an unreasonable constraint on any development of the site if measured by compliance with BRE guidance only. Accordingly, it would be unreasonable to refuse permission on the basis of light loss to these windows given their location and orientation.

These light losses must be weighed against the benefits of the development. The proposed development provides additional healthcare facilities for the City's residents. It would also provide a form of development consistent with the prevailing bulk, location,

height and massing of existing development in this area, unlike the existing building. Given these benefits of the development, the relatively small number of windows and rooms affected, the unneighbourly position of the affected windows and the flexibility set out within the BRE Guide, refusal of the development on this basis would not be sustainable.

Objections have been received to potential loss of light to the Pathology and Loretto Cottages offices to the north-west of the site. Whilst these offices would see some light loss as a result of the development, their light levels are not protected by development plan policy. Accordingly, refusal of permission on this basis would not be sustainable.

### 8.3.2 Loss of Sunlight

The BRE guidelines state that rooms will appear reasonably sunlit provided that it receives 25% of annual probable sunlight hours, including at least 5% of annual winter sunlight hours. A room will be adversely affected if the resulting sunlight level is less than the recommended standards and reduced by more than 20% of its former values and if it has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours. Only windows facing within 90 degrees of due south need to be assessed.

#### **Sunlight Loss Summary**

SITE	No. of Eligible Windows With Sunlight Loss Exceeding BRE Guidelines
Wellington Court	12 out of 66
Butterworth Centre	No eligible windows
29 Circus Road	No eligible windows.

The proposal would result in loss of sunlight exceeding BRE guidelines for several rooms at ground, first and second floor level at Wellington Court. However, the affected rooms are all bedrooms which the BRE guide notes are less-important areas for sunlight. Given this and the flexibility stated within the BRE guide itself, refusal of permission on this basis would not be sustainable.

### 8.3.3 Sense of Enclosure

The front part of the development is located to the side of a part of Wellington Court that has no side windows. Whilst the rear part of the development would be visible from flats located within the south western elevation of Wellington Court, both would be separated by approximately 14 metres. The proposed development would also extend up to fifth floor level on Wellington Court. Ground floor flats within Wellington Court, which could potentially be the worst affected would be screened by existing garages on the Wellington Court site. Given the above, the proposed development would not result in unacceptable levels of sense of enclosure for the residents of Wellington Court.

Like Wellington Court, the front part of the development occupies a similar position to the existing building and a substantial tree and would not result in unacceptable sense of enclosure for the occupants of the Butterworth Centre. With regards to the rear part of

the development, this would be located approximately 11 metres from the communal dining rooms used by patients at the Butterworth Centre. Following discussion between the applicant and the Butterworth Centre, a garden area is proposed between this part of the development and the Butterworth Centre. Planting within this garden will soften the appearance of this part of the building and also improve outlook from the Butterworth Centre in comparison to the car parking area existing at present. The combination of this separation distance and this garden area would ensure that the proposal does not result in unacceptable sense of enclosure for the occupants of the Butterworth Centre.

All other residential properties are located too far from the application site to experience unacceptable sense of enclosure as a result of the development.

Given the above, the proposed development would not result in a significant sense of enclosure for the occupants of residential properties surrounding the site. Accordingly, the proposal would be consistent with policy ENV13 of the UDP and policy S29 of the City Plan.

#### 8.3.4 Privacy

The windows proposed in the flank elevations (north western and north eastern) would largely serve consultation and exam rooms. By their nature these rooms require a high degree of privacy and it is not anticipated that they would give rise to unacceptable levels of outlook over the Butterworth Centre and Wellington Court. To minimise potential outlook from these windows and should permission be granted, a condition is recommended that require that these windows are obscure glazed.

A roof terrace is provided at the front of the site. This terrace is not located immediately adjacent to residential properties and is located adjacent to the frontage of the site where expectations of privacy are lower. To provide further safeguards to the occupiers of the Butterworth centre, a condition is also recommended that prevents use of this terrace during anti-social hours. Accordingly, it is not anticipated that this terrace would unacceptable harm the amenity of nearby residents.

Subject to the recommended condition, the proposed development would not result in unacceptable loss of privacy for the occupants of nearby residential properties and would be consistent with policy S29 of the City Plan and policy ENV 13 of the UDP.

#### 8.3.6 Plant Noise

The proposed development would include rooftop plant. The Environmental Health Officer has reviewed the proposed development and the acoustic report submitted by the applicant. The Environmental Health Officer advises that the proposed plant would comply with the City Council's noise limits and has recommended conditions to secure this. Accordingly, and subject to conditions, the proposed development would be consistent with policies ENV6 and ENV7 of the UDP and policy S32 of the City Plan.

### 8.4 **Transportation/Parking**

#### 8.4.1 Car Parking

Several objectors have raised concerns with the impact of the development on on-street parking.

The Highways Planning Officer has reviewed the proposal and raised no objection to the absence of parking proposed. This site is within a Control Parking Zone which means anyone who does drive to the site would not be able to park on-street without a permit and the impact of the change of use on parking levels is likely to be minimal. As the existing parking on-site is associated with the existing hospital offices, its loss would be consistent with policy TRANS21 of the UDP.

#### 8.4.2 Trip Generation

The proposed healthcare use is likely to generate more trips spread out through the day than the existing office use of the site. Given the public transport facilities in the area and the absence of on and off-street parking in the area, trip generation is unlikely to have a significantly adverse impact on the public highway.

#### 8.4.3 Servicing

Off-street servicing is provided for the proposed development within the service road accessed off Circus Road. Limited information regarding servicing of the proposed site has been submitted but the level is expected to be a maximum of 6 trips a day. The largest regular service vehicle expected to be associated with the proposed development is the refuse collection vehicle which the servicing area would not be able to accommodate. It is also not clear from the submitted information what the likely size of other service vehicles (laundry, medic supplies, etc.) attracted to the site will be and what the largest vehicle is that the proposed service area could accommodate.

A condition is recommended to secure a Servicing Management Plan to ensure that the servicing requirements of the site can be accommodated without harm to the free flow of traffic on Circus Road or pedestrian safety. Subject to this condition, the development would be consistent with policy TRANS 20 of the UDP.

#### 8.4.4 Cycle Parking

Policy 6.9 of the London Plan (FALP – March 2015) requires the provision of 17 long stay and 28 short stay cycle spaces to be provided. However, only 20 spaces are shown on the submitted drawings. Sufficient space does exist on-site to secure the additional 37 spaces and, should permission be granted, a condition is recommended to secure these additional spaces. Subject to this condition, the proposed development would be consistent with policy 6.9 of the London Plan.

TFL have queried whether additional cycle parking may be required for the small café area on the ground floor, at the front of the development. However, this café is clearly intended to be ancillary to the hospital, serving patients and visitors. Accordingly, no additional cycle parking is required for this café.

#### 8.4.5 Waste

Waste stores are indicated on the submitted drawings, although the Cleansing Manager notes that insufficient space is provided. However, sufficient space exists on-site to provide this additional waste storage. Should permission be granted, a condition is recommended, to ensure that the level of waste storage is sufficient for the proposed use and is in accordance with the requirements of the Westminster Recycling and Waste Storage Requirements, policies S41 and S44 of the City Plan and policies ENV12 and TRANS3 of the UDP.

#### 8.4.6 Other TFL comments

TFL note that there is potential for the bus stop at the front of the site to be used as a drop-off area for taxis and private vehicles. However, this would be a Highways Enforcement matter and not something that can be controlled through grant of planning permission. Prevention of obstructions to the bus stop during construction can also be addressed via a construction management plan and a condition to this effect is recommended.

TFL have also raised concern with patients arriving by car to the facility and the absence of on-site drop-off/pick up zones. To address this, they have requested a condition requiring submission of a Hospital Management Plan. The applicant has agreed to this and a condition to this effect is recommended.

### 8.5 **Economic Considerations**

The applicant has indicated that the proposal would create 85 new jobs within the building and contribute to the future economic viability of the Wellington Hospital.

### 8.6 **Access**

As a hospital facility, the proposed building has been designed to be DDA compliant. This includes level access throughout, lift access to all floors and extra wide doorways.

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

#### 8.7.1 Trees and Biodiversity

The proposal would result in the loss of 13 trees from the site. Two lime trees and a beech tree on the frontage of the site.

The Arboricultural Manager objects to the loss of five trees (two sycamores, a birch, a bay tree and an ash tree) although notes that the 2006 permission allowed their removal previously. The Arboricultural Manager also notes that ash tree is also in poor health. On this basis, the Arboricultural Manager recommends a replacement planting condition should permission be granted.

The Arboricultural Manager also notes that the lime and beech trees to be retained are at serious risk of damage from the proposal. This is due to their Root Protection Areas being potentially larger than depicted and the close proximity of the proposed basement and entrance canopy to these trees. The logistics plans in the construction methodology also does not show how they will be protected during demolition and construction.

With regards to the soft landscaping proposed, the Arboricultural Manager welcomes the inclusion of the garden to the rear but is concerned that insufficient soil depth would be provided above the basement. The Arboricultural Manager also notes that the landscaping proposals submitted do not allow sufficient soft landscaping area for adequate replacement planting and that little detail of the green roof proposed has been provided.

Whilst the Arboricultural Managers concerns are noted, they are not considered sufficient to justify refusal of this development when weighed against the benefits this scheme provides in terms of improving healthcare facilities within the City. These concerns can also be addressed by the recommended conditions.

#### 8.7.2 Sustainability

Policy 5.2 of the London Plan refers to minimising carbon dioxide emissions and states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be Lean-Use less energy.
2. Be Clean-Supply energy efficiently.
3. Be Green-Use renewable energy.

Policy 5.2 also states that where specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through a cash in lieu contribution to secure delivery of carbon dioxide savings elsewhere.

The proposed development incorporates a Combined Heat and Power (CHP) unit and photovoltaic panels on part of the roof. These measures achieve a carbon saving of 25% over 2013 Building Regulations, which is 10% short of the 35% saving sought by policy 5.2 of the London Plan. This shortfall equates to 545 tonnes of carbon which results in a carbon offset payment of £40,875. The applicant has agreed to pay this and this should be secured via a section 106 agreement. Subject to completion of this agreement, the proposed development would meet policy 5.2 of the London Plan.

#### 8.7.3 Sustainable Urban Drainage Systems (SUDS)

Policy 5.13 of the London Plan specifies that development should utilise Sustainable Urban Drainage Systems (SUDS) unless there are practical reasons for not doing so, should aim to achieve greenfield run-off rates, and ensure that surface water run-off is managed as close as possible to its source.

The proposed development includes a green roof although little detail of this has been provided. Accordingly, a condition is attached requiring the applicant to provide details of this green roof. The provision of such a roof would provide further run-off attenuation, consistent with policy 5.13 of the London Plan.

### 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

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

- a) Compliance with the Council's Code of Construction Practice and a contribution of £32,000 per annum during the period of construction towards the Environmental Inspectorate and Environmental Sciences to allow for monitoring during construction;
- b) A carbon offset payment of £40,875 (index linked and payable on commencement of development); and
- c) Payment of cost of monitoring the agreement.

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

The proposed development is not liable for a Westminster or Mayoral CIL payment.

## 8.11 Environmental Impact Assessment

Not applicable to this scale of development.

## 8.12 Other Issues

### 8.12.1 Basement

The proposed development includes a single storey basement level to accommodate plant. The application is accompanied by a structural method statement and construction drawings to demonstrate how the basement will be constructed whilst maintaining the integrity of the tunnel below. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage. The submission of this information is a requirement of the adopted basement SPD and basement policy CM28.1 (A).

Building Control Officers have reviewed the submitted details and raise no objection. It should be emphasised that the purpose of commissioning such an analysis at this stage is to show that there is no foreseeable impediment to the scheme satisfying the Building Regulations in due course. Should permission be granted, this Construction Methodology will not be approved, nor will conditions be imposed requiring the works to be carried out in accordance with it.

Accordingly, the report has provided sufficient consideration at this stage and this is as far as this matter can reasonably be taken as part of the consideration of the planning

application. Detailed matters of engineering techniques, and whether these secure the structural integrity of the development and neighbouring buildings during the course of construction, are controlled through other statutory codes and regulations

#### 8.12.2 Construction Impact

Objections have been received from neighbouring properties regarding the impact of construction, including noise and traffic.

It is a long standing principle that planning permission cannot be refused due to the impact of construction. This is due to its temporary nature and the ability to control it by condition and legal agreement. Accordingly, conditions are recommended that limit the hours of construction and require the City Council's approval of a Construction Management Plan to minimise harm to the amenity of local residents and traffic flow. The applicant has also agreed to enter into a s106 agreement to secure compliance with the Council's Code of Construction Practice and toward monitoring of the construction impact of the development by the City Council's Environmental Inspectorate and Environmental Sciences.

### 9. **BACKGROUND PAPERS**

1. Application form
2. Response from London Underground Infrastructure, dated 27 October 2015
3. Response from Historic England (Listed Builds/Con Areas), dated 9 November 2015 and 17 February 2016
4. Response from Transport for London, dated 10 November 2015 and 17 August 2016
5. Response from Thames Water, dated 11 November 2015 and 29 January 2016
6. Response from Network Rail, dated 3 December 2015 and 7 September 2016
7. Response from NHS Central London Clinical Commissioning Group, dated 16 December 2015
8. Response on behalf of NHS and Butterworth Centre, dated 9 November 2015, 26 November 2015 and 17 February 2016
9. Response from Medical Director of the Hospital of St John and St Elizabeth, dated 26 November 2015 and 24 February 2016
10. Response from Highways Planning - Development Planning, dated 27 October 2015 and 17 February 2016
11. Response from Building Control - Development Planning, dated 30 October 2015 and 19 August 2016
12. Response from Cleansing - Development Planning, dated 2 November 2015 and 16 August 2016
13. Response from Arboricultural Officer – Development Planning, dated 18 November 2015, 29 February 2016 and 31 August 2016
14. Response from Environmental Health, dated 4 November 2015 and 12 November 2015
15. Response from St John's Wood Society, dated 2 November 2015, 26 February 2016 and 22 August 2016.
16. Letter from occupier of Butterworth Centre, 36 Circus Road, dated 3 November 2015
17. Letter from occupier of 240 Grove End Gardens, London, dated 4 November 2015
18. Letter from occupier of Rushmere, The Lee, dated 4 November 2015
19. Letter from occupier of 72 Claverdon Street, London, dated 5 November 2015



20. Letter from occupier of Church View, Vicarage Road, Tunbridge Wells, dated 5 November 2015
21. Letter from occupier of 25 Moorgate (The Brampton Trust) London, dated 10 and 11 November 2015
22. Letter from occupier of 51 Wellington Court, London, dated 20 November 2015
23. Letter from occupier of 60 Grove End Road, London, dated 25 November 2015
24. Letter from occupier of 5 Westminster Court, Aberdeen Place, dated 11 November 2015
25. Letter from occupier of 6 Weymouth Court, W1W 6DA, dated 11 November 2015
26. Letter from occupier of 71 Wellington Court, Wellington Road, dated 14 August 2016
27. Letter from occupier of 17 Wellington Court, Wellington Road, dated 10 August 2016
28. Letter from occupier of 63 Wellington Court, Wellington Road, dated 10 August 2016
29. Letter from occupier of 2 Wellington Court, dated 19 August 2016
30. Letter from occupier of 83 Wellington Court, Wellington Road, dated 22 August 2016

### **Selected relevant drawings**

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT NATHAN BARRETT ON 020 7641 5943 OR BY EMAIL AT [nbarrett@westminster.gov.uk](mailto:nbarrett@westminster.gov.uk)

10. KEY DRAWINGS



Proposed Ground Floor and Site Plan



Proposed Front (top) and Rear (bottom) Elevations





**Visualisation from Circus Road**

**DRAFT DECISION LETTER**

**Address:** 34 Circus Road, London, NW8 9SG,

**Proposal:** Demolition of the existing buildings on site and erection of a part 3 and part 4 storey building incorporating a partial basement to form an independent medical diagnostic and outpatient centre associated with the Wellington Hospital. The building provides for up to 48 new consultant rooms, 13 treatment rooms and associated diagnostic facilities (Class D) and a cafe. Refuse storage is proposed at ground level, and an enclosed rooftop plant room is set back from the fourth floor.

**Reference:** 15/09219/FULL

**Plan Nos:** Drawing no's A0010 Rev 3, A0025 Rev 9, A0100 Rev 2, A0200 Rev 8, A0201 Rev 10, A0201 Rev 11, A0203 Rev 8, A0204 Rev 7, A0205 Rev 8, A0207 Rev 1, A0250 Rev 11, A0251 Rev 11, A0261 Rev 5, Design and Access Statement by HOK Architects (Rev 05 dated July 2015) Energy Strategy by Ove Arup and Partners (Issue 3 dated 29/07/2016)

FOR INFORMATION ONLY: Construction Management Plan by Arup; Arboricultural Impact Assessment by Rootcause (dated 18/12/2015); Basement Design Approach by Arup (Ref: ARUP-REP-S-001, dated 04/04/2015)

**Case Officer:** Nathan Barrett

**Direct Tel. No.** 020 7641 4203

**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:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must apply to us for approval of details including samples of the facing materials you will use, including glazing. You must not start work until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BB)

**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 St Johns Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 4 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building facing the street unless they are shown on drawings we have approved. (C26MA)

**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 St Johns Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 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:**

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 St Johns Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 6 **Pre-commencement Condition** Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the Thames Water. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

**Reason:**

The development may lead to sewerage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact

upon the community.

- 7 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (July 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 8 The terrace shown on drawing no. A0205 (Revision 7) shall not be used between 2100 and 0900. You can however use the terrace to escape in an emergency.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (July 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 9 You must use the premises only as a medical diagnostic and outpatient centre. You must not use the premise for any other purpose, including any within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (or any equivalent class in any order that may replace it). (C10BA)

Reason:

Because this is a residential neighbourhood, we need to prevent use of the property for any unsuitable purposes. This is as set out in S29 and S34 of Westminster's City Plan (July 2016) and SOC 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R10AC)

- 10 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 facility. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 11 **Pre Commencement Condition.** The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with Network Rail) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:

- provide details on all structures;



- accommodate the location of the existing London Underground structures and tunnels;
- accommodate ground movement arising from the construction thereof; and
- mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

**Reason:**

To ensure that the development does not impact on existing transport infrastructure, in accordance with policy 6.2 of The London Plan (FALP - March 2015).

- 12 The glass that you put in the windows in the east and west elevation of the building must not be clear glass, and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

**Reason:**

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (July 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 13 (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 (July 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.

- 14 You must apply to us for approval of details of the ventilation system to get rid of fumes, including details of how it will be built and how it will look. You must not begin the use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14BB)

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 15 **Pre Commencement Condition.** 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 privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (July 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 16 You must apply to us for approval of details of secure cycle storage for the medical use. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

**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.

- 17 All servicing must take place between 0700 and 1900. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building.

**Reason:**

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (July 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 18 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.

- 19 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have

sent us. You must then carry out the work according to the approved details.

**Reason:**

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (July 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 20 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within one year of completing the development (or within any other time limit we agree to in writing).

If you remove any trees or find that they are dying, severely damaged or diseased within five years of planting them, you must replace them with trees of a similar size and species. (C30CB)

**Reason:**

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the St Johns Wood Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in S25, S28 and S38 of Westminster's City Plan (July 2016) and ENV 16, ENV 17, DES 1 (A) and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R30CD)

- 21 You must apply to us for approval of detailed drawings, sections and specifications of the following parts of the development:

- the green roof.

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, sections and specifications. (C26DB)

**Reason:**

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

- 22 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant (including CHP and kitchen extract equipment) will comply with the Council's noise criteria as set out in Condition 13 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

**Reason:**

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

City Plan (July 2016), by contributing to reducing excessive ambient noise levels.

- 23 The building hereby approved shall not be used until a Servicing and Management Plan (SMP) has been submitted to and approved in writing by the City Council. The SMP shall demonstrate how all servicing shall be carried out from the approved service yard with the exception of the waste collection. You must then carry out the development in accordance with the approved details.

**Reason:**

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 24 The building hereby approved shall not be used until a Hospital Management Plan (HMP) has been submitted to and approved in writing by the City Council. The HMP shall demonstrate how patient and visitor movements will be managed to prevent drop-off and/or pick-up direct from the building. You must then carry out the development in accordance with the approved details.

**Reason:**

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and TRANS 20 and TRANS 21 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 (July 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 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team

Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (150AA)

- 3 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:

\* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

\* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm).

It is now possible for local authorities to prosecute any of the relevant parties with respect to non-compliance with the CDM Regulations after the completion of a building project, particularly if such non-compliance has resulted in a death or major injury.

- 4 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.
- Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:
- \* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;
  - \* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;

- \* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;
- \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
- \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 5 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. (I80CB)

- 6 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.
- 7 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- Compliance with the Council's Code of Construction Practice and a contribution of £32,000 per annum during the period of construction to allow for monitoring during construction and payment of the cost of monitoring the agreement; and
  - A carbon offset payment of £40,875.

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.

Item No.
<b>6</b>

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	29-35 Rathbone Street, London, W1T 1NJ,		
Proposal	Alterations and extensions at basement, rear and roof level and partial change of use to provide a gym (Class D2) at basement, restaurant (Class A3) at ground floor and offices (Class B1) at first to third floor and fourth floor mezzanine with terraces, and installation of plant at third floor		
Agent	Mr Claire Treanor		
On behalf of	ISA Holdings Ltd		
Registered Number	16/02884/FULL	Date amended/ completed	7 April 2016
Date Application Received	31 March 2016		
Historic Building Grade	Unlisted		
Conservation Area	Charlotte Street, West		

## 1. RECOMMENDATION

Refuse permission – detailed design

## 2. SUMMARY

The application premises comprise a, largely vacant, unlisted building of merit in the Charlotte Street West Conservation Area. The building, on basement to third floors, is in lawful Class B1 use. Permission is sought for alterations and extensions to the property in connection with its refurbishment to provide a basement level gym (Class D2) and a ground level restaurant. The extended upper floors, including a new fourth floor mezzanine within the roofspace, would continue to be used as Class B1 offices.

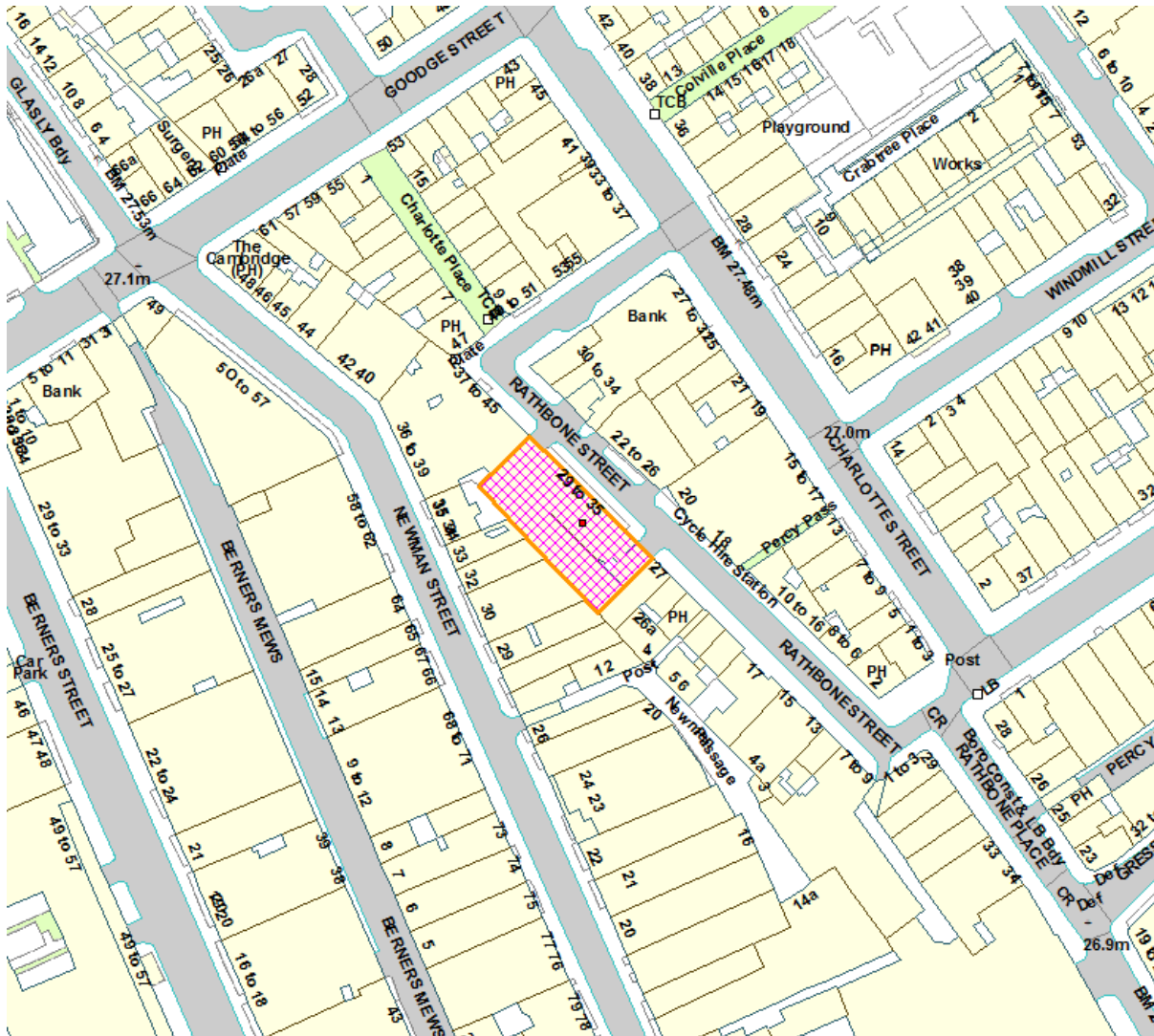
The key issues in this case are:

- the acceptability of the proposals in land use terms
- impact of the proposed alterations both upon the appearance of the building and the character and appearance of this part of the Charlotte Street West conservation area and
- the impact of the proposed restaurant use on the amenity of neighbouring residents.

The proposal is considered acceptable in land use terms. An objection has been received on the grounds that the introduction of another entertainment use in the area is unacceptable in principle and would have an adverse impact upon the amenities of local residents, particularly in terms of nuisance from increased taxi traffic. However, this is a vibrant area with a mixture of residential and commercial

uses and it is not considered that the introduction of the proposed restaurant use, nor associated increase in taxi movements, would have a significant impact. Subject to operational conditions for the restaurant and new gym uses, and conditions relating to the design and use of rear terraces, the application is considered acceptable on amenity grounds. However, the proposed second and third floor rear extension, and the third floor extensions (front) to either side of the central pavilion, are considered unacceptable in terms of terms of their detailed design and their consequent impact on the appearance of the existing building and this part of the conservation area, and the application is therefore recommended for refusal.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS









## 5. CONSULTATIONS

### FITZROVIA NEIGHBOURHOOD ASSOCIATION

Objection: restaurant will exacerbate existing nuisance in this narrow one-way street caused by taxis dropping off/collecting customers visiting entertainment uses in the area; this area has a large residential population and is unsuited to a large number of entertainment uses

Scheme previously presented to residents included a residential element, which was welcomed, but this has since been removed from the application.

### HIGHWAYS

No objection subject to conditions

### CLEANSING

No objection subject to the designation of waste bins

### ENVIRONMENTAL HEALTH

No objection subject to conditions. Consideration should be given to the impact of the restaurant operation on residents' amenities and appropriate conditions imposed.

### BUILDING CONTROL

Construction methodology appears acceptable

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 114

Total No. of replies: 1

No. of objections: 1

No. in support: 0

Generally supports the proposals assuming that there have been no material changes to the plans previous presented to residents but concerned that the kitchen extract duct does not now appear to discharge at roof level.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is an unlisted building of merit, dating from the 1920s, located at the northern end (west side) of Rathbone Street within the Charlotte Street West conservation area. The site is within the core Central Activities Zone, outside of the designated stress areas, and close to the boundary with the London Borough of Camden.

The existing, handsome, building is formed of red brick and Portland stone and comprises basement, ground and three upper floors. There is a vehicular access at the southern end leading to a yard area at the rear of the site, which is covered by a glazed pitch roof. There is a separate pedestrian access to this yard, through the building, at the northern end of the site. Ground floor windows have high cills, reflecting the original use of the building, resulting in little connectivity between the building and the pavement beyond.

At third floor level, the accommodation is set back from the street frontage at both ends of the front facade, forming two roof/terrace areas to the front, with flat roofed accommodation at the rear. A conservatory extension has been erected on part of the southern roof. At the centre of the site, the accommodation is topped by a high pitched roof.

The application building has a lawful use for Class B1 purposes. Part of the building is still occupied. The applicants have advised that the last tenant is likely to vacate in January 2017.

This is a vibrant area characterised by a mixture of commercial and residential uses. Rathbone Street is a one-way “dog leg” running between its junction with Percy Street, at its southern end, and Charlotte Street at its eastern end (both LB of Camden). The lower floors of the Rathbone Street properties are largely in commercial use with various shops, an art gallery, offices, restaurants at nos. 4 (rear of 5 Charlotte Street), 11 and 21 and 33, public houses at nos. 2, 23 and 47, the Rathbone Hotel (no 30) and the rear of the Charlotte Street hotel.

There are residential flats to the south of the site (no 27), directly opposite at 22-26 and at 18-20 Rathbone Street and to the north at no. 37-45 Rathbone Street. There are also flats to the rear at nos. 29, 32, 34-35 and 36-39 Newman Street.

The wider area is also characterised by a mix of uses, including a concentration of restaurant uses on Charlotte Street.

## 6.2 Relevant History

The status of the external courtyard has been the subject of discussions between officers and the applicants.

The applicants have advised that the building was originally occupied by The Gas Light & Coke Company. Structural drawings, dating from 1928, have been supplied which propose the erection of a roof over the external courtyard (and the installation of damp proofing), to provide a covered storage space. The applicants have advised that this space was designed to house equipment used to service and maintain street lights etc. Whilst the drawings indicate that the intention was to roof over only half of the courtyard, subsequent modifications resulted in only the southern end remaining uncovered. The applicants have advised that the ground floor of the building was used for general storage and that the yard provided additional ancillary space.



1980: Permission granted for the use of the basement and ground floors (including the covered yard) for light industrial purposes and the use of the first, second and third floor (and ground floor entrance) for office purposes. A condition required the light industrial space to be occupied before the office use commenced but there is no condition restricting the occupation of the lower floors to only light industrial use. Consequently, permission would not have been required to convert these floors to general office use.

The applicants contend that today the yard continues to provide ancillary space to the office use and that it is fully lit, has power and provides sheltered accommodation. Although they acknowledge that “at times in the past” this area has been used for office parking, this use has never been formalised through planning. However, it is noted that drawings submitted as part of pre-application proposals describe the area as a car park. Parking accommodation is excluded from floorspace calculations under the definition within the Unitary Development Plan). The application drawings now refer to a “covered area”.

In the absence of any planning conditions requiring the space to be used for a particular purpose (i.e. as a parking area) no permission would be required for any alternative use of this space. At the time of the officers’ site inspection, the rear area was vacant. Although the entire yard is covered by a roof (and the applicants have advised that it is fully lit and has power) it is not, in its current state, capable of being sensibly used as true office accommodation. There are external openings between the roof edges and the courtyard walls and there is a significant gap above the vehicular entrance gates which lead into the courtyard. Consequently, officers have previously taken the view that yard area is effectively an external space, which should not be included in the existing floorspace calculations. However, for the reasons outlined above, the applicants contend that the covered courtyard should be included as part of the existing floorspace.

Whilst the status of the rear area does not have any implications with regard to the acceptability of the proposals in land use terms, it may affect the applicant’s CIL liabilities, although this is not a matter for consideration in the determination of the planning application.

1982: Retrospective permission granted for the retention of a conservatory on the southern terrace fronting Rathbone Street.

## **7. THE PROPOSAL**

This application is for various alterations to the building including:

- The extension of the basement footprint to provide additional accommodation and the use of the basement as a gym with a ground floor entrance.
- The erection of a ground floor rear extension to the rear courtyard and the use of the ground floor as a restaurant (Class A3) with a dedicated off-street servicing bay
- Rear extensions at first and second floor levels, with office terraces on first to third floors; alterations to the rear roof, including the installation of rear dormer window to serve a new fourth

floor mezzanine level; the demolition of the third floor conservatory extension to the southernmost roof (fronting Rathbone Street) and the erection of extensions to the northern and southern roofs all to provide new office accommodation (Class B1).

- Alterations to the building elevations including the enlargement of ground floor windows; the removal of an access ramp within the front basement lightwell, its replacement with stairs to facilitate the introduction of new windows and doors to front basement lightwell
- The replacement of windows, the creation of a new office entrance; and the refurbishment of the entrance gates and decorative ironwork and railings.
- Installation of plant and kitchen extract equipment at roof level and within a lightwell at ground floor level. A separate sub-substation would be provided within the basement.
- The provision of a green roof
- Installation of rooflights within the front roofslope

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The schedule of existing and proposed land uses is as follows:

	Existing m2 (GEA)	Proposed m2 (GEA)	+/-
<b>Offices (B1)</b>	<b>2000</b>	<b>1582</b>	<b>- 418</b>
<b>(excluding rear yard/entrances)</b>	<b>1646</b>		<b>-64</b>
<b>Restaurant (A3)</b>	<b>0</b>	<b>428</b>	<b>+428</b>
<b>Gym (D2)</b>	<b>0</b>	<b>330</b>	<b>+330</b>
<b>Total</b>	<b>2000</b>	<b>2340</b>	<b>+340</b>
<b>(excluding rear yard/entrances)</b>	<b>1646</b>		<b>+694</b>

	Existing m2 (GIA)	Proposed m2 (GIA)	+/-
<b>Offices (B1)</b>	<b>1798</b>	<b>1376</b>	<b>-422</b>
<b>(excluding rear yard/entrances)</b>	<b>1470</b>		<b>-94</b>
<b>Restaurant (A3)</b>	<b>0</b>	<b>398</b>	<b>+398</b>
<b>Gym (D2)</b>	<b>0</b>	<b>261</b>	<b>+261</b>
<b>Total</b>	<b>1798</b>	<b>2035</b>	<b>+237</b>
<b>(excluding rear yard/entrances)</b>	<b>1470</b>		<b>+565</b>

### 8.1 Loss of offices

There would be an overall increase in commercial floorspace on the site but, depending on the status of the rear yard, the proposals would result in the loss of either 64 sqm (rear yard excluded) or 418 sqm (yard included) of Class B1 floorspace (GEA) and 94 sqm and 422 sqm (GIA) respectively.

Under City Plan policy S1, the loss of office floorspace is acceptable where the replacement use is for alternative commercial purposes. As the proposed new uses on the site are a restaurant and a commercial gym, which are both employment-generating, the loss of Class B1 floorspace is considered acceptable in land use terms.

Notwithstanding the overall reduction on office floorspace, the proposals would create larger, clear floorplates on the upper floors, with improved natural lighting and some external space. Additionally, the rationalisation of the interiors will improve the proportion of lettable floorspace and the installation of improved services will allow for increased occupancy levels, all of which would prove more attractive to future office tenants. The proposed layouts are suitable for a single occupancy or multiple lettings.

This site was the subject of previous pre-application proposals which included the introduction of a residential use on the upper floors of the building. The local amenity society has objected to the current application on the grounds that the application omits this residential use. However, the overall increase in (non-office) commercial floorspace on the site does not generate a requirement to provide new residential accommodation under revised policy S1 and this objection cannot be supported.

#### 8.1. 2 New restaurant

The scheme would provide a new restaurant at ground floor level (428 sqm GEA), including a new extension within the rear yard area.

The site lies inside the core CAZ, but outside of the designated Stress Areas. Given the size of the proposed restaurant UDP policy TACE 8 applies. This states that permission for new restaurant uses will generally be granted where the Council is satisfied that the proposal would have no adverse effect (nor, taking into account the number and

distribution of entertainment uses in the vicinity, any cumulatively adverse effect) upon residential amenity or local environmental quality as a result of noise, vibration, smells, increased late night activity, increased parking and traffic; and no adverse effect on the character and function of the area.

In assessing the acceptability of the proposed restaurant use, the Council will have regard to various factors including the number of customers who may be present on the premises, opening hours, arrangements to be made to safeguard amenity and prevent smells, noise and vibration disturbance (including that from the use of ventilation and air conditioning plant) from the premises, servicing arrangements and arrangements for the storage and disposal of waste and recyclable material. Where necessary and appropriate, conditions will be imposed to control aspects of the proposed use.

City Plan policy S24 requires proposals for new entertainment uses to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

The local amenity society has objected to the principle of the new restaurant use, considering that this part of Fitzrovia is becoming a “stress area” and is unsuitable for such a large number of entertainment uses given its residential population. One neighbouring resident has written in general support of the application, No other comments have been received.

As detailed above, this part of the city is characterised by a mixture of uses with a number of entertainment premises in Rathbone Street itself, including three historic public houses, and in neighbouring streets (many of which fall within the London Borough of Camden). Given the vibrant character of the area, it is not considered that the introduction of a new restaurant use on this site would have a significant effect upon the character or function of the area and this aspect of the scheme is therefore considered acceptable in land use terms. The impact of the restaurant use on residents’ amenities and the local highway network is discussed in the section 8.3 below.

### **8.1.3 Proposed gym**

The scheme also proposes the introduction of a gym use (Class D2) at basement level (330 sqm) which includes the excavation of an additional area to house the plant room for the gym (and shower facilities for the offices).

UDP policy SOC 1 deals with the provision of new social and community facilities (both public and private) in general and requires new facilities to be located as near as possible to the residential areas they serve, to have no adverse impact on the amenity of the surrounding area, including the effect of any traffic generated by the use, and to be safe and easy to reach on foot, by cycle and by and by public transport. The public use of private facilities in new developments will also be sought. More specifically, policy SOC 7 deals with proposals for indoor leisure facilities (and libraries) and requires these to include facilities for local community arts or social activities, where appropriate. City Plan policy S34 encourages new social and community uses, including health and leisure facilities.

Given this policy context, the provision of new gym at basement level is considered acceptable in principle in land use terms. In view of the small size of the gym, it is not considered that it would be appropriate to require the applicants to provide additional public facilities. A condition would be required to limit the space to a gym use.

## 8.2 Townscape and Design

The existing building is a handsome structure with a strong presence in the street, to which it makes a positive contribution, except that at roof level there is a highly obtrusive and incongruous conservatory. The rear facade of the building is a simplified version of the front and is concealed at ground floor level by a glazed roof over the yard area.

Noting the formal, classically inspired, architectural composition of the building and its positive contribution to the conservation area it is essential that, in design terms, any alterations will not detract from the character and appearance of the building and conservation area.

New and altered basement windows, increasing the size of the ground floor windows facing the street by lowering their sills, and reducing the height of the railings' plinth are acceptable. However, most of the proposed alterations are not acceptable.

Whilst not exactly symmetrical at the rear, the overall balance of the composition must be maintained. However, the rear extension is a dramatic off-centre addition. It is so large and badly positioned that it would severely compromise the architectural quality of the rear facade of the existing building. The extensions at third floor level, on either side of the central pavilion, would detract from the appearance of the building by reducing the prominence of the primary feature of the street facade.

Whilst there is no objection, in principle, to altering and extending the building at the rear, the extension must be symmetrical and any high level alterations at the front must be subordinate to the building and sympathetic to its detailed design.

The benefits of the scheme in terms of removing the conservatory are comprehensively outweighed by the harm caused the building's appearance by the proposed extensions at the rear and at third floor level. This is contrary to UDP policies DES 1, DES 5, DES 6 and DES 9, and the City Councils 'Development and Demolition in Conservation Areas' supplementary planning guidance.

## 8.3 Residential Amenity

### 8.3.1 Impact of restaurant use

The Fitzrovia Neighbourhood Association has objected to the proposed restaurant use on the grounds there are already several restaurants and public houses in the street, resulting in a busy area with taxis picking up/dropping off restaurant and bar customers. They consider that the introduction of another entertainment use would exacerbate

existing levels of nuisance associated with taxi movements, in this narrow, one-way street, which would be further detrimental to residential amenity.

The Environmental Health Officer has also requested that due consideration be given to the impact of the use on residents' amenities including in terms of the hours of operation. This is a speculative restaurant proposal but the applicants are aware of the potential impact of increased evening activity upon neighbouring occupiers. This is a speculative proposal but is supported by an Operational Management Plan which details various measures designed to ensure that the potential impact on residents' amenities would be ameliorated. These include:

- A maximum customer capacity of 180, including any ancillary bar areas. (The applicants have advised that this figure is based on calculations relating to means of escape and plant requirements)
- Opening hours of 08.00 to 23.00 on Monday to Friday; 08.00 to 24.00 (midnight) on Saturday and 09.00 to 22.30 on Sunday.
- Control of restaurant servicing hours between 0700 and 1100 hours.
- The creation of an internal forecourt to the restaurant for customers to gather on arrival/departure, within the restaurant demise
- Front of house staff trained to support customers' arrivals/departures, including arranging for taxi collections
- Requirement that any background music played within the restaurant is not audible outside the premises
- A reservations protocol, which could include staggered sittings times to minimise the impact of arrivals/departures
- Notices asking smokers to respect neighbours' amenities and dispose of refuse responsibly
- Management of staff who will be prevented from congregating outside of the premises
- Dedicated telephone numbers made available for residents' complaints. (Details would need to be provided to demonstrate how this would be advertised).

The applicants anticipate that a finalised OMP will be agreed once an operator is identified.

The proposed terminal opening hours accord with the core hours set down in the Council's Statement of Licensing Policy (January 2016), which are: 10:00 to midnight on Fridays and Saturdays; midday to midnight on Sundays immediately prior to Bank Holidays; midday to 22:30 on other Sundays; 10:00 to 23:30 on Mondays to Thursdays. These are considered to be reasonable.

Subject to conditions including those controlling the capacity of the premises, servicing hours, a requirement for all restaurant windows to be closed and for no music to be audible outside the premises, and the submission of a finalised OMP once an operator is identified, it is not considered that the proposed use would have a materially harmful impact on neighbouring residential amenity.

Given that the area is already subject to taxi/mini cab traffic, it is not considered that the additional demand generated by the proposed use would have a significant impact on the general living environment of the area.

The proposed restaurant in the development is therefore considered acceptable.

### **8.3.2 Impact of gym use**

The proposed gym use is also speculative and the application is supported by a draft Management Plan which includes a commitment that a dedicated telephone number would be provided for residents to discuss any concerns regarding the operation of the premises. The proposed operating hours (originally 07.00 to 23.00 on Monday to Friday; 08.00 to 24.00 (midnight) on Saturday and 09.00 to 22.30 on Sunday) have since been amended, to between 0700 and 22.00 hours, on officers' advice.

However, subject to controls over the hours of gym use and a condition requiring all windows to the gym to be fixed shut and to prevent any music played from being audible outside the premises, it is not considered that this use would have a material impact on neighbouring residential amenity.

### **8.3.3 Sunlight and Daylight**

UDP Policy ENV13 seeks to protect existing premises, particularly those in residential use, from the impact of new development and to ensure that neighbouring properties do not experience and material loss of daylight or sunlight, increased sense of enclosure to windows or a loss of privacy. Similarly, policy S29 states that the Council will resist development proposals which result in a material loss of amenity to existing residents.

#### **8.3.3.1 Daylight and sunlight**

The application is supported by a daylight and sunlight report which assesses the impact of the proposed development on levels of daylight and sunlight received to neighbouring properties including flats in building opposite the site, to the north and to the rear in Newman Street.

The proposed restaurant extension at rear ground floor level would sit behind the existing rear site boundary wall, which would be increased in height by 0.8m.

The first and second floor office extensions are sloped away from the rear site boundary, and extend to the southern boundary with 27 Rathbone Street (which is in residential use on the upper floors), but are set away from the rear of flats on the northern site boundary at 37-45 Rathbone Street.

Further extensions are proposed (new and replacement) on third floor flat roofs at the front of the building, in front of the line of the existing accommodation.

##### **8.3.3.1.i Daylight**

In assessing daylight measuring the Vertical Sky Component (VSC) is the most commonly used method. It is a measure of the amount of light reaching the outside face of a window.

If the VSC achieves 27% or more, the BRE advise that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The BRE stresses that the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances.

The distribution of daylight within individual rooms can also be assessed using the No-Sky Line (NSL) test. The BRE guideline states that where a significant proportion of the working plane (which can receive direct skylight) lies beyond the NSL, the distribution of daylight within the room will seem poor and supplementary electric lighting will be required. The British Standard suggests that a significant area would be more than 20%. However, it is acknowledged that if an existing building contains single aspect rooms, which are particularly deep, then a greater movement of the NSL line may be unavoidable. In all cases, testing need only be undertaken in the case of habitable rooms.

The submitted analysis shows that for windows on the first to fourth floors of 18-20 Rathbone Street and the second to seventh floors of 22-26 Rathbone Street, (opposite the site), the maximum reduction in VSC would be at 2%. In many cases, there would be a marginal improvement over existing levels. All windows on the upper floors would continue to receive a VSC of 27% or more. Any reductions in NSL are also below 20% and many rooms will experience some slight improvements.

To the rear of the site, at nos. 29, 32-33 and 34-35 Newman Street, there would be reductions in VSC to some ground to third floor windows, at 6% or less, but other windows would not be affected. Again, any reductions in NSL would be well below 20%.

At 37-45 Rathbone Street, where some rear windows face towards the proposed rear extensions, the maximum loss of VSC would be 11%, and most losses would be below 5%. The maximum reduction in NSL would be 4%.

The original analysis has been updated to include an assessment of the adjacent property at 27 Rathbone Street. This shows that reductions in VSC at second floor level are at a maximum of 7.73% and that third floor windows would continue to receive VSC values above the 27%. Where there are reductions to NSL to these rooms, these are at a maximum of 1.6%

#### **8.3.2.1.ii Sunlight**

The BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours (APSH), including at least 5% of annual winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values. Only habitable rooms facing within 90 degrees of due south require assessment.

The sunlight analysis shows that most room at 18-20 and 22-26 Rathbone Street will continue to receive good sunlight levels with only five windows seeing any loss of annual sun (maximum 4%), and most continuing to receive annual sunlight levels exceeding 25% and winter sunlight values of 5% or more.



In the case of the other windows tested at 32-33 Newman Street and 37-45 Rathbone Street, only one window would see any loss of summer sun (5%). Other windows would experience no losses of summer sun and all windows would continue to receive adequate winter sunlight levels.

At 27 Rathbone Street, there would be no loss of sunlight to second floor windows and Third floor windows would continue to receive annual and winter sunlight values well above the target.

In these circumstances, the proposals would have no material impact on levels of daylight or sunlight received to neighbouring properties and they would therefore continue to be well lit.

#### **8.3.2.2 Sense of enclosure**

Given the form of the proposed extensions and their relationship with neighbouring properties, it is considered that the development would result in no material increase sense of enclosure to adjacent residential windows.

#### **8.3.2.3 Overlooking/use of terraces**

The application involves the creation of office terraces at rear first to third floor levels. While the first floor terrace would be set away from the northern site boundary, behind a lightwell and green roof, and the second floor terrace stepped further back from this boundary, these proposed terraces would be close to the rear of residential properties at 32, 34-35 and 36-39 Newman Street. However, it is proposed that 1.8m privacy screens would be installed in some locations. Subject to these privacy screens being provided on all open sides of these terraces, it is not considered that the use of these spaces would have no significant impact on residential privacy.

The third floor terrace would look towards the rear of the Newman Street properties, running along a strip of flat roof to the second floor extension, with the sloping glass roof falling away beneath. Given that this terrace is set further back from the boundary with the Newman Street properties, it is considered that its use would not afford direct views into neighbouring flats to the north and east of the site.

Given the proximity of windows within the first and second floor rear extension to the rear site boundary, it is considered that it would be appropriate to require these windows to be fully obscurely glazed. Due to their relationship with neighbouring properties, it is considered that the new dormer window in the rear roofslope or the new and replacement third floor extensions at the front of the building would result in no material loss of privacy to flats at the rear or those opposite the site.

The new terraces, particularly those on the lower floors, are formalised spaces (and there would appear to be some likelihood that the flat roof was used as ad hoc terraces in the past). Given their size, they have the potential to accommodate numbers of office workers and in view of their proximity to neighbouring flats it is considered that it would be appropriate to limit their use to between 0900 to 1900 hours, on Monday to Fridays only, in order to safeguard the amenities of residents in flats at the rear.

## 8.4 Transportation/Parking

The site is extremely well served by public transport and is within walking distance of several underground stations and close to numerous bus routes. There is also a cycle docking station nearby.

### 8.4.3 Parking/traffic generation

The Highways Planning Manger considers that the impact of the proposals on parking levels in the area is likely to be insignificant. The site is located within a Controlled Parking Zone and anyone visiting the premises will be subject to existing parking controls.

It is likely that most people would visit the office and gym using public transport, cycles or on foot. Visits to the restaurant are most likely to be made using public transport or taxi.

The local amenity society has expressed concern about the potential impact of additional taxi/minicabs traffic visiting the proposed restaurant on the basis that this is a narrow one-way street. However, they have acknowledged that the street is already subject to high volumes of taxi traffic and it is not considered that any additional demand generated by the proposed restaurant use would have a significant impact on the level of traffic generation in the area. (The impact of taxi movements on residents' amenity is discussed on section 8.3).

The scheme would provide 22 cycle parking spaces for the office use, three long and three short stay spaces for the restaurant use and 5 spaces for the gym use, together with shower and storage facilities for the offices. This level of provision accords with the requirement of the Further Alterations to the London Plan and would be secured by condition. Access stairs within the basement lightwell will incorporate an integrated cycle rail.

### 8.4.2. Servicing

The restaurant would be served from the off-street servicing bay created within the existing vehicular access to the rear yard. There is sufficient space for a service vehicle to reverse into the servicing area and leave the site in forward gear. (This area would provide customer access into the restaurant at other times). The provision of this off-street servicing bay is welcomed and a condition is recommended requiring this space to be provided and maintained.

The applicants have advised that restaurant servicing will take place between 0700 and 1100 hours in order to safeguard neighbouring residential amenity. The servicing area also accommodates the entrance to the restaurant. While the proposed servicing hours would coincide with restaurant opening hours (from 0800 hours), the applicants consider that as the breakfast/mid-morning service is likely to be less intensive than the more formal lunchtime/evening services, and with sensible management of the entrance area, this arrangement would work satisfactorily, particularly as the use would generate only 6-7 deliveries by vehicle per day.

The offices and gym would be serviced from the street where there are adjacent single yellow lines (and double yellow lines where restrictions permit) in the vicinity of the premises. As the servicing needs of the offices and gym would be modest, these arrangements are considered appropriate.

## **8.5 Economic Considerations**

The economic benefits generated by the scheme are welcomed

## **8.6 Access**

Level access to the building will be provided via all entrances.

Each office floor will be served by a DDA compliant lift and WC facilities will be provided on each floor, including those for disabled people. All external areas will be created with a level threshold.

Gym access would be via the basement lightwell stairs and also via a DDA compliant lift the lift within the ground floor entrance.

No WC facilities are currently indicated for the gym or restaurant uses, including facilities for disabled customers, as the layouts of these premises will be subject to tenants' requirements, but will be required under the relevant legislation.

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

### **8.7.3 Plant and ventilation equipment**

New plant will be provided within a ground level courtyard/lightwell and within enclosures at either end of the roof, the southern enclosure replacing an existing plant room.

The application is supported by an acoustic report which has been assessed by the Council's Environmental Health Officer who has confirmed that with attenuation measures, the plant operation is likely to comply with standard noise conditions and has raised no objection to the part of the application subject to standard conditions relating to plant noise and vibration. (The submitted acoustic report does not include details of premises operating hours).

The applicants have advised that the restaurant plant would operate one hour before and one hour after restaurant opening (i.e. between 07.00 and midnight on Monday to Friday; 07.00 to 01.00 the next morning on Saturday and 08.00 to 23.30 on Sunday).

Gym plant would operate up to 30 minutes before and after gym operating hours.

Subject to conditions relating to plant noise and vibration, it is not considered that the plant operation would adversely affect neighbours' amenities. However, it would be appropriate to restrict the hours of plant operation for all proposed uses (excluding refrigeration plant).

The kitchen extract duct for the restaurant is shown on the application drawings and would discharge at roof level. The Environmental Health Officer has raised no objection to the proposed arrangements thereby addressing the concerns raised by one local resident regarding the acceptability of the proposed kitchen extract system.

#### **8.7.2. Refuse /Recycling**

The submitted plans show storage areas for refuse and recyclable materials for all proposed uses. The Project Officer (Waste) has raised no objection to the scheme in principle subject to the submission of revised plans identifying the separate storage containers for general waste, recycling and food waste for the individual uses, as appropriate, and showing the storage location for waste cooking oil for the restaurant. This would be dealt with by planning condition

#### **8.7.3 Biodiversity and Sustainability**

The application involves extensions to a relatively old, 1920s building. The new building fabric will improve levels of building insulation and thermal protection. Energy efficient water and lighting systems will be installed and all plant will be renewed. The scheme will include an air source heat pump. The application is supported by an energy strategy which indicates that the proposal will achieve a minimum 16% reduction in carbon dioxide emissions over Part L of the Building Regulations. Given the scale and nature of the development, this is considered acceptable

There is currently no soft planting at the site. The scheme introduces some new landscaping and planting. A green roof is indicated, which could be secured by condition. There would also be the opportunity to introduce some planting on the office terraces. Overall, the development would make some contribution to the bio diversity of the area, and this is welcomed.

#### **8.7.4 Construction impact**

The application site is entirely covered by buildings and a hard surface, beneath a glazed roof, which extends to the site boundaries. The existing basement level accommodation extends beneath part of the site. The application involves a small extension to the basement footprint at the north-western part of the site, beneath the existing rear service yard, rather than the excavation of additional basement level. This accommodation would provide a plant room for the gym and showers/changing rooms for the offices.

City Plan policy CM28 relates to applications for basement development and requires these to demonstrate that they have taken account of the site-specific ground conditions, drainage and water environment(s) in the area of the development. Applications are required to be accompanied by a detailed structural methodology statement, with a separate flood risk assessment, where appropriate and an undertaking from the applicant that they will comply with the relevant parts of the Council's Code of Construction Practice. Developments are also required to safeguard the structural stability of the existing building, adjacent buildings and other infrastructure and should not increase or otherwise exacerbate flood risk on the site or beyond, and should be designed and constructed to minimise the

impact at construction and occupation stage on neighbouring uses and occupiers or users of the highways.

In the case of non-residential development adjoining residential properties, where there is potential for an impact on those adjoining properties, the scheme must provide a satisfactory landscaping scheme incorporating permeable surfacing as appropriate; use the most energy efficient means of ventilation, and lighting, involving the lowest carbon emission, incorporate sustainable urban drainage measures to reduce peak rate of run-off and protect the character and appearance of the existing building

The application was submitted prior to the adoption of the revised City Plan and new arrangements relating to the Code of Construction Practice. However, it is supported by a Construction Management Plan and various technical reports, including a Construction Methodology Statement. These reports have been assessed by the Building Control Officer who has advised that an investigation of existing structures and geology has been undertaken in sufficient detail and that the existence of groundwater, including underground rivers has been researched. He has also confirmed that the likelihood of local flooding or any adverse effects on the water table is negligible, that the proposed basement construction method is appropriate and that proposals to safeguard adjacent properties during construction works are acceptable.

As the entire site is covered by buildings and impermeable surfaces, and given the nature of the proposed development, it is not considered appropriate to require the incorporation of landscaping proposals.

Had the scheme otherwise been considered acceptable, Officers would have sought an undertaking from the applicants to comply with the relevant parts of the Council's Code of Construction Practice which includes an annual capped payment for site monitoring.

## **8.8 London Plan**

This application does not raise any 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**

The development does not trigger a requirement for any planning obligations.

The applicants consider that the outside area should be included in the calculation of existing floorspace, on the basis London Plan Supplementary Planning Guidance relating to the Mayoral CIL, states that “open sided covered area(s)” should be included. On this basis, the existing floorspace, (1798 sqm GIA) would be greater than the chargeable floorspace of 1774 sqm GIA) (the gym and sub-station would not attract a CIL payment), and the scheme would not be CIL liable.

However, on the basis that the existing rear yard and entrances are not included within the existing floorspace figure, there would be an increase in chargeable floorspace. There is an overall increase in floorspace (GIA) of 565 sqm. Of this, taking into account the loss of offices (94 sqm) and the fact that the gym (261 sqm) would not be CIL liable (the sub-station is also excluded), the balance of 398 sqm, the restaurant, would be CIL liable. It is estimated that this levy would be £79,600.

The scheme’s CIL liability is subject to final verification by the Westminster CIL officer.

### **8.11 Environmental Impact Assessment**

The application is not of a scale to require the submission of an Environmental Impact Assessment. Other environmental considerations are covered elsewhere in this report.

### **8.12 Conclusion**

Whilst, subject to appropriate conditions, the proposals are considered acceptable in land use and amenity terms, for the reasons outlined above, it is considered that the proposed extensions, by reason of their detailed design, would have an adverse impact upon the appearance of the existing building and would fail to preserve or enhance the character and appearance of this part of the Charlotte Street West conservation area and the application is therefore recommended for refusal.

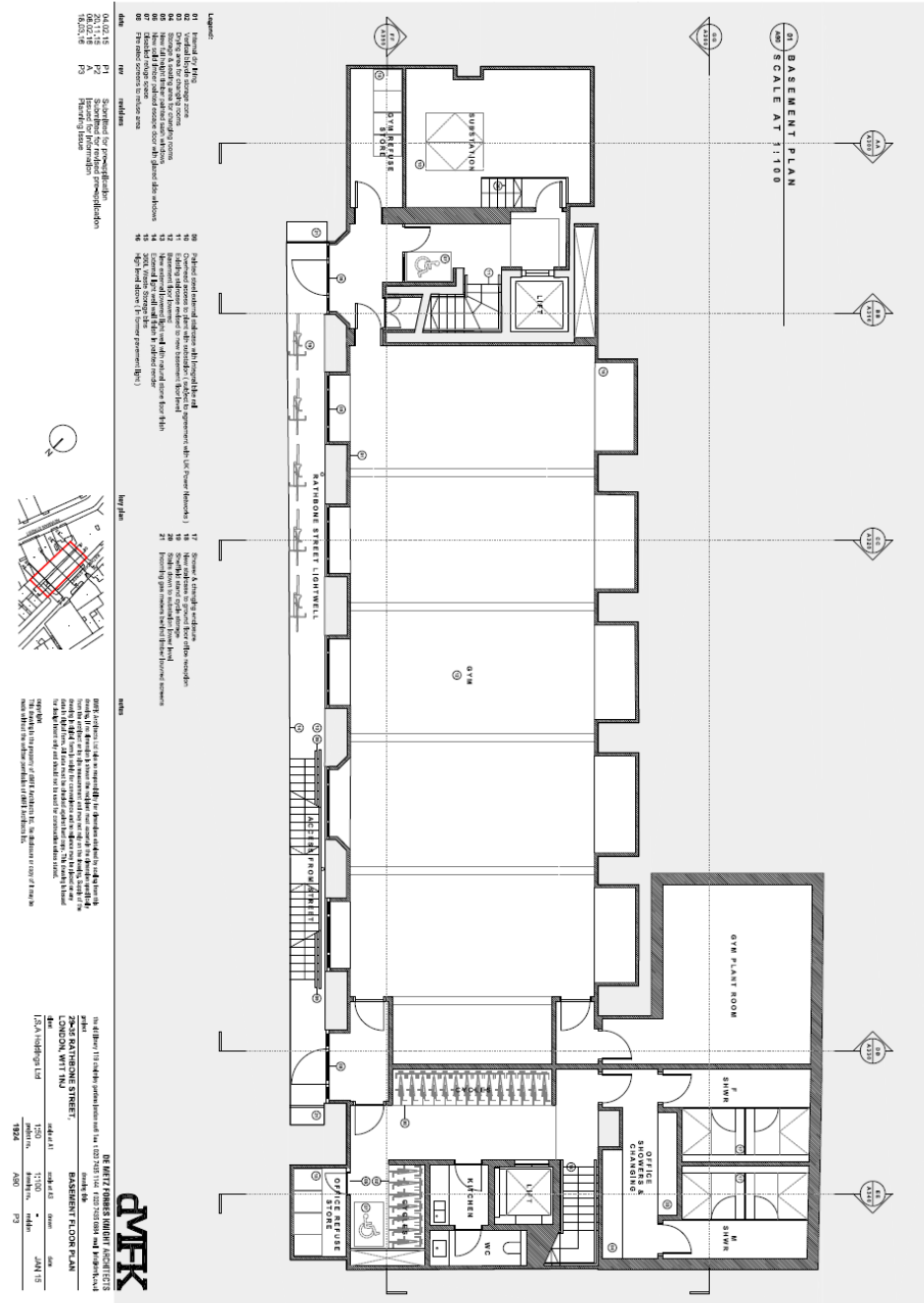
1. Application form
2. Letter from the Fitzrovia Neighbourhood Association dated 30 April 2016
3. Memorandum from Environmental Health dated 17 August 2016.
4. Response from Building Control dated 15 September 2016
5. Memorandum from Highways Planning dated 8 June 2016
6. Memorandum from Project Manager (Waste) dated 25 April 2016
7. Letter from occupier of Flat 1A, 34-35 Newman Street, dated 14 May 2016

### **Selected relevant drawings**

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER AT [SSPURRI@westminster.gov.uk](mailto:SSPURRI@westminster.gov.uk).

## Page 280

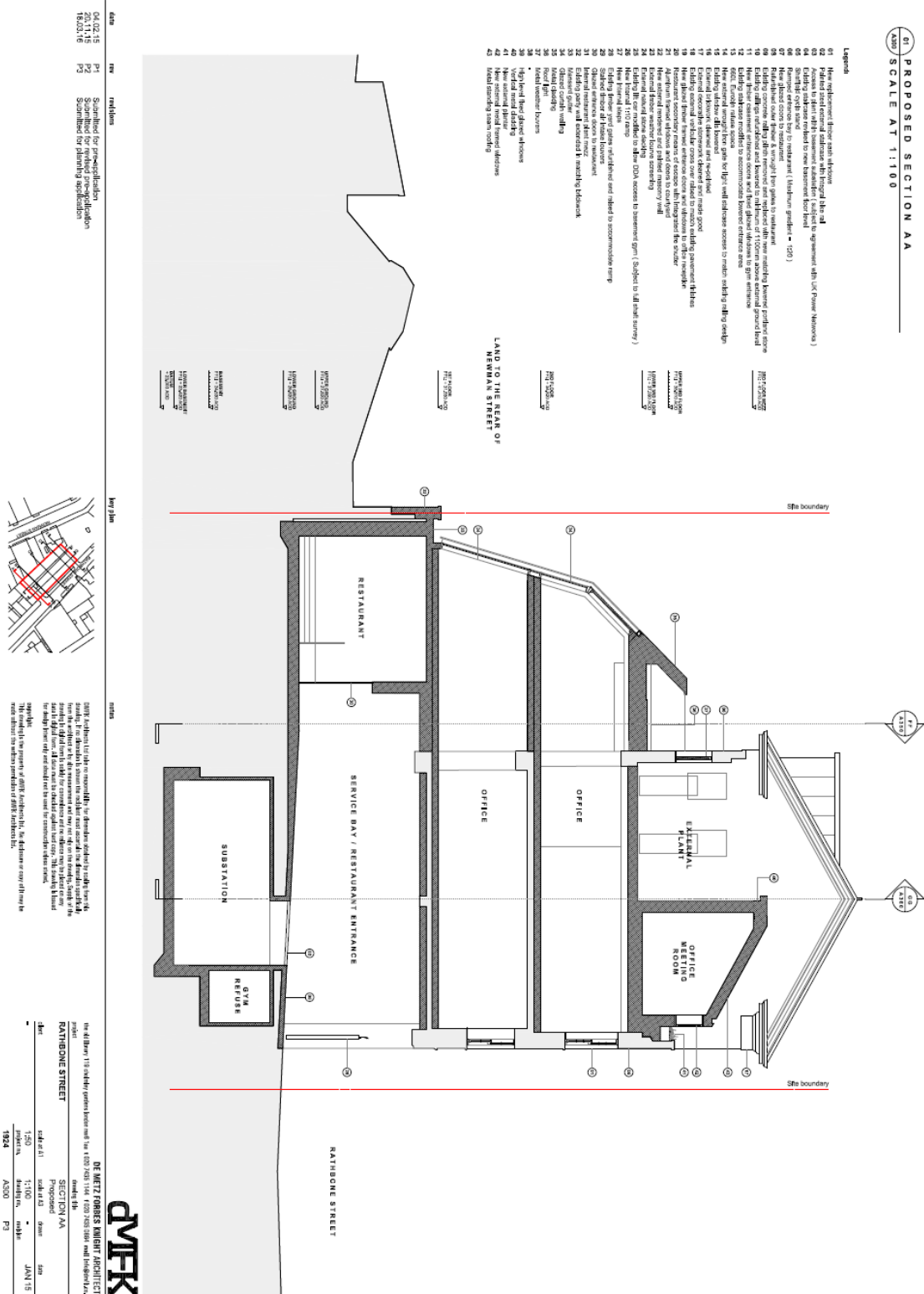




[illegible]

**Legend**

49. ...and the respondent's gender (male/female) and age.
50. ...and the respondent's education level (high school or less, college, or postgraduate).
51. ...and the respondent's income (less than \$10,000, \$10,000 to \$14,999, \$15,000 to \$24,999, \$25,000 to \$34,999, \$35,000 to \$49,999, \$50,000 to \$74,999, \$75,000 to \$99,999, \$100,000 or more).
52. ...and the respondent's race (white, black, other).
53. ...and the respondent's ethnicity (Hispanic/Latino, non-Hispanic/Latino).
54. ...and the respondent's marital status (single, married, divorced, widowed, separated).
55. ...and the respondent's number of children (0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784,



91 REVISED REAR ELEVATION  
A210 SCALE AT 1:100



Legend

- |  |  |   |
|--|--|---|
| 01 Existing brick rear access gate refurbished for service bay use                 | 13 Existing portland stone facade features cleaned and made good | 25 Party wall adjacent to adjacent property   |
| 02 New access to Gym entrance  | 14 New double glazed top hung brick casement windows             | 26 Third placed the rated PVC coated metal frame curtain walling                    |
| 03 New stained timber & glass Gym entrance doors                                   | 15 Existing grey slate roof replaced for new matching            | 27 Overhead placed the rated metal frame curtain walling                            |
| 04 Reducted black painted cast iron railings                                       | 16 New vertical masonry roof cladding                            | 28 Green roof   |
| 05 New park stone arch   | 17 New portland stone parapet wall capping                       | 29 White painted brick boarded corners  |
| 06 New white painted sash windows with inward lifts to restaurant                  | 18 New vertical masonry cladding to shed enclosure               | 30 Single sly masonry front gutter  |
| 07 Existing glass painted cast iron rain water pipes extended externally to ground | 19 Metal frame sliding windows                                   | 31 Existing window removed  |
| 08 New change entrance entrance  | 20 New glass railings to terraces                                | 32 Existing window sly removed and converted to white painted timber and glass door |
| 09 New design front lighting   | 21 Office terrace  | 33 Poling system to office terrace  |
| 10 New stained timber and glass entrance doors to office                           | 22 New white painted brick sash windows                          | 34 PVC aluminum weather flume to existing window opening                            |
| 11 Replacement masonry of the existing brick sash windows with DO double units     | 23 New central door sly door                                     |   |
| 12 Building entrance cleaned and repointed to match existing                       | 24 Existing sly door terrace                                     |   |

date	rev	revisions
04.02.15	P1	Submitted for pre-application
25.11.15	P2	Submitted for pre-application
16.03.16	P3	Submitted for planning application

key plan



notes

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92 EXISTING REAR ELEVATION  
A210 SCALE AT 1:100



date	rev	revisions
16.03.16	P1	Planning Issue

key plan



notes

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61 PROPOSED FRONT ELEVATION  
A00 SCALE AT 1:150



Legend:

- 01 Existing brick rear access gate refurbished for service lay out
- 02 New barriers to open entrance
- 03 New shallow brick to glass open entrance doors
- 04 Polychrome black cast-iron cast iron railings
- 05 New painted gate posts (PVC)
- 06 New white painted rear entrance with basement stairs to basement
- 07 Existing black painted rear entrance with basement stairs to basement
- 08 New stone above entrance
- 09 New stone above entrance
- 10 New stone above entrance
- 11 New stone above entrance
- 12 Existing brickwork cleaned and repointed to match existing
- 13 Existing roofline above terrace restored and made good
- 14 New double glazed top hung brick entrance windows
- 15 Existing grey stone roof replaced with new roof tiles
- 16 New vertical green metal roof cladding
- 17 New roof brick stone concrete roof cladding
- 18 New existing access gate to basement stairs
- 19 New stone above entrance
- 20 New stone above entrance
- 21 New stone above entrance
- 22 New stone above entrance
- 23 New stone above entrance
- 24 New stone above entrance

- 25 Party wall structure to adjacent property
- 26 New double glazed top hung brick entrance windows
- 27 Existing grey stone roof replaced with new roof tiles
- 28 New vertical green metal roof cladding
- 29 New roof brick stone concrete roof cladding
- 30 New existing access gate to basement stairs
- 31 New stone above entrance
- 32 New stone above entrance
- 33 New stone above entrance
- 34 New stone above entrance
- 35 New stone above entrance
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- 49 New stone above entrance
- 50 New stone above entrance

date	rev	revision
04.02.15	P1	Submitted for planning application
25.11.15	P2	Submitted for revised planning application
16.03.16	P3	Submitted for planning application



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project			
25-26 RATHBONE STREET, LONDON, W1T 1LJ			
drawing title			
FRONT ELEVATION			
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1:150			
drawing no.			
1924			
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A20			
P3			

61 EXISTING FRONT ELEVATION  
A00 SCALE AT 1:150

date	rev	revision
16.03.16	P1	Planning issue



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date			
MAY 14			
drawing no.			
A20			
P1			

**DRAFT DECISION LETTER**

**Address:** 29-35 Rathbone Street, London, W1T 1NJ,

**Proposal:** Alterations and extensions at basement, rear and roof level and partial change of use to provide a gym (Class D2) at basement, restaurant (Class A3) at ground floor and offices (Class B1) at first to third floor and fourth floor mezzanine with terraces, and installation of plant at third floor

**Reference:** 16/02884/FULL

**Plan Nos:** 1924/A90/P3, A100/P3, A110/P3, A120/P3, A130/P3, A140/P3, A150/P3; A200/P3; A200/P3, 205/P3, A210/P3, A2000/P1, A2010/P1, A2020/P1, A2030/P1, A300/P3, A310/P3, A320/P3, A330/P3, A340/P3, A350/P1, A360/P3,

**Case Officer:** Sara Spurrier

**Direct Tel. No.** 020 7641 3934

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

1 Reason:

Because of their size, design, and location, the rear and third floor extensions would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the Charlotte Street West Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 5, DES 6, DES 9 and paras 10.108 to 10.128 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 so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (July 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

Item No.
<b>7</b>

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.

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Regent's Park	
Subject of Report	4 - 6 St Edmund's Terrace, London, NW8 7QP		
Proposal	Demolition of the existing buildings and redevelopment of the site to provide a six storey building comprising 9 self contained apartments, basement level car parking, the provision of internal plant, cycle, refuse and recycling storage and the provision of roof level photovoltaic panels and brown roofs.		
Agent	Savills		
On behalf of	4 - 6 St Edmund's Terrace Ltd		
Registered Number	16/02747/FULL	Date amended/ completed	19 August 2016
Date Application Received	30 March 2016		
Historic Building Grade	Unlisted		
Conservation Area	Not in designated Conservation Area		

## 1. RECOMMENDATION

1. Grant conditional permission, subject to a S106 legal agreement to secure;
  - a) Car lift, stacker and turntable maintenance plan;
  - b) Highway Alterations including reinstatement of redundant vehicle crossovers (or portion of), new vehicle crossovers and associated work (legal, administrative and physical), all costs to be borne by the applicant;
  - c) Provision of 8 unallocated off street parking spaces for the development within basement to be made available to all residents of the development on an unallocated basis without restriction; and
  - d) The costs of monitoring the S.106 legal agreement.
2. If within six weeks of the resolution to grant conditional permission the S106 planning obligation has not been completed or there is no immediate prospect of the planning obligation being completed, then:
  - a) The Director of Planning shall consider whether it would be possible and appropriate to issue permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not

- b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete a S106 planning obligation within an appropriate timescale, and that the proposal is 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.

### 3. SUMMARY

Permission is sought for the redevelopment of the site to provide a new building comprising a single basement level, a lower ground floor, ground floor and five upper storeys to provide nine residential units with off-street car parking at basement level.

The key issues in this case are:

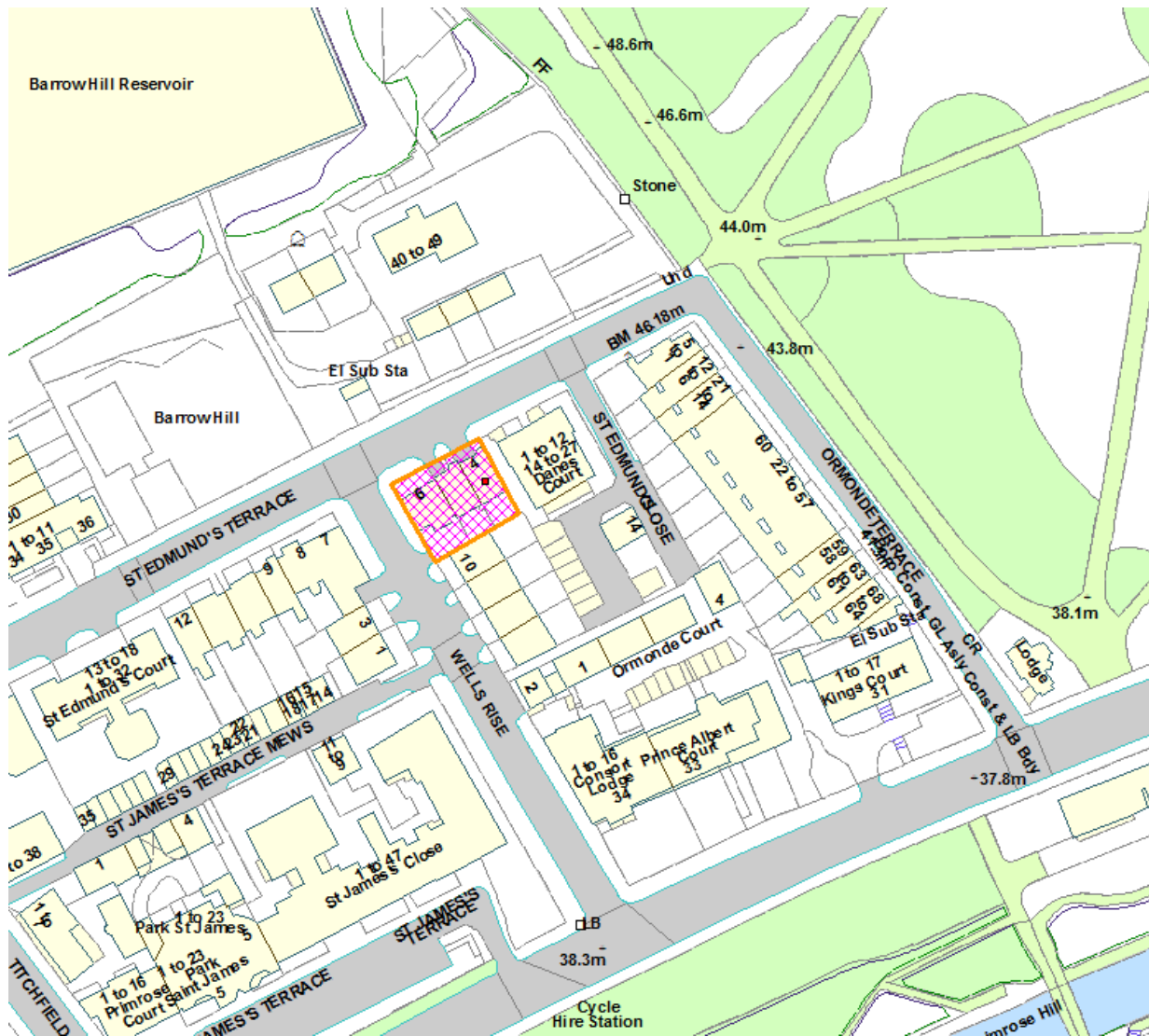
- The acceptability of the proposed residential accommodation.
- The impact of the proposed building on the character and appearance of this part of the City.
- The impact on the amenity of neighbouring residents.
- The impact of the proposal in transportation terms.

This is a resubmission following the refusal of a previous application for redevelopment of the site providing nine flats and a two storey basement. The reasons for refusal are included in the Planning History section of the report. The revised scheme responds to the reasons for refusal given in respect of the previously refused scheme and the applicant has made further revisions during the course of the application to address officer's remaining concerns. The revisions to the application have been the subject of further consultation with adjoining residents and other consultees.

The revised scheme is considered to have addressed concerns previously raised and as such the redevelopment would accord with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan) and as such, it is recommended for conditional approval.



#### 4. LOCATION PLAN



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## 5. PHOTOGRAPHS



St. Edmund's Terrace frontage (top) and Wells Rise frontage (bottom).

## 6. CONSULTATIONS

### RESPONSES TO CONSULTATION ON ORIGINALLY SUBMITTED SCHEME – APRIL 2016

#### WARD COUNCILLORS (REGENT'S PARK)

Any response to be reported verbally.

#### ST. JOHN'S WOOD SOCIETY

- The top floor of the building is overly dominant.
- We object to the double level basement.
- We request that the case officer carefully considers loss of light and privacy issues raised by residents in Danes Court and Wells Rise.
- Risk to street tree.
- Construction traffic and impact on St Christina's school.

#### ARBORICULTURAL MANAGER

- The possibility of root damage in the soil profile adjacent to the piled wall appears to be addressed in the construction methodology.
- Objects to basement curtilage, lack of soil depth, and plant bed for replacement tree in rear garden.
- Other landscape features without maintenance and irrigation details.

#### BUILDING CONTROL

The structural method statement is considered to be acceptable.

#### ENVIRONMENTAL HEALTH

- Means of escape appears from the top floor flat appears to be inadequate.
- Notes that further details of plant to follow.
- Recommends conditions to ensure mechanical plant complies with standard noise restrictions.

#### HIGHWAYS PLANNING MANAGER

No objection, subject to S106 legal agreement to secure the following; (i) maintenance and management plan for the car lift and stackers; (ii) highway works immediately surrounding the site required for the development to occur, consisting of reinstatement of pavement in place of redundant vehicle crossovers; and (ii) provision of car parking spaces on an unallocated basis.

#### LONDON BOROUGH OF CAMDEN

Any response to be reported verbally.

#### ROYAL PARKS

Any response to be reported verbally.

#### THAMES WATER

Any response to be reported verbally.

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

No. Consulted: 81.  
 Total No. of replies: 14.  
 No. of objections: 12.  
 No. in support: 0.

#### Land Use

- Increase in private flats would be attractive to overseas buyers.
- Replacement of 3 houses with 9 flats not beneficial in landuse terms.

#### Design

- Demolition of existing buildings unnecessary.
- Scale of buildings unsightly in comparison to Wells Rise.
- Scale of building unchanged from refused application.
- Most of garden land will be built on as a result of development.
- Danes Court is incorrectly calculated in terms of its height.
- Loss of tree on site is regrettable.

#### Amenity

- Loss of daylight and sunlight to adjoining properties, specifically Danes court, Wells Rise and 7-8 St Edmunds Terrace.
- Bulk and scale results in increased sense of enclosure for adjoining residents.
- Poor quality of environment for lower ground floor accommodation in proposed development – should be use for parking negating need for basement.
- Privacy screens do not allay concerns regarding overlooking and could be removed by occupiers.
- Hydraulic car parking machinery would affect neighbouring amenity with respect to noise.

#### Transportation/ Parking

- Residents bays on 8:30 – 18:00 Monday to Friday so limited controls.
- New flats would add to congestion despite garages.
- Transportation statement does not factor in additional traffic generated by 50 St Edmunds Terrace.
- Larger vehicles unable to access underground parking.
- Area attracts a lot of visitors parking for the Zoo, Primrose Hill and Regents Park adding to parking pressure.
- Basement parking entrance for 7-8 Danes Court opposite proposed parking access on Wells Rise presents hazard.
- Cycle Superhighway on Avenue Road likely to increase traffic on St Edmund's Terrace.

#### Construction Impact

- Regents Gate development and St Edmund's Terrace development caused disturbance to residents - unfair to subject residents to disturbances again, in terms of noise, dust and traffic.
- Dust and dirt detrimental to the health of existing resident.
- CMP does not deal with obstruction to driveways on Wells Rise.
- 2 storey basement contrary to basement policy and a risk to adjoining properties.

- Development results in extensive pile excavation. Developer should be liable for any damage to adjoining properties.
- Wells Rise suffered collapsed road and burst water main in the past.

Other

- Loss of value to adjoining properties.

PRESS ADVERTISEMENT/ SITE NOTICE: Yes

Following the above consultation, the scheme was amended to incorporate the following changes;

- Excavation of single storey basement only with smaller footprint, providing 8 car parking spaces with associated vehicle pivot and stacker, plus cycle parking and refuse store;
- Removal of rear projecting element at lower ground level; and
- Reinstatement of drop kerb on St Edmund's Terrace to create 3 on street residential parking spaces.

#### CONSULTATION RESPONSES TO RECONSULTATION ON REVISED SCHEME - AUGUST 2016

WARD COUNCILLORS (REGENT'S PARK)

Any response to be reported verbally.

ST JOHN'S WOOD SOCIETY

Welcome removal of lower basement level although reiterate previous concerns expressed as listed above.

ARBORICULTURAL MANAGER

No objection subject to conditions and replacement Cherry Tree in public Highway through legal agreement.

ENVIRONMENTAL HEALTH

Additional information satisfactory to meet Westminster Standard noise conditions.

HIGHWAYS PLANNING

Reiterates originally comments.

THAMES WATER

- Recommend pre commencement condition to provide drainage strategy
- Recommend the use of SUDS
- Recommend condition to secure piling method statement.
- Advise that Groundwater Risk Management Permit from Thames Water will be required

ADJOINING OWNER OCCUPIERS

No. Consulted: 81.

Total No. of replies: 8 (7 objected previously).

No. of objections: 8.

No. in support: 0.

Reiterate previous objections as set out above plus additional points;

- Lower ground floor plus single basement contrary to basement policy.
- Lower ground floor should be used for parking avoiding need to excavate basement.
- Parking should be secured for every resident of new development.
- Additional on street parking add to congestion.
- North facing wall moved forwards.
- Key issue of bulk and scale has not been addressed.

PRESS ADVERTISEMENT/ SITE NOTICE: Yes

## 7. BACKGROUND INFORMATION

### a. The Application Site

The application site comprises three, four storey mid 20<sup>th</sup> century dwellinghouses located at Nos.4-6 St. Edmund's Terrace. The site is located on the south eastern corner of the junction between St. Edmund's Terrace and Wells Rise. These buildings are not listed and are not located within a conservation area.

### b. Recent Relevant History

#### 15/04351/FULL

The previous application for redevelopment of the site to provide 9 self contained flats with dedicated 2 storey underground basement parking, was refused by this Committee at the meeting on 17 November 2015. Permission was refused for the following reasons:

- (1) *The proposed development would result in harm to the Lime tree located in public highway that is likely to lead to its loss. This would harm the character and appearance of this part of the City. As such, the development would fail to accord with Policy S38 in Westminster's City Plan: Strategic Policies adopted November 2013 and Policies DES 1 (A), ENV 16 and ENV 17 in our Unitary Development Plan that we adopted in January 2007.*
- (2) *Because of its excessive footprint, bulk and detailed design at lower ground floor level to the rear elevation and lack of top soil and drainage layer over the basement floors, the proposed development would fail to provide a suitable landscaped setting to the rear that maintains the appearance of the site and this part of the City. This would be contrary to Policies DES1, ENV4, ENV15 and ENV16 in the Unitary Development Plan that we adopted in 2007. It would also fail to accord with the guidance set out in our Supplementary Planning Document 'Basement Development in Westminster' (2014).*
- (3) *The roof terraces and balconies to the rear elevations at ground, first and second floor levels would lead to an unacceptable loss of privacy (in terms of overlooking of windows and gardens) for people in neighbouring properties in Wells Rise. This*

*would not meet 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.*

- (4) *The proposed development would make the people living in 10 Wells Rise and flats in Danes Court between ground and third floor levels with windows facing the application site feel too shut in. This is because of its bulk and height and how close it is to windows in those properties. This would not meet 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.*

A copy of the officer's report is included in the background papers.

## **8. THE PROPOSAL**

The application is a resubmission following the refusal in 2015. It involves the demolition of the existing buildings and redevelopment of the site to provide a six storey building comprising 9 self-contained apartments, single storey basement level car parking, the provision of internal plant, cycle, refuse and recycling storage and the provision of roof level photovoltaic panels and brown roofs.

During the course of the application, following advice from Officers the scheme was amended to incorporate the following changes;

- \* Excavation of single storey basement only with smaller footprint, providing 8 car parking spaces with associated vehicle pivot and stacker, plus cycle parking and refuse store.
- \* Removal of rear projecting element at lower ground level.
- \* Reinstatement of drop kerb on St Edmund's Terrace to create 3 on street residential parking spaces.

## **9. DETAILED CONSIDERATIONS**

### **a. Land Use**

Policy S14 of the City Plan and Policy H3 of the UDP seek to encourage the provision of more residential floorspace, including the creation of new residential units. Accordingly, the proposed uplift in residential floorspace and the number of units on the site is supported in land use terms.

The existing three single family houses would be replaced with a total of nine residential units, the same number as was considered in the previous application. The unit mix has been altered whereby the scheme now provides 3 x 2 bed units 5 x 3 bed units, 1 x 4 bed units, a reduction of 4 bedrooms in comparison to the previous scheme. The mix of unit sizes comprising predominantly family sized units accords with Policy H5 of the UDP and S15 of our City Plan.

The density of the proposed development (calculated using habitable rooms per hectare – hr/ha) would exceed the upper limit for this part of the City. The density rating for this location is low (PTAL 1B) due to the distance from London Underground stations and



limited bus routes in the immediate vicinity. The London Plan (2015) uses PTAL ratings to define density ranges. As a consequence the density range in the London Plan for this site is between 150 and 250hr/ha. In the UDP Policy H11 sets out that in density Zone 4, in which the site is located along with most of St. John's Wood, the target density range is 120-350hr/ha.

If the open plan kitchen, dining room and living rooms are considered as one habitable room the density of the proposed development would be 788 hr/ha in comparison to the previously refused scheme of 878hr/ha. If these large open plan living spaces are considered as two habitable rooms (i.e. separate living rooms and kitchen/dining rooms), the density of the proposed development would be 946hr/ha compared to the previously refused scheme of 1059hr/ha. This remains well above the low density levels set out in Policy 3.4 of the London Plan and Policy H11 in the UDP. However, it is important to note that both the London Plan and UDP policies identify that the housing density figures they provide are only a starting point and should not be applied rigidly. The density figures are not a definitive measure of whether development amounts to overdevelopment of a site. Policy H11 in the UDP explains that:

*'Proposals for new housing developments that are above the density ranges shown on the Proposals Map may be granted permission if they are close to public transport facilities and open space and meet complementary policies, particularly: (1) townscape and design policies; (2) residential amenity, including daylighting and sunlighting controls, for existing residents and new residents in the proposed housing, (3) off street parking spaces, the mix of housing units, including family housing and affordable housing and garden space; and (4) the desirability of maintaining any special feature of the urban fabric in any area'.*

In this context it is not considered that the density of the development in terms of the number of units/habitable rooms per hectare is unacceptable, given that the development is in an area of townscape of varying scale and density, which is typically much higher in density than more suburban parts of St. John's Wood to the north west that are also within the same density zone. As set out in Policy H11 of the UDP, the impact of the bulk and form of the building that delivers this density of residential floorspace must be assessed in terms of its design, amenity and other material planning impacts. These impacts of the development are assessed later in this report.

The proposed flats exceed the space requirements set out in the Government's new technical housing standards dated March 2015, are dual or triple aspect, will receive adequate daylight and sunlight, as confirmed in the addendum report dated 18 August 2016 prepared by EB7 Ltd, and amenity space is provided to all but two of the units, flats 1 and 4. Associated car, cycle storage and refuse and recycling storage is located within the basement. Overall, the quality of residential accommodation proposed is acceptable and accords with Policy ENV13 and H10 of the UDP and S29 of the City Plan. Objections raised to the quality of accommodation proposed including levels of daylight are therefore not supported.

The development would result in an uplift of 6 residential units and an uplift of 753sqm Gross External Area (GEA). As this is less than 1,000m<sup>2</sup>, and less than 10 new residential units the development does not trigger a requirement to provide affordable housing under Policy H4 in the UDP, policy S16 in the City Plan and the guidance set out in the Interim Guidance Note on Affordable Housing Policy (November 2013).



## **b. Townscape and Design**

In building massing terms, the revised development remains largely as was considered previously by members, a building with a perimeter style footprint along St Edmund's Terrace and Wells Rise, stepping up to a maximum height of 6 storeys on the corner, with level access on Wells Rise and lower ground stepped access on St Edmund's Terrace. There have however been some notable reductions to the massing in comparison to the previous scheme, primarily in response to reason 4 (enclosure) of the previous decision. These consist of; a straight rear building line in comparison to the previous splayed building line, removal of the second floor element above the parking access on Wells Rise, a set-back facade on Wells Rise to align with the front building line of Wells Rise to the immediate south. Over the course of the application, revised plans were submitted removing the lower ground floor rear element, so that the building retains a lower ground floor garden for flat 2 and flat 3. The reductions are considered to result in a building that sits more comfortably within the plot in comparison to the previous scheme, and also improves the situation for neighbouring amenity in comparison with the previous scheme which is explained in more detail in the 'Amenity' section of the report.

Members expressed concerns at the previous Planning Committee that the design was not of a sufficient quality in terms of elevation design treatment, details and materials. The fenestration arrangement was considered to be discordant with a high proportion of balconies on the front and rear elevation that cluttered the appearance. Greater attention to detail and materials is evident in this submission. Section 4.7 of the Design and Access Statement provides details of the elevation design treatment and materials palette. The fenestration is more ordered with appropriate reveal depth, solidier course and parapet detailing and a number of balconies have been removed. The construction is principally London Stock brick, with all metal work finished with a bronze patina such as; the Juliet and full balconies, window frames, the setback first floor element above the parking access and fourth floor cladding. These amendments are considered to result in a more appropriate overall appearance.

Details of the safety rail and opening mechanisms for the large French door style windows proposed on the rear elevation have not been provided. A condition is recommended to secure details of this.

Subject to the recommended conditions, the proposed development would be consistent with policy S28 of the City Plan and policies DES 1 and DES 4 of the UDP.

## **c. Residential Amenity**

### **8.3.1 Sense of Enclosure**

To address this previous reason for refusal, the massing of the development has been reduced.

The splayed rear elevation has been consolidated to a straight line that is parallel with the garden boundary with No. 10 Wells Rise whilst during the course of the application the lower ground floor elements serving flats 2 and 3 have been removed. The result is that

the building is less imposing upon the rear gardens of Wells Rise and more akin to the footprint of the existing building.

With regards to the south west 'L' shaped corner of the building facing Wells Rise, a storey has been removed so that it is now two storeys in height compared to the three storeys proposed previously. This was of concern due to the obstruction to line of sight it would result in for the occupiers of Danes Court at lower level, who currently have a clear line of sight across this part of the site. Its removal creates more open aspect. The building line has also been amended so that it is consistent with 10 Wells Rise, resulting in a more sensitive transition from Wells Rise to the development site.

Whilst it is acknowledged that the building will add height to the site in comparison to the existing buildings, the above reductions in massing have reduced the scale and footprint of the building and results in a building that has a lesser impact with regards to sense of enclosure.

### 8.3.2 Sunlight and Daylight

The application is accompanied by a daylight and sunlight report prepared in accordance with the BRE 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' Second Edition (2011). It provides an assessment of the impact of the development on light levels to the following properties:

- Dane's Court;
- 10 Wells Rise;
- 1 and 3 Wells Rise; and
- 7 St Edmund's Terrace.

With respect to sunlight, all windows assessed indicate full compliance with the criteria. In terms of daylight, all windows would comply with the Vertical Sky Component (VSC) assessment. In terms of No-Sky Contour (NSC), the results confirm all rooms would retain NSC levels exceeding 0.8 times their former value, with the exception of a single window at fourth floor level identified which would fall marginally outside the target at 0.7 times its former value. Officers visited the fourth floor flat in June 2015. The affected window serves a bedroom and is not a dual aspect room contrary to the assumption in the daylight and sunlight report. Notwithstanding this, the flat itself is dual aspect with principle living room and kitchen windows orientated toward St Edmund's Terrace. As such given the flat complies with the standards in all other respects, as do the rest of the windows assessed, this small deviation in the standards is not considered to result in a reduction to neighbouring amenity that could support a reason for refusal.

### 8.3.3 Privacy and Overlooking

In comparison to the refused scheme, this current proposal has reduced the extent of balconies on the rear elevation and pulled the envelope of the building closer to that of the existing building. The previously proposed rear balconies at first, second and third floor have been removed in part where they are orientated toward the rear gardens of the Wells Rise properties, and limited to the south west part of the building behind the neighbouring building line of Wells Rise. Privacy screens limiting views toward the gardens and Danes

Court are also proposed. These changes are considered to address this reason for refusal.

As such, the proposed development overcomes the previous reasons for refusal related to sense of enclosure and loss of privacy. Acceptable light levels would also be retained, in accordance with BRE guidance. Accordingly, the proposal complies with policy ENV13 of the UDP and policy S29 of the City Plan.

#### 8.3.4 Plant and Machinery

A dedicated area is proposed in the basement for plant with a grille to the front lightwell. Environmental Health has advised that the existing background noise level has been correctly assessed. The revised acoustic report sets out that the number of condenser units in the basement plant room will be 9, which is an increase of 7 units in comparison to the original submission. An additional addendum statement from the Acoustic Engineer has been submitted providing greater detail of the noise attenuation for these items of plant and regard for compliance with the Councils standard noise conditions. This has been reviewed by the Councils Environmental Health Officer who raises no objection.

With regards to other aspects of mechanical plant, the revised details include the addition of a car pivot and car stacker within the basement, in addition to the car lift originally proposed. The noise and acoustic report provides some initial consideration of these elements stating that the risk of airborne noise transfer to the residential dwellings is minimal. Additional technical details from the manufacturer with regards to the stacker and car pivot have been submitted providing detailed design features that reduce mechanical noise associated with the machinery.

Given the above, and subject to the recommended conditions the proposed development is consistent with policies ENV6 and ENV7 of the UDP and policy S32 of the City Plan.

#### **d. Transportation/Parking**

The development would provide eight unallocated car parking spaces with electricity charging points within the single basement level, accessed via a car lift on Wells Rise with associated vehicle turntable and car stacker within the basement. The revised transport statement confirms that a further 3 on street residential car parking spaces on St Edmund's Terrace will be provided through returning the existing driveways serving 4 -6 St Edmund's Terrace to a drop kerb. This would be secured through legal agreement.

The scheme originally proposed 10 car parking spaces within a two storey basement. This was reduced to 8 spaces during the course of the application due to the loss of a basement level. The number of car parking spaces falls marginally short of the requirements of policy TRANS23. However, and given the scheme also provides 3 new on street car parking spaces, the overall provision would be acceptable.

The Highways Planning Manager recommends car club membership to mitigate the shortfall identified. However, officers consider this unreasonable given the on-street parking spaces created.

With regard to the car parking operation, the Highways Planning Manager has commented that the spaces are usable and that adequate visibility splays are provided for vehicles leaving the site. The revised transport statement is supported by a draft operational management plan for the car stacker with other examples provided of their installation. Providing a management and maintenance plan can be secured through a Section 106 Agreement, the use of a car stacker would be acceptable in this instance.

Objectors and the Highways Planning Manager note that the car lift arrangement may lead to vehicles waiting on Wells Rise. The applicant has indicated that two vehicles can wait off the carriageway although this would be partly across the footway which at times may obstruct pedestrian movement. However, the trip rates for the development are projected to be low and it is considered unlikely that the car lift would have an adverse effect on the local highway. Accordingly, the Highways Planning Manager does not object to the car lift design or location in this instance.

Cycle storage is proposed within the basement level and is consistent with the requirements of policy 6.19 of the London Plan (FALP - 2015).

**e. Economic Considerations**

No economic considerations are applicable for a development of this size

**f. Access**

The proposed development would provide level access to all floors from the residential entrance located on Wells Rise. Only one unit, Flat 3, accessed separately from St. Edmund's Terrace would have stepped access owing to the level changes across the site. All units within the development have been designed to be Lifetime Homes compliant. As such, the development in terms of accessibility is considered to be acceptable and consistent with Policy DES1 in the UDP.

**g. Other UDP/Westminster Policy Considerations**

**8.7.1 Basement**

The Basement Revision and Mixed Use Revision to the City Plan was adopted July 2016 and applies to this development. The implications of basement policy are outlined elsewhere in the report. One exception applies in relation to the basement policy, specifically the application of the Code of Construction Practice [Policy CM28.1 Section A2b], which applies to all basement applications received after the date of its publication 26 July 2016. As this application was received prior to this date, the Code of Construction Practice document does not apply to this application.

**8.7.2 Refuse /Recycling**

Waste and recycling storage is proposed within the basement floor. The waste and recycling storage accords with the guidance set out in the 'Westminster Recycling and Waste Storage Requirements' guidance booklet.

**8.7.3 Environmental Assessment**

In terms of environmental performance and sustainability, Policy S28 in the City Plan seeks to maximise sustainable construction and design that reduces energy use and emissions and reduces waste. The submitted sustainability and energy report demonstrates that the proposed building would be resource efficient through a combination of 'lean and green' measures, consisting of a highly efficient building envelope and provision of photovoltaic panels to provide some on site renewable energy provision. The proposed building would achieve a 19.44% improvement on current Building Regulations. Given the development falls below the size threshold for major development, the energy performance and sustainability of the scheme, which equates to Code Level 4 of the now withdrawn Code for Sustainable Homes, is considered to be acceptable.

The provision of brown roofs is welcomed in biodiversity terms and a condition is recommended to secure it and the aforementioned photovoltaic panels.

#### **h. London Plan**

The proposed development does not raise strategic issues. Where relevant, London Plan (2015) policies are referred to in other sections of this report.

#### **i. 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.

#### **j. Planning Obligations**

As set out in the Highways section of this report, the following should be secured by section 106 agreement should permission be granted:

- a) A maintenance and management plan for the car lift;
- b) Highway works immediately surrounding the site required for the development to occur, including reinstatement of pavement in place of redundant vehicle crossovers;
- c) Off street parking to be unallocated; and
- d) The costs of monitoring the S.106 legal agreement.

The development would also be liable to pay Westminster's and the Mayor's Community Infrastructure Levy (CIL). The estimated CIL payment would be £414,150.00 for Westminster's CIL (£550 per square metre in designated Prime Area), and £37,650.00 for the Mayor's CIL (£50 per square metre in Zone 1).

Note that this amount is provisional and may be subject to any relief of exemptions that may apply in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).

#### **k. Other Issues**

##### **8.11.1 Basement and Biodiversity Issues**

The previous application was refused (reason 2) on grounds of excessive footprint, specifically the scope of the basement extending across the entire site, and the lower ground floor footprint covering much of the site as well, which failed to provide a suitable landscaped setting that maintained the appearance of the site and this part of the City, nor did it provide sufficient layer of top soil in order to support landscaping. In addition, the previous application was refused (reason 1) on grounds that the scope of the basement would result in harm to the Lime tree located in public highway on the corner of St Edmund's Terrace and Wells Rise.

This application originally retained largely the same lower ground floor and basement footprint to that refused previously, notwithstanding a small set back on the North West corner in consideration of the Lime Tree. The scheme also retained the double basement. Officers advised that this would not sufficiently address reason for refusal No.2 although the impact upon the Elm Tree in response to reason 1 was likely to be acceptable. Moreover, the applicant was advised that the scheme would have to have regards for the additional requirements set out in the adopted basement policy. Following discussions with Officers, a set of revised documents were submitted having greater regard for the reasons for refusal and the basement policy incorporating the following changes;

The basement has been reduced to a single storey only. An objection has been received on grounds that the lower ground and basement level would be contrary to policy. However, as the existing buildings have a lower ground floor, there would be no conflict.

The proposed lower ground floor rear element has been removed and the space created used as a private garden for units 2 and 3, with access provided from the ground floor living rooms via external steps. The basement incorporates a vertical soil depth of 1.2m where it extends under the rear gardens providing greater opportunity for landscaping on the site and sustainable drainage. The footprint of the basement has been reduced on; the south east corner so that it does not extend beneath the location of the proposed tree replacement; on the north west corner of Wells Rise and St Edmund's Terrace to give greater separation with the Elm within the pavement. These revisions result in a scheme that responds positively to the previous reasons for refusal and the requirements of the basement policy and is now considered acceptable.

The Arboricultural Manager has requested a contribution toward tree planting based on potential damage to a Cherry tree. However, this damage can be safeguarded against by the tree protection condition recommended and a contribution is not sought.

#### 8.11.2 Basement Excavation

Objections have been raised from adjoining occupiers at Wells Rise who are concerned about the potential impact of the development upon the structural integrity of their properties, particularly in light of the now superseded double basement. A single storey basement is now proposed and is accompanied by a revised structural method statement and construction drawings to reflect the revised scheme. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage. The submission of this information is a requirement of the adopted basement SPD and basement policy CM28.1 (A).

The report has been prepared by a suitably qualified Structural Engineer. Building Control Officers have reviewed both the originally submitted details and the addendum details, and raise no objection. It should be emphasised that the purpose of commissioning such an analysis at this stage is to show that there is no foreseeable impediment to the scheme satisfying the Building Regulations in due course. Should permission be granted, this Construction Methodology will not be approved, nor will conditions be imposed requiring the works to be carried out in accordance with it.

Accordingly, the report has provided sufficient consideration at this stage and this is as far as this matter can reasonably be taken as part of the consideration of the planning application. Detailed matters of engineering techniques, and whether these secure the structural integrity of the development and neighbouring buildings during the course of construction, are controlled through other statutory codes and regulations.

### 8.11.3 Construction Impact

Concerns have been raised by neighbours regarding the potential disruption during demolition and construction works. Residents are concerned having already experienced disruptions during the construction of the development at No.50 St Edmund's Terrace opposite the application site, which is located within the London Borough of Camden.

It is a long standing principle that planning permission cannot be refused due to the impact of construction. This is due to its temporary nature and the ability to control it by condition and legal agreement. A Construction Management Plan (CMP) has been submitted with the application. An addendum report has been provided to have regard to the revised development incorporating a single storey basement only. This is a comprehensive document detailing vehicular arrangements during construction, including suspended bays on St. Edmund's Terrace for loading/unloading; routing of vehicles consisting of arrivals from Prince Albert Road and departures through Ormonde Road; scheduling of deliveries in designated slots; provision of a two year construction programme; installation of a 2.4m high hoarding around the site; provision of a 24 hour emergency contact telephone number; and provision of dust suppression measures. The CMP also sets out that an application for the closure of the footpath will be made to cover the period for demolition and the substructure construction phase.

The submitted CMP is considered to sufficiently demonstrate that measures have been considered to minimise the impact of construction works on neighbouring residents. A condition is recommended requiring compliance with the submitted CMP.

## 10. **BACKGROUND PAPERS**

1. Application form
2. Officers Report for Previously Refused Application (RN: 15/04351/FULL)
3. Response from St John's Wood Society, dated 19 May 2016, 12 September 2016.
4. Response from Environmental Health Officer, dated 25 August 2016.
5. Response from Building Control, dated 26 April 2016, 08 September 2016.
6. Response from Highways Planning, dated 29 April 2016, 31 August 2016.
7. Responses from Tree Section, dated 5 May 2016, 9 June 2016, 25 August 2016.
8. Response from Thames Water, dated 24 August 2016.

9. Letter from occupier of 3 Wells Rise, London, dated 4 May 2016, 7 September 2016
10. Letter from occupier of Flat 5 Danes Court, 1-3 St Edmunds Terrace, dated 4 May 2016
11. Letter from occupier of Flat 20 Danes Court, 1-3 St Edmunds Terrace, dated 4 May 2016
12. Letter from occupier (a) of Flat 16, 1-3 Danes Court, dated 9 May 2016, 8 September 2016.
13. Letter from occupier of Flat 2, 7-8 St. Edmund's Terrace, dated 9 May 2016
14. Letter from occupier of 10 Oak Lodge, Oak Hill Park, London , NW3 7LN, dated 9 May 2016
15. Letter from occupier of Flat 2, 7-8 St. Edmund's Terrace, London, dated 10 May 2016, 3 September 2016
16. Letter from occupier of Flat 17 Danes Court, St Edmunds Terrace, dated 10 May 2016
17. Letter from occupier of Flat 6 Danes Court, St Edmunds Terrace, dated 10 May 2016, 23 September 2016.
18. Letter from occupier of Flat 14 Danes Court, 1-3 St Edmunds Terrace, dated 10 May 2016, 26 August 2016
19. Letter from occupier (b) of Flat 16 Danes Court, 1-3 St Edmunds Terrace, dated 11 May 2016, 13 September 2016
20. Letter from occupier of Flat 27 Danes Court, 1-3 St Edmund's Terrace, dated 12 May  
Letter from occupier of 10 Wells Rise, London, dated 13 May 2016
21. Letter from occupier of Flat 6, 7-8 St. Edmund's Terrace, dated 16 May 2016, 6 September 2016
22. Letter from occupier (b) of Flat 2, 7-8 St. Edmund's Terrace, London, dated 1 September 2016

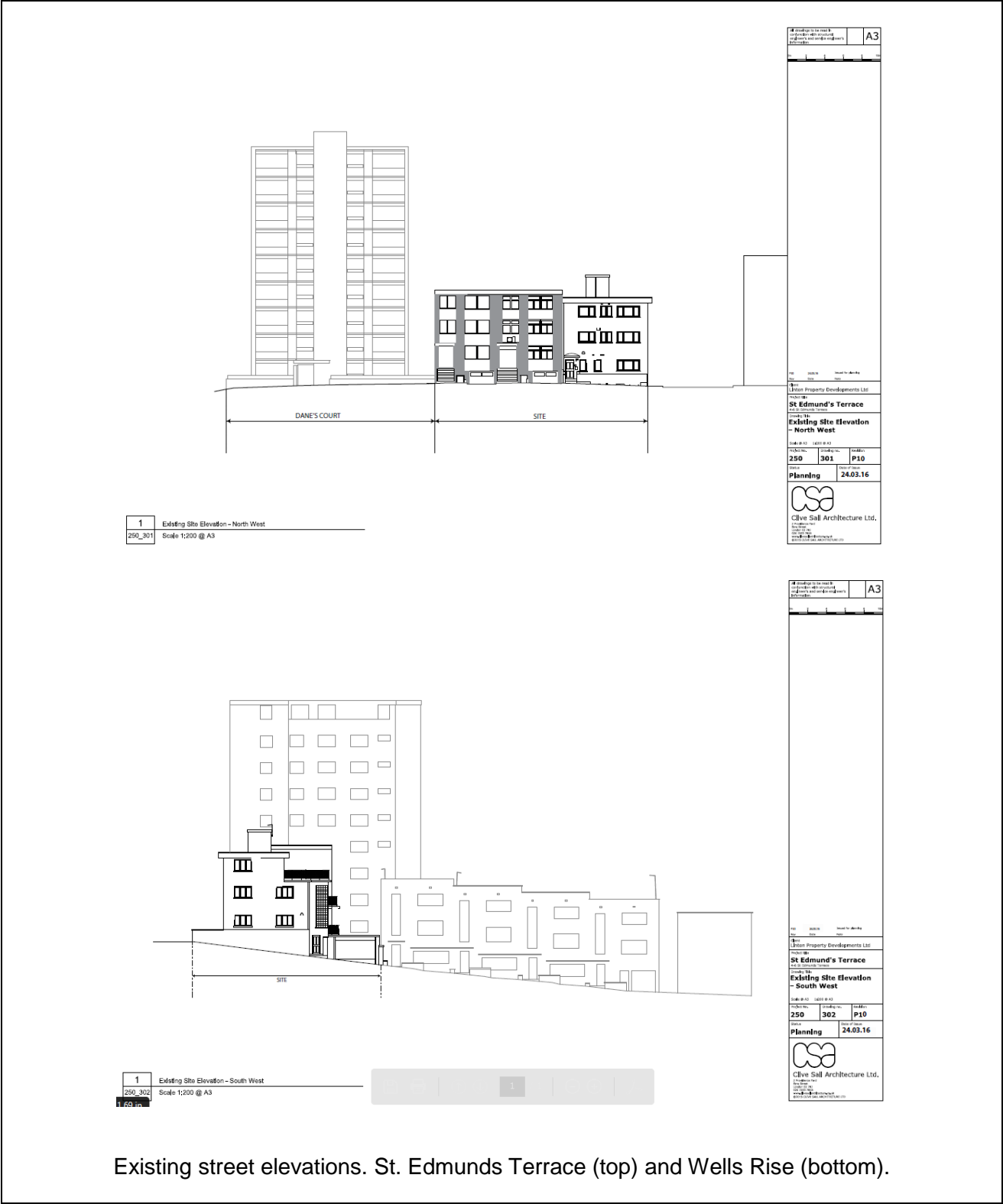
### **Selected relevant drawings**

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

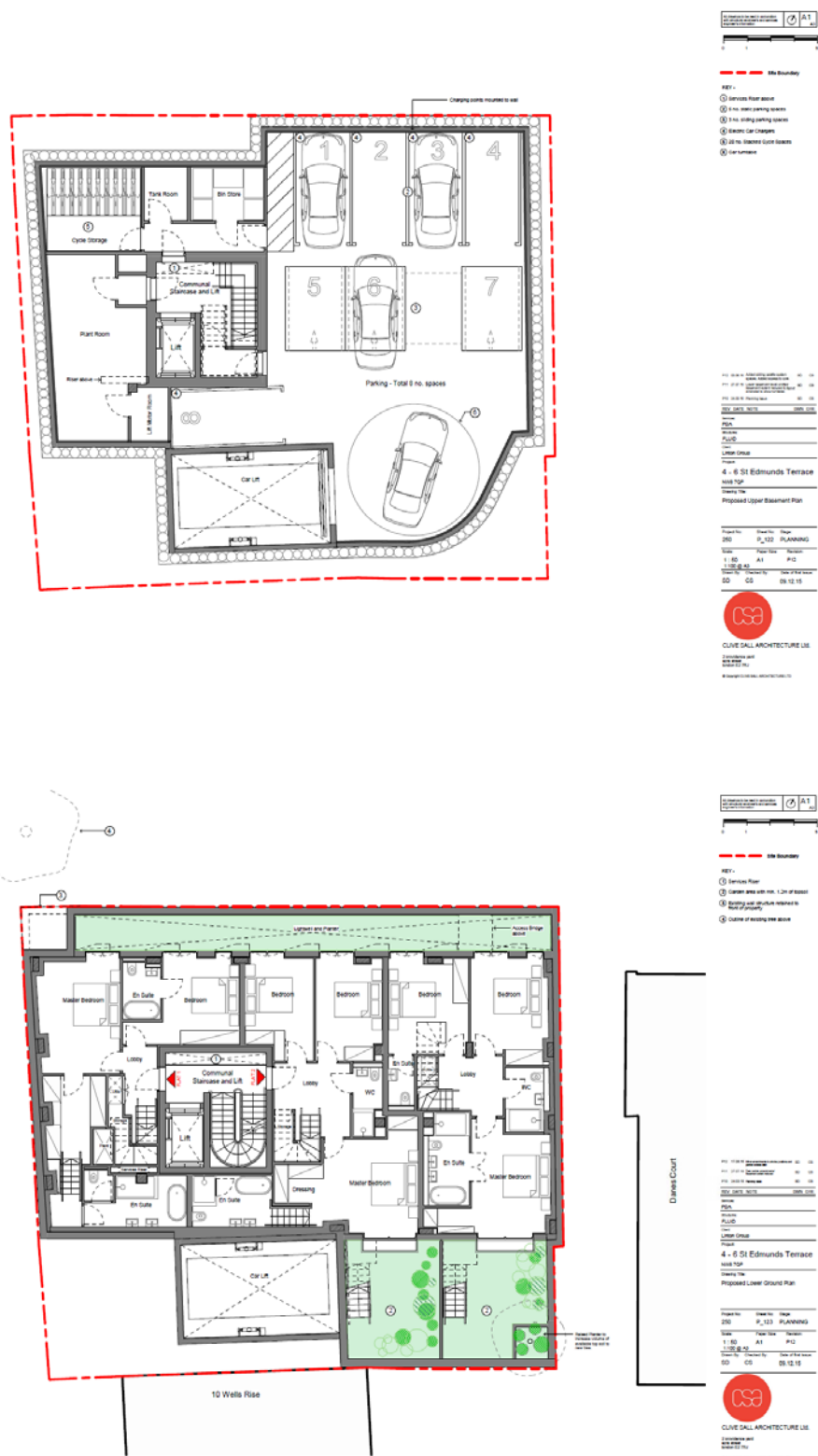
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT [nbarrett@westminster.gov.uk](mailto:nbarrett@westminster.gov.uk).



11. KEY DRAWINGS



Existing street elevations. St. Edmunds Terrace (top) and Wells Rise (bottom).



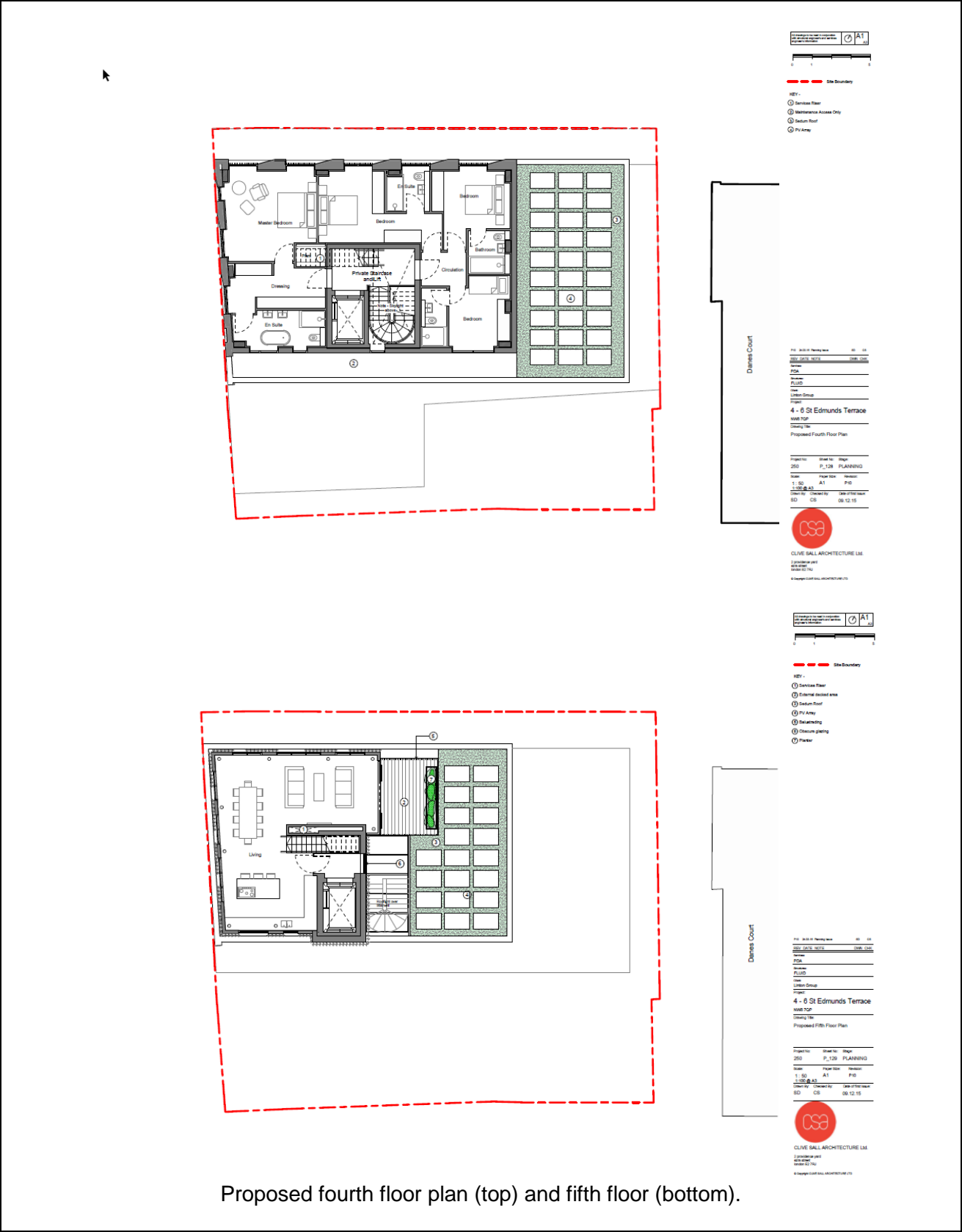
Proposed basement plan (top) and lower ground floor (bottom).

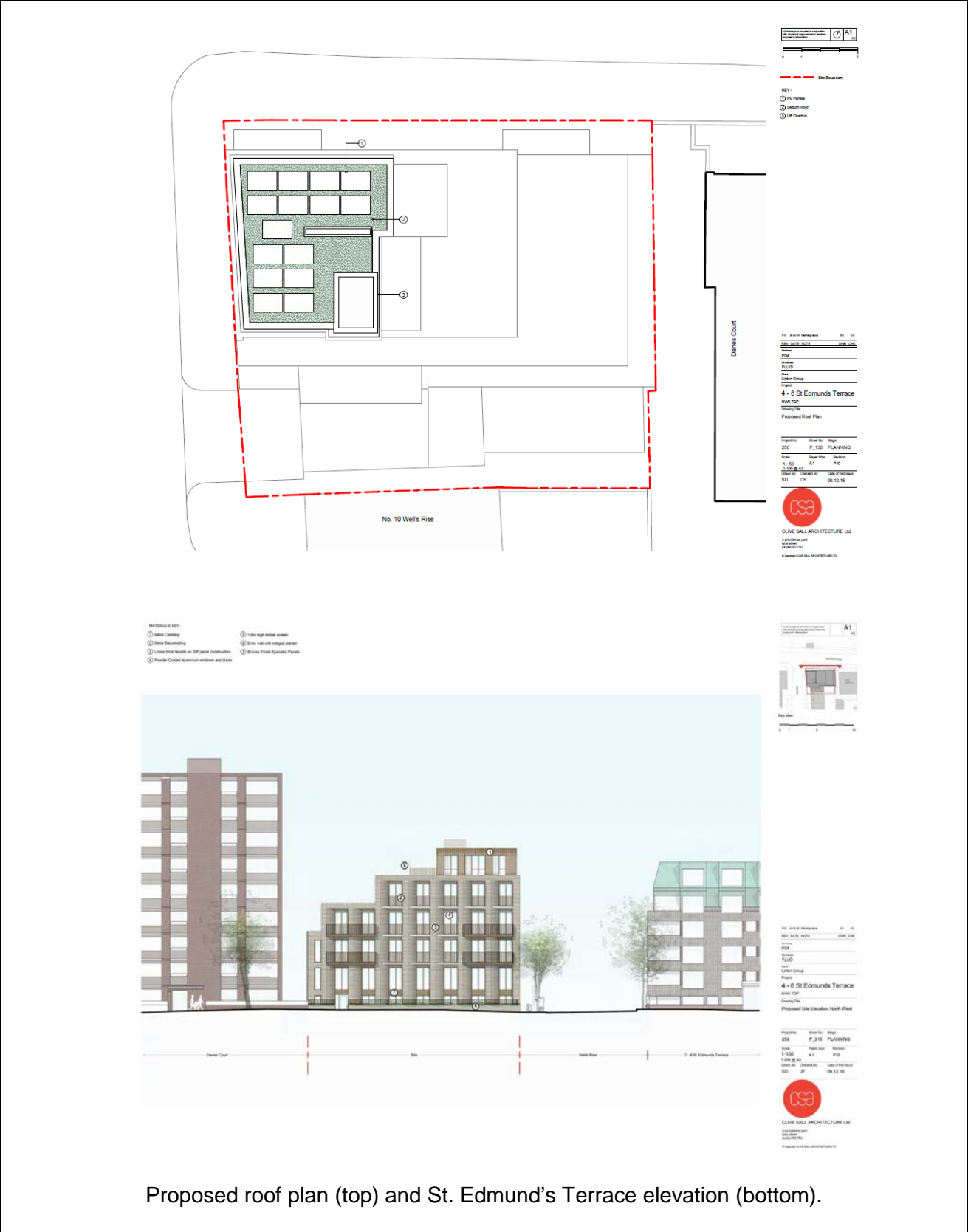


Proposed ground floor plan (top) and first floor (bottom).



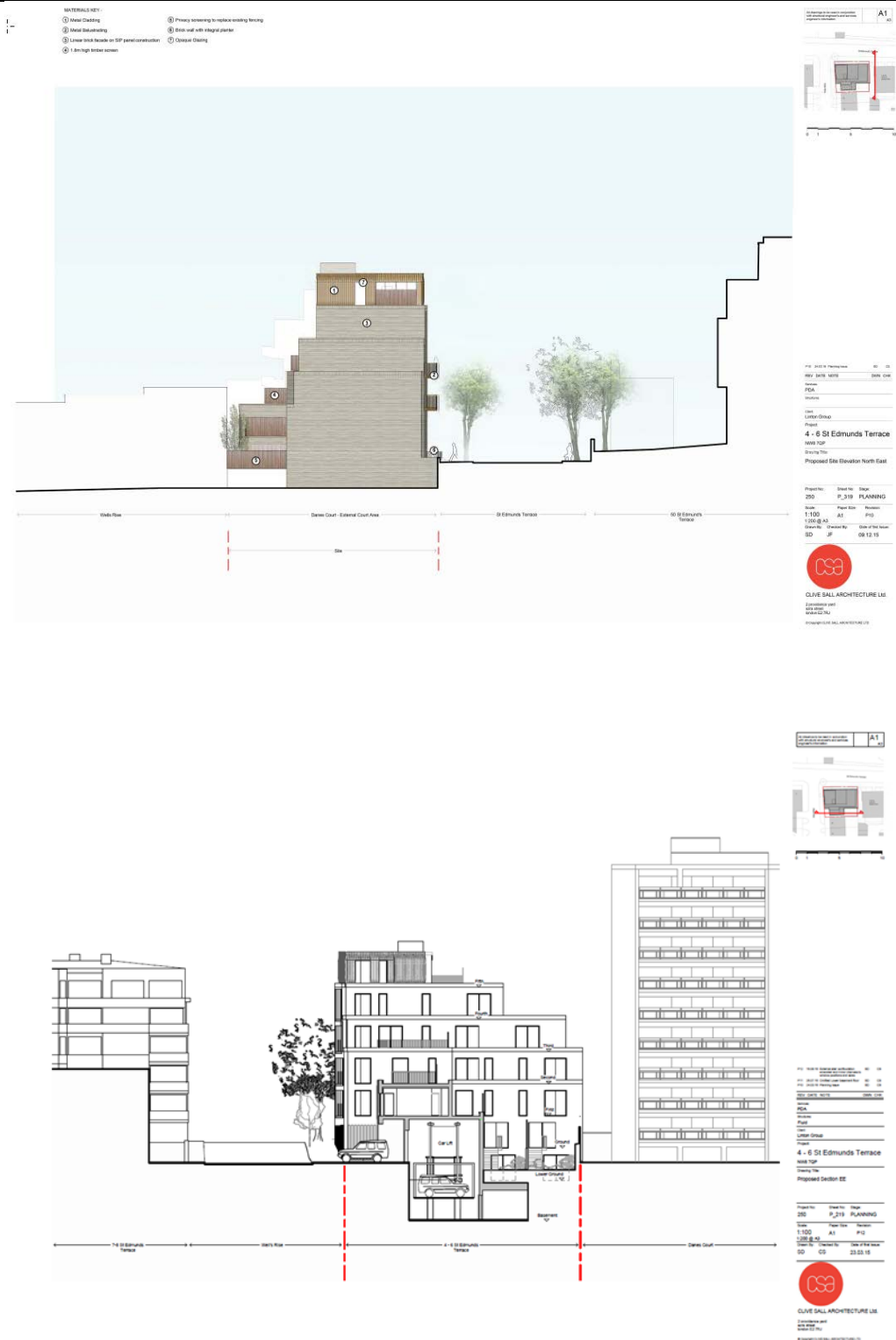
Page 308





Proposed roof plan (top) and St. Edmund's Terrace elevation (bottom).





Proposed eastern side elevation (top) and sectional south rear elevation (bottom).



**DRAFT DECISION LETTER**

**Address:** 4 - 6 St Edmund's Terrace, London, NW8 7QP,

**Proposal:** Demolition of the existing buildings and redevelopment of the site to provide a six storey building comprising 9 self contained apartments, basement level car parking (within basement levels 1 and 2), the provision of internal plant, cycle, refuse and recycling storage and the provision of roof level photovoltaic panels and brown roofs.

**Reference:** 16/02747/FULL

**Plan Nos:** 250\_001 P10, 250\_010 P10, 250\_011 P11, 250\_012 P10, 250\_013 P10, 250\_014 P10, 250\_015 P10, 250\_016 P10, 250\_020 P10, 250\_021 P10, 250\_022 P10, 250\_P\_120 P10, 250\_P\_122 P12, 250\_P\_123 P12, 250\_P\_124 P12, 250\_P\_125 P11, 250\_P\_126 P11, 250\_P\_127 P10, 250\_P\_128 P10, 250\_P\_129 P10, 250\_P\_130 P10, 250\_P\_218 P11, 250\_P\_218 P12, 250\_P\_300 P10, 250\_P\_301 P10, 250\_P\_302 P10, 250\_P\_303 P10, 250\_P\_315 P10, 250\_P\_316 P10, 250\_P\_317 P10, 250\_P\_318 P10, 250\_P\_319 P10, Design & Access Statement (with addendum) rev P12 dated March 2016, Transport Statement dated August 2016, Construction Management Plan updated with revised layout on page 3, Environmental Noise Survey 21092/ENS1 dated 9 August 2016, Addendum Noise Criteria Statement dated 25 August 2016, technical details for vehicle turntable and stacker contained in email dated 25 August 2016, Daylight and Sunlight Report dated 21 March 2016, BRE daylight and Sunlight addendum letter dated 18 August 2016, Arboricultural Impact Assessment dated 22 March 2016, Addendum to Arboricultural Impact Assessment report LPD/4EDM/AIA/01a dated 17 August 2016, Sustainability and Energy Report dated 21 March 2016.

FOR INFORMATION ONLY: Structural Statement Report for Planning dated March 2016 and Addendum dated August 2016.

**Case Officer:** Samuel Gerstein

**Direct Tel. No.** 020 7641 4273

**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:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 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 (July 2016) 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:

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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 5 **Pre Commencement Condition.** You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:

- a) Revised rear elevation providing details of safety guard rail serving French windows
- b) Detailed drawing showing the typical opening mechanism for the French windows on the rear elevation, and details of rail at a scale of 1:10 / 1:20.

You must then carry out the work according to the approved drawings.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area and to protect the privacy and environment of people in neighbouring properties and buildings. This is as set out in S28 and S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV13 and DES 1 of our Unitary

Development Plan that we adopted in January 2007.

- 6 **Pre Commencement Condition.** Notwithstanding the details submitted, you must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (July 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 7 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within the first planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any trees or find that they are dying, severely damaged or diseased within one year of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30AC)

- 8 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the wild flower planted green roofs, sedum roofs and green wall to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

Reason:

To protect and increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43CB)

- 9 Cycle storage to be provided prior to occupation and thereafter maintained for the life of the development

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.

- 10 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number P\_122 rev P12. You must clearly mark them and make them available at all times to everyone using the development. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 11 Prior to occupation of the development a minimum of 5 of the car parking spaces shall have electric vehicle charging points as shown on drawing P\_122 rev P12 available for use within the basement car park and thereafter maintained in working order.

Reason:

To provide electrical charging points to encourage the uptake of electric vehicles in accordance with policy 6.13 of the London Plan March 2016, The Spatial Development Plan for London Consolidated with Alterations since 2011.

- 12 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in this development. Thereafter the Car parking is to be maintained for the life of the development.

Reason:

To provide parking spaces for people using the development as set out in STRA 25 and TRANS23 of our Unitary Development Plan that we adopted in January 2007. (R22AB)

- 13 A vehicle signalling system for the car parking is required to be submitted and approved in writing prior to first use and thereafter maintained in working order for the life of the development.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 14 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 15 (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 (July 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.

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

Reason:

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

- 17 The condenser units, vehicle lift, turntable and stacker and the design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 18 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 15 and 16 of this permission, and the plant car lift, turntable and stacker comply with condition 17 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

To safeguard the amenity of occupiers of within the development and in adjoining properties by preventing noise and vibration nuisance as set out in STRA 16, STRA 17, ENV 6 and ENV 7 and the related Policy Application at section 9.76 of our Unitary Development Plan that we adopted in January 2007. (R41BB)

- 19 The development shall be carried out in accordance with the Construction Management Plan, unless otherwise agreed in writing by the City Council.

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.

- 20 Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have

been completed.

**Reason:**

To ensure that sufficient capacity is made available to cope with the new development and in order to avoid adverse environmental impact upon the community.

- 21 No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

**Reason:**

The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure. The applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement.

**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 (July 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 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 3 A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality).

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.



CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	3 Strutton Ground, London, SW1P 2HX,		
Proposal	Demolition of existing building and erection of an eight storey building over basement providing six residential flats (Class C3) on the upper floors and a retail unit (Class A1) at ground and basement levels including associated plant at basement, ground and sixth floor levels, roof terraces at sixth and seventh floor levels and PV panels at roof level.		
Agent	Alchemi Group		
On behalf of	Goswell Properties Ltd		
Registered Number	16/02061/FULL	Date amended/ completed	29 March 2016
Date Application Received	7 March 2016		
Historic Building Grade	Unlisted		
Conservation Area	No		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

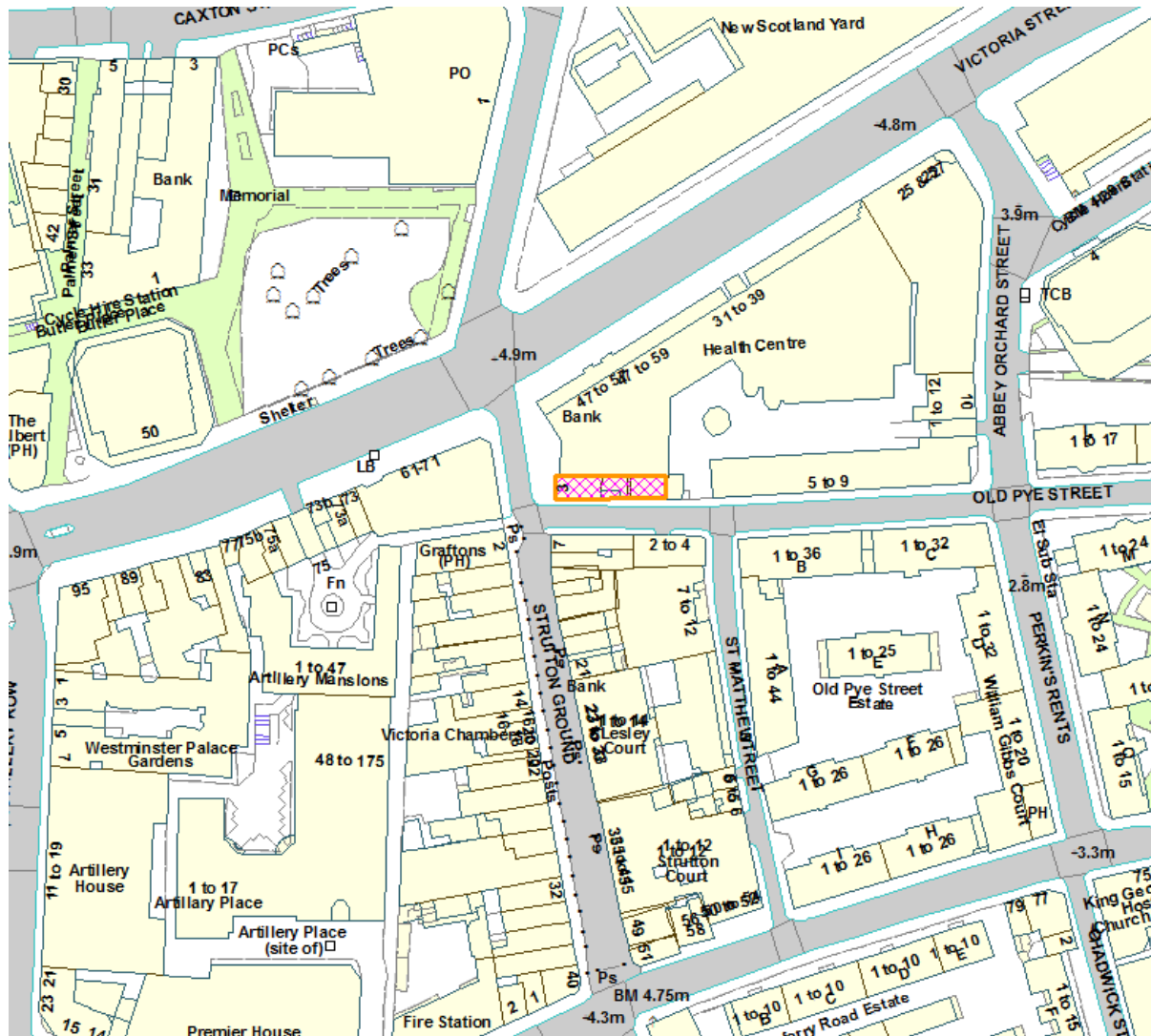
3 Strutton Ground is an unlisted building which is not located in a conservation area. Permission is sought to demolish the existing four storey building over basement and redevelop to create an eight storey building over basement. The retail unit (Class A1) will be retained and six self-contained flats (Class C3) are sought on the upper floors. A net increase of three residential units would be provided. Amenity and design objections have been received from the Thorney Island Society and one neighbouring owner/occupier.

The key issues for consideration in this case are:

- \* The impact of the proposals on the character and appearance of area;
- \* The relationship between the site and neighbouring residents.

The proposals are considered acceptable in land use, amenity and design terms and comply with the City Council's policies as set out in the Unitary Development Plan (January 2007) and Westminster's City Plan (July 2016).

### 3. LOCATION PLAN



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3 Strutton Ground

#### 4. CONSULTATIONS

##### THORNEY ISLAND SOCIETY

The building is very tall for its context. The building will result in light loss in Old Pye Street. Concerned that unusual brickwork may become unsightly if the niches attract nesting birds.

##### WESTMINSTER SOCIETY

No objection. The existing building is fairly undistinguished and what is proposed will stand out to a greater extent. The design borrows from the adjacent 55 Victoria Street. Suggest that further thought is given to the choice of materials. The mix of uses is acceptable even if the appearance of the structure is rather strident.

##### ENVIRONMENTAL HEALTH

No objection subject to conditions.

##### CLEANSING

No objection subject to conditions.

##### HIGHWAYS PLANNING

No car parking is provided. On street parking occupancy in the area has not yet reached an unacceptable level of deficiency (over 80% occupancy). However, to mitigate the impact of the development, car club membership is considered the strongest mechanism to reduce car ownership of future occupiers.

##### ADJOINING OWNERS/OCCUPIERS

No. Consulted: 45

Total No. of replies: 1

One objection has been received from the owner/occupier of 2-4 Old Pye Street raising objection on the following grounds:

##### AMENITY

- Loss of light;
- Increased sense of enclosure;
- Overlooking;

##### DESIGN

- Negative impact on conservation area;
- Inappropriate massing;
- Brick choice does not complement or respect buildings in Old Pye Street.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 5. BACKGROUND INFORMATION

### 5.1 The Application Site

3 Strutton Ground is a rendered and metal-clad building originally dating back to 1950's. The building currently comprises of a retail unit at basement and ground floor levels with three self-contained residential flats on the upper three floors. The building directly adjoins the recently completed and substantially taller 55 Victoria Street development. The longer flank elevation of 3 Strutton Ground runs along Old Pye Street.

### 5.2 Recent Relevant History

In 2005 permission was granted and subsequently implemented for the erection of an additional storey and rear extension in connection with the creation of three self-contained flats.

Works have recently been completed at 55 Victoria Street for alterations including extensions at roof level and to the rear to create a part eight, part 10, part 12 storey building with replacement of the façade in association with the use of the building as 54 residential units (Class C3), retail (Class A1) and bank (Class A2).

## 6. THE PROPOSAL

Permission is sought to demolish the existing building that occupies 3 Strutton Ground and the newly built brick plant space connected to 55 Victoria Street at the rear on Old Pye Street. The replacement building will comprise of eight storeys above basement and will retain a retail unit at part basement and part ground floor levels. The remainder of the building including would be used as six self-contained residential flats. The proposal would provide three additional residential units over the existing situation.

## DETAILED CONSIDERATIONS

### 6.1 Land Use

#### Retail

The development will re-provide the Class A1 retail unit maintain the same street frontage with the addition of a short shopfront return on Old Pye Street. The existing unit has a floorspace of 124sqm whilst the proposed unit would be marginally reduced in size by 11sqm. This reduction is considered acceptable given the requirement to provide additional ancillary areas for the new residential units such as bicycle and waste storage. The replacement retail complies with Policy S21 of the City Plan.

#### Residential use

The proposed development consists of six residential units over the seven upper floors with ancillary areas at part basement and ground floor levels. The increase in residential floorspace is supported under Policies S14 of the City Plan and H3 of the UDP.

The breakdown in units is as follows: 2 x 2 beds and 4 x 3 beds. The provision of 3-bed units is above the target set by Policy H5 which seeks 33% or more of units to be family sized. Given the narrowness of the site and inability to provide more than one unit per floor, the mix is considered acceptable in this instance.

The residential units vary in size from 146.2sqm for a two bed unit and up to 189.1sqm for the sixth and seventh floor duplex. The majority of flats have a similar size and layout given the constraints of the narrow site. Notwithstanding this the new flats would provide a good standard of accommodation in this dense urban location with the majority of window being south facing.

The units and are not considered oversized and as such comply with Policy S14 which requires the number of residential units on development sites to be optimised. All unit sizes exceed the requirements of the national space standards and all bedrooms are over the required minimum 7.5sqm for a single bedroom and 11.5sqm for a double bedroom (for a detailed area schedule please see background papers).

## 6.2 Townscape and Design

3 Strutton Ground is an architecturally undistinguished building and it lies outside a conservation area. As such, there is no in principle objection to its demolition subject to a satisfactory replacement.

The proposed replacement building is significantly higher than the existing but still approximately 8m lower than the adjoining 55 Victoria Street. It is also approximately 4m lower than 61-71 Victoria Street which is the building that forms the opposite corner of Strutton Ground and Victoria Street. The building would be significantly higher than the development to the south in Strutton Ground, but the new building does step down from the higher development on Victoria Street and provides a transition in scale to the lower development to the south.

This transition in scale, at present, takes place on the site of 3 Strutton Ground. The proposal would moderate the transition with an additional step and would spread the transition across the width of the application site to the development to the south. It is not considered that this transition in scale is any worse than the existing situation and could be considered as a more measured step down in scale than exists at present.

The architectural expression of the building is of a brick structure with punched openings for windows, asymmetrically placed across the façade. The approach is similar to that of the adjacent new building on Victoria Street, but there is a greater variety to the placement of windows and more innovative use of brickwork. The building now masks the blank side wall of the building to the north and offers an active and architecturally attractive face to the street.

It is considered that the proposed building is a significant improvement over the current situation on the site. While there is a de facto increase in height on the site, this, in effect, is helping to soften the large transition in height from the Victoria Street frontage to the lower buildings in Strutton Ground, which is the situation that currently exists on site. This is considered to be an enhancement to the overall form of development in the area.

### 6.3 Residential Amenity

Policy ENV13 of the UDP states that the Council will resist proposals that would result in a loss of daylight/sunlight, particularly to existing dwellings, and that developments should not result in a significant increased sense of enclosure, overlooking or cause unacceptable overshadowing.

The nearest residential would be the adjoining 55 Victoria Street although currently unoccupied, the properties within 5-9 Old Pye Street and opposite at 2-4 Old Pye Street. The owner of 2-4 Old Pye Street has raised objection on the grounds that the development would result in a loss of light, loss of privacy and increased sense of enclosure.

2-4 Old Pye Street benefits from an extant permission to erect a roof extension and change its use from offices to a single family dwelling. The owner has advised that the permitted scheme has been partly implemented, although not fully. During an officer site visit the building appears to be vacant. The permitted scheme at No.2-4 rearranged the fenestration pattern for the residential use.

The applicant has undertaken a daylight and sunlight assessment in accordance with the BRE guidelines. Three windows within the permitted scheme at 2-4 Old Pye Street would experience losses in VSC marginally above the 20% recommended by the BRE. Those windows would serve a mezzanine/landing area between ground and first floors (28.3% loss) and two bedrooms at first and second floor levels (26.1% loss and 22.2% loss respectively). Given that the losses to those rooms are relatively low and the rooms affected do not serve as main living areas, the losses are considered acceptable in this instance.

All other surrounding windows tested comply with the BRE Guidelines. It is considered that the replacement building will not result in a sufficiently harmful loss of light to surrounding properties to justify refusing permission.

#### **Sense of Enclosure**

Policy ENV13 also states that developments should not result in an increased sense of enclosure. The replacement building will have a greater height and bulk when compared to the existing; however this will largely be set against the massing of 55 Victoria Street, especially when viewed from the windows in 2-4 Old Pye Street. A street width of separation would remain. It is considered that the resulting relationship between the new building and neighbouring occupiers would not result in an unacceptable increase in sense of enclosure.

#### **Privacy**

Policy ENV13 seeks to resist development which would result in an unacceptable degree of overlooking. The application proposes two roof terraces to front of the building at sixth and seventh floor levels. The terraces will not overlook residential properties.

In terms of the new windows, the most affected existing residential would be 2-4 Old Pye Street which would see windows introduced on the opposite side of the street. Currently No.2-4 is overlooked by the numerous windows and balconies to the rear of 55 Victoria Street but they are at a greater distance than those proposed. There will be an increased sense of being overlooked given the new windows will be closer, however they will remain a street width apart and the majority of the new windows will serve bedrooms. It is considered that the replacement building will not lead to an unacceptable loss of privacy.

## **6.4 Transportation/Parking**

It is impractical to provide car parking on-site. The most recent on-street parking surveys show that both night time and day time occupancy is below the 80% deficiency level set out in Policy TRANS23 (42% and 78% respectively). The applicant is willing to commit to providing lifetime (25 years) car club membership for all residents of the development. It is recommended that this be secured by Grampian condition.

12 cycle spaces will be provided within the basement which is in compliance with the London Plan. It is recommended that the spaces be secured by condition. In terms of servicing, given the use of the existing building, it is not considered that the impact on the highway would increase with the introduction of three residential units.

## **6.5 Economic Considerations**

The development will have a beneficial economic effect through additional local spending during construction and occupation as well as the social benefits from the provision of additional housing.

## **6.6 Access**

Both the retail and residential entrances will have level access. The residential access will be from Old Pye Street and all units will have level access internally by virtue of the new lift serving all floors. The residential units have been designed to meet Lifetime Home Standards.

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

### **Plant**

Mechanical plant is to be located at basement, ground and sixth floor levels. Subject to conditions Environmental Health have no objection and as such it is considered that the plant will not result in noise nuisance or a loss of neighbouring amenity.

### **Refuse /Recycling**

The waste stores are located at ground floor level. The Cleansing Manager is satisfied with the refuse arrangements and the provision of the storage is recommended to be secured by condition.

### **Sustainability**

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture.

The NPPF establishes a presumption in favour of sustainable development. London Plan Policy 5.3 also requires developments to achieve the highest standards of sustainable design, with Policy 5.2 seeking to minimise carbon emissions through a 'Be Lean, Be Clean and Be Green' energy hierarchy.

It is estimated that for the whole site the proposal will achieve an overall total carbon reduction of 21.5% over Part L 2013 Target Emission Rate, which broadly aligns to Code for Sustainable Homes Level 4 standard in terms of carbon emissions. Photovoltaic panels are



proposed at roof level which is to be secured by condition. The sustainability credentials of the development are considered acceptable.

## **6.8 London Plan**

This application raises no strategic issues.

## **6.9 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.

## **6.10 Planning Obligations/CIL**

It is estimated that the Westminster's Community Infrastructure Levy charge for this development would be £200,000.

In agreement with the applicant, a Grampian condition is recommended to secure car club membership (25 years) for future occupiers of the residential units. The condition will invite the applicant to submit a unilateral undertaking to secure this.

## **6.11 Other Issues**

The Thorney Island Society raised concern over the brick recesses providing opportunity for nesting birds. The bricks are 55mm in height, and allowing for 10mm mortar joints, would leave a maximum 75mm high gap. The applicant has reassured officers that the gaps are not large enough for a pigeons to nest. Sliding windows will be located behind the perforated brickwork to allow for cleaning if necessary. Similar perforated brickwork has been employed on the Stirling Prize nominated Saw See Hock LSE Student Centre, which form visual inspection does not appear to have an issue with nesting birds.

## **7. BACKGROUND PAPERS**

1. Application form
2. Response from Thorney Island Society dated 29 April 2016.
3. Response from Westminster Society dated 12 April 2016.
4. Memorandum from Highways Planning dated 16 April 2016.
5. Memorandum from Environmental Health dated 4 May 2016.
6. Memorandum from Cleansing dated 3 October 2016.
7. Letter from owner/occupier of 2-4 Old Pye Street dated 27 April 2016.

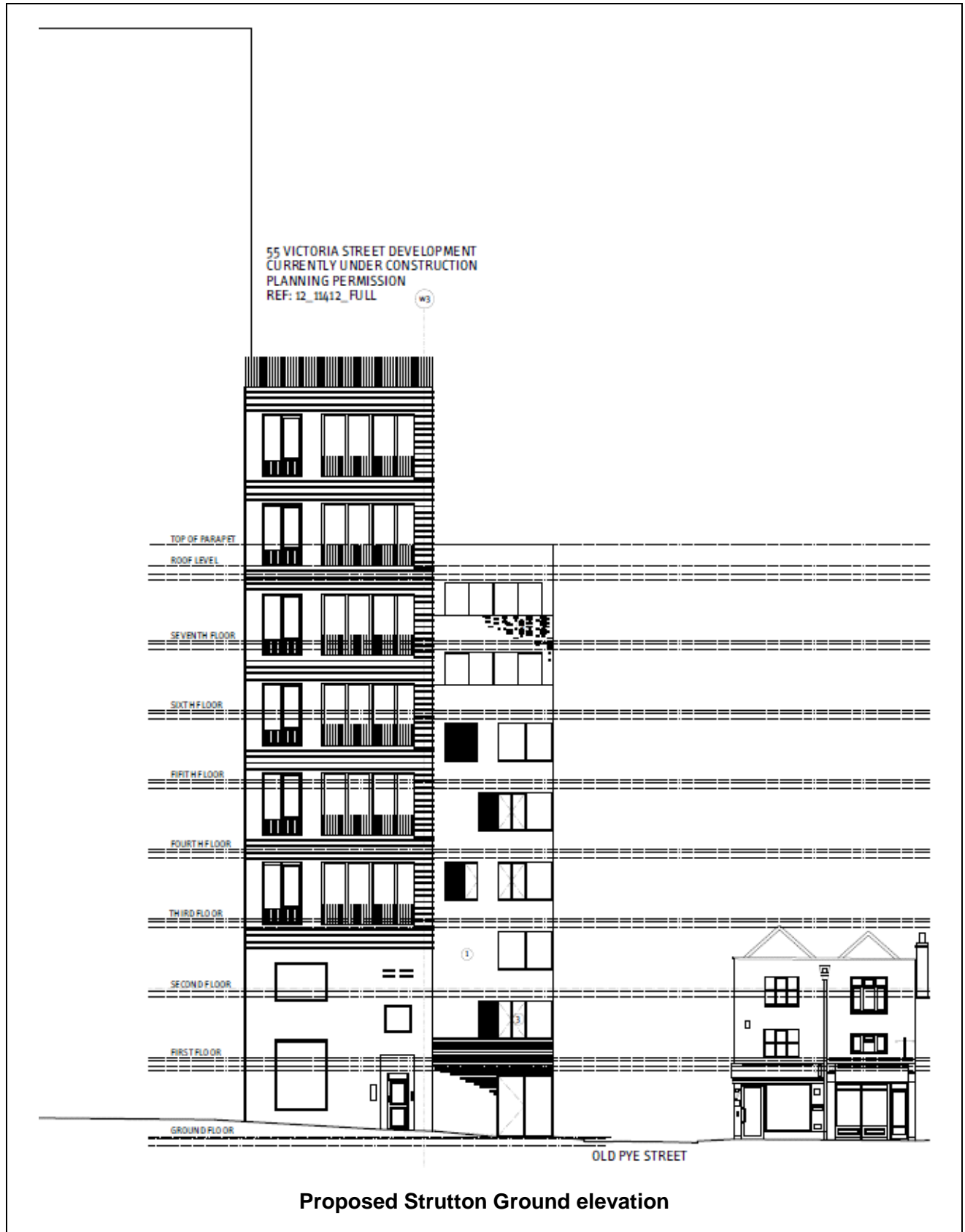
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

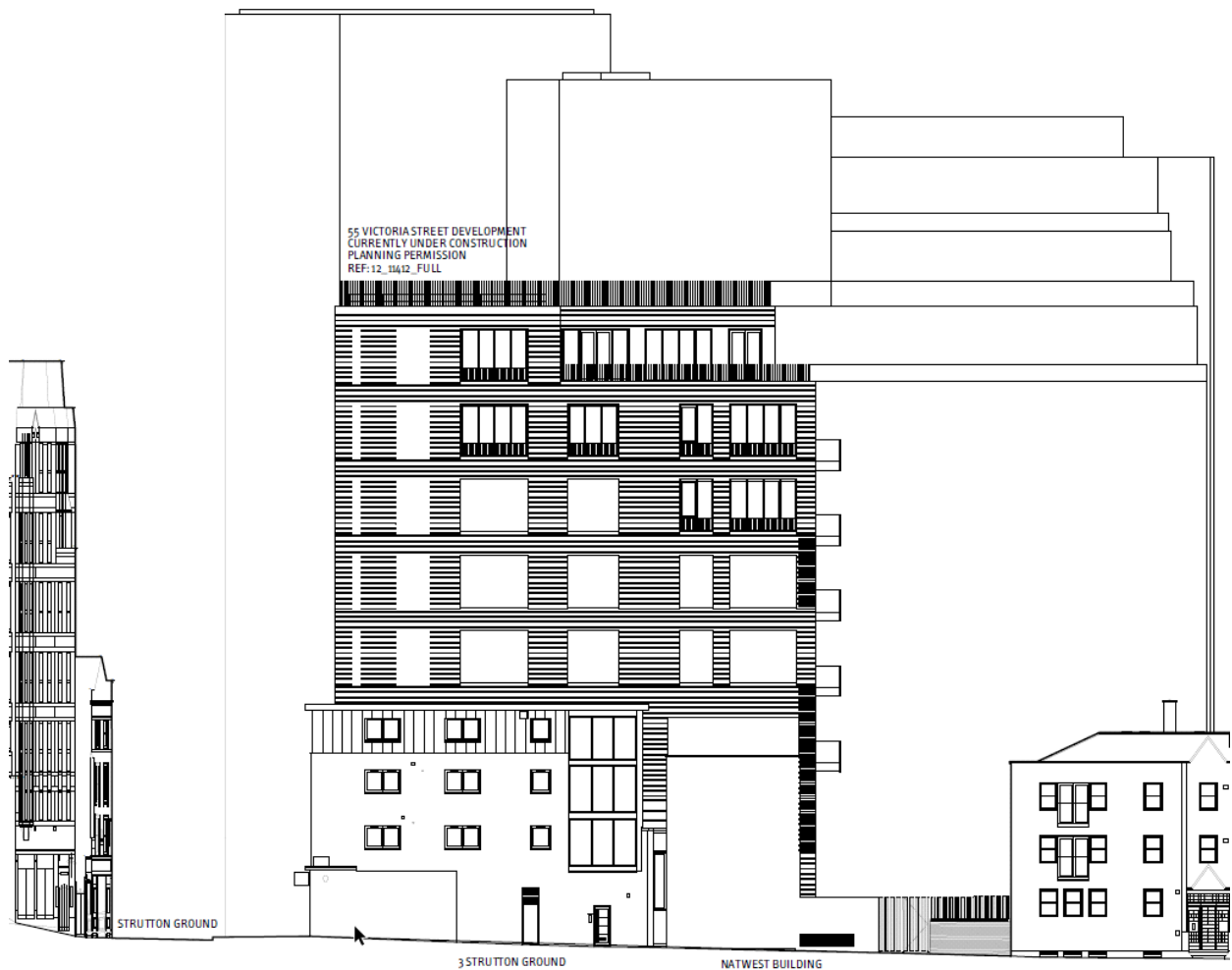
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: VINCENT NALLY BY EMAIL AT [vnally@westminster.gov.uk](mailto:vnally@westminster.gov.uk)

55 VICTORIA STREET DEVELOPMENT  
CURRENTLY UNDER CONSTRUCTION  
PLANNING PERMISSION  
REF: 12\_11412\_FULL



Existing Strutton Ground elevation





Existing Old Pye Street elevation



Proposed Old Pye Street elevation

**DRAFT DECISION LETTER**

**Address:** 3 Strutton Ground, London, SW1P 2HX,

**Proposal:** Demolition of existing building and erection of an eight storey building over basement providing six residential flats (Class C3) on the upper floors and a retail unit (Class A1) at ground and basement levels including associated plant at basement, ground and sixth floor levels, roof terraces at sixth and seventh floor levels and PV panels at roof level.

**Plan Nos:** TSG00; TGS01 RevB; TSG02; TSG03; TSG04; TSG05; TSG06; TSG07; TSG08; TSG09; TSG10 RevC; TSG11 RevF; TSG12 RevE; TSG13 RevE; TSG14 RevE; TSG15 RevD; TSG16 RevD; TSG17 RevE; TSG18 RevE; TSG19 RevE; TSG20; TGS21 RevD; TSG22 RevD; TSG23 RevC; TSG24 RevC; 120 RevP1; 121 RevP1; 122 RevP1; External Plant Assessment; Daylight and Sunlight Report; Energy and Sustainability Statement; Planning Statement. For information purposes: Construction Management Plan; Statement of Community Involvement.

**Case Officer:** Vincent Nally

**Direct Tel. No.** 020 7641 5947

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

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

Reason:

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

- 2 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:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 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 (July 2016) 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 apply to us for approval of detailed drawings of the following parts of the development:

- (a) new windows including surrounding details (detailed drawings at a scale of 1:10);
- (b) new external doors including surrounding details (detailed drawings at a scale of 1:10);
- (c) new shopfront (detailed drawings at a scale of 1:20).

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

You must then carry out the work according to these details. (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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 5 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 6 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 7 (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 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:

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 (July 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.

- 8 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.

- 9 You must install the mitigation measures as recommended within the acoustic report submitted as part of the planning application. You must then maintain the measures for as long as the machinery remains in place

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 10 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 11 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 12 You must provide the waste store shown the approved drawings before anyone moves into the

property. You must clearly mark it and make it available at all times to everyone using the property. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 13 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.

- 14 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 make sure that the development is completed and used as agreed, and to make sure that it meets H5 of our Unitary Development Plan that we adopted in January 2007. (R07AB)

- 15 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application.

Photovoltaic panels

You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (July 2016). (R44AC)

- 16 You must not use any part of the development until we have approved appropriate arrangements to secure the following.

Measures to mitigate on-street parking pressures.

In the case of each of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements. (C19BA)

**Reason:**

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 of Westminster's City Plan (July 2016) and in TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R19AC)

**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 (July 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 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 3 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)
- 4 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.**

- 5 Conditions 7, 8 and 9 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)

- 6 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 7 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 8 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 9 Under condition 16 we are likely to accept a Unilateral Undertaking to secure car club membership (25 years) for future residential occupiers of the development. Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition.

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	7-10 Dean's Mews, London, W1G 9EF		
Proposal	Demolition and redevelopment to provide four dwellings including external terraces on the western elevation to two dwellings (No. 7 and 8) and the installation of 8 air conditioning units (2 units per dwelling).		
Agent	Savills		
On behalf of	The King’s Fund		
Registered Number	16/05491/FULL	Date amended/ completed	13 June 2016
Date Application Received	13 June 2016		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

This application site relates to 7-10 Dean's Mews which are unlisted buildings located within the Harley Street Conservation Area. They were until recently used in connection with the Convent of the Holy Child Jesus. All buildings are vacant.

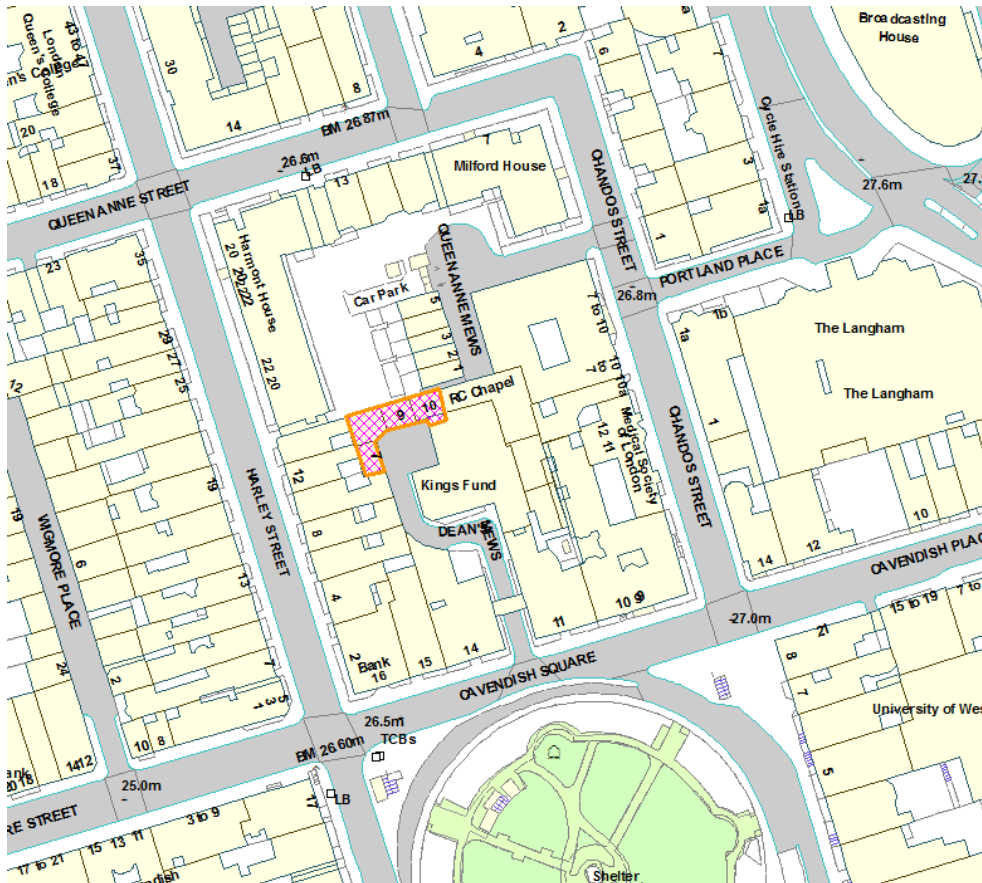
Permission is sought for the demolition and redevelopment to provide four dwellings including external terraces on the western elevation to two dwellings and the installation of 8 air conditioning units (2 units per dwelling).

The key issues for consideration are:

- \* The impact of the dwellings upon the amenity of neighbouring residents.
- \* Whether the principle of demolition of unlisted buildings of merit is acceptable.
- \* The impact of the replacement building upon the character and appearance of the Harley Street Conservation Area and the setting of nearby listed buildings.

The application is considered acceptable in land use, amenity, design and conservation terms, and highways terms and is in accordance 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

Photograph 1. Front elevation of 8, 9 and 10 Dean's Mews



Photograph 2. Front elevation of 7 Dean's Mews





**Photograph 3. View to rear of site and surrounding properties****Photograph 4. View of rear wall**



## 5. CONSULTATIONS

**COUNCILLOR ROBERTS:** Considers that the application should be heard at Planning Committee and is in support of the comments made by the objectors.

**MARYLEBONE ASSOCIATION:**

Objection – questions whether the dual use of 12 Harley Street has been considered within the daylight and sunlight report.

The proposals do not reflect a typical mews development. They appear out of context with the mews character and are bulky with the additional sheer storey.

We would expect to see a construction management plan, going beyond the base requirements to ensure consideration has been given to neighbouring residents and their amenity.

No objection following re-consultation.

**CLEANSING:**

No objection subject to securing the use of the waste store in the adjacent King's Fund building by the new development.

**ENVIRONMENTAL HEALTH:**

No objections subject to conditions.

**HIGHWAYS PLANNING MANAGER:**

Objection-loss of existing off-street car parking and lack of car parking provision for the new residential units.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 34

Total No. of replies:

No. of objections: 6

No. in support: 0

No. of comment: 2

Objection

12 letters of objection (from 8 respondents) have been received on the following grounds:

Loss of privacy

- to private residential gardens and habitable windows of neighbouring properties
- no plans or sections to demonstrate the proximity to existing residential properties
- opaque glazing specified does not satisfy the concerns relating to loss of privacy
- the dwelling faces onto private gardens.

### Daylight and sunlight

- the dual use of 12 Harley Street nor the medical uses of 10, 12 and 14 Harley Street which is considered to be different to those uses considered 'commercial' as part of the BRE guidance, have not been taken into account in the daylight and sunlight report.
- The updated daylight and sunlight report demonstrates that surrounding windows will be affected and do not agree with the recommendation within the report that the impacts will be minor.

### Design

- The height of the buildings fails to maintain the subordinate nature of the mews.

### Construction impacts

- Nearby medical and residential uses are sensitive to noise, dust and other impacts arising from construction and therefore a construction management plan should be required. Questions who is responsible for security during construction; children play in the neighbouring gardens

2 letters of comment have been received and can be summarised as:

- building work should be undertaken during normal working hours and not at weekends.
- access to the Mews should be maintained and consideration given to its narrow arrangement.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application site relates to 7-10 Dean's Mews which are unlisted buildings located within the Harley Street Conservation Area. They were, until recently used in connection with the Convent of the Holy Child Jesus. All buildings are vacant.

Dean's Mews is a cul-de-sac accessed through an archway off Cavendish Square. The area in front of the properties provides access and turning area for delivery and refuse vehicles. The King's Fund building is located to the east. The site is located within the Core Central Activities Zone (Core CAZ).

7 Dean's Mews is a residential (Class C3) dwelling which accommodated the Provincial Nun and contains an integral garage. It directly abuts the grander larger town houses of Harley Street to the east.

8-10 Dean's Mews provided accommodation for the nuns (Sui Generis), including facilities for their study and prayer. This building abuts the properties at Queen Anne Mews and the Harley Street Q-park to the north.

The surrounding area comprises a mix of uses including residential, medical, offices and research and conference facilities.

## 6.2 Recent Relevant History

There is no relevant planning history.

## 7. THE PROPOSAL

Planning permission is sought for the demolition of the existing buildings and their re-development to provide four single family dwellings. The dwellings will all comprise of three bedrooms. Nos. 7 and 8 will both have a terrace on the western elevation at second floor level. Each dwelling shall provide cycle storage for two cycles. There will be one central bin store provided within existing bin storage in the King's Fund building.

Each dwelling is intended to have its own mechanical plant (2 air conditioning units per dwelling); No. 7 and 8 will locate the plant on the terraces. The plant for No. 9 will be within the form of a chimney stack at roof level and the plant serving No. 10 will be sunk in a well below the parapet.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Residential use

7 Deans Mews is lawfully a residential property. The principle of redeveloping this building for residential purposes is acceptable in land use terms.

However, 8-10 Dean's Mews previously provided accommodation for nuns. In line with how the Council has previously dealt with convents, it is considered that convents fall within a Sui Generis use. The nuns of the Convent of the Holy Child Jesus lived together as a family, where they studied, prayed, taught, ate together and had one household purse.

The nature of the convent use is as a religious order, covering all aspects of their religious calling, and goes beyond that of residential accommodation. It is considered that on the information presented, the convent use falls outside of the definition of residential hostels, nor does it a form of special needs housing, as defined by the Council's policies. As such, the convent falls outside of consideration under policies H6 of the UDP and S15 of the City Plan and is not a use specifically protected by these policies.

Policy S6 states that the Core CAZ is a suitable location for a range of commercial and cultural uses and complementary residential use. The area is generally mixed, with both commercial and residential uses being the predominate land uses. Residential use within this locality would maintain a balance between the residential and commercial uses and would ensure that the core strategic commercial function of the Core AZ can continue to thrive.

Policy H3 in the UDP aims to maximise the amount of housing outside the Core CAZ and, where appropriate, within the Core CAZ. This is emphasised by City Plan policy S14 which

states that residential use is the priority across Westminster except where specifically stated. Therefore the principle of providing residential floorspace to replace 8-10 Dean's Mews is supported by City Plan policies S6 and S14 and UDP policy H3.

All the residential dwellings will be family sized, providing three bedrooms and exceed the requirements set out in the GLA Housing Standards in terms of their size. They all provide double aspect and are acceptable in terms of their standard of accommodation.

**Table 1. Proposed residential uses**

Unit	Proposed number of bedrooms	Existing GIA (sqm)	Proposed GIA (sqm)	Minimum space standards (GIA) (sqm)	Amenity space (sqm)
7	3	105.72	115.95	108	10.30
8	3	158.73	190.55	108*	4.92
9	3	111.07	149.39	108*	-
10	3	106.84	165.65	108*	-
<b>Total</b>		<b>482.35</b>	<b>621.54</b>		<b>15.22</b>

\*8,9 and 10 are all four storey dwellings- the minimum space standards do not provide size for 4 storeys and the figure given is based on a 3 storey.

Two of the dwellings will provide amenity space in the form of terraces. The site is located in close proximity to public open spaces, notably Cavendish Square. Whilst houses of this size would normally be expected to provide outdoor amenity space, given the constraints of this site, and the surrounding development, any other amenity spaces that could be provided have the potential to be overlooked. It is not considered that planning permission can be withheld for these reasons.

### **Affordable housing**

The increase in residential floorspace does not trigger the requirement to provide a proportion of affordable housing within this scheme.

### **Optimisation**

Officers raised concern that Policy S14 requires the amount of housing on development sites to be optimised. The applicant contends that there are several constraints with the site (narrow depth, relationship to the properties to the rear and the linear form of the building which makes it inefficient). It also advises that the development of the site to provide flats would only provide one additional unit and fewer bed spaces (22 bed spaces in the current scheme, whilst a flat option would provide 18); they would be single aspect and would not achieve the BRE guidelines for daylight and sunlight for new developments. The applicant also considers that the historic subdivision of the site as four units would be lost. The applicant has not provided a study to show that a flat scheme is unworkable.

The housing that is presented in the scheme, forming four single family dwellings comprising of three bedrooms (two with outside amenity space), on the basis of the

scheme presented and without other options presented, is considered to provide better quality housing than a potential flat scheme. Given the policy position to increase the amount of housing and the requirement for a proportion to comprise single family dwellings, the redevelopment of the site is considered to adequately optimise the residential use of the site. It is considered that a refusal on the grounds of optimisation would be difficult to sustain.

## 8.2 Townscape and Design

The application site is located at the end of Dean's Mews, which is a small L-shaped mews with a mixed character, located within the Harley Street Conservation Area. Nos. 9 and 10 Dean's Mews are identified as unlisted buildings of merit in the conservation area audit. Nos. 4-6 Deans Mews are listed, as are 2-14 Harley Street (Grade II) and nos. 11 -14 Cavendish Square (Grade II\*) which back onto the mews.

The main design issues to be considered are the principle of demolition of the existing buildings and the design of the proposed replacement buildings, taking into account the Council's statutory duty in the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the preservation of the settings of listed buildings and the preservation and enhancement of the Harley Street Conservation Area.

### Principle of Demolition

The proposals involve the demolition of 7-10 Deans Mews.

No. 7 is a two storey modern mews buildings which dates from 1967 and, although of a consistent scale with other properties to this side of the mews, does not contribute positively to the character and appearance of the area. Its demolition would not harm the character and appearance of the conservation area and there would be no objection to its loss, subject to an acceptable replacement.

Nos. 8-10 Dean's Mews do make a positive contribution to the townscape and character and appearance of the area. No.10 is two storeys (with later mansard) and retains its original mews character, proportions and scale. Nos. 8-9, while not of significant architectural merit, also have a simple, robust character, which is appropriate within the historic context of a mews. Only Nos. 9 and 10 are identified as unlisted buildings of merit in the conservation area audit, but 8 & 9 are effectively one building and share the same detailing, and both are therefore considered to be of some merit.

However, although they do contribute to the character of the mews, it is considered this contribution is limited. These are modest buildings and the applicant has demonstrated in its heritage statement that 8-10 have been substantially rebuilt and retain limited historic fabric. In this is a very enclosed location, it is considered that their loss would constitute less than substantial harm (using the tests in the NPPF). The harm caused to heritage assets has to be weighed against public benefits and the benefits of appropriately high quality new housing in this location could be sufficient to outweigh that harm.

### **Replacement buildings and impact on the character and appearance of the conservation area.**

The proposed scheme would create four new townhouses in London stock brick. Existing plot boundaries/ footprints would be maintained and a variety of architectural detailing is used to differentiate each house.

With regards to height and bulk, the existing buildings are a mix of two storeys (plus mansard) and three storeys, creating a varied roofline. Nos. 8-10 would be replaced with four storey townhouses across the entire northern end of the mews. A three storey building would replace the existing three storey building at no. 7 but this would be taller than the existing and adjoining buildings. Although floor to ceiling heights are being reduced from those in the existing buildings, the overall increase in heights across the site ranges from around 1.5 - 4m.

In this location, it is considered the contrast of more modestly-scaled mews buildings with the taller, grander buildings lining the main streets is important to the character of the mews and conservation area and a reminder of the historic pattern of development in the area. The proposed increase in height across the entire site will create a significantly more imposing building, which will dominate the mews and views from the residential properties to the north. At pre-application stage, it was therefore suggested that the top, attic storey be removed and/ or the roof detailed in part as a mansard.

However, the applicant has pointed to the fact that this is an unusual and varied mews, the street slopes downwards towards the application site, meaning a taller building will be less prominent on this site and the King's Fund building is already significantly taller than the rest of the buildings in the mews. An increase in height in this location is therefore considered acceptable.

In terms of detail and materials, the elevations are principally formed in London stock brick, with rustication formed of bands of blue/black brick, windows will be painted timber and roofs will be natural slate. These materials are acceptable in this context, as is the mix of classical detailing, although it is considered the choice of design detail, incorporating rustication and bays, does give the buildings gives an appearance more typical of large townhouses than the simple robust detailing typically found in a mews context.

Some minor changes have been made to the detail following comments at pre-application advice, adding blind windows to the attic storey to provide more consistency to the front elevation and provide greater coherence to the overall design. Some additional detailing (brick arches and banding) have also been added to the rear to help break up this elevation. A mix of fenestration is still proposed across the site and it is considered sash windows would be most appropriate to this context and style of building and create a more coherent design. An amending condition is therefore proposed to require sash windows rather than casements.

Overall, on balance, although there will be some harm to the character of the mews and setting of adjoining listed building, the new scheme is considered acceptable in this context, particularly taking into account the large scale of the buildings which adjoin it and the enclosed nature of the site and is of an appropriately high quality to outweigh the less than substantial harm caused by the loss of the unlisted buildings.

### 8.3 Residential Amenity

#### Sunlight and Daylight

A daylight and sunlight assessment has been submitted with the application which assesses the impact of the development with regard to BRE guidelines for daylight and sunlight to new and existing developments. The submitted report considers the impacts of the proposals on nearby sensitive properties including residential properties at 12 and 14 Harley Street, 4 and 5 Dean's Mews, 14 and 15 Cavendish Square, Harmont House, 1 and 2 Queen Anne Mews and 7-10 Chandos Street. Objections citing loss of daylight/sunlight have been received on behalf of the owners of 10, 12 and 14 Harley Street and 1, 2, 3 and 3a Queen Anne Mews.

#### Daylight

Under the BRE guidelines the amount of daylight received to a property may be assessed by the Vertical Sky Component which is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the window will have the potential to provide good levels of daylight. For buildings that neighbour a new development, the guidance suggests that daylight will be adversely affected by the development if its windows achieve a VSC below 27% and have their levels reduced to less than 0.8 times their former value.

The report demonstrates that the windows serving the objectors' properties at Harley Street and Queen Anne Mews and the remaining windows in surrounding properties achieve compliance with the BRE guidelines in respect of VSC assessment. The objections on the losses to daylight levels at neighbouring properties cannot be supported and the proposed scheme is unlikely to have a material impact upon the living conditions of neighbouring occupiers in terms of daylight.

#### No Sky Line

The 'No Sky Line' (NSL) method measures the daylight distribution within a room, calculating the area of working plane inside the room that has a view of the sky. Accurate assessment of the No Sky Line method is dependent upon knowing the actual room layouts or having reasonable understanding of the likely layouts. BRE guidelines states that if the no-sky line is reduced by 20% this will be noticeable to its occupants.

The report demonstrates that all windows serving the objectors' properties at Harley Street and Queen Anne Mews and the remaining windows in surrounding properties achieve compliance with the BRE guidelines in respect NSL daylight assessment.

#### Sunlight

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that any reduction in sunlight below this level should be kept to a minimum. If the level of sunlight received is

below 25% (and 5% in winter), the loss is greater than 20% either over the whole year or just during winter months and the loss over the whole year exceeds 4%, then the loss would be noticeable.

In respect to sunlight, only those windows facing within 90 degrees of due south require testing. The windows located within Harmont House and 1 and 2 Queen Anne Mews were therefore tested.

There are two windows, R1/ground at ground floor level (serving bedroom) and R1/first at first floor level (serving living room) of No. 1 Queen Anne Mews that will have reductions in excess of those recommended in the BRE guidelines, as detailed in the table below.

**Table 2. Sunlight for 1 Queen Anne Mews**

Room	Existing (Winter)	Proposed (Winter)	Loss (Winter)	Winter loss %	Existing (Annual)	Proposed (Annual)	Loss (Annual)	Annual loss %
R1/Ground (bedroom)	1	0	1	100%	27	19	8	29.63
R1/First (living room)	9	0	9	100%	39	25	14	35.9%

It is acknowledged that the Queen Anne Mews developments (Nos. 1-5) are designed with the living room windows facing a westerly direction and therefore benefit from sunlight in the afternoon. These properties are oriented in such a way that the living room window is positioned in one of the most optimum positions to benefit from sunlight. With this in mind, it is evidenced that the current property experiences low probable sunlight hours in winter months, but benefit from above annual probable sunlight hours. This is likely to be attributed to its inner city location and the location of one of the windows at ground floor level. It is not uncommon for ground floor windows to experience low winter sunlight hours in inner city locations. In regards to annual probable sunlight hours, both windows currently exceed the target, which is generally uncommon in urban locations such as this. Whilst these windows would experience annual losses in excess of 20% the proposed hours remain at a level that can be considered acceptable for this inner city location.

Consideration has also been given to the design of the scheme. Substantial alterations would be required, particularly to the dwelling at No.10 and may involve the loss of floors and number of bedrooms, preventing the delivery of the wider planning benefits of the scheme including all dwellings being of a family sized (three bedrooms).

In this instance, the windows are assessed to receive adequate sunlight hours over the whole year. It is considered that a refusal on these losses would be difficult to sustain.

#### Internal levels for proposed development

The BRE report shows that the proposed residential dwellings would receive adequate light throughout.



## Overlooking and Sense of Enclosure

Objections have been received on the grounds of overlooking from the introduction of windows on the rear (northern) elevation. One objector states that the proposed use of obscure glazing is not considered to alleviate the loss of privacy. The rear elevation of existing building is currently blank. Directly abutting the application site to the north is a private garden of Harmont House, the entrance to the Harley Street Q-park car park and 1-5 Queen Anne Mews.

Officers raised concern that the windows on the rear boundary would be dependent upon a neighbouring site for daylight and ventilation. The agents suggest that there are policies in place that would prohibit the future development of the site to the north, and the removal of the rear windows would limit the re-development potential of the site. They also consider that there is a limited depth of the site, which limits the depth of the rooms and limits the amount of natural light the development achieves.

All the windows contained within the rear elevation of No. 10 are indicated to be opaque glazing. The windows serving stairwells and bathrooms in the rear elevation of number 8 and 9 will also be opaque glazing. The applicant has confirmed that they are agreeable to a condition requiring the identified rear windows to be opaque glazing and fixed shut. The condition shall require a sample of the opaque glazing to be submitted.

The condition would not restrict the opening of the windows to the front and given the installation of mechanical plant to serve the dwellings, it is considered that they can be adequately ventilated. Whilst the applicant has been advised that the windows on the rear boundary would be dependent upon a neighbouring site for daylight, these have not been removed or reduced from the scheme. This is disappointing and officers consider that a significant number of the windows could be removed especially where there are open plan living rooms at first floor level. However the application must be considered on its merits and this situation is a risk for the developers, if any development proposals come forward for the neighbouring site. This situation would result in bad neighbour development and an informative is recommended to advise the applicant of this.

No. 1 Queen Anne Mews is the closest residential property to the party wall and is positioned at right angle to the application site. The windows in the rear elevation of this neighbouring building, nearest to the proposed development serve a bedroom at ground floor level, living room at first floor and bedroom at second floor level.

The windows in the rear elevation of no. 10 Dean's Mews would have an oblique view towards 1 Queen Anne Mews and with the addition of opaque glazing to be fixed shut; it is considered that the rear windows would not lead to a significant loss of privacy to any neighbouring building that would warrant refusal of the application.

The clear glazed windows contained within the rear elevation of No's 8 and 9 would have an outlook over the gardens shared by surrounding properties and the car park vents. The residential properties directly to the north are in excess of 45m away, and would not result in direct overlooking of any residential properties.

Therefore, on balance taking into account the depth of the site and the extent of windows, including the use of opaque glazing, the development is unlikely to lead to a significant

loss of privacy to the detriment of neighbouring occupiers that would warrant refusal of the application.

The existing buildings vary in height along the northern and western elevation. The replacement building would be increased by at least 4m on the rear boundary (No's 8, 9 and 10) and 2m to No. 7. The most impacted properties would be 1 Queen Anne Mews and 12 and 14 Harley Street, the latter have objected on the grounds of the increase in the height of the building.

Policy ENV13 of the UDP states that the City Council will seek to ensure new developments do not result in a 'significant increase in the sense of enclosure'. It is acknowledged that the occupants of 1 Queen Anne Mews and 12 and 14 Harley Street will feel more 'closed in' than at present. However, the rear windows of 1 Queen Anne Mews do not directly face the application site. The increase in the height of the building adjacent to 12 and 14 Harley Street, whilst they do face the application site, this elevation would be increased in height by two metres. It is therefore not considered that the resulting relationship between the site and the adjoining residential buildings would result in an unacceptable degree of enclosure to reasonably withhold planning permission.

## **8.4 Transportation/Parking**

### **Car Parking**

The existing dwelling at 7 Dean's Mews has an integral garage providing 2 car parking spaces. TRANS 23 states that "the permanent loss of any existing off-street residential car parking space will not be permitted other than in exceptional circumstances". The applicant states that the existing garage is impractical, given the dimensions of the ground floor and the access from Dean's Mews. They also state that the provision of any off-street car parking in the development may have an impact on the design of the dwellings, the potential to reduce the number of bedrooms for the dwelling, which may in turn impact on the viability of the scheme. The garage is not safeguarded by condition and it is acknowledged that it could be converted to provide additional habitable accommodation without planning permission.

UDP Policy TRANS 23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased beyond identified 'stress levels'. 2011 census figures indicate 29% of households in the West End ward have one or more cars. 'Stress levels' are considered to have occurred where the occupancy of on-street legal parking bays exceeds 80%. Within a 200m radius of the site, parking occupancy during the day is 82%; overnight parking occupancy reduces to 71%. Overnight residents can park on single yellow lines which further reduces the parking stress level to 19%.

The proposed development would generate a requirement for maximum of two unallocated car parking spaces, based on current car ownership levels for the West End ward. As there is no provision to provide an integral garage space as part of the redevelopment, the applicant has therefore indicated its willingness to provide two off-street parking spaces within a local car park (unspecified) for a period of 25 years. The arrangement set out by the applicant to provide alternative off-street car parking is

considered acceptable and would be secured by a Grampian condition requiring the submission of full details, which would be through a S106 planning obligation.

### **Cycle Parking**

The plans indicate 2 cycle parking spaces will be provided at ground floor level for each of the dwellings. The proposal is consistent with the London Plan (2016) and a condition is recommended to ensure that they are provided and retained.

## **8.5 Economic Considerations**

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

## **8.6 Access**

Access to the new dwellings would be retained as existing from Dean's Mews. There will be level access from street level into the dwellings.

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

### **Noise**

Two of the residential buildings would provide rear external terraces at second floor level. They would be located in close proximity to the commercial buildings at 12 and 14 Harley Street. It is noted that No. 12 Harley Street has an extant dual permission for medical and residential uses. The building however is currently in medical use.

The proposed terrace serving no. 7 is 10.3sqm in area and 1.2m deep. In respect to the terrace at no. 8, this would provide 4.92sqm and is 2.3m deep. Both terraces are indicated to be screened by a brick wall 0.9m high supporting a privacy screen to a height of 1.7m along the rear of the property. No. 12 and 14 Harley Street both have terraces at rear first floor level which are common features in central London given the limited space for gardens.

As the roof terraces are proposed to be used in connection with two separate residential units, and given the distances from neighbouring properties and the screening proposed, this is unlikely to give rise to any significant noise disturbance and would help to maintain privacy for both the occupiers and neighbouring occupiers.

### **Plant**

The application has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance.

Mechanical plant comprising of 8 air conditioning units; two units per dwelling will be located at roof level. The acoustic report indicates that the air conditioning units to serve No. 7 and 8, acoustic louvres are required. Calculations indicate that with the specified acoustic louvres and distance attenuation; the plant will be compliant with the City Council's noise criteria.

A condition is recommended to ensure that the envelope of the new building will provide adequate insulation to the residential properties from external noise.

#### Refuse /Recycling

The applicant has indicated its willingness to provide a central waste and recycling storage facilities for the residential units within the existing refuse area of the King's Fund building. The cleansing officer has confirmed that the King's Fund refuse area has capacity to accommodate the waste and recycling for the 4 residential units. As the applicant is the King's Fund the existing waste and recycling storage facilities are within the control of the applicant, a condition is recommended to ensure that this facility is maintained for the lifetime of the development.

### 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

The King's Fund is seeking to develop the site for the rental market in order to generate income for the charity. As the developer has charity status and is for investment purposes for the charity, charity relief may be available that allows the scheme to be exempt from paying CIL contributions. A final decision on this will be made by the City Council in its capacity as CIL collecting authority.

The Fund has also offered its expertise as a 'critical friend' to assist in the City Council's review of its community supportive housing. The letter from the Fund dated 6 October 2016 sets out the terms of the offer, and a further offer to provide specialist input in the design and construction of a well-being garden for residents at Beachcroft House in Shirland Road. This is a Council proposal still as pre-application stage. In its letter the Fund makes it clear that this officer is driven by its own social responsibility as a Westminster based charity with specialist expertise in supported housing. It expressly advises that the offer shall not carry any material weight in the determination of the planning application. It is not proposed, therefore, to secure the offer by conditions or by Section 106 agreement in the normal way.

### 8.11 Environmental Impact Assessment

An environmental impact assessment is not applicable for a development of this size.

## 8.12 Other Issues

### Construction impact

Objections have been received in respect to the impacts arising from construction on surrounding residential and medical uses. The application falls outside level 1 and 2 categories that are applicable to the new Code of Construction Practice, which will help ensure that the impacts of the development process are ameliorated as much as reasonably possible.

The Environmental Inspectorate has determined that the application would not be suitable for an upgrade to Level 2 as it falls well under the threshold and the requirements would be too onerous for a site on this scale. However, the work will need to be carried out in accordance with other regulatory codes.

## 9. BACKGROUND PAPERS

1. Application form
2. Response from Marylebone Association, dated 18 July 2016 and 18 August 2016
3. Response from Cleansing, dated 29 June 2016 and 24 August 2016
4. Response from Highways Planning, dated 21 June 2016 and 12 August 2016
5. Response from Environmental Health, dated 7 July 2016
6. Letter from occupier of 4 Dean's Mews, London, dated 13 July 2016
7. Letter from occupier of 4 Dean's Mews, London, dated 13 July 2016
8. Letter from occupier of DLBP, 1 Gracechurch Street, dated 8 July 2016
9. Letter from occupier of DLBP, 1 Gracechurch Street, dated 8 August 2016
10. Letter from occupier of 5 Milford House, 7 Queen Anne Street, dated 19 August 2016
11. Letter from occupier of 2 Queen Anne Mews, London, dated 15 September 2016
12. Letter from occupier of JJL, 30 Warwick Street, London, dated 16 September 2016
13. Letter from occupier of DLBP, 1 Gracechurch Street, London, dated 16 September 2016
14. Letter from occupier of JJL, 30 Warwick Street, London, dated 23 September 2016
15. Letter from occupier of 2 Queen Anne Mews, London, dated 26 September 2016
16. Letter from occupier of 1 Queen Anne Mews, London, dated 28 September 2016
17. Letter from the King's Fund dated 6 October 2016.
18. Letter from occupier of 19 Harmont House, 20 Harley Street, dated 6 October 2016.

### Selected relevant drawings

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

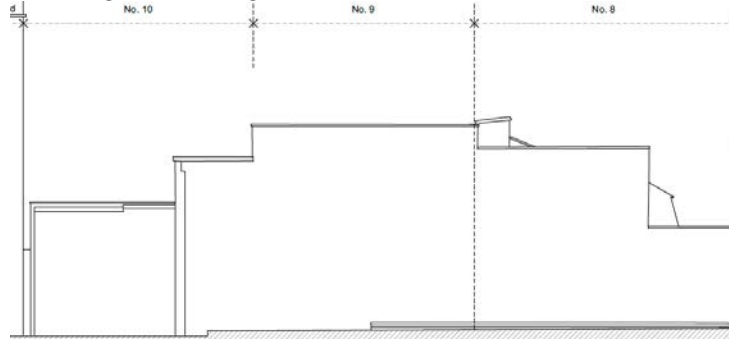
<p>IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT <a href="mailto:mhollington2@westminster.gov.uk">mhollington2@westminster.gov.uk</a>.</p>
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## 10. KEY DRAWINGS

Drawing 1. Existing unfolded front elevation



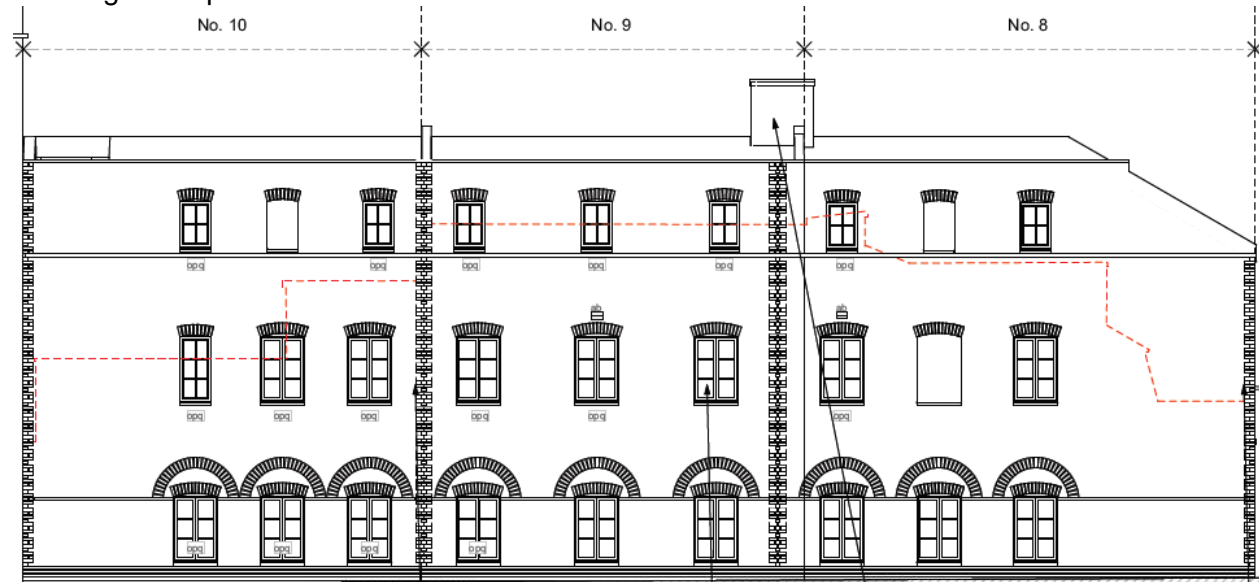
Drawing 2. Existing rear elevation



Drawing 3. Proposed unfolded front elevation



Drawing 4. Proposed rear elevation



Drawing 5. Proposed floor plans



**DRAFT DECISION LETTER**

**Address:** 7-10 Dean's Mews, London, W1G 9EF,

**Proposal:** Demolition and re-development to provide four dwellings including external terraces on the western elevation to two dwellings and the installation of 8 air conditioning units.

**Reference:** 16/05491/FULL

**Plan Nos:** 5884/PL20E; PL21G; PL22F; PL23G; PL24F; PL25D; PL26C; PL27B; PL28C; PL29D; PL30B; PL31C; PL32C; PL33C; PL34A.

**Case Officer:** Lindsay Jenkins

**Direct Tel. No.** 020 7641 5707

**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:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

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



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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 4 The provision of waste and recyclable storage as shown on drawings 5884/PL20E and 5884/PL34A must be made permanently available for the occupiers of 7-10 Dean's Mews and the King's Fund Building.

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 5 You must not occupy any of the houses hereby approved until we have approved appropriate arrangements to secure the following:

1. Mitigation of the potential increased demand for on street resident's car parking

In the case of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements.

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 of Westminster's City Plan (July 2016) and in TRANS23 of our Unitary Development Plan that we adopted in January 2007. (R19AC)

- 6 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.

- 7 (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 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:**

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 (July 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.

- 8 (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 residential dwellings 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 residential dwellings 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 (July 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.

- 9 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.

- 10 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

**Reason:**

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 11 The glass that you put in the windows identified on drawings 5884/PL21G; PL22F; PL23G; PL26C as 'opq' in the rear northern elevation of No. 10 Dean's Mews must not be clear glass, and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

**Reason:**

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 12 You must not form any windows or other openings (other than those shown on the plans) in the outside walls of the building without our permission. This is despite the provisions of Classes A, B and C of Part 1 of Schedule 2 to the Town and Country Planning General Permitted Development Order (England) 2015 (or any order that may replace it). (C21EB)

**Reason:**

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 13 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 (July 2016) and H 5 of our Unitary Development Plan that we adopted in January 2007. (R07DC)

- 14 You must apply to us for approval of detailed drawings and sections (1:5 and 1:20) of the

following parts of the development -

- acoustic louvres serving the plant at No. 7 and 8 Dean's Mews.
- all windows and doors
- privacy screens
- pot retainers and Juliette balcony

You must not start any work on these parts of the development until we have approved what you have sent us. The acoustic louvres must be installed before you use the machinery and maintained in the form shown for as long as the machinery remain in place.

Reason:

To protect neighbouring residents from noise and vibration nuisance, and to ensure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25, S28, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7, DES 1 and DES 6 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.

- 15 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

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 Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 16 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 (July 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 17 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 4 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26DD)

- 18 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme all windows to be timber sliding sashes. 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 4 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26DD)

- 19 All roofs shall be finished in natural welsh slate

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 Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 4 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26DD)

- 20 You must apply to us for approval of details of the facing materials you will use, including details of air bricks and 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 this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 21 The pot retainers and juliette balcony and all new outside rainwater and soil pipes shall be formed of cast metal and painted in black.

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 Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

**Informatives:**

- 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 (July 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 Under Condition 5 we are likely to accept a legal obligation under Section 106 of the Town and County Planning Act (1990) (as amended) to secure the provision of alternative off-street parking provision for a minimum period of 25 years.

Please look at the template wordings for planning obligations (listed under 'Supplementary Planning Guidance') on our website at [www.westminster.gov.uk](http://www.westminster.gov.uk). Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition.

- 3 The proposed residential windows on the northern rear elevation are located on or immediately adjacent to the boundary of the site and rely on the adjoining site for daylight, sunlight, outlook and natural ventilation. These windows would prejudice the potential for reasonable development on the adjoining site and for this reason daylight, sunlight, outlook and natural ventilation to them will not be protected if development proposals for the adjoining site comes forward in the future.
- 4 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, perhaps by issuing regular bulletins about site progress.
- 5 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:

\* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

\* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with

any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm).

It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.

- 6 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. (I80CB)

- 7 Asbestos is the largest single cause of work-related death. People most at risk are those working in the construction industry who may inadvertently disturb asbestos containing materials (ACM<sub>s</sub>). Where building work is planned it is essential that building owners or occupiers, who have relevant information about the location of ACM<sub>s</sub>, supply this information to the main contractor (or the co-ordinator if a CDM project) prior to work commencing. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/asbestos/regulations.htm](http://www.hse.gov.uk/asbestos/regulations.htm) (I80AB)
- 8 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.



24 Hour Noise Team  
 Environmental Health Service  
 Westminster City Hall  
 64 Victoria Street  
 London  
 SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 9 Your proposals include demolition works. If the estimated cost of the whole project exceeds £300,000 (excluding VAT), the Site Waste Management Plan (SWMP) Regulations 2008 require you to prepare an SWMP before works begin, to keep the Plan at the site for inspection, and to retain the Plan for two years afterwards. One of the duties set out in the Regulations is that the developer or principal contractor "must ensure, so far as is reasonably practicable, that waste produced during construction is re-used, recycled or recovered" (para 4 of the Schedule to the Regulations). Failure to comply with this duty is an offence. Even if the estimated cost of the project is less than £300,000, the City Council strongly encourages you to re-use, recycle or recover as much as possible of the construction waste, to minimise the environmental damage caused by the works. The Regulations can be viewed at [www.opsi.gov.uk](http://www.opsi.gov.uk).
- 10 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)
- 11 The design and structure of the development shall be of such a standard that the dwelling is free from the 29 hazards listed under the Housing Health Safety Rating System (HHSRS). However, any works that affect the external appearance may require a further planning permission. For more information concerning the requirements of HHSRS contact:

Residential Environmental Health Team  
 4th Floor East, Westminster City Hall  
 64 Victoria Street  
 London SW1E 6QP  
[www.westminster.gov.uk](http://www.westminster.gov.uk)  
 Email: [res@westminster.gov.uk](mailto:res@westminster.gov.uk)  
 Tel: 020 7641 3003 Fax: 020 7641 8504.

- 12 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.**

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.

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016		Classification For General Release
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	11 - 12 Floral Street, London, WC2E 9DS,		
Proposal	Installation of new shopfront to no.11; use of part basement, part ground, first and second floors of no.11 as retail (Class A1) with ancillary cafe and use of part basement floor of no.12 as retail (Class A1); use of part basement, part ground, and first to fourth floors of no.12 as offices (Class B1); and associated external alterations to nos.11 and 12.		
Agent	Gerald Eve		
On behalf of	Capital & Counties Ltd		
Registered Number	16/05805/FULL and 16/05806/LBC	Date amended/ completed	28 June 2016
Date Application Received	21 June 2016		
Historic Building Grade	No.12 is Grade II No.11 is unlisted		
Conservation Area	Covent Garden		

## 1. RECOMMENDATION

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

## 2. SUMMARY

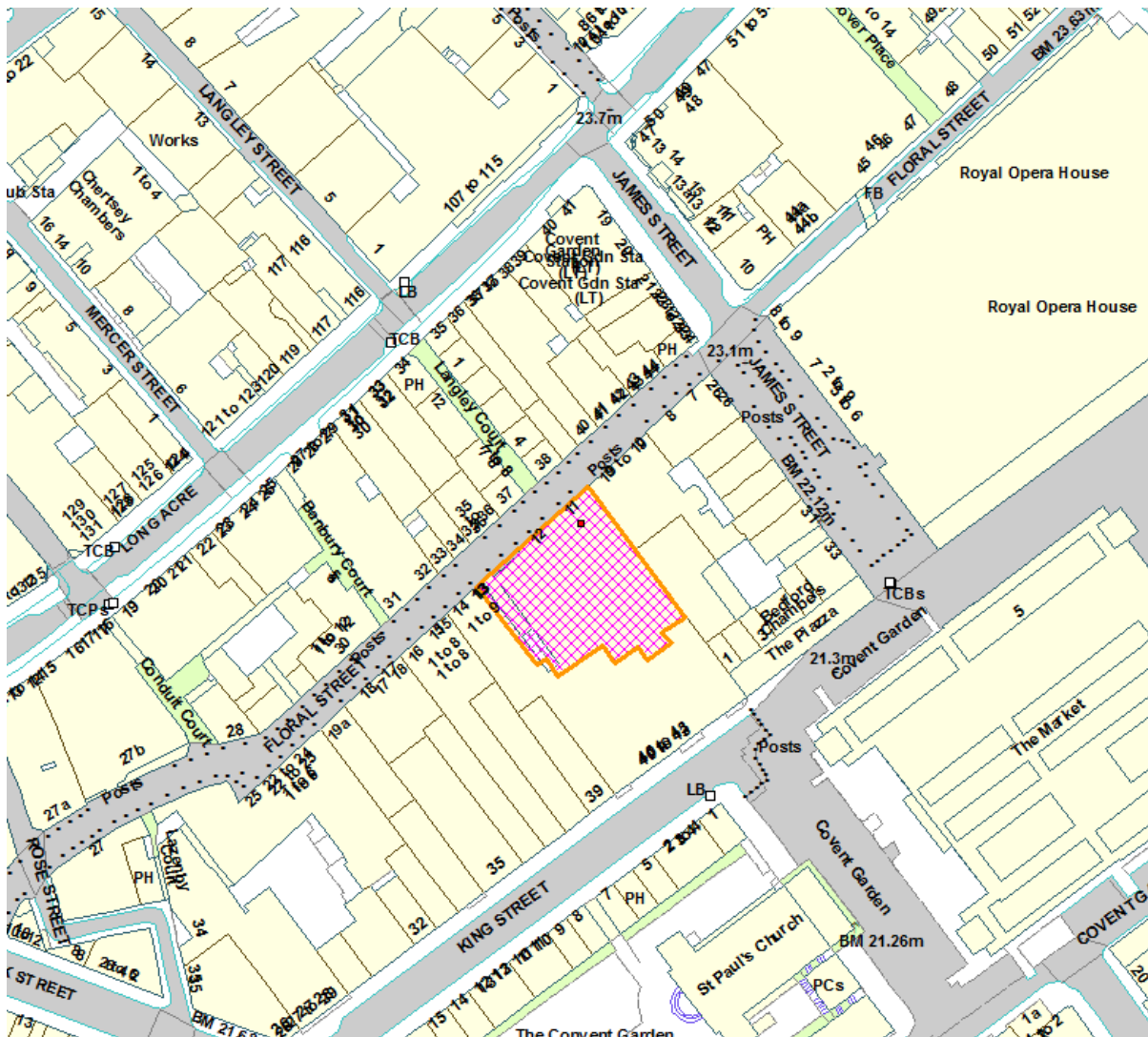
Permission and listed building consent are sought for works in connection with a change of use from health and fitness club (Class D2) to retail (Class A1) at part basement, part ground, first and second floors of No.11 and part basement of No.12 and to offices (Class B1) at part basement, part ground and first to fourth floors of No.12. External alterations include a new shopfront to No.11 and removal/replacement of plant at rear first and second floor levels. The application follows a previously permitted application for a residential led redevelopment of the site.

The key issues are:

- \* The impact of the proposals on the character and appearance of listed building and the conservation area;
- \* The impact of the proposals on the amenity of neighbouring residents; and
- \* The loss of the health and fitness club use.

The alterations are considered acceptable in design and conservation area terms as is its impact on neighbouring residential amenity. The loss of the private health fitness club use and provision of new retail and office floorspace is considered acceptable in land use terms. The proposed development is considered to comply with relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan).

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



11-12 Floral Street

## 5. CONSULTATIONS

### COVENT GARDEN AREA TRUST

Welcome many of the changes to the permitted scheme including replacement of permitted residential units with office floorspace. Object to the loss of the D2 leisure use and its replacement with a single large retail unit and the new shopfront incorporating a large expanse of glass.

### COVENT GARDEN COMMUNITY ASSOCIATION

Object to the large expanse of glass to the new shopfront. No objections to any other elements of the proposals.

### ENVIRONMENTAL HEALTH

No objection subject to conditions.

### HIGHWAYS PLANNING

The retail use should not be used as a food retail supermarket due impact servicing of such a unit would have in this location. The cycle parking provision is acceptable.

### CLEANSING

No objection subject to conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 96; Total No. of Replies: 0.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

Nos.11 and 12 are located on the south side of Floral Site opposite the junction with the pedestrianised Langley Court which leads to Long Acre. The site is located within the Covent Garden Conservation Area, the Core Central Activities Zone (CAZ) and the West End Special Retail Policy Area (WESRPA). No.11 is an unlisted building originally constructed as a warehouse in 1888 and No.12 is a Grade II listed former schoolhouse built in 1838. The site also shares a boundary to the rear with the Grade II\* listed No.43 King Street and the Grade II listed Nos.40-42 King Street.

Both application buildings are interlinked to some degree at all levels. No.11 comprises of basement, ground and three upper floors. No.12 comprises of basement, ground and five upper floors. The ground floor of each building contains a single retail unit. The remainder of the building has a lawful Class D2 use which is currently vacant, but was formally occupied by The Sanctuary, a women-only private health club and spa that had operated in this location since at least 1985.

## 6.2 Recent Relevant History

1994 – Permission was granted at No.12 for the use of the ground floor as Class A1 retail.

1994 – Permission was granted at Nos.11-12 to make alterations to form access to the Sanctuary Health Club.

1998 – Permission was granted at Nos.11-12 for the erection of a part glazed extension at rear second floor level as an extension to the existing health club.

2015 – Permission was granted for the demolition and new build behind retained facade and introduction of sub-basement and fourth floor to No. 11 and alterations to No. 12 to provide health and fitness club including ancillary restaurant (Class D2) at sub-basement to first floor, retail (Class A1) at basement and ground floors and nine residential units (Class C3) at part second floor and above at No. 11 Floral Street and first floor and above at No. 12 Floral Street and associated works. (14/11994/FULL and 14/11995/LBC)

## 7. THE PROPOSAL

Permission and listed building consent are sought works in connection with a change of use from health and fitness club (Class D2) to retail (Class A1) at part basement, part ground, first and second floors of No.11 and part basement of No.12 and to offices (Class B1) at part basement, part ground and first to fourth floors of No.12.

The extent of work is substantially reduced compared to the 2015 residential led scheme. The internal and external alterations include:

- Removal of mezzanine floor levels;
- Removal of modern internal partitions and suspended ceilings within no.12;
- Other minor alterations to internal walls within no.12;
- Removal of non-historic long dormer to roof of no.12;
- New single-glazed upper floor windows to match originals;
- Replace existing modern windows;
- Installation of secondary glazing;
- Two new rooflights over ground floor to rear;
- New ground to basement staircase within no.12;
- A new facade at ground and first floor level to no.11, including new shopfront;
- New shopfront to no.12;
- Alterations to access corridors through no.12;
- Replacement and new layout of plant to rear;
- Removal of modern projecting extension to rear of no.12.



## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

	Existing floorspace m2 GEA	Proposed floorspace m2 GEA	Net change
<b>Gym (Class D2)</b>	<b>3,093</b>	<b>0</b>	<b>-3,093</b>
<b>Office (Class B1)</b>	<b>0</b>	<b>636</b>	<b>+636</b>
<b>Retail (Class A1)</b>	<b>456</b>	<b>2,631</b>	<b>+2,175</b>
<b>Total</b>	<b>3,549</b>	<b>3,267</b>	<b>-282</b>

#### Loss of health and fitness club use

Policies S34 of the City Plan and SOC 1 of the UDP seek to resist the loss of social and community uses. The proposals would result in the loss of the existing Class D2 floorspace. The Sanctuary Spa operated at the property since at least 1985 until mid-2014 and the site has since been vacant. Given its use as a long term private health and fitness club, which was for over 18's and women only, is not considered to be afforded the same protection as true social or community uses.

Whilst this existing facility has provided a health and fitness club service, it was a business and its services were available to the public on a commercial basis rather than meeting the needs of all sectors of the local community. Officers consider that the loss of the existing commercial use can therefore be justified in this instance.

#### New retail and office floorspace

Policy S6 of the City Plan identifies the CAZ as an appropriate location for a range of commercial uses including retail. Policy S7 of the City Plan identifies the application site and wider Covent Garden area as part of a substantial shopping district within the West End Special Retail Policy Area (WESRPA). Two of the main priorities within the WESRPA are to provide improved retail space and appropriate retail growth. The proposed increase in retail floorspace would help support the West End as a global shopping destination.

Two retail units will remain on site with increased floorspace. An ancillary café is sought within the largest of the retail units in No.11 but no primary cooking is proposed and there will be no need for a kitchen extract. No potential operators are identified at this point. The operation hours for the retail is recommended to be controlled by condition - between 0800hrs and 2200hrs Monday to Saturday and between 0900hrs and 1900hrs on Sundays, bank holidays and public holidays.

Office accommodation is sought at part basement, part ground and first to fourth floors to No.12. The new office floorspace amounting to 614sqm would be achieved through a change of use and as such the proposal would not trigger a requirement for affordable housing provision in accordance with Policy S1 of the City Plan.

Policy S20 of the City Plan relates to offices and directs new office development to areas of the city which includes the CAZ. The city has seen a significant trend in the loss of offices since 2010/11. Policy S20 seeks to encourage new offices with the CAZ to help retain and enhance Westminster's strategic role in London's office sector.

The proposed mix use scheme would complement the existing multifaceted mix of uses in the Covent Garden area and the wider CAZ, catering for visiting members of the public and businesses alike. This site is considered to be an appropriate location for retail and office growth and is acceptable in land use terms.

## 8.2 Townscape and Design

The site is within the Covent Garden Conservation Area. No.12 is a Grade II listed building, built as a school in 1838, later used as a dance schools and studios before it became part of the spa developed within no.11. It has a roughly Italianate design, including a tall campanile with school steps at its base. The ground floor features a large shop-front window. Internally it is plain, but retains the core structural elements of its planform, including larger open spaces characteristic of its origins as a school.

The proposals would be largely beneficial compared with both the existing and the approved residential scheme. The proposals would involve no physical impacts on historic fabric, nor on historic planforms and would generally return no.12 to a closer version of the building's historic internal characteristics.

Externally, the works are largely minor, and dramatically reduced compared with the significant redevelopment and enlargement of the volume of no.11 approved in 2015. The proposed plant would be an overall improvement upon the existing arrangements.

The most significant external alteration is the new ground and first floor facade to no.11, which is designed to repeat the bold ceramic tile design approved for this frontage by the 2015 scheme, and remains equally acceptable as a part of this reduced scheme. The proposed means of converting this design to a single retail unit behind would result in the omission of the second entrance to the right hand shop window.

The shopfront without an entrance has been modified during the application to include a vertical glazing bar to break up the expanse of glass. This was amended to address the concerns raised by the CGCA and CGAT. Notwithstanding this, officers are satisfied with the shopfront in design terms with or without the vertical glazing bar.

Subject to the recommended conditions, the proposals would preserve the significance of the listed building, and the positive contribution which both buildings make to the surrounding conservation area. The applications comply with DES 1, DES 5, DES 9 and DES 10 of the UDP, and S25 and S28 of the City Plan and Sections 7 and 12 of the NPPF.

## 8.3 Residential Amenity

Policy ENV13 of the UDP states that the Council will resist proposals that would result in a material loss of daylight/sunlight, particularly to dwellings, and that developments should not result in a significant increased sense of enclosure, overlooking or cause unacceptable overshadowing. Similarly, Policy S29 of the City Plan aims to protect the amenity of residents from the effects of development.

Little external alteration is sought and no objections have been received from neighbours. The principal area of sensitivity is the relationship of site with the residential properties to the

rear. The proposal includes the removal of plant and ducting, predominantly at rear first and second floor levels and replacement with new plant which is more ordered and less visually obtrusive. The new plant layout would reduce the height and bulk of the structures closest to the residential on King Street. The proposals will not cause an unacceptable degree of enclosure or loss of light to existing residential properties.

The existing building does not particularly present much opportunity for overlooking due to the previous occupier. The replacement uses would have a similar relationship. The proposal would not cause an unacceptable degree of overlooking to existing dwellings surrounding the site.

## **8.4 Transportation/Parking**

### **Cycle Parking**

Secure cycle parking for 26 spaces is to be provided at basement and ground floor levels. The Highways Planning Manager considers this amount to be acceptable. A condition is recommended to secure separate residential and commercial cycle parking to ensure compliance with the London Plan.

### **Servicing**

Policy TRANS20 generally requires servicing to be provided off-street. Servicing for development is to be undertaken on-street with delivery vehicles temporarily waiting on Floral Street, as per the existing arrangement. The Highways Planning Manager has raised no objection to the servicing arrangements and has stated that the servicing requirements would likely to be similar to the existing situation. A condition has been added to ensure the Class A1 retail use is not occupied by a food retail supermarket. The Highways Planning Manager is concerned that adequate servicing arrangements could not be secured to mitigate the negative impacts such a use would have on the surrounding highways network.

## **8.5 Economic Considerations**

The economic benefits generated by bringing the vacant site back to use with new retail and office floorspace are welcomed.

## **8.6 Access**

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

### **Refuse**

Policy ENV12 requires the provision of suitable facilities for waste storage and recycling in new developments. The waste will be stored at basement and ground floor level. The Cleansing Manger is satisfied with the amount of provision. It is recommended that the details be secured by condition.

### **Access**

The new shopfront to No.11 will include double doors and level access via a short internal ramp. A lift will be included internally to provide step free access to all levels. Due to the historic nature of No.12 the ability to provide level access has been limited. Access to the offices and retail unit in No.12 will be stepped.

**Noise**

Mechanical plant is to be located at rear first and second floor levels. Subject to conditions it is considered that the plant will not result in noise nuisance or a loss of neighbouring amenity.

**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/CIL**

It is not predicted that the scheme will be liable to for a Community Infrastructure Levy charge.

**9. BACKGROUND PAPERS**

1. Application form.
2. Response from Covent Garden Area Trust dated 4 August 2016.
3. Response from Covent Garden Community Association dated 18 July 2016.
4. Email from the Highways Planning Manager dated 30 August 2016.
5. Memorandum from Cleansing dated 14 September 2016.
6. Memorandum from Environmental Health dated 30 September 2016.

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

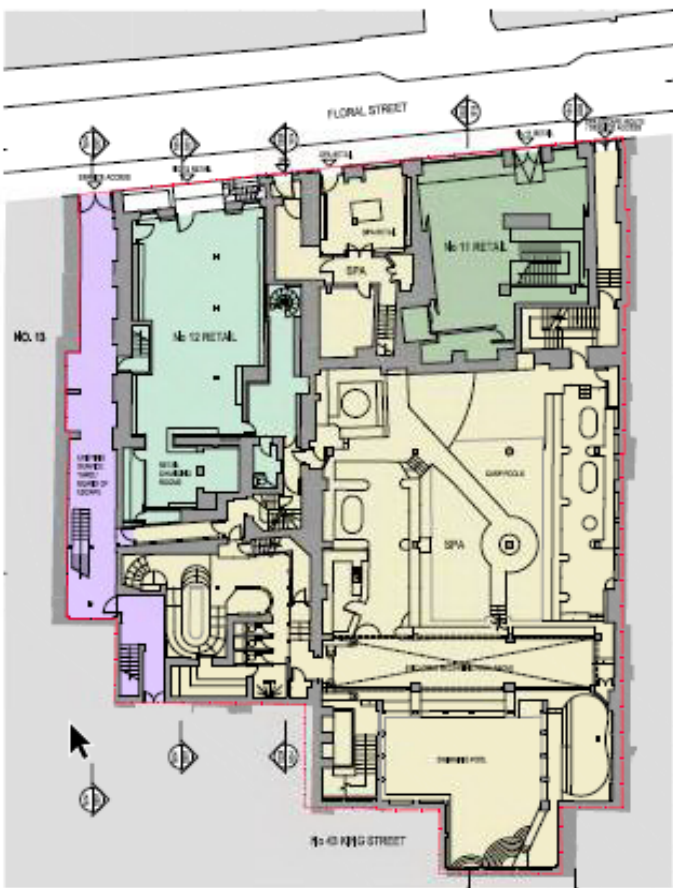
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: VINCENT NALLY BY EMAIL AT [vnally@westminster.gov.uk](mailto:vnally@westminster.gov.uk)



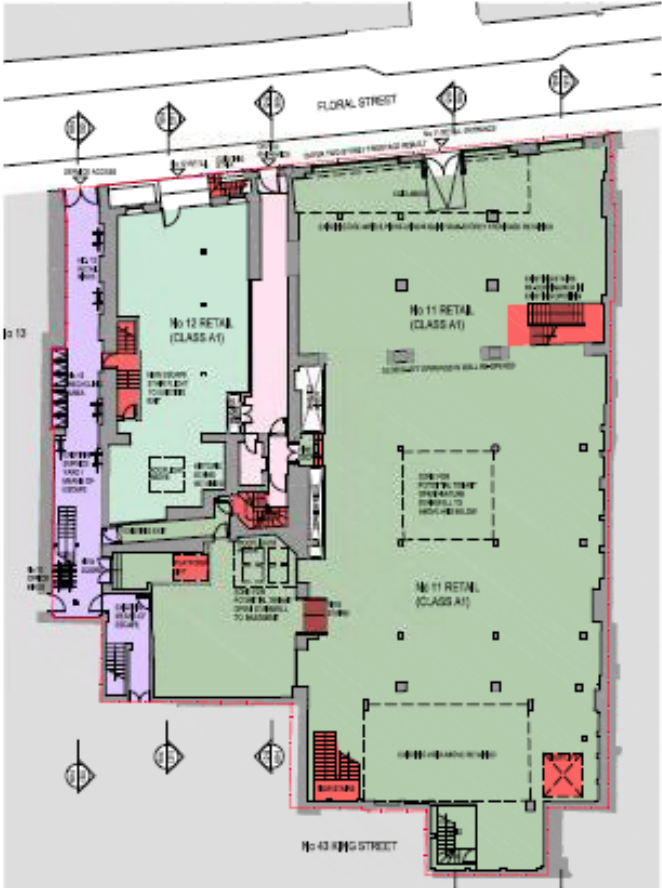
Existing Floral Street elevation



Proposed Floral Street elevation



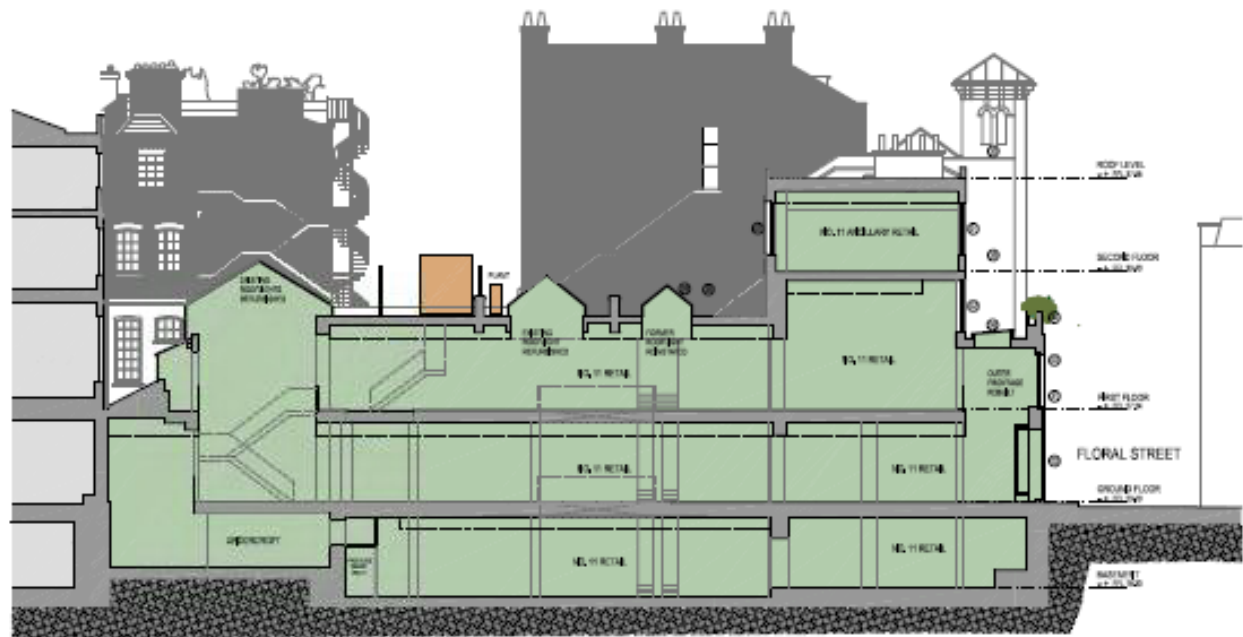
Existing Ground Floor Plan



Proposed Ground Floor Plan



Number 11 Existing Long Section



Number 11 Proposed Long Section



**DRAFT DECISION LETTER**

**Address:** 11 - 12 Floral Street, London, WC2E 9DS,

**Proposal:** Installation of new shopfront to 11 Floral Street; change of use of part basement, part ground, first and second floors of no. 11 Floral Street from health and fitness club (Class D2) to retail (Class A1) with ancillary cafe and change of use of part basement floor of no. 12 from health and fitness club (Class D2) to retail (Class A1); change of use of part basement, part ground, and first to fourth floors of no. 12 Floral Street from health and fitness club (Class D2) to office (Class B1); and associated external alterations to no. 11 Floral Street and internal and external alterations to no. 12 Floral Street.

**Plan Nos:** 1614-0001; 1614-0002; 1614-0003; 1614-0004; 1614-0900 Rev C; 1614-0901 Rev C; 1614-0902 Rev D; 1614-0903 Rev D; 1614-0904 Rev C; 1614-0905 Rev C; 1614-0906 Rev C; 1614-0907 Rev A; 1614-0940 Rev A; 1614-0980; 1614-0981; 1614-0982; 1614-0983 Rev A; 1614-0984; 1614-0985; 1614-1110 Rev E; 1614-1111 Rev D; 1614-1112 Rev D; 1614-1113 Rev C; 1614-1114 Rev C; 1614-1115 Rev C; 1614-1116 Rev C; 1614-1210 Rev C; 1614-1211 Rev D; 1614-1212 Rev C; 1614-1213 Rev E; 1614-1214 Rev D; 1614-1215 Rev C; 1614-1301 Rev A; 1614-1310 Rev D; 1614-1350 Rev B; BREEAM pre-assessment report; Noise Impact Assessment; Historic Building Report; Letter from Gerald Eve dated 21 June 2016. For information only: Draft Construction Management Plan.

**Case Officer:** Vincent Nally

**Direct Tel. No.** 020 7641 5947

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

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

Reason:

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

- 2 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:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

**Reason:**

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Covent Garden Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 4 You must apply to us for approval of detailed drawings at set out below, of the following parts of the development:

- (a) New windows, doors and rooflights / lanterns (elevations and sections at 1:5);
- (b) New shopfronts (elevations and sections at 1:10);
- (c) New railings / balustrades (elevations and sections at 1:10);
- (d) New facade and parapet to no.11 (elevations and sections at 1:20);
- (e) New plant screens (elevations and sections at 1:20, plus product specification).

All details must be shown in context with surrounding fabric, and be cross-referenced against the approved plans.

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

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

**Reason:**

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Covent Garden Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 5 You must apply to us for approval of a sample and materials specification of the new ground and first floor facade to no.11. 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 this part of the Covent Garden Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 6 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) you must not paint the ground and first floor facade of no.11 (as otherwise permitted by Class C of Part 2 of Schedule 2 of the Order) without the prior written permission of the Local Planning Authority on an application made for that purpose.

**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 Covent Garden Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 7 You must provide the waste store shown on drawing 1614-1110 revision E and 1614-1111 revision D before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the property. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

**Reason:**

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 8 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.

- 9 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

**Reason:**

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 10 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) the retail accommodation hereby approved shall not be used for food retail supermarket).

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 11 The Class A1 retail units hereby permitted must not be open to customers except between 0800hrs and 2200hrs Monday to Saturday and between 0900hrs and 1900hrs on Sundays, bank holidays and public holidays.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 12 (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 (July 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.

- 13 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.

- 14 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (July 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

- 15 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 12 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (July 2016), by contributing to reducing excessive ambient noise levels.

- 16 You must not cook raw or fresh food on the premises. (C05DA)

**Reason:**

The plans do not include any kitchen extractor equipment. For this reason we cannot agree to unrestricted use as people using neighbouring properties would suffer from cooking smells. This is as set out in S24 and S29 of Westminster's City Plan (July 2016) and ENV 5 of our Unitary Development Plan that we adopted in January 2007. (R05EC)

- 17 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 Covent Garden Conservation Area as set out in S25 and S28 of Westminster's City Plan (July 2016) 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)

**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 (July 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 may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)
- 3 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 4 We recommend you speak to the Head of the District Surveyors' Services about the stability and condition of the walls to be preserved. He may ask you to carry out other works to secure the walls. Please phone 020 7641 7240 or 020 7641 7230. (I22AA)
- 5 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply.

The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [www.cae.org.uk](http://www.cae.org.uk).

If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk)

It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 6 Conditions 12 and 13 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)
- 7 Under condition 16 you must not cook food in any way which is likely to cause a nuisance by smell. You must not, for example, grill, fry, toast, braise, boil, bake, hot smoke or roast food. But you can reheat food by microwave or convection oven as long as you do not need extractor equipment.

If you want to remove this condition you will need to send us full details of all the extractor equipment needed to get rid of cooking fumes. We will also consider the design and effect on neighbouring properties of any new ducts. (I72AA)

**DRAFT DECISION LETTER**

**Address:** 11 - 12 Floral Street, London, WC2E 9DS,

**Proposal:** Internal and external alterations to no. 12 Floral Street.

**Reference:** 16/05806/LBC

**Plan Nos:** 1614-0001; 1614-0002; 1614-0003; 1614-0004; 1614-0900 Rev C; 1614-0901 Rev C; 1614-0902 Rev D; 1614-0903 Rev D; 1614-0904 Rev C; 1614-0905 Rev C; 1614-0906 Rev C; 1614-0907 Rev A; 1614-0940 Rev A; 1614-0980; 1614-0981; 1614-0982; 1614-0983 Rev A; 1614-0984; 1614-0985; 1614-1110 Rev E; 1614-1111 Rev D; 1614-1112 Rev D; 1614-1113 Rev C; 1614-1114 Rev C; 1614-1115 Rev C; 1614-1116 Rev C; 1614-1210 Rev C; 1614-1211 Rev D; 1614-1212 Rev C; 1614-1213 Rev E; 1614-1214 Rev D; 1614-1215 Rev C; 1614-1301 Rev A; 1614-1310 Rev D; 1614-1350 Rev B; BREEAM pre-assessment report; Noise Impact Assessment; Historic Building Report; Letter from Gerald Eve dated 21 June 2016; Design and Access Statement; For information only: Draft Construction Management Plan.

**Case Officer:** Vincent Nally

**Direct Tel. No.** 020 7641 5947

**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 Covent Garden Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 apply to us for approval of detailed drawings at set out below, of the following parts of the development:



- (a) New windows, doors and rooflights / lanterns (elevations and sections at 1:5);
- (b) Secondary glazing (elevations and sections at 1:5);
- (c) New shopfront (elevations and sections at 1:10);
- (d) New railings / balustrades (elevations and sections at 1:10);
- (e) New plant screens (elevations and sections at 1:20, plus product specification).

All details must be shown in context with surrounding fabric, and be cross-referenced against the approved plans.

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

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

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

#### **Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan July 2011, Westminster's City Plan (July 2016), Westminster's City Plan: Strategic Policies Consolidated Draft Version incorporating Basement Revision, Mixed Use Revision, Regulation 19 and Main Modifications dated June 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, CM28.1 of Westminster's City Plan: Strategic Policies Consolidated Draft Version incorporating Basement Revision, Mixed Use Revision, Regulation 19 and Main Modifications dated June 2016, and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and 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

Item No.
<b>11</b>

\* any work needed to meet the building regulations or other forms of statutory control.

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

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

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Addendum Report of Director of Planning		Ward involved West End	
Subject of Report	79 - 81 Grosvenor Street, London, W1K 3JU		
Proposal	Demolition of all existing buildings (with the exception of the first and second facades of No. 80) and erection of the new building over basement, ground, and five upper storeys including a roof top plant enclosure for dual / alternative use of part basement and part ground floor levels as either a retail unit (Class A1) and / or as a gallery (Class D1) and use of part basement, part ground, first, second, third, fourth and fifth floor levels for office purposes (Class B1), with associated terraces at fourth and fifth floor level. (ADDENDUM REPORT)		
Agent	DP9		
On behalf of	Forextra Developments Ltd		
Registered Number	13/12738/FULL	Date amended/ completed	27 May 2014
Date Application Received	17 December 2013		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

## 1. RECOMMENDATION

Grant conditional permission

## 2. SUMMARY

This application was reported to committee on 8 March 2016 where it was resolved to grant condition permission subject to a legal agreement to secure the following:

- (a) A payment towards the City Council's Affordable Housing Fund of £1,702,000 (index linked and payable prior to commencement of development) in lieu of providing residential provision on site in order to fund the provision of affordable housing elsewhere in the City;
- (b) Submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring (maximum contribution £30,000 per annum);
- (c) The dedication of the area in front of the proposed building line on the east side of Bourdon Street as public highway (prior to the occupation of the building); and
- (d) The costs of monitoring the S106 legal agreement.

Whilst the freehold owner of the site (Grosvenor Estate) is prepared to join as a party to the legal agreement, it is not prepared to dedicate any part of its land as public highway. As such, the applicant has requested the removal remove Part (c) of the resolution to grant permission.

In addition, the City Council has made the following relevant changes in policy and guidance since the application was reported to committee:

- The latest version of the City Plan was adopted in July 2016. This includes changes to the 'mixed use policy' (City Plan Policy S1).
- The Code of Construction Practice was published in July 2016.

These changes mean that: (i) There is no longer a policy requirement to provide any residential floorspace or make a contribution towards the City Council's Affordable Housing Fund in lieu of such provision; and (ii) A condition requiring adherence to the Code of Construction Practice will address the environmental impact during the course of the construction phase of the development.

Subject to committee's agreement that it is acceptable for Part (c) of the resolution to be removed, there is no longer a requirement for Parts (a), (b) or (d).

These three amendments are discussed below.

### **Dedication of widened part of Bourdon Street as public highway**

The proposal sets the building line back on the east side of Bourdon Street by 950mm. Given the narrow nature of Bourdon Street, this realignment was a welcomed improvement to the highway. Part (c) of the resolution to grant permission secured the dedication of this area as public highway. This was in order to ensure that the surface treatment would be renewed to match the rest of the street, to prevent it from being enclosed by railings or similar and that it would be maintained to a high standard.

It is regrettable that the freehold owner of the site (Grosvenor Estate) will not permit this strip of land to be dedicated as public highway. However, it is not considered to be sustainable to refuse permission on this ground. This is subject to the imposition of two additional conditions.

The first (Condition 22) is proposed to require details of the hard landscaping for this strip of land to be submitted to and approved by the City Council. An additional informative (Informative 9) is recommended advising that the materials proposed should match the public realm improvements to the remainder of Bourdon Street (known as the 'Grosvenor Hill Public Realm Improvements'). Whilst this condition will only secure matching materials for the life of the public realm improvement, it will secure a continuous surface treatment for many years to come. This is considered to be acceptable in light of the benefits of this widened part of Bourdon Street.

The second (Condition 23) is proposed to remove permitted development rights to replace the hard surface and to erect a means of enclosure around this strip of land. This will prevent the hardstanding being replaced with an unsuitable material, prevent the area becoming a litter trap and therefore minimise the requirement for it to be maintained.

### **Mixed use policy**

Based upon the previous mixed use policies (Policy S1 in the City Plan (2013) and Policy CENT 3 of the UDP (2007), the City Council resolved to grant permission subject to a legal agreement to secure a contribution towards the City Council's Affordable Housing Fund of £1,702,000 in lieu of providing residential provision. This was compliant with the policy requirement.

The 2013 City Plan Policy S1 required an equivalent amount of residential floorspace to be provided on site to offset increases in commercial floorspace over 200 sq.m (where appropriate and practical) and UDP Policy CENT 3 set out a formula for calculating the required contribution to the City Council's Affordable Housing Fund in lieu of on-site provision, where neither on-site nor off-site residential provision was accepted as being inappropriate or impractical.

Both of these policies have now been deleted and the revised City Plan Policy S1:

- Has raised the threshold above which residential floorspace is required to increases in office floorspace of at least 30% of the existing building (provided the increase in floorspace (of all uses) is at least 30% of existing building and above 400 sq.m).
- Reduces the liable floorspace so that it now only relates to increases in office (Class B1) floorspace and subtracts from this floorspace 30% of the existing building.

As such, it is recommended that Part (a) of the resolution be deleted to reflect this updated policy position.

### **Code of Construction Practice**

The Code of Construction Practice was published in July 2016 and is designed to monitor, control and manage construction impacts on sites throughout Westminster. It applies to all major developments from September 2016.

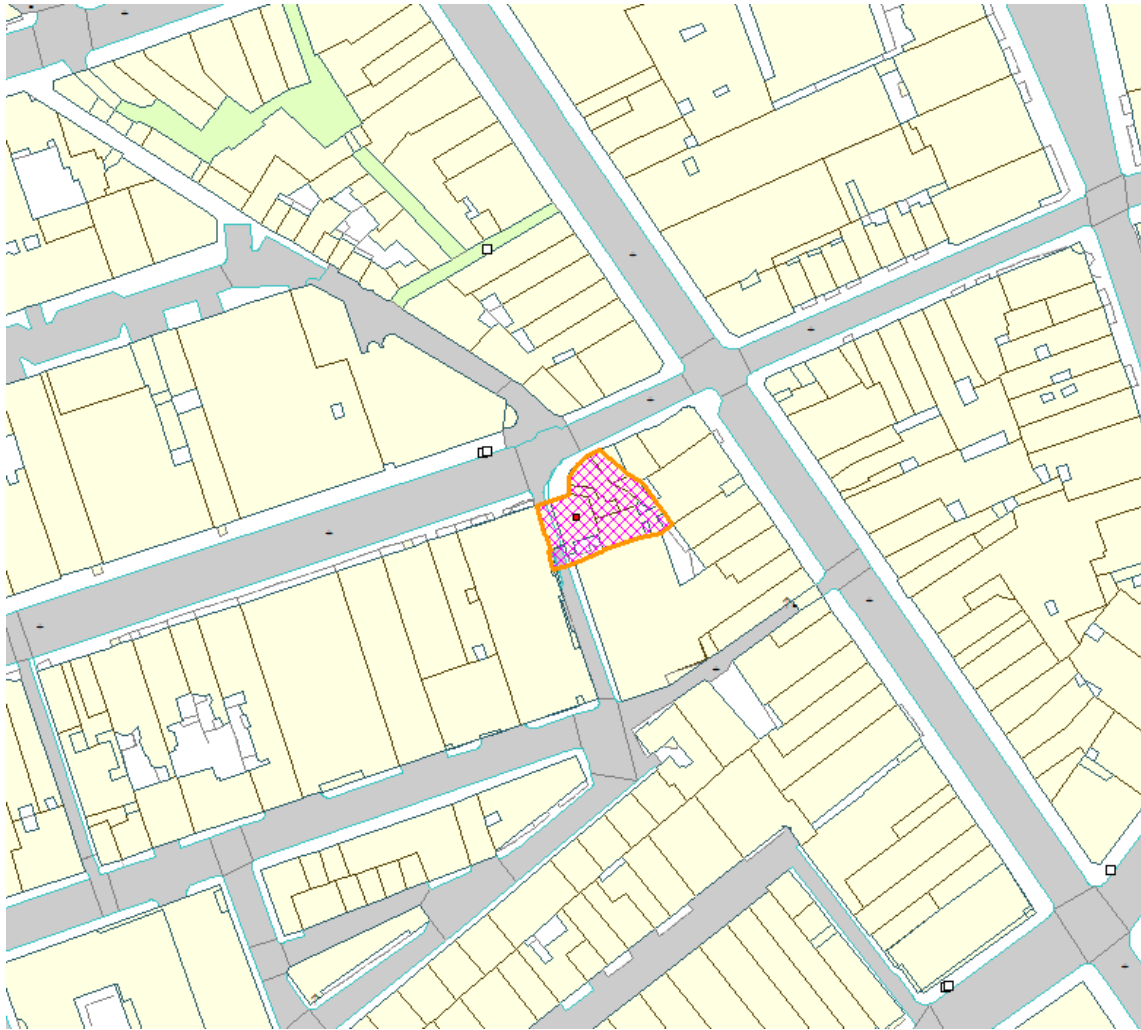
The publication of the Code represents a fundamental shift in the way the City Council deals with the construction impacts of developments. Before September 2016, developments of this scale used legal agreements to fund the Environmental Inspectorate (EI) and required Site Environmental Management Plans to be submitted to and approved by the City Council. The same was true of this site.

In recognition that there is a range of regulatory measures available to deal with construction impacts and that planning is the least effective and most cumbersome of these, the new approach is for a condition to be imposed (new Condition 24) requiring the applicant to provide evidence that any implementation of the scheme (by the applicant or any other party) will be bound by the Code. In effect, Condition 24 replaces Part (b) of the resolution to grant permission.

### **Community Infrastructure Levy (CIL)**

Westminster City Council's began implementing its CIL charge for application determined from 1 May 2016. The development would be liable for a Westminster CIL contribution of £99,200 (index linked) and a Mayoral CIL payment of £30,138 (index linked).

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



View to the rear on Bourdon Street



## 5. CONSULTATIONS

None received since the application was reported to committee.

## 6. BACKGROUND PAPERS

1. Application form.
2. Report to Planning Application Committee (Including background papers) dated 8 March 2016.
3. Minutes of the Planning Application Committee dated 8 March 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 MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)



## 7. KEY DRAWINGS



Visual of existing building as seen from Grosvenor Street.



Visual of proposed building as seen from Grosvenor Street.



Existing and proposed view from Bourdon Street at junction with Grosvenor Hill



Existing section through building.



Proposed section through building.

**DRAFT DECISION LETTER**

**Address:** 79 - 81 Grosvenor Street, London, W1K 3JU,

**Proposal:** Demolition of all existing buildings (with the exception of the first and second facades of No. 80) and erection of the new building over basement, ground, and five upper storeys including a roof top plant enclosure for dual / alternative use of part basement and part ground floor levels as either a retail unit (Class A1) and / or as a gallery (Class D1) and use of part basement, part ground, first, second, third, fourth and fifth floor levels for office purposes (Class B1), with associated terraces at fourth and fifth floor level.

**Plan Nos:** 1873 PL 12b, 13b, 14b, 15b, 20e, 21e, 22d, 23e, 24e, 25e, 26e, 27e, 28e, 29d, 30d, 31d, and 32d.

**Case Officer:** Mark Hollington

**Direct Tel. No.** 020 7641 2523

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

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

**Reason:**

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

- 2 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:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

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

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 4 You must apply to us for approval of sample 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 this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 paint all new outside rainwater and soil pipes black and keep them that colour.  
(C26EA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 6 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings.  
(C26KA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 7 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 8 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 9 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 Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan (July 2016) 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 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.

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 2016.

- 11 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1872 PL 20 Rev. E. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 12 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

**Reason:**

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 13 (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 (July 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.

- 14 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.

- 15 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 13 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (July 2016), by contributing to reducing excessive ambient noise levels.

- 16 You must apply to us for approval of detailed drawings of the following parts of the development - windows, cornices, shopfronts and external doors. 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 this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 17 **Pre Commencement Condition.**

(a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that



will carry out the archaeological work. You must not start work until we have approved what you have sent us.

(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, to Historic England, and to the Greater London Sites and Monuments Record, 1 Waterhouse Square, 138-142 Holborn, London EC1N 2ST.

(c) You must not use any part of the new building until we have confirmed that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan (July 2016) and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

- 18 You must apply to us for approval of a scheme of public art in the location shown on approved drawings 1873 PL 21 Rev. E and 1873 PL 32 Rev. D.

You must not start work on the public art until we have approved what you have sent us. Before anyone moves into the building you must carry out the scheme according to the approved details.

You must maintain the approved public art and keep it on this site. You must not move or remove it. (C37AB)

Reason:

To make sure the art is provided for the public and to make sure that the appearance of the building is suitable. This is as set out in DES 7 (A) of our Unitary Development Plan that we adopted in January 2007. (R37AB)

- 19 If the gallery use is implemented you must use the property only as a gallery. You must not use it for any other purpose, including any within Class D1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it).

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TRANS 2, TRANS 3, ENV 13 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 20 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application.

- The photovoltaic panels and the solar tubes

You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (July 2016). (R44AC)

- 21 **Pre Commencement Condition.** You must apply to us for approval of detailed drawings showing how you will support and protect the parts of the building which are to be kept during building work. You must not start work until we have approved what you have sent us. You must then carry out the work according to these drawings. (C28AB)

Reason:

To protect the parts of the building which are to be preserved during building work. (R28AA)

- 22 You must apply to us for approval of samples of the following parts of the development - the hard landscaping to the area on the east side of Bourdon. 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 approved samples. (C26DB)

Reason:

To make sure that the appearance of the site is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 7 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 23 You must not erect any means of enclosure around the area of the east side of Bourdon Street and you must not replace this hardstanding in whole or in part. This is despite the provisions of Class A, Part 2 of Schedule 2 and Class G, Part 7 of Schedule 2 to the Town and Country Planning General Permitted Development (England) Order 2015 (or any order that may replace it). (C21HB)

Reason:

To make sure that the appearance of the site is suitable and to prevent this becoming a litter trap which would fail to preserve or enhance the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 of Westminster's City Plan (July 2016) and DES 1, DES 7 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 24 Prior to the commencement of any demolition or construction on site the applicant shall provide evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. (C11CA)

**Reason:**

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

**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 (July 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 Please be advised that you liaise with the City Council in its capacity as Highways Authority for agreement on the works and materials used to finish the new area of public highway on the east side of Bourdon Street.
- 3 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply.

The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [www.cae.org.uk](http://www.cae.org.uk).

If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk)

It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 4 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)

- 5 You need an oversailing licence for the structure above Bourdon Street.
  
- 6 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.  
 If you have not already done so you must submit an Assumption of Liability Form to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>  
 Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>.  
 You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.
  
- 7 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the ground floor can change between the Class A1 (shops) and Class D1 (non-residential institution) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)
  
- 9 Please be advised that the materials proposed under Condition 22 should match the public realm improvements to the remainder of Bourdon Street (known as the 'Grosvenor Hill Public Realm Improvements').

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Hyde Park	
Subject of Report	Moorings Opposite Hammersmith And City Line Station Adjacent To, Bishop's Bridge Road, London		
Proposal	Use of two moorings opposite the Hammersmith and City line entrance to Paddington Station to provide one boat as a cafe/exhibition space (Use Class Sui Generis) and one boat as dual retail/restaurant (Class A1/A3). Associated installation of additional seating and railings on the roof of both vessels.		
Agent	Mr Adam Kindred		
On behalf of	Miss Isabel Jeans		
Registered Number	16/02946/FULL	Date amended/ completed	1 April 2016
Date Application Received	1 April 2016		
Historic Building Grade	Unlisted		
Conservation Area	Outside of a designated conservation area		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

Permission is sought to permanently moor two boats on the canal opposite the Hammersmith and City line station exit to the London Underground. One of the boats is to be used as a café with exhibition space with informal tables and chairs internally and further seating located on the roof. The second boat is to be used for either retail or a restaurant with formal seating and ancillary kitchen, bar and further seating located on the roof. The restaurant is proposed to be open between the hours of 07:00-23:00 Monday to Saturday and 08:00-22:30 on Sundays and Bank Holidays.

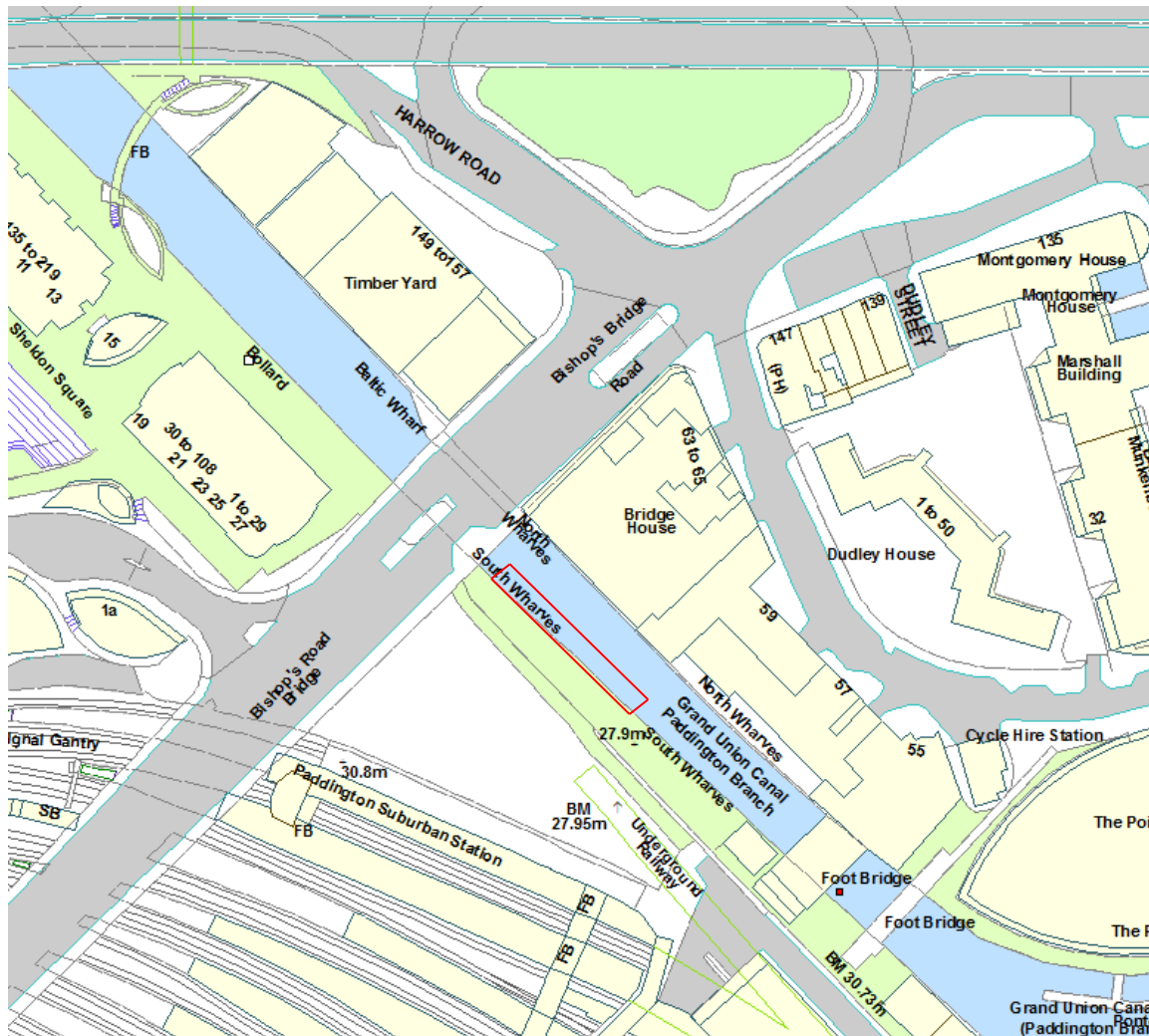
Objections have been received from residents of Sheldon Square, located on the other side of Bishops Bridge Road on the grounds of noise and increased late night activity.

The key issues are:

- \* the acceptability of a restaurant mooring in this location in land use terms;
- \* the impact of the proposal upon the amenities of neighbouring residents;
- \* whether the servicing arrangements for this mooring are satisfactory;
- \* the impact of this proposal on the canal side environment and townscape.

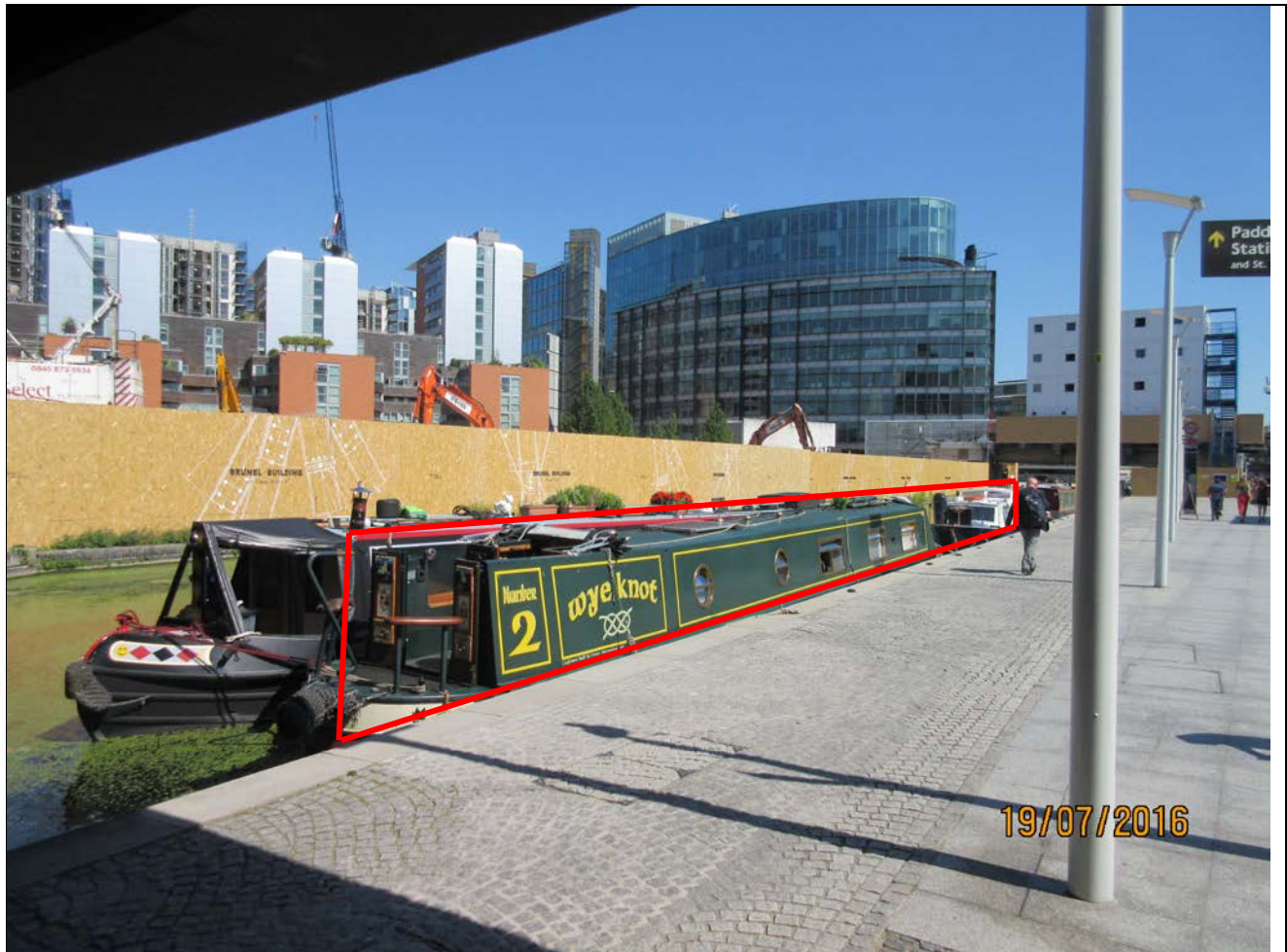
Subject to conditions, the proposals are considered to comply with the Council's policies in relation to land use, design and amenity as set out in Westminster's City Plan and the Unitary Development Plan (UDP) and the application is accordingly recommended for approval.

### 3. LOCATION PLAN



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## 4. PHOTOGRAPHS



View from under Bishops Bridge Road looking South East along the canal  
(Hammersmith and City line exit to the Underground located out of shot to the right)



## 5. CONSULTATIONS

### HYDE PARK ESTATE ASSOCIATION:

Support the proposals, which will be beneficial to improving viability of the area.

### PADDINGTON AND MAIDA VALE SOCIETY:

Comment that the utility box is large and a smaller one would be preferable. Request for neighbours' views to be taken into consideration.

### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Any response to be reported verbally.

### INLAND WATERWAYS ASSOCIATION:

Support principle of commercial use. Comment that the design of the crafts should be of the type which traditionally navigated the canal.

### CANALS AND RIVERS TRUST:

No objection, subject to informative in relation to code of consents for works on the canal.

### PADDINGTON BID:

Any response to be reported verbally

### CLEANSING:

No objection raised.

### HIGHWAYS PLANNING MANAGER:

No objection subject to conditions to ensure that the works do not cause obstruction to pedestrians and to limit the capacity of the restaurant.

### ENVIRONMENTAL HEALTH:

No objection but comment that the applicant should be aware that unauthorised fuels or unauthorised appliances may constitute an offence under the Clean Air Act.

### ADJOINING OWNERS/OCCUPIERS:

No. consulted: 141

No. of replies: 2 objections: One from a local resident and one on behalf of the Sheldon Square Residents Association on the grounds of noise in relation to plant equipment, music and increased late night activity.

### ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application relates to two moorings located at Paddington Central directly opposite the Hammersmith and City Line exit to the Paddington Tube station, known as South Wharves. The site is located outside of a conservation area and the Central Activities Zone (CAZ), but is within

the North Westminster Economic Development Area (NWEDA) and the Paddington Opportunity Area. There are currently traditional narrow boats which are moored along the canal side on a temporary basis.

On the northern side of the canal works are currently underway to build a large development, which includes 100 residential units as well as additional office, retail and restaurants floorspace.

## **6.2 Recent Relevant History**

Permission was granted at Planning Committee on 02 April 2013 for a restaurant mooring with 42 covers on the other side of Bishops Bridge Road, at Baltic Wharf.

Permission was subsequently granted on 25 April 2016 for the dual/alternative use of the same boat for either a marketing suite (sui generis) or A3 (restaurant) use [adjacent to towpath at Paddington Central]. The boat is currently operating as a marketing suite for an office development within Paddington Central.

## **7. THE PROPOSAL**

This application is for the permanent mooring of two boats on the canal. One is to be used as a cafe with ancillary exhibition space and additional seating on the roof, and one is proposed to have a dual retail/restaurant use with tables and chairs proposed on the roof. Associated railings and planters are proposed around the perimeter of the roof of both vessels. The proposed boats each measure 19.9m long by 3.8m wide.

The boat located in the western position would comprise a conventional more restaurant, with the plans indicating 54 covers as well as a small bar and kitchen at the rear. The eastern boat has a less formal seating arrangement with a number of benches and some seating (10 covers) within the bow of the boat, and is proposed to operate more akin to a café, with a salad and coffee station.

The proposals originally included the installation of a utility box on the towpath. Following officer comment this has been removed, with services now to be provided within an enclosure under the towpath.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

Policy S3 of the City Plan relates to Paddington Opportunity Area and promotes a range of uses including retail, social and community facilities, entertainment and arts/cultural uses. The proposals are considered to be in accordance with this policy.

Policy DES 13 (B) 3) of the UDP relates to the provision of canal moorings and encourages their provision where they provide facilities for visitors and boaters, as long as such facilities will not hinder the navigation of the canal. As the proposals provide an additional facility in the form of a café/exhibition space and restaurant/retail space, and as sufficient canal is left clear for the navigation of the canal, the proposals are considered in accordance with this part of the policy.

The western boat is proposed as a café / exhibition boat, which the applicant has indicated as an A1 use. The plans indicate bench seating along the side of the boat and seats within the bow of the boat totalling approximately 28 covers. While only cold food and hot drinks are on offer, which could be considered as an A1 use, when combined with the rooftop seating (an additional 18 seats), the use is considered to be a mixed A1/A3 use and is therefore considered as a Sui Generis use. The eastern boat is proposed as a dual alternative A1/A3 use, with the plans submitted with the application indicating the proposed A3 use. No details of an A1 use have been provided, however A1 uses are generally promoted across Westminster and such this use is considered to be acceptable, providing vitality to this part of Paddington.

Policies S24 of the City Plan and TACE 8 within the UDP relate to new entertainment uses under 150sqm and are relevant here should both boats be used as a café and a restaurant.

S24 states that Planning Permission will generally be granted for such uses where the Council is satisfied that the proposed development is appropriate in terms of size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

Policy TACE 8 specifically seeks to ensure that developments will have no adverse impact on both residential amenity and the local environmental quality as result of noise, vibration, smells, late night activity or increased parking/traffic. In order to mitigate such issues, the Council will take account of the need for conditions to control the new use, where appropriate.

The nearest residential accommodation to the site is located at Sheldon Square, on the other side of Bishops Bridge Road, two objections have been received from residents of this building. Once construction works are complete, there will also be residential accommodation on the other side of canal. However and as this development is still at a relatively early stage of construction, it can be afforded limited protection.

Sheldon Square, on the other side of Bishops Bridge Road, is characterised by restaurants on the ground floor, with outside seating on the canal side frontage, with residential flats on the upper floors. The terminating hour for the existing ground floor entertainment uses is 23:00. This part of the canal currently does not have any permanent commercial operators.

The use of the boats as a café and a restaurant is considered to provide vitality to this part of Paddington, and is considered to be acceptable subject to conditions in relation to ventilation, noise, covers, servicing and opening hours as set out on the draft decision letter.

During the application process officers raised concerns in relation to the proposed rooftop seating, which would usually be resisted (both in terms of their appearance and amenity). The design implication of the seating is discussed in section 8.2 of this report. In land use and amenity terms, it is considered that in this particular instance, given the benefits of the proposals to enliven this part of Paddington and provide a new facility for visitors, workers and residents an exception can be made. This is due to the separation of the site from the nearest residential accommodation and subject to conditions to restrict the proposed use in terms of the number of covers and the opening hours to align with the other entertainment uses.

## **8.2 Townscape and Design**

The site is located outside of a conservation area, but is on the canal which is part of the Blue Ribbon Network, and therefore policies S37 of the City Plan and DES13 of the UDP apply. Policy TACE 8 (B) 2) of the UDP also seeks to ensure that developments do not have an adverse effect on the character or function of its area.

The proposals are for relatively wide berth boats, measuring 3.8m in width. Traditional narrow boats have a maximum width of around 2m. Officers raised concerns in relation to the size and appearance of the proposed boats, which included a large amount of glazing along the side elevations and rooftop seating. The appearance of the boats was subsequently amended so that they have a more traditional appearance, with a greater proportion of timber panelling along their side elevations, and the stair compartments reduced in size and made more solid in appearance. The applicant has also offered for the railings and seating on the roof of the barges to be removed during the winter months (October-March).

Officers remain of the opinion that the proposed boats are overly large and are not as appropriate as traditional narrow boats. Furthermore, the use of the roof of the boats as terraces for additional seating is an uncharacteristic feature, resulting in additional rooftop clutter. The applicant has stated that narrow boats with no outside seating would not provide adequate floorspace to viably operate.

Given the particular character of the site, located adjacent to the underground station exit and away from residential accommodation, and the benefits of providing a new use to this part of Paddington which will help to enliven the towpath, as aforementioned it is considered that the proposals could be considered acceptable in this particular instance. This is however subject to the offered condition for the removal of the rooftop railings and furniture during the winter months and an additional condition to ensure that no additional clutter such as canopies or umbrellas are installed on the roof. These conditions will help to maintain the character of the area for at least part of the year. Subject to these conditions the proposals are considered to be acceptable in design and townscape terms in accordance with Policies S37, DES13 and TACE 8.

It is noted that the plans do not include details of how the roof of the boats would be accessed. The applicant has confirmed that this is to be decided once the final occupier of the boats has been agreed. While largely internal, this may have an impact on the external appearance of the boats. A condition is recommended for further details of this access arrangement once it has been decided.

The applicant has also put forward an offer for the side of the boats to include public art. It is however considered that a simple and restrained colour to the boats would be more appropriate.

### **8.3 Residential Amenity**

Please refer to the Land Use section of this report (section 8.1).

### **8.4 Transportation/Serviceing**

The applicant has submitted an Operational Management Plan with the application, which confirms that servicing will take place from 2 loading bays under Paddington Central, which will be controlled by a management clause within the new operators lease. Goods would then be taken by lift up to ground floor level and taken to the boat by trolley. In order to limit the impact of

deliveries on pedestrian movement, the applicant has confirmed that they will not be allowed across the Paddington Central estate during peak hours when footfall is high.

The Highways Planning Manager has not raised objection to the proposals but comment that Policies S42 of the City Plan and TRANS20 of the UDP require off street servicing. They note that while off-street servicing is proposed, little detail of the links to the application site is provided and thereby may cause disruption to pedestrians. However, given that the site is within a managed estate environment and the relatively small floorspace of the combined barges, no objection is raised.

Alike the boat at Baltic Wharf a condition is recommended for the servicing of the boats still only take place between the hours of 08:00 and 18:00 and that the trolleys are fitted with rubber wheels to ensure that servicing does not have a negative impact on the residents.

## **8.5 Economic Considerations**

No applicable for a development of this size.

## **8.6 Access**

The boats indicate that they will include disabled access via a lift within the main entrance to each boat, which is welcomed.

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

### **8.7.1 Plant**

The plans submitted with the application indicate that a flue is proposed on the restaurant boat. Environmental Health has raised no objections to the proposals (subject to the correct fuels being used within a smoke control area), however a condition is recommended for the submission of details of a ventilation system to show how cooking smells will be dealt with, including details of how it will be built and how it will look. Westminster's standard noise condition is also recommended to ensure that the mechanical ventilation does not result in any noise disturbance.

An informative is also recommended to advise the applicant that the installation of any mechanical heating/cooling equipment is likely to require a separate application for planning permission. Subject to these conditions and informative the proposals are considered acceptable in terms of odour.

### **8.7.2 Refuse /Recycling**

Additional information has been provided by the applicant following an objection from the Cleansing Officer that waste could not be stored in a residential waste store on the estate as originally submitted. A revised Operational Management Strategy has been provided which is now considered to be acceptable by the Cleansing Manager. A condition is recommended to ensure that this strategy is utilised.

## **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.

## 8.11 Environmental Impact Assessment (EIA)

The development is of insufficient scale to trigger the requirement for an EIA.

## 8.12 Other Issues

None

## 9. BACKGROUND PAPERS

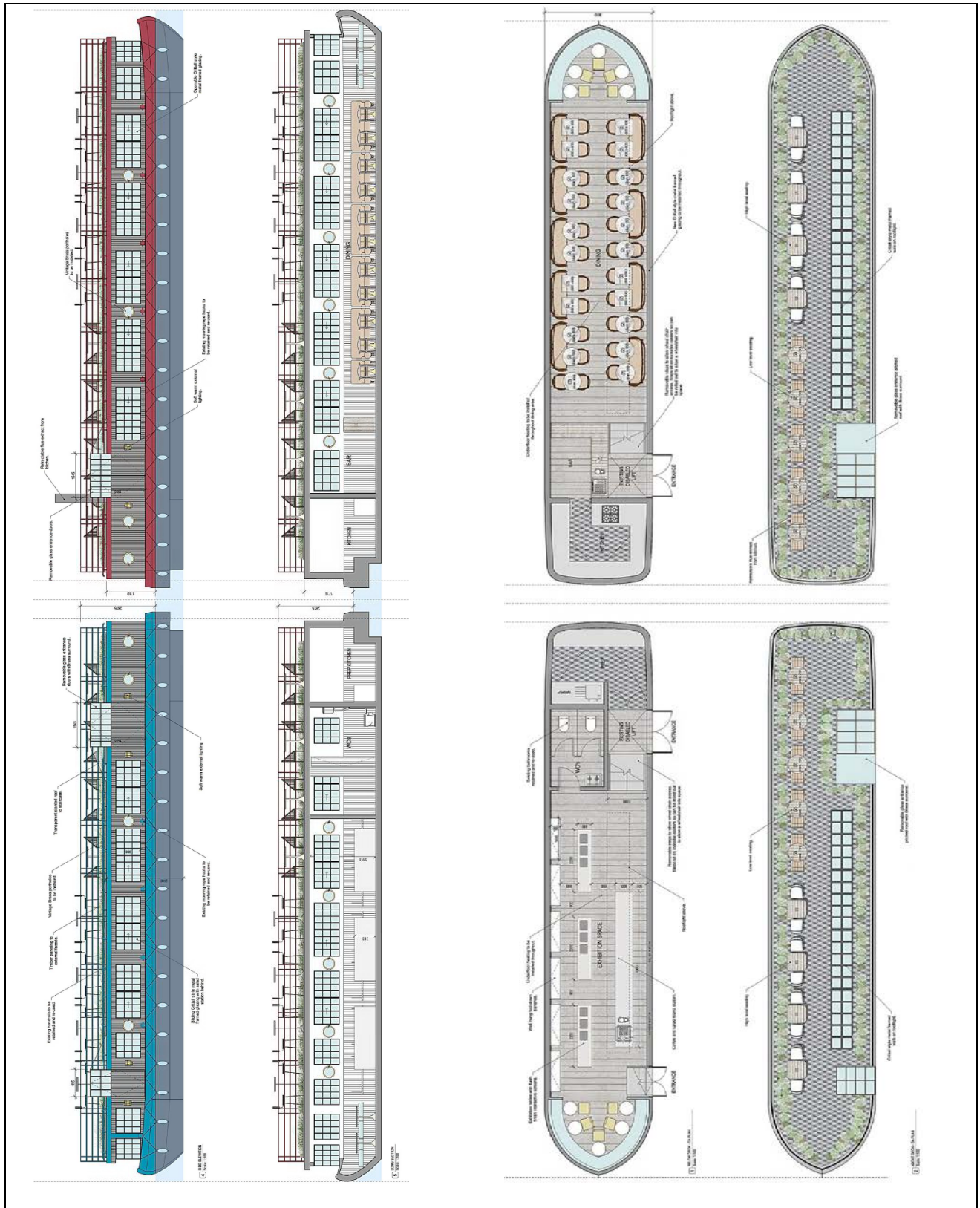
1. Application form
2. Response from Canal & River Trust, dated 13 June 2016
3. Response from Inland Waterways Association, dated 25 June 2016
4. Response from Paddington Waterways & Maida Vale Society, dated 16 June 2016
5. Response from Hyde Park Estate Association, dated 18 May 2016
6. Response from Highways Planning Manager, dated 31 May 2016
7. Response from Cleansing, dated 27 May 2016
8. Response from Environmental Health, dated 1 June 2016
9. Letter from occupier of 'Apartments, London', dated 23 May 2016
10. Letter from occupier of Apartment 14, 27 Sheldon Square, dated 23 May 2016

## Selected relevant drawings

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT [nbarrett@westminster.gov.uk](mailto:nbarrett@westminster.gov.uk).

## Page 423



**DRAFT DECISION LETTER**

**Address:** Moorings Opposite Hammersmith And City Line Station Adjacent To, Bishop's Bridge Road, London,

**Proposal:** Use of two moorings opposite the Hammersmith and City line entrance to Paddington Station to provide one boat as a cafe/exhibition space (Use Class Sui Generis) and one boat as dual retail/restaurant (Class A1/A3). Associated installation of additional seating and railings on the roof of both vessels.

**Plan Nos:** Operational Management Strategy - Revision A; Letter dated 22 September 2016 from CBRE; 161.01.001 Revision K; 161.01.002 Revision K; 161.01.003 Revision K; BLPB-113; 001 Water Chariot Plans.

**Case Officer:** Rupert Handley

**Direct Tel. No.** 020 7641 2497

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

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

**Reason:**

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

- 2 Customers shall not be permitted within the boat premises before 07:00 or after 23:00 on Monday to Saturday (not including bank holidays and public holidays) and before 08:00 or after 22:30 on Sundays, bank holidays and public holidays. (C12BD)

**Reason:**

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 and of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 3 You must not play live or recorded music which can be heard when outside the boats.

**Reason:**

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 4 You must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the A3 use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)



**Reason:**

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 5 A maximum of 54 covers within the restaurant boat and 28 covers within the cafe boat and a further 18 covers externally to each boat (total of 36 external covers) will be provided. In addition to this maximum capacity, an additional 10% will be allowed within the restaurant boat for patrons to wait within a designated bar/waiting area until their table within the main dining areas becomes available.

**Reason:**

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and TACE 8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 6 You must not put structures such as canopies or umbrellas on the roof terrace.

**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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 7 You must apply to us for approval of detailed drawings of the following parts of the development:
- how the roof of the boats will be accessed.

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 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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 8 Between 1 October and 1 March each year, the roof of the boats shall not be used for external seating or any other purpose incidental to the uses hereby approved. All associated furniture and railings shall also be removed during this period.

**Reason:**

To protect the environment of people in neighbouring properties and to make sure that the appearance of the boats is suitable and that it contributes to the character and appearance of the area. This is as set out in S28, S29 and S32 of Westminster's City Plan (July 2016) and DES1,

DES 5, DES 6, DES 13, ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

- 9 You shall service the moorings and manage waste disposal and storage in accordance with the Operational Management Strategy - Revision A. Trolleys used to transport goods and waste shall be fitted with rubber wheels. All servicing must take place between 08:00 and 18:00 Monday to Sunday.

Reason:

To avoid blocking the surrounding streets and highway and to protect the local environment as set out in S42, S44 of Westminster's City Plan (July 2016) and STRA 25, ENV 12, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 10 (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 (July 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.

#### 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 (July 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 The applicant/developer should refer to the current "Code of Practice for Works affecting the Canal & River Trust" to ensure that any necessary consents are obtained (<https://canalrivertrust.org.uk/business-and-trade/undertaking-works-on-our-property-and-our-code-of-practice>).

The applicant/developer is advised that the proposed development requires written consent from the Canal & River Trust, and they should contact the Canal & River Trust's Estates Surveyor, Martin Hime ([martin.hime@canalrivertrust.org.uk](mailto:martin.hime@canalrivertrust.org.uk)) regarding the required agreement.

- 3 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 4 Please make sure that the street number and building name (if applicable) are clearly displayed

on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)

- 5 You may need separate licensing approval for the restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 6 You are reminded that this permission does not authorise the placing of tables and chairs on the canal towpath. Any proposal to place tables and chairs will require a separate application for planning permission.
- 7 The installation of any heating/cooling plant will require a further application for planning permission.
- 8 You may need separate licensing approval for the restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 9 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the eastern boat can change between the A1/A3 uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)
- 10 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Connaught Hotel, Carlos Place, London, W1K 2AL		
Proposal	Display of Christmas tree on public highway adjacent to the Connaught Hotel at the junction of Mount Street and Carlos Place for a temporary period between 18 November 2016 and 6 January 2017.		
Agent	Blair Associates Architecture Ltd		
On behalf of	Connaught Hotel		
Registered Number	16/05071/ADV	Date amended/ completed	16 June 2016
Date Application Received	31 May 2016		
Historic Building Grade	II		
Conservation Area	Mayfair		

## 1. RECOMMENDATION

Grant conditional advertisement consent for a temporary period between 18 November 2016 and 6 January 2017.

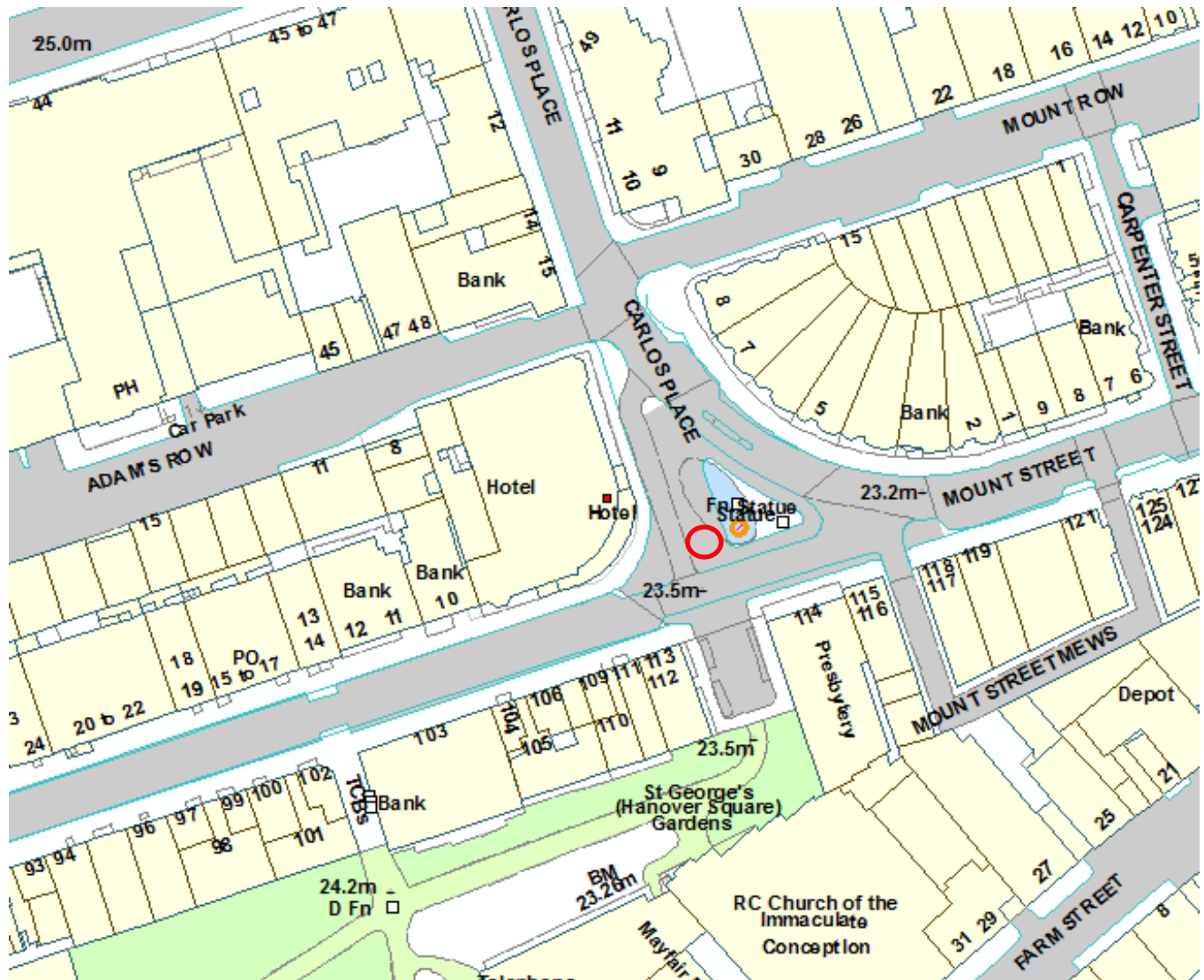
## 2. SUMMARY

The application site is on the public highway adjacent to the Connaught Hotel at the junction of Mount Street and Carlos Place.

Advertisement consent is sought to display a Christmas tree on the public highway for a temporary period between 18 November 2016 and 6 January 2017. Consent was granted for a tree in this location for the 2015 / 2016 festive period on 8 December 2015.

Subject to conditions, the scheme is considered acceptable on amenity and public safety ground grounds and is recommended for approval.

### 3. LOCATION PLAN



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 Christmas tree location

#### 4. PHOTOGRAPHS



## 5. CONSULTATIONS

### COUNCILLOR ROBERTS

Objection on the following grounds:

- The location of the tree interferes with the sightlines of the traditional nativity scene displayed by Farm Street Church (to the south of the application site).
- Requests that decorations be suitable to the season and not be shocking or provocative.

### RESIDENTS SOCIETY OF MAYFAIR AND ST JAMES'S

No response

### HIGHWAYS PLANNING MANAGER

Unacceptable on transportation grounds but could be made acceptable, with the following issues raised:

- Highways safety grounds
- Obstructions to pedestrian flow

### WASTE

No objection

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 93

Total No. of replies: 14.

No. of objections: 0

No. in support: 14 on the following grounds:

- A Christmas tree will bring life, light and festive cheer to the area and provides a canvas for world famous artists.
- The Christmas tree will attract more visitors and shoppers to the area which will be beneficial to the local economy.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is on the public highway adjacent to the Connaught Hotel at the junction of Mount Street and Carlos Place.

### 6.2 Recent Relevant History

Temporary advertisement consent was granted on 8 December 2015 to display a Christmas tree on the same part of the public highway between 18 November 2015 and 4 January 2016. The decorations on this tree were a mix of traditional (doves) and abstract (scissors / medicine bottles / syringes).



## 7. THE PROPOSAL

Advertisement consent is again sought to display a Christmas tree on public highway adjacent to the Connaught Hotel at the junction of Mount Street and Carlos Place for a temporary period between 18 November 2016 and 6 January 2017.

The applicant confirms the lighting on the tree will be 'elegant simple static lighting' and not the decorations previously permitted.

## 8. DETAILED CONSIDERATIONS

Applications to advertisement consent are assessed in the interest of amenity and public safety, taking into account the provisions of the development plan, so far as they are material and any other factors.

Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.

Of relevant to this proposal, factors relevant to public safety include: (i) The safety of persons using any highway; and (ii) Whether the display of the advertisement in question is likely to obscure, or hinder the ready interpretation of, any traffic sign.

### 8.1 Amenity

UDP Policy DES 8 states that consent will be granted for advertisements that are well designed and sensitively located within the street scene. Consent will not normally be granted, however, for advertisements on ground surface (especially in conservation areas).

The Christmas tree is proposed to be decorated with white lights (although no further details are currently available).

Cllr Roberts has objected to the proposal on the ground that the proposed tree will interfere with the sightlines of the traditional nativity scene displayed by Farm Street Church (to the south of the application site). Cllr Roberts also requests that decorations be suitable to the season and not be shocking or provocative.

It is acknowledged that the tree may cause some obstruction to the sightline of the nativity scene at Farm Street Church from Carlos Place looking south towards the church. However, the proposed tree is characteristic of other displays throughout the West End over the festive period and the nativity scene outside the Farm Street will remain visible from Mount Street. Having taken into account that the site is in the Mayfair Conservation Area and will affect the setting of nearby listed buildings, it is concluded that the amenity of the area will be preserved. This is subject to the conditions limiting the time period that the advertisement can be displayed and requiring the decorations that will be installed on the tree being submitted to and approved by the City Council.

## 8.2 Public Safety

The City Council's Highways Planning Manager raised the following concerns:

- The proposal creates a pinch point of approximately 1.5m between the proposed tree and the kerb edge in Mount Street at its narrowest point. This measure does not satisfy the City Council's minimum requirement of 2.0m for the safe movement of pedestrians.
- The proposed tree has a vertical clearance of only 2.0m from the lowest point to the surface of the footway which falls short of the 2.6m requirement for fixed structures.
- The proposed tree projects within 0.5m of the edge of kerb on the road linking Mount Street and Carlos Place. This does not satisfy the Council's minimum 1m clearway requirement of any item of street furniture to the kerb edge which designed is to ensure that the structure is not damaged by high sided vehicles.

The same condition as imposed on the 2015 tree is recommended ensuring that the tree's branches are 2.6m above the pavement. This addresses the above concerns as it will allow sufficient height and pavement width for pedestrians to pass safely beneath the tree.

Whilst the tree will be within 0.5m of the taxi pick up / drop off route, high sided vehicles are unlikely to use this section of highway and therefore this distance is sufficient in this instance.

The tree should not pose a danger to the movement of pedestrians and vehicles

## 9. BACKGROUND PAPERS

1. Application form
2. Letter from Cllr Roberts, dated 31 July 2016.
3. Memorandum from the Highways Planning Manager, dated 5 August 2016.
4. Memorandum from the Cleansing Manager, dated 13 July 2016.
5. Letter from occupier of Hedonism Wines, 3-7 Davies St, dated 5 October 2016
6. Letter from occupier of Connaught House, 1-3 Mount St, dated 5 October 2016
7. Letter from occupier of Flat 3, Palm Court, dated 5 October 2016
8. Letter from occupier of 47 Somerford Way, London, dated 5 October 2016
9. Letter from occupier of 17 Cleveland Mansions, Mowll St, dated 5 October 2016
10. Letter from occupier of Flat 17, 69 - 71 St Georges Drive, dated 4 October 2016
11. Letter from occupier of 15 Blueprint apartments, Balham, dated 4 October 2016
12. Letter from occupier of 97 Mount Street, London, dated 4 October 2016
13. Letter from occupier of 7 Carlos Place, London, dated 4 October 2016
14. Letter from occupier of 102 Mount Street, Mayfair, dated 3 October 2016
15. Letter from occupier of 127 Mount Street, London, dated 4 October 2016
16. Letter from occupier of 55 Allfarthing Lane, Wandsworth, dated 5 October 2016
17. Letter from occupier of 102 Mount Street, Mayfair, dated 4 October 2016
18. Letter from occupier of 35 Lilyville Road, London, dated 4 October 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)

Architectural drawings for the Connaught Hotel Christmas Tree. The top drawing is a plan view showing the hotel's footprint, the proposed tree location in the courtyard, and surrounding streets like Mount Street and Canal Place. It includes a scale bar (0-20m) and a north arrow. The bottom drawing is a section view of the hotel facade, showing the building's structure and the tree's placement relative to the entrance. It includes a 2m scale bar. To the right of the drawings is a title block with project information and a planning application number.

**DRAFT DECISION LETTER**

**Address:** Connaught Hotel , Carlos Place, London, W1K 2AL

**Proposal:** Installation of Christmas tree on public highway adjacent to the Connaught Hotel at the junction of Mount Street and Carlos Place for a temporary period between 18 November 2016 and 6 January 2017.

**Reference:** 16/05071/ADV

**Plan Nos:** 1518-C-21-01A, 1518-C-21-02 A, 1518-C-21-02P A.

**Case Officer:** Shaun Retzback

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

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

- 1 You can display the Christmas Tree from 18 November 2016 to 6 January 2017. You must then remove it without delay. (C04BA)

**Reason:**

The advert is temporary, so under DES 8 of our Unitary Development Plan that we adopted in January 2007, we can only approve it for a limited period. (R04AB)

- 2 Any decoration located over a vehicle carriageway, or over a pedestrian footway but within 450 mm (measured horizontally) from the edge of a vehicle carriageway, shall be fixed so that no part of the decoration is within an absolute minimum of 5.1 metres of ground level. Any decoration located over any other part of a pedestrian footway more than 450 mm (measured horizontally) from the edge of a vehicle carriageway shall be fixed so that no part of the decoration is within 2.6 metres of ground level.

**Reason:**

In the interests of public safety and to ensure that the decorations are not hit by high vehicles as set out in TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.

- 3 You must apply to us for approval of the Christmas tree decorations to be used on the tree. You must not start work until we have approved what you have sent us.

You must then decorate the tree in accordance to what we have approved.

**Reason:**

To protect the appearance of the area. (R36AA)

**Informative(s):**

- 1 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)

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.